Local Impact Statement Report

For bills enacted in 2022

Legislative Service Commission

April 2023

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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 2023 Report lists the 107 bills enacted in calendar year 2022 and contains the fiscal notes for the nine House bills and five 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 2022 may have fiscal effects on local government in addition to the 14 bills that required an LIS. For those who are interested in the local fiscal effects of all legislation enacted in 2022, please see the LBO fiscal notes for those laws, which are available on the General Assembly's website (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 72 House bills and 35 Senate bills enacted in 2022.

To view this report online, see the 2023 Local Impact Statement Report (PDF), which is available on LSC's website: lsc.ohio.gov.

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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 2023 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.

The impact that certain budget provisions will have on local governments may sometimes be mentioned in the Comparison Document and departmental Greenbooks but it is inconsistent and decentralized. CCAO encourages LSC to produce an additional publication at the end of the budget process to provide Greenbook-level analysis of budgetary provisions that create an impact on local governments. Doing so will provide a great resource for the General Assembly and the public to understand the true picture of the impacts that tax and other policy changes have upon counties and other local governments.

Additionally, the local impact procedure for non-appropriations bills can be improved. R.C. 103.143 is the statutory authority for the local impact procedure. R.C. 103.143(C) requires that "[a]ny time a bill is amended, the legislative service commission shall, as soon as reasonably possible, revise the local impact statement to reflect changes made by amendment."

As noted in the statement's Introduction, LSC considers updating the comprehensive fiscal note as satisfying that requirement. While updating the overall fiscal note is certainly a sound procedure, the changes to the impact on local governments may get lost among other changes. CCAO recommends that fiscal notes for bills that will have an impact on local governments (regardless of if the official Local Impact Determination is a "Yes," as that may change depending on the content of amendments or substitute bills) have a specific section that highlights the fiscal effects the bill will have for local governments. This will allow the public and legislators to quickly see the local effects instead of requiring them to scan the fiscal analysis for certain key words.

Additionally, CCAO would like LSC to consider publicizing the rationale behind the local impact determination for individual bills. There are many different "No" determinations that LSC can provide for bills. The determination is made by LSC analysts and approved by division chiefs but is not always made clear in the fiscal note. These could be included in the dedicated local impact section proposed earlier in this statement.

Finally, the Local Impact Statement Report itself can be improved. In its current form it is typically structured with a brief introduction, followed by comments from local government associations, then

copies of the fiscal notes for enacted bills that required local impact statements. The Report is usually concluded with an appendix that lists all the enacted bills from the year the report is prepared for.

A simple aggregation of fiscal notes, while helpful, does not provide the level of detail that an annual report can offer. CCAO believes that the annual report is an opportunity for LSC to expand upon the local impact component of its fiscal analysis for the given bills, whether through annotation of the As Enacted fiscal note, an entirely new analysis, or another method.

Since the Local Impact Statement Report is prepared for legislation enacted in the prior year, it is likely that many provisions of the bills in question have taken effect. These reports also provide an opportunity for LSC to follow up and provide a brief overview of the actual fiscal effects the bills have created. As is common with policy making at all levels of government, the effects that a law has when actually put in place may outstrip initial estimates, or vice versa.

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 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 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.

CCAO again 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.

OML
OHIO MUNICIPAL LEAGUE
Partnering for Stronger Cities and Villages

January 26, 2023

Legislative Budget Office
Ohio Legislative Service Commission
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To Whom It May Concern:

The Ohio Municipal League has reviewed the draft of the Local Impact Statement Report for Bills Enacted in 2022 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 unintentionally.

A suggestion for future consideration: The usual determination of when a local impact statement is generated is when legislation is introduced. Since most legislation is amended as it progresses though the legislative process, OML would like it if consideration is given to generating a local impact statement if legislation is amended as it progresses through the legislative process and then becomes impactful on local governments.

Also, 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 comprehensively 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 Ohio and its residents.

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

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The Ohio Township Association (OTA) would like to thank the Ohio Legislative Service Commission (LSC) for the opportunity to comment on the 2023 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 previously passed legislation will have on townships' budgets and keeps legislators and local officials aware of any unfunded mandates created in legislation.

The fiscal impact legislation may have on townships is often underestimated, but the Legislative Service Commission has done an excellent job of recognizing the impacts. A total of eight bills enacted in 2022 have a fiscal impact on local governments, according to the LIS Report.

Of those eight bills, two directly impact townships - HB 37 and HB 371. House Bills 37 and 371 mandate specific health insurance coverage, including those plans offered by local governments. While changes to the law may be necessary, townships generally need expendable income to address mandates such as these.

Six of the eight bills have varying levels of impact on the Local Government Fund (LGF). Most of these bills have great intentions, but all will unintentionally affect the state's Local Government Fund, from which all townships benefit. During the Great Depression, local governments experienced grave financial difficulties, and property tax delinquencies were high. In the 1930s, the Ohio Constitution was amended to reduce unvoted property tax millage, and the state's first sales tax was passed. The LGF was established at the same time. One of the purposes of the sales tax was to "support local government activities." The LGF initially received about 40% of the sales tax, beginning the "revenue sharing" principle between state and local governments. Today the LGF is funded at 1.66% of the state's GRF.

Monies from the LGF are used in every community across the state and therefore affect every resident in Ohio. For most townships, the LGF is the second highest source of revenue for townships behind property tax collection of inside and outside millage. Townships cannot compensate for the lost LGF revenue by passing other taxes, such as income or sales tax. Any lost LGF revenue will require additional property tax levies.

While the 2023 LIS Report is a helpful review of legislation passed in the previous year and its impact on local governments, it must give the complete picture. For example, House Bill 126 limits the filing of property tax complaints by persons or political subdivisions other than the owner. Additionally, the bill prohibits appeals of county Board of Revisions decisions by subdivisions unless they own the subject property. Both could result in lower taxable values and property tax revenues for townships. House Bill 140 modifies how information about proposed property tax levies is presented to voters in required ballot advertising and on the actual ballot. The changes will make it more difficult for townships to pass property tax levies.

Most township revenue comes from property tax and state/local tax sharing. It is important to note that many of these property tax levy funds are restricted by the Ohio Constitution and cannot be used for general purposes. Reduction in property valuations, permanent or temporary, or changes to levy law will cause a decrease in a vital revenue stream for townships.

House Bill 377 contains a provision that could save townships substantial money. Townships are not required to provide health care coverage to employees, but if they do, they must provide uniform coverage to township officers and full-time employees, including first responders. The bill increases the threshold number of hours affected township employees who are first responders are expected to work to qualify as full-time.

Although the actual impact these new laws will have on townships will be known once the laws are put into practice, the fiscal analyses provide a base for which townships can determine how a new law may affect their budgets. The Ohio Township Association appreciates the opportunity to provide our input and thanks the Legislative Service Commission for all of their hard work compiling this data, as it is genuinely beneficial to legislators and local government groups.

Ohio School Boards Association

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TO: Terry Steele, Senior Budget Analyst

FROM: Jennifer Hogue, Director of Legislative Services

DATE: April 17, 2023

RE: **2023 LOCAL IMPACT STATEMENT REPORT**

The Ohio School Boards Association (OSBA) is pleased to take advantage of the opportunity to review the 2023 Local Impact Statement Report on bills enacted in 2022. The Legislative Service Commission (LSC) report to the Ohio General Assembly and to the public on the fiscal impact of certain specific bills is a valuable service.

The 2023 Local Impact Statement Report highlights 14 bills enacted during 2022 that require local impact statements. Five of the 14 bills have potentially negative fiscal impact on the level of revenues available to support public school districts. These five bills are House Bill (HB) 223, HB 501, Senate Bill (SB) 33, SB 225 and SB 246. HB 95 had a positive effect on public school districts.

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 95 increases FY 22 appropriations for the Federal School Lunch line item by $338 million. This funding allowed the Ohio Department of Education to pay federal reimbursement to school districts that operate school lunch programs. This funding is appreciated because it provided the funds necessary to continue providing free meals to all students consistent with the federal waiver extension.

HB 223 allows sales tax vendors to deduct sales tax remitted for bad debt on private label credit cards that were used to make purchases from the vendor. The estimated loss to the General Revenue Fund (GRF) is estimated to be up to $16.2 million per year. Ohio's public schools receive their state share of funding from the GRF. This change will result in less money in the GRF, and in turn, less money available to advance the phase-in of the Fair School Funding Formula to provide resources for the education of Ohio's public school students.

HB 501 extends the municipal tax increment financing (TIF) laws to townships. This change could result in school districts losing local

revenue because of new property exemptions for TIFs that townships will establish. Additionally, school districts may see additional costs for the required reviews because of their membership on the township's tax incentive review council.

SB 33 makes changes to the community reinvestment area (CRA) law. Previous law allowed CRA tax exemptions for commercial or industrial property to be granted without the approval of the school district board of education if tax revenues for the property, plus any payments to the district, were equal to or exceed 50% of what the tax revenues would have been without the exemption. This bill lowers that threshold to 25%. The decrease makes the approval of tax exemptions easier and will increase local revenue losses to school districts.

The bill also changed the requirement that municipalities share half of municipal income tax revenue from new employees at the project in the CRA with the school district if the additional payroll was $1 million or more by increasing the threshold to $2 million and indexing it for inflation. Under the bill's changes, this is only required if the municipality that established the CRA is unable to negotiate a compensation agreement with the district. This arrangement benefits municipalities over school districts.

SB 225 makes changes to the historic building rehabilitation tax credit and the Ohio Opportunity Zone credits. These changes are estimated to result in a $82.1 million loss to the GRF over the FY 21-22 biennium and a loss of $82.2 million in the FY 23-24 biennium. These reductions to the GRF result in less funding available to advance the phase-in of the Fair School Funding Plan which provides resources for the education of Ohio's public school students.

SB 246 lowers the tax rate paid on a portion of a pass-through entity's income from 3.99% to 3% beginning in tax year 2023. The potential loss to the GRF is up to $75.7 million in FY 23, up to $77.5 million in FY 24 and will be ongoing based on the rate of participation. These reductions lower the amount of GRF funding available to advance the phase-in of the Fair School Funding Formula and provide the resources necessary to educate Ohio's public school students.

Additionally, 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 2022 REQUIRING LOCAL IMPACT STATEMENTS

OHIO LEGISLATIVE SERVICE COMMISSION

www.lsc.ohio.gov

Office of Research and Drafting

Legislative Budget Office

H.B. 4
134th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 4's Bill Analysis

Version: As Enacted

Primary Sponsors: Reps. Plummer and Manchester

Local Impact Statement Procedure Required: Yes

Ryan Sherrock, Economist, and other LBO staff

Highlights

- Public children services agencies (PCSAs) will experience additional costs in order to meet the bill's requirements for memoranda of understanding (MOUs) established between PCSAs and other local agencies.
- The Ohio Department of Job and Family Services (ODJFS) will experience additional costs to audit the MOUs and to promulgate certain rules regarding child neglect.
- ODJFS will realize costs to establish and support the Youth and Family Ombudsman Office.

Detailed Analysis

Memoranda of understanding

The bill makes numerous changes to the law affecting memoranda of understanding (MOUs) established between public children services agencies (PCSAs) and public officials and entities. Specifically, the bill establishes a review process for each county's MOU. As part of this process the bill requires biennially that each MOU be resigned and submitted to the respective county board of commissioners for approval and meet certain requirements. This will increase administrative work for many PCSAs and some of the public entities that enter into the MOUs.

The bill creates requirements for the MOUs and also requires the Ohio Department of Job and Family Services (ODJFS) to create a model memorandum that provides guidance to meet the bill's requirements. Additionally, ODJFS will be required to audit each MOU biennially for compliance and maintain a list of counties meeting the requirements on its website, as well as a

list of counties with memoranda that are not compliant. Currently, ODJFS has little involvement with these memoranda; both the Department and PCSAs will experience additional costs related to updating MOUs and going through the biennial audit.

Cross reporting

Additionally, the bill requires PCSAs to notify law enforcement if it receives a report of child abuse or a report of neglect that alleges a type of neglect identified in rules that the ODJFS Director must adopt no later than 90 days after the effective date of the bill. This could increase costs for PCSAs in order to provide the information; local law enforcement could experience costs depending on if they investigate additional reports. In addition, ODJFS will have costs to promulgate rules.

Youth and Family Ombudsman Office

The bill creates the Youth and Family Ombudsman Office under ODJFS, consisting of (1) a family ombudsman who is appointed by the Governor and investigates complaints made by adults, (2) a youth ombudsman who is appointed by the Governor with advice from the Overcoming Hurdles in Ohio Youth Advisory Board (OHIO YAB) and investigates complaints made by youth and advocates for the best interest of children involved in concerns investigated by the Office, (3) not fewer than two regional ombudsmen, and (4) necessary support staff. The duties of the Office are to investigate and resolve concerns made by or on behalf of children and families involved with PCSAs, Title IV-E agencies, or private provider agencies that administer or oversee foster care or placement services for the children services system, as well as establishing procedures for receiving and resolving complaints consistent with state and federal law and providing an annual report. The annual report must be provided to OHIO YAB, which, not later than 60 days after the release of the report, must provide an evaluation of the report to the Governor and the Office's youth ombudsman. ODJFS will be responsible for all administrative undertakings for the Office, including the provision of offices, equipment, and supplies, as necessary. This will increase administrative costs for ODJFS.

Foster care and adoption home assessor qualifications

The bill adds that current and former PCSA caseworkers and PCSA caseworker supervisors, and an individual with a bachelor's degree in certain human services fields who has at least one year of experience working with families and children, is an individual qualified to perform foster care and adoption home studies. Allowing additional individuals to perform these studies could increase the number of studies conducted.

OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 37
134th General Assembly

Final Fiscal Note & Local Impact Statement

Click here for H.B. 37's Bill Analysis

Primary Sponsor: Rep. Manning

Local Impact Statement Procedure Required: Yes

Ruhaiza Ridzwan, Senior Economist, and other LBO staff

Highlights

- The requirement that a health insurer that provides coverage of a prescription drug under its health benefit plan must provide coverage for that drug to a covered person if it is dispensed pursuant to the bill's emergency refill dispensing provisions may increase the cost to local governments to provide health benefits to employees and their dependents. Any political subdivision that already provides the required coverage would experience no effect on costs.

Detailed Analysis

Health insurance

The bill requires a health plan issuer that provides coverage of a prescription drug under its health benefit plan to provide coverage for that drug to a covered person if it is dispensed pursuant to the bill's emergency refill dispensing provisions. Under such provisions, a pharmacist may dispense such drug, without a prescription from a licensed health professional authorized to prescribe drugs, up to three times during any 12-month period, but not in consecutive months. In addition, if one 30-day supply or one standard unit that exceeds a 30-day supply has been dispensed, then for a second or third dispensing of such drug during the same 12-month period the amounts must not exceed a seven-day supply or the lowest available supply package. This requirement is contingent upon certain conditions being met, which include that (1) the pharmacist has a record of the patient having been prescribed the medication before and (2) in the pharmacist's professional judgment, failure to fill the prescription could harm the patient's health. The bill authorizes a pharmacist to dispense such drug, if it is not a controlled substance, up to three times during any 12-month period; this is up from not more than once for each prescription

in current law. The bill also prohibits health benefit plans from imposing cost-sharing requirements for such drug that are greater than those imposed when that drug is dispensed in accordance with a prescription issued by a licensed health professional authorized to prescribe drugs.

The bill specifies that the requirements apply to health benefit plans as defined in section 3922.01 of the Revised Code.[1] The bill applies to health benefit plans that are delivered, issued, modified, or renewed on or after the effective date of the bill. The bill includes a provision that exempts its requirements from an existing law requirement related to mandated health benefit bills.[2]

Fiscal effect

The requirements under the bill have no fiscal impact on the state's health benefit plans, according to a Department of Administrative Services official. However, they may increase costs to local governments' health benefit plans. Any increase in prescription drug coverage to such plans would increase costs to local governments to provide health benefits to employees and their dependents. If some local government plans already provide the required coverage for such drug purchases, the bill would not affect their costs. LBO staff are unable to quantify the bill's fiscal impact on local governments due to lack of information related to prescription coverage under their employee health benefit plans.

Though data limitations do not allow a reliable estimate of the magnitude of the potential increase in costs for local governments, available data do allow the development of an illustrative example that suggests that the costs to local governments may exceed $1 million per year statewide. The Centers for Disease Control and Prevention (CDC) estimates that approximately 10.5% of the U.S. population has diabetes; this estimate includes some who are not aware they have it.[3] Applying this percentage to the estimated Ohio population in 2020 of 11.7 million, approximately 1.2 million Ohioans may have diabetes (including some who may not yet have been diagnosed with the disease). Based on data from the 2018 American Community Survey (ACS), published by the U.S. Census Bureau, approximately 59.1% of Ohioans received health insurance coverage through their employer, suggesting that approximately 709,200 Ohioans may have diabetes who are also covered by health insurance offered through their employer. Recent (i.e., 2019) estimates from the U.S. Bureau of Labor Statistics (BLS) were that 4.1% of the Ohio nonfarm workforce were employed by local government (not including those employed by an educational institution or a local government hospital), and 5.2% were employed in local

[1] Section 3922.01, not in the bill, defines a health benefit plan as a policy, contract, certificate, or agreement offered by a health plan issuer to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

[2] 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.

[3] National Diabetes Statistics Report, 2020.

government education. Applying these percentages to the 709,200 estimate above, the number of Ohioans with diabetes that are covered by a health plan sponsored by a county, municipality, or township may be about 28,981, and the number covered by a school district-sponsored health plan may be about 36,698. Retail prices for insulin medications vary considerably, ranging up to $950 per vial in one source that LBO found. For illustrative purposes, if it is assumed that a diabetic person needs a vial of insulin per month and the price of insulin medication purchased under the bill's requirements was about $180, roughly the median retail price that LBO found, and that about 2.5% of diabetic individuals required the medication under the circumstances governed by the bill, the estimated costs to school districts would be roughly $165,000 per year and the cost to other local governments would be roughly $130,000 per year. The sum, $295,000, a plausible statewide cost for local governments for just one disease that could lead to a situation governed by the bill's requirements, suggests that the cost across all such diseases could exceed $1 million annually.

Pharmacy Board

The bill:

- Allows a pharmacist to dispense certain drugs not more than three times during any 12-month period rather than once during the same period as under current law;
- Prohibits such dispensing from being consecutive in time;
- Establishes supply limits when dispensing the drug a second or third time in the same 12-month period;
- Specifies that the second or third dispensing must not exceed a seven-day supply, or if the drug is packaged in a manner that provides more than a seven-day supply, the lowest available supply.

The State Board of Pharmacy does not expect these provisions to create any discernible ongoing licensing and regulatory costs. Potential violators of continuing law prohibitions as modified by the bill are subject to the Board's disciplinary procedures, as they are in the absence of the bill. The disciplinary sanctions the Board may take include revoking, suspending, or limiting the pharmacist's or intern's identification card; placing the pharmacist's or intern's identification card on probation; refusing to grant or renew the pharmacist's or intern's identification card; or imposing a monetary penalty or forfeiture not to exceed $500. Any forfeiture collected is credited to Fund 4K90, the Occupational Licensing Fund.

OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

H.B. 95
134th General Assembly

Final Fiscal Note & Local Impact Statement

Click here for H.B. 95's Bill Analysis

Primary Sponsors: Reps. Manchester and Lightbody

Local Impact Statement Procedure Required: Yes

Philip A. Cummins, Senior Economist, and other LBO staff

Highlights

- Providing nonrefundable income tax credits that could be claimed by (1) persons who intend to farm or began farming within the last ten years for the cost of participation in an approved financial management program and by (2) owners of agricultural property sold or rented to these newer farmers would reduce state income tax revenue.
- State revenue losses are limited by the bill to a total of $10 million. Tax credit certificates could be issued by the Director of Agriculture through 2027, if the bill goes into effect this year. Credits would be nonrefundable but could be carried forward.
- The GRF would bear most of the loss. Revenue to the Local Government Fund (LGF, Fund 7069) and Public Library Fund (PLF, Fund 7065) would each be reduced by 1.66% of the revenue loss under codified law.
- The Department of Agriculture would likely need to hire at least one new program administrator to oversee the new tax credit.
- The Ohio State University and Central State University may incur additional administrative costs to certify individuals as beginning farmers for purposes of qualifying an individual for the tax credit; any such costs would be permissive.
- Two separate property tax provisions temporarily affect local revenue in the Cincinnati area and in Franklin County, and possibly in other areas of Ohio.
- The bill increases the FY 2022 appropriation for Federal Fund 3L60 line item 200617, Federal School Lunch, by $338.0 million to allow the Ohio Department of Education to pay federal reimbursement to school districts and other providers operating school lunch programs.

Detailed Analysis

Overview of the beginning farmer income tax credit

The bill allows a beginning farmer to be issued a tax credit certificate against the farmer's state personal income taxes equal to the cost of participating in an approved financial management program. It also would allow an owner of agricultural assets who sells or rents the assets to a beginning farmer to be issued a tax credit certificate. The credit must be claimed in the year that the certificate is issued. The bill limits issuance of tax credit certificates under this program to a total of $10 million during the period through the fifth full calendar year following the bill's effective date. Requirements for beginning farmers and for agricultural asset owners are summarized in the bill analysis. An individual previously certified as a beginning farmer would no longer be considered for the program if that person ceases to meet the criteria for certification.

The Department of Agriculture and land grant colleges that elect to participate may incur additional administrative costs to certify an individual as a beginning farmer under the requirements prescribed by the bill. Eligible land grant colleges are the Ohio State University and Central State University. A beginning farmer may also be someone who has received substantially equivalent certification from the U.S. Department of Agriculture. The Department, in consultation with the participating colleges, is required to establish procedures for certifying financial management programs that would qualify a beginning farmer for the tax credit. The Department is to maintain a list of certified programs on its website.

Under the bill, the credit for the farmer would be nonrefundable but could be carried forward up to three years.[1] The owner of agricultural assets who sells or rents to a beginning farmer would be issued a tax credit certificate against the owner's state personal income taxes equal to 3.99% of (1) the sale price of the asset, (2) the cash equivalent of the gross rental income of a rental agreement entered into on or after the first day of the second preceding calendar year, or (3) the cash equivalent of the gross rental income of a share-rent agreement entered into on or after the first day of the second preceding calendar year. The credit for the asset owner would be nonrefundable but could be carried forward up to seven years.

Fiscal effect of the new income tax credit

The tax revenue loss from the bill is capped at $10 million, the limit on issuance of tax credit certificates under this program. If the bill is enacted and goes into effect this year, the credits could be issued in the remainder of 2022 and in the five full calendar years 2023 through 2027. No new tax credit certificates could be issued after that. Potential demand for such certificates appears substantial, and plausibly most or all of the $10 million maximum amount of certificates would be issued.

[1] The amount of a nonrefundable credit that a taxpayer may claim is limited to the amount of his or her tax liability before consideration of the credit. If there are unused amounts because the taxpayer's liability is less than the total credit for which he or she is eligible, the taxpayer may carry forward the unused amount, meaning use it in a subsequent tax year.

The nonrefundable credit is to be claimed for the tax year in which the certificate is issued. Revenue losses could begin as soon as FY 2023. With three-year carryforward for farmers and seven-year carryforward for asset owners, state income tax revenue might be reduced through FY 2035.

For GRF revenue foregone, distributions to each of the Local Government Fund and Public Library Fund (PLF) would be reduced by 1.66% of that revenue loss under codified law; during FY 2022 and FY 2023, the PLF bears 1.7% of any reduction in GRF tax revenue under an uncodified provision of H.B. 110 of the 134th General Assembly. The GRF would bear the rest of the revenue loss.

Department of Agriculture and participating land grant universities

The Department of Agriculture would be responsible for approving applications and issuing tax credit certificates for the beginning farmer income tax credit and approving financial management programs that beginning farmers must take in order to qualify for the tax credit. The Department anticipates that it would need to hire at least one new program administrator to oversee the new tax credit. Based on the state's employee classification plan, if a program administrator is hired at the starting annual salary of approximately $45,000, it will bring the Department's potential payroll costs to between approximately $60,500 and $76,800. This includes $6,300 (14% of annual salary to cover the employer's share of retirement) and the employer's share of health insurance ($9,200 for single coverage or $25,500 for family coverage under the state's traditional health plan). The state's annual health benefit costs would be slightly higher if the employee is enrolled in the state's high deductible health care plan.

As described above, the bill also allows participating land grant universities to certify beginning farmers for the tax credit under the bill. Consequently, the Ohio State University and Central State University could incur new administrative costs for overseeing the program if these universities choose to be involved with the program.

Change in tax increment financing (TIF) provisions

The bill allows a municipal corporation to exempt improvements to the same parcel concurrently through both an incentive district TIF arrangement and a subsequent individual parcel TIF or urban redevelopment TIF, if the ordinances authorizing the concurrent exemptions were adopted before March 1, 2022. The change may result in TIF exemptions entered into by Cincinnati, and perhaps other political subdivisions, being granted under amended law that were denied under current law. It may result in improvements being exempted under more than one TIF arrangement, referred to as TIF layering. This may increase or extend reductions in revenue to political subdivisions with territory in the TIF, while also increasing or extending the payment to Cincinnati (and perhaps others) of payments in lieu of taxes.

The bill also creates an alternative way to file TIF obligations that apply to current and future owners of affected properties. It allows either the subdivision or the property owner to file with the county recorder, in lieu of the "notice" required by current law, an agreement, a declaration, or covenant binding current and future owners of the property to such service payments or service charges. This change appears to have no fiscal effect.

Background on TIFs: a TIF is an economic development tool available to Ohio local governments to finance public infrastructure improvements and, in certain circumstances, residential rehabilitation. In general, a TIF temporarily exempts from property taxes a portion, up to 100%, of the increase in value of real property that results from improvements made to the property by the owner. TIFs are either parcel TIFs, with terms applicable to specified parcels, or incentive district TIFs, applicable to parcels within a contiguous area of no more than 300 acres. A TIF may be created by a municipal corporation, township, or county. Service payments in lieu of taxes, and equal in amount to the taxes that would otherwise be charged, on the increased assessed value of improvements to real property are directed to a separate fund to finance the construction of public infrastructure defined in the TIF legislation.

Temporary tax abatement for Lockbourne and possibly other municipal corporations

The bill provides a 12-month period for a municipal corporation that acquired property from the state of Ohio in 2020 to apply to the Tax Commissioner for abatement of unpaid taxes, penalties, and interest on the property and for the property to be placed on the tax-exempt list. Continuing law generally exempts municipal property from taxation, but such property may not be exempted if more than three years' worth of taxes remain unpaid.

This provision is intended to allow the village of Lockbourne to avoid tax liability for a parcel deeded to the village in 2020, on which taxes of $9,792.31 are owed, most of which is delinquent, according to the county auditor's website. The provision would reduce taxes due to Hamilton Local School District, Hamilton Township, Franklin County, and a few other entities. Under current law the delinquency prevents the village from receiving a tax exemption on the property. Although the provision is narrowly stated, LBO cannot rule out the possibility that similar situations may exist elsewhere in the state and that other municipal corporations might benefit from it.

Sales of certain motor vehicles

The bill changes the authorization for sales of motor vehicles at major livestock shows. It authorizes motor vehicles that have a gross vehicle weight rating of 6,800 pounds or more to be purchased at a motor vehicle show, held in connection with a major livestock show. The bill also removes the current authorization for sales at such shows of towing vehicles that are trucks and have a gross vehicle weight of more than three-quarters of a ton. These changes, apparently affecting transactions at Ohio's Quarter Horse Congress, are not expected to have a fiscal effect.

Federal school lunch program appropriation increase

The bill increases the FY 2022 appropriation for Federal Fund 3L60 line item 200617, Federal School Lunch, by $338.0 million. The Ohio Department of Education (ODE) uses this line item to pay federal reimbursement for meals served by participating districts, schools, and other providers through the National School Lunch Program (NSLP). In general, the program provides federal assistance on a per-meal basis that allows providers to offer free or reduced-price meals to students from low-income families. Currently, the FY 2022 appropriation for item 200617 is $605.8 million. With the appropriation included in this bill, that amount will increase to $943.8 million.

According to ODE, the Department needs the increased appropriation to pay school lunch reimbursement claims, which have increased substantially in FY 2022 for three reasons: (1) the United States Department of Agriculture (USDA) extended into the 2021-2022 school year child nutrition program waivers that allowed all students to receive a free lunch regardless of income status during the 2020-2021 school year, (2) the federal reimbursement rate per free lunch increased from $3.68 to $4.46, and (3) participation in NSLP has grown, as the number of school lunches served has increased by 6% from the 2018-2019 school year (the year before the COVID-19 pandemic) to the 2021-2022 school year.

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H.B. 223
134th General Assembly

Final Fiscal Note & Local Impact Statement

Click here for H.B. 223's Bill Analysis

Primary Sponsor: Rep. Hillyer

Local Impact Statement Procedure Required: Yes

Jean J. Botomogno, Chief Economist

Highlights

Fund	FY 2024	FY 2025	Future Years
State General Revenue Fund			
Revenues	Loss of up to $16.2 million from ongoing deductions; additional loss from carryforwards	Loss of up to $16.2 million from ongoing deductions; additional loss from carryforwards	Loss of up to $16.2 million per year from ongoing deductions; additional loss from carryforwards
Local Government and Public Library funds (counties, municipalities, townships, and public libraries)			
Revenues	Loss of up to $0.6 million from ongoing deductions; additional loss from carryforwards	Loss of up to $0.6 million from ongoing deductions; additional loss from carryforwards	Loss of up to $0.6 million per year from ongoing deductions; additional loss from carryforwards
Counties and transit authorities			
Revenues	Loss of up to $4.2 million from ongoing deductions; additional loss from carryforwards	Loss of up to $4.2 million from ongoing deductions; additional loss from carryforwards	Loss of up to $4.2 million per year from ongoing deductions; additional loss from carryforwards

Note: The state or school district fiscal year runs from July 1 through June 30 and is designated by the calendar year in which it ends. For other local governments, the fiscal year is identical to the calendar year.

- The bill allows sales tax vendors, beginning on July 1, 2023, to deduct sales tax remitted for bad debts on private label credit cards used to make purchases from the vendor. Thus the bill may reduce state sales tax revenue by up to $16.7 million per year, starting in

FY 2024. The revenue loss in any particular year may be higher than the estimated annual amount due to additional losses from carryforwards allowed by the bill.

- Bad debt deductions also reduce revenue from local permissive county and transit authority sales taxes (which share the same tax base as the state sales and use tax) which were imposed on relevant purchases. The loss to these local governments may be up to $4.2 million on an annual basis, with this amount potentially increased in certain years by carryforwards.
- Under codified law, the state sales tax revenue loss would be shared by the state General Revenue Fund (GRF, 96.68%), the Local Government Fund (LGF, 1.66%), and the Public Library Fund (PLF, 1.66%). Funds deposited into the LGF and PLF are distributed to counties, municipalities, townships, and public libraries according to statutory formulas and decisions by county budget commissions.

Detailed Analysis

The bill allows sales tax vendors to deduct sales tax remitted for bad debts on private label credit cards used to make purchases from the vendor, even though the debt is charged off on the books of a credit account lender, as defined by the bill. Under current law, a sales tax vendor may claim a bad debt deduction or refund on the basis of sales tax the vendor previously remitted only if bad debts are charged off as uncollectible on the vendor's books. The deduction applies to debt charged off as uncollectible on the books of lenders on or after July 1, 2023. Thus, the fiscal loss from the bill would start in FY 2024.

The bill defines a private label credit account as a credit account that carries, refers to, or is branded with the name of a vendor. A typical private label credit card arrangement (though not all) might involve a retailer contracting with a bank or a lender to issue a card labelled with the retailer's name; the card is used to make purchases at the store on credit; and the bank or the lender extends the credit, processes the credit purchases, bills customers, and remits payments, including sales tax, to the retailer in exchange for retaining a fee from the store. The retailer would then remit the sales tax to the state. If the customer does not pay the credit card balance, unpaid bills are thus a debt held by the bank or the lender, not the store.

A vendor may claim the deduction in current law for debt that has remained uncollected for at least six months, and the deduction may be obtained only for debts that have become worthless or uncollectible during the most recent sales tax reporting period and that the vendor may deduct for federal income tax purposes. The deduction is applied against the vendor's sales tax remittances. Thus, the bill expands an existing sales tax deduction for bad debts by allowing vendors to take a deduction of sales tax remitted for bad debts on accounts for private label credit cards even though the debt is charged off as uncollectible on the books of the vendor's affiliates, the lender, or any other person (e.g., debt collector) that acquired the credit accounts or receivables arising from such accounts. The bill permits the expanded bad debt deduction without regard to the vendor reporting period during which the debt became worthless or

uncollectible relative to the period between a vendor's returns.[1] Unlike the existing deduction for a vendor's own bad debts, if the bill's expanded deduction exceeds the vendor's taxable sales for the month due to the lender's bad debts, the sales tax vendor may carry forward and apply the difference to a future tax liability. There is no limit on the number of carryforward months.

Fiscal effect

The bad debt deduction may decrease revenue from the sales and use tax by up to $16.7 million per year on an ongoing basis. Receipts from the state sales and use tax are deposited into the GRF. Under codified law, the revenue loss would be shared by the GRF (96.68%), Local Government Fund (LGF, 1.66%), and Public Library Fund (PLF, 1.66%). Thus, the potential annual revenue loss to the GRF would be up to $16.2 million, while the combined reduction in tax revenue distributed to the LGF and PLF would total $0.6 million per year. The bill will also reduce revenue from local permissive county and transit authority sales taxes. Those local taxes share the same tax base as the state sales tax, and were imposed on taxable purchases made with the credit cards, and would be returned. At about 25% of state sales tax collections, the revenue reduction to permissive county and transit authorities' governments would total up to $4.2 million per year. The GRF, the local government funds, and county and transit authorities will sustain additional revenue reductions due to accumulated prior bad debts that may be deducted from current sales tax payments by vendors and possibly carried forward against future vendor tax liability, if the bill's expanded deduction exceeds the vendor's taxable sales for the month. LBO has no data on the total amount of qualifying existing bad debts on lenders' books.

This estimate is based on consumer data from a Federal Reserve Payments Study conducted in 2018, which provides net purchase transactions and dollar volume for private label credit card processors, and statistics on charge-off rates on consumer credit cards, also from the Federal Reserve. The estimate assumes that the sales tax vendor (retailer) does not issue or manage the private label card, or collect the payments from cardholders. The value of transactions for consumer private label credit accounts may have been up to $239 billion nationwide in 2018. Federal data were adjusted using Ohio's share of the gross domestic product for the retail trade industry. Other adjustments were made for transactions that may not give rise to sales tax collections. Ohio private label credit card transactions were estimated at $6.5 billion in 2018, which were then increased at an assumed annual rate of 5% to obtain about $8.3 billion in 2023. Assuming a charge-off rate on bad debts of 3.5%, potential Ohio bad debts may total $291 million when the bill goes into effect. Applying the state sales tax rate of 5.75% to that amount yields roughly $16.7 million.

Please note that the charge-off rate would vary with economic conditions. The 2008-2009 economic recession pushed up the charge-off rate to above 10% in 2010, and the rate gradually came down afterwards. In 2019 and 2020, average yearly charge-offs were 3.6% and 3.4%, respectively, according to data from the Federal Reserve. Thus, in years where the charge-off rate is higher than assumed above, the annual revenue loss would potentially increase. Alternatively, if the charge-off rate is less, the estimated annual revenue loss would decrease.

[1] For the debt to be deductible under Ohio's sales tax, the debt must be deductible for federal income tax purposes as determined with respect to the lender.

Also, if the value of transactions on private label credit cards increases substantially from amounts estimated when the bill goes into effect, estimated tax revenue losses may be understated.

Please note that the estimate above excludes private label retail credit card transactions made by businesses (totaling about $100 billion in 2018). The estimation also excludes consumer transactions made with prepaid private label credit cards or debit cards on the likelihood of few or no defaults on those types of accounts, or transactions involving co-branded credit accounts. Finally, the bill may plausibly increase the likelihood that certain delinquent accounts may be determined to become worthless earlier than would otherwise be the case. This potential change in behavior of holders of bad debts is not taken into account in the fiscal note.

HB0223EN/jw

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H.B. 343
134th General Assembly

Final Fiscal Note & Local Impact Statement

Click here for H.B. 343's Bill Analysis

Primary Sponsor: Rep. White

Local Impact Statement Procedure Required: Yes

Jessica Murphy, Budget Analyst

Highlights

- The bill increases the duties and responsibilities of local criminal and juvenile justice systems with regard to notifications to victims and their representatives and their participation in various proceedings. Local law enforcement, prosecutors, courts, clerks of courts, probation departments, and custodial agencies will incur one-time and ongoing costs to comply with the bill's requirements. Costs will depend on the number of victims, the frequency of notifications, and the capacity and capability of existing victim notification systems to absorb more work, including the availability of staff and electronic communications.
- The annual costs for the Governor and the departments of Rehabilitation and Correction and Youth Services to comply with the bill's notification requirements are expected to be minimal.
- Annual administrative costs will increase for the Attorney General, the Supreme Court, and law enforcement agencies to produce, distribute, or provide, as applicable, the required victim's bill of rights pamphlet, information card, and victim's rights request form. The extent of these costs will largely depend on the format in which the information will be provided, e.g., online or print.

Detailed Analysis

Victim's rights

The bill makes numerous changes to the Victim's Rights Law and related provisions in the Criminal Law more broadly. Most notably, these changes expand a victim or victim's

representative rights. For this purpose, the bill provides early information regarding the rights of a victim, increased notification points, and increased access to information pertaining to the disposition of their case, and any subsequent actions affecting the sanctioning of the offender(s). The bill most notably affects local justice systems, including law enforcement, prosecutors, courts, clerks of courts, probation departments, and custodial agencies.

Timely information to the victim

Under current law, a law enforcement agency investigating a crime is required, after its initial contact with the victim, to provide the victim, in writing, certain specified information that is more or less contained in a victim's rights pamphlet distributed by the Attorney General. The bill modifies the provision by (1) requiring the information be provided "on," rather than after its initial contact, and (2) adding information and materials to be provided (a victim's rights request form to be created by the Ohio Supreme Court and related informational page, and an information card to be created by the Attorney General). Law enforcement agencies generally will incur minimal ongoing costs to comply with this informational requirement.

The bill adds several items, including the victim's rights request form, to the information that the prosecutor or designee must provide to the victim or victim's representative, and specifies that all of the information, including that required under continuing law, must be provided within 14 days after prosecution commences. The impact on the daily operations and related operating costs of a local prosecutor's office will depend on the ease with which their existing victim notification system can be modified to deliver more information in a timely manner.

The bill also specifies the timing of various notices that must be provided to victims of crime under continuing law. For certain notices that are only required to be provided upon request, such as acquittal, conviction, and judicial release, the bill provides a seven-day timeframe.

Increased notification

The bill increases the number of circumstances under which certain state and local governmental agencies are required to notify or contact the victim, the victim's representative, or the victim's attorney. The affected entities include law enforcement, prosecutors, courts, clerks of courts, probation departments, custodial agencies (including the departments of Rehabilitation and Correction and Youth Services), and the Governor.[1] The impact on the daily operations and related operating costs of local governmental agencies would be dependent on the number of victims of a criminal offense or delinquent act.

[1] Prior to granting a pardon, commutation, or reprieve for an offense of violence or an act that would be an offense of violence if committed by an adult, the bill requires the Governor or a designee to notify the victim of the application and that the victim, victim's representative, and victim's attorney may submit a written statement concerning the application.

VINE[2]

Victim Information Notification Everyday (VINE) is an automated notification system that is available to crime victims of incarcerated offenders in county jails and the departments of Rehabilitation and Correction (DRC) and Youth Services (DYS). The costs for county jails, DRC, and DYS to comply with the bill's notification requirements will likely be minimized to the degree that VINE can be modified for that purpose.

Other additional rights

The bill expands the list of persons who may exercise the rights of a victim under the Victim's Rights Law as the victim's representative. As such, a representative, where designated, is allowed to receive the same notice and standing as a victim.

The bill provides that a victim or their representative is entitled to certain information at no cost, including a copy of the certificate of judgment and judgment entry filed with the court in the victim's case and any public records related to the victim's case. Other case documents may be provided at cost. For local governments (clerks of courts, courts, prosecutors, and law enforcement), the bill is likely to increase the amount of information requested and provided, as well as the costs to copy and provide. The amount of money that local governments will forego that otherwise would have been collected from requestors is uncertain. If copies are provided in electronic format, as permitted under the bill, the cost may be reduced to some degree. The bill's provisions related to providing previously prepared video and audio recordings of court proceedings at cost appear to reflect requirements established in Ohio's Public Records Law.

The bill entitles a victim with a disability, a non-English speaking victim, or a victim with limited English proficiency to a qualified or certified interpreter at all court proceedings, meetings with the prosecutor, and investigative contacts, at no cost to the victim. The cost is to be paid by the court. The annual costs for a given court to comply with this requirement are uncertain, as is the degree to which this provision may be codifying current practice.

Continuing law provides specific times at which the prosecutor in a case must confer with the victim. In addition to these times, the bill extends this requirement to when requested by the victim or their representative, to the extent practicable. The court is required to monitor prosecutor compliance with these requirements. The costs for prosecutors and courts to establish and maintain a compliance monitoring system are indeterminate.

Victim's bill of rights

The bill requires the Attorney General:

- Modify the victim's bill of rights pamphlet that the Attorney General is required to produce and distribute under continuing law; and
- Create an information card that (1) outlines victim's rights contained in the Ohio Constitution and Revised Code, (2) references the victim's rights request form, and

[2] VINE is a service provided by the Attorney General in partnership with the Buckeye State Sheriffs' Association and the departments of Rehabilitation and Correction and Youth Services.

(3) provides contact information for the Attorney General's crime victim's services and the Ohio Crime Victim's Justice Center.

The bill requires the Attorney General to make the victim's rights pamphlet available online and in a printable format (to be downloaded and printed locally), as well as continue to provide a limited number of paper copies to law enforcement agencies that order copies directly and to law enforcement agencies and prosecutors to provide to victims. The cost for the Attorney General to provide all agencies and prosecutors print copies of the expanded pamphlet could have been as much as a few hundred thousand dollars annually.

Victim's rights request form

The bill requires the Ohio Supreme Court to create a victim's rights request form and make the form available to law enforcement agencies, local chief legal officers (e.g., prosecuting attorneys), and organizations that represent or provide services for victims of crime. The bill requires law enforcement officials to provide an informational page to the victim as part of the victim's rights request form that includes specified information on various topics. These requirements will likely pose minimal annual administrative costs.

Victim's representative and victim's attorney

The bill clarifies that both the victim and the victim's representative, if applicable, must be notified by the prosecutor if the court schedules a hearing or grants a motion for a sentence reduction through judicial release. Further, the bill clarifies that a victim's attorney is able to present oral or written information relevant to a motion for judicial release. Similar to the opportunity afforded to the offender and the offender's attorney, the prosecuting attorney, the victim, the victim's representative, and any other person the court determines is likely to present additional relevant information may already do so under current law. These clarifying changes are unlikely to have any direct fiscal impact on local criminal and juvenile justice systems.

The bill also makes changes to eliminate ambiguity in provisions related to misdemeanor sentencing determination to ensure that all relevant information is considered. These changes largely safeguard the rights of the victim and have no direct fiscal effect.

Ohio's Public Records Law

Current law provides for a process that allows a crime victim to file a motion to make information regarding their case confidential. This may include pleadings, motions, exhibits, transcripts, orders, and judgments, or any documentation prepared by a court, clerk of court, or law enforcement agency or officer. The bill modifies the process to make these confidential in all cases, absent a request, unless the victim otherwise consents or the court determines that the fundamental demands of due process of the law in the fair administration of criminal justice prevails over the victim's rights to keep the information confidential.

In addition, the bill specifies that these confidential records, as well as the portion of a completed victim's rights request form that contains a victim's name or identifying information, are exempt from disclosure under Ohio's Public Records Law. The bill will affect state and local criminal justice agencies in responding to public records requests and may increase, to some

degree, the cost that such an agency incurs to ensure that exempted portions of a record are not disclosed.

Record sealing and expungement

The bill:

- Changes the timeline for a court to provide the prosecutor with notice of a proceeding to seal and expunge criminal or juvenile records from "promptly" to "not less than 60 days prior to the hearing";
- Requires the prosecutor provide timely notice to the victim and victim's representative; and
- Permits the victim, victim's representative, and victim's attorney to be present at the proceedings and to be heard.

These provisions will not change the number of record sealing and expungement requests, but may increase the time and effort that the court and prosecutor otherwise may have expended on such proceedings.

Enforcement of rights by appeal

The bill creates a mechanism for a victim, victim's representative, or victim's attorney to enforce the victim's rights under the Victim's Rights Law with or without the prosecutor, including enforcement by appealing or petitioning the court of appeals or the Ohio Supreme Court. According to the Ohio Prosecuting Attorneys Association, this provision has the potential to generate significant additional litigation, as well as delays in the prosecution of a case. The extent of any such delay is uncertain, as the bill provides that such an appeal shall proceed on an expedited basis. The bill permits the speedy-trial rights of a criminal defendant to be tolled during any period that an appeal or petition for an extraordinary writ to enforce victim's rights.

Financial sanctions

The bill modifies the financial sanctions that a court may impose on a misdemeanor offender. Under continuing law, an offender may be required to pay a combination of restitution and fines, or to reimburse all or any of their sanctioning costs including community control. The bill specifies that global positioning system (GPS) device monitoring costs are a part of community control sanctioning and thus are reimbursable. The amount of local revenues that might be gained annually is problematic to calculate for a variety of reasons, including the permissive nature of the provision, the likelihood that, to some degree, the costs are already viewed as reimbursable, and the difficulty of collecting financial sanctions from unwilling or indigent offenders.

The bill's changes to the laws governing restitution for misdemeanor and felony offenses generally enable a victim to recover a larger portion of the total amount of restitution ordered to be paid by the offender. The purpose of these changes are to conform to the requirement set forth in the "Marsy's Law" amendment to Article I, Section 10a of the Ohio Constitution that restitution to a victim be mandatory, "full, and timely." The bill does not appear to affect the

current order in which an offender's payments are assigned (i.e., court costs, state fines/costs, restitution, fines, and reimbursements).

The bill requires the clerk of a sentencing court, upon request, to make the payment history of an offender sentenced to pay restitution for a felony or misdemeanor available to the prosecutor, victim, victim's representative, probation department, and the court without cost. As a result, the clerk's administrative responsibilities will minimally increase to respond to these requests, the extent of which will depend on the volume of requests made and the format in which the information will be provided.

The Ohio Supreme Court will incur minimal annual costs to create and maintain a required standardized form to be made publicly available that provides guidance for victims and victims' representatives regarding the compilation of evidence to demonstrate losses for determining restitution.

Unclaimed money for crime victim restitution

The bill requires unclaimed money that is for restitution payments for crime victims to be sent to the Reparations Fund (Fund 4020) and for those moneys, if still unclaimed after five years, to be used by the Attorney General for the benefit of other crime victims. The Attorney General is required to pay any part of the restitution award owed to a victim at any time to the person who has the right to the money upon proper certification from the clerk, or other officer responsible for the collection and distribution of restitution payments, and documentation from the individual claiming such right. The timing and magnitude of this unclaimed money is unpredictable.

The money appropriated from Fund 4020 is used for: (1) victim compensation payments, (2) the Attorney General's compensation administrative costs, (3) the Sexual Assault Forensic Exam (SAFE) Program, (4) grants to victim assistance programs, (5) DNA specimen collection, analysis, and database entry, and (6) attorney fees.

The revenue sources for Fund 4020 consist primarily of: (1) court costs of $30 and $9 imposed upon an offender convicted of or pleading guilty to a felony or misdemeanor, other than a nonmoving traffic violation, (2) $75 of the $425 fee collected for the reinstatement of a driver's license that was suspended for operating a motor vehicle while under the influence of alcohol or drugs (OMVI), and (3) subrogation and restitution recoveries. The year-ending cash balance for Fund 4020 was $11.2 million in FY 2018, $6.3 million in FY 2019, $7.4 million in FY 2020, and $9.5 million in FY 2021.

Testimony of certain victims

The bill makes changes to current law as it relates to the taking of testimony of a child-victim or victim with a developmental disability in a juvenile case, in a preliminary hearing involving an alleged violation of certain felony offenses, and in a trial involving a specified criminal offense or an offense of violence. The bill allows for circumstances under which such testimony may be taken by deposition, taken remotely and televised by closed circuit equipment, or recorded. It is unclear as to how these provisions will affect local criminal and juvenile justice systems relative to the manner in which the testimony of these victims is currently being handled

by trial courts statewide. Any costs will be a function of the manner in which judges exercise their discretion in such matters.

Evidence

Ohio's Rape Shield Law generally prohibits the introduction of evidence of the victim's sexual history in rape and gross sexual imposition cases. The law provides limited exceptions to allow evidence of a certain type, including when it involves the origin of disease generally. The bill narrows this to the more limited circumstance when the evidence involves the origin of sexually transmitted disease or infection. This provision of the bill is not expected to have a direct fiscal effect on the state or local governments.

State Victims Assistance Advisory Council

The bill adds four new members to the State Victims Assistance Advisory Council, increasing the number of members from 17 to 21. Council members are not compensated but may be reimbursed for travel and other necessary expenses. The amount necessary for the Attorney General to reimburse these additional members will be minimal at most annually.

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H.B. 371
134th General Assembly

Final Fiscal Note & Local Impact Statement

Click here for H.B. 371's Bill Analysis

Primary Sponsors: Reps. Schmidt and Denson

Local Impact Statement Procedure Required: Yes

Ruhaiza Ridzwan, Senior Economist, and other LBO staff

Highlights

- The bill's coverage expansion would increase costs for the state and local governments to provide health benefits to employees and their dependents.
- Any increase in costs to the state health benefit plan would be paid from the Health Benefit Fund (Fund 8080). Fund 8080 receives funding through state employee payroll deductions and state agency contributions toward their employees' health benefits, which come out of the GRF and various other state funds.
- The coverage expansion would also increase costs to local governments' health benefit plans, though LBO staff are uncertain about the extent of such increase.
- The coverage expansion may result in a slight increase in utilization for Medicaid services. The impact is likely to be minimal as Ohio Medicaid has already complied with these coverage requirements.
- The Ohio Department of Health (ODH) will incur minimal costs to provide notifications to specified Certificate of Need (CON) holders regarding project expiration dates. Any other impacts will depend on the number of CONs impacted and whether any fees or penalties would have been charged under current law.

Detailed Analysis

Health insurance

The bill requires health insurers, including public employee benefit plans, (1) to expand the current required screening mammography coverage by including digital breast

tomosynthesis (also known as 3-D mammogram) and (2) to provide coverage for supplemental breast cancer screening for adult women who meet certain conditions.[1] The bill defines supplemental breast cancer screening as any additional screening method deemed medically necessary by a treating health care provider for proper breast cancer screening in accordance with applicable American College of Radiology guidelines, including magnetic resonance imaging, ultrasound, or molecular breast imaging. Under the bill, one screening mammography must be covered every year, including digital breast tomosynthesis, for a patient without regard to age. Currently, health insurers must cover the following: (1) for a woman between age 35 and 39, one screening mammography, (2) for a woman between age 40 and 49, one screening mammography every two years or one screening mammography every year if a licensed physician has determined that the woman has risk factors for breast cancer, and (3) for a woman between age 50 and 64 one screening mammography per year.

The bill specifies that an adult woman must meet either of the following conditions for the required supplemental breast cancer screening coverage: (1) the woman's screening mammography demonstrates that the woman has dense breast tissue, according to the breast imaging reporting and data system established by the American College of Radiology,[2] or (2) the woman is at an increased risk of breast cancer due to family history, prior personal history of breast cancer, ancestry, genetic predisposition, or another reason as determined by the woman's health care provider. The bill specifies that supplemental breast cancer screening coverage must be reimbursed at up to 130% of the lowest Medicare reimbursement rate in the state, the same reimbursement rate as the current screening mammography benefit.[3]

The bill includes provisions that exempt its requirements from an existing requirement related to mandated health benefits.[4]

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[1] The bill modifies the definition of screening mammography to include digital breast tomosynthesis and adds a definition for supplemental breast cancer screening.

[2] Under existing law, a mammography facility is required to send to each patient a written report summarizing the patient's mammogram results. If the patient's mammogram demonstrates that the patient has dense breast tissue, the summary must include certain statements.

[3] Based on the Centers for Medicare & Medicaid Services' (CMS) physician fee schedule, nonfacility prices for screening digital breast tomosynthesis bilateral (listed separately in addition to code for primary procedure; Healthcare Common Procedure Coding System (HCPCS) code 77063) in Ohio, ranged between $23.26 and $52.73 in 2021. Nonfacility prices for screening mammography bilateral two-view study of each breast, including computer detected-aided detection (CAD) when performed (HCPCS code 77067), ranged between $36.97 and $125.27 in 2021. Nonfacility prices for magnetic resonance imaging (MRI) with contrast, breast – unilateral (HCPCS code 77046), ranged between $69.45 and $226.95. Nonfacility prices for MRI with contrast, breast – bilateral (HCPCS code 77047) in Ohio, ranged between $76.60 and $233.46. Those prices are available at the CMS fee schedule.

[4] Under existing 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

Fiscal effect

The expansion of the current screening mammography coverage and the required supplemental breast cancer screening for eligible adult women are likely to increase insurance premiums of the state's self-insured health benefit plans and local governments' health benefit plans. Any increase in insurance premiums would increase costs to state and local governments to provide health benefits to employees and their dependents. The cost increases may be significant, though LBO staff are uncertain about the amount. Based on the prevalence of breast cancer and risks of breast cancer by age,[5] it is likely that utilization of screening mammographies, including digital breast tomosynthesis by certain women (i.e., women under age 35 and over age 64[6] that are not currently covered for any mammography benefits or all women who may utilize digital breast tomosynthesis and supplemental breast cancer screening) may increase.

Based on data from the state self-insured health benefit plans, in FY 2021 over 12,500 women and about 11,500 women had a routine screening mammography and a routine screening 3-D mammography, respectively. The average payment per patient paid by the state plans for a routine screening mammography ranged between $276 and $478 while the average payment per patient for a routine screening 3-D mammography ranged between $232 and $255. During the same period, about 2,000 women had a medically necessary screening mammography and about 1,500 women had a medically necessary screening 3-D mammography. The average payment per patient for a medically necessary mammography procedure was higher than a routine procedure (i.e., payments ranged between $436 and $609 for a medically necessary screening mammography and between $234 and $332 for a medically necessary screening 3-D mammography). In addition, 180 women had a medically necessary MRI with the average payment per patient between $1,237 and $1,410.

To the extent that the bill's required coverage is already provided in a public employee health plan, there would be no fiscal impact on that plan.[7] Any increase in costs to the state plan would be paid from the Health Benefit Fund (Fund 8080). Fund 8080 receives funding through state employee payroll deductions and state agency contributions toward their employees' health benefits, which come out of the GRF and various other state funds. Since the data from the state health plan appear to show that 3-D mammography is frequently covered under current law, the cost to the state may be primarily due to the increased frequency of required coverage for younger age groups, and may be minimal.

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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.

[5] Based on the prevalence of breast cancer and risks of breast cancer by age in a report, Ohio Annual Cancer Report 2021, prepared by the Ohio Department of Health, and data from National Cancer Institute Breast Cancer Risk in American Women.

[6] Based on U.S. Census Bureau, 2019 American Community Survey 1-Year Estimates data on private health insurance coverage by type and selected characteristics in Ohio.

[7] According to a state health benefit plan summary, Medical Mutual of Ohio: Ohio Med PPO Plan Description – July 1, 2021-June 30, 2022, routine gynecological services covered mammogram services, including 3-D mammograms.

Information on enrollees under local governments' health benefit plans is not available. Based on publicly available data on state retirement systems' active memberships, the estimated number of women between age 35 and age 49 who may be enrolled under the local governments' health benefit plans and who may be benefited by the bill's expansion of screening mammography coverage numbers in the tens of thousands,[8] but the precise total number of women enrolled in local governments' health benefit plans who may be benefited from the supplemental breast cancer screening is undetermined. However, with cost differentials which may be about $100 per procedure, and perhaps as many as 43.3% of women between age 35 and 64 covered by such plans being eligible for a supplemental breast cancer screening (see below), the tens of thousands of women employed by local governments translate into a statewide cost of up to $2 million to $3 million.

Background information

Nationwide survey results related to the percentage of women aged 40 and over having a preventive care cancer screening mammogram during the past two years, reported in Table 33 of National Center for Health Statistics, 2019,[9] found that 61.5% of women between age 40 and 49 had such a mammogram in 2018. During the same period, 71.8%, 75.0%, and 50.6% of women between age 50 and 64, between age 65 and 74, and age 75 and over had a mammogram, respectively. LBO staff found widely varying study results regarding the prevalence of dense breast tissue in U.S. women. One source, an article entitled*, Prevalence of Mammographically Dense Breasts in the United States,* using Center for the Breast Cancer Surveillance Consortium (BCSC) mammogram data of women aged 40 years and older, found prevalence rates ranging from 2.84% (for women between age 60 and 64) up to 6.31% for women between age 45 and 49. Another source cited findings of prevalence rates up to 43.3% (in women aged 40 to 74).[10]

Medicaid

The bill requires the same coverage of supplemental screening mammography for Medicaid as it requires for health insurers. Further, the modifications the bill makes to the definition of screening mammography also apply to Medicaid. According to the Ohio Department of Medicaid (ODM), Medicaid is already required by the federal government to comply with U.S. Preventive Services Task Force A and B Grade (USPSTF A & B) recommendations for preventive screenings, which includes breast cancer and cervical cancer screenings. In complying with USPSTF A & B, ODM has already been providing the required coverages of the bill. Additionally, ODM has covered digital breast tomosynthesis since 2017. For these reasons, it is anticipated

[8] The estimates are derived from the number of active female members of the state's five retirement systems included in their 2020 actuarial valuation reports, available at Annual Actuarial Valuation Report, by system.

[9] A copy of the table is available at: https://www.cdc.gov/nchs/data/hus/2019/033-508.pdf.

[10] Advani SM, Zhu W, Demb J, et al. Association of Breast Density With Breast Cancer Risk Among Women Aged 65 Years or Older by Age Group and Body Mass Index. JAMA Netw Open. 2021. A copy of the study is available at: https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2783508.

that there will be no significant fiscal impact on Medicaid except there may be a slight increase in utilization of the services.

Certificate of Need changes

The bill makes several temporary changes for Certificates of Need (CONs) granted during the period of the COVID-19 state of emergency, including the following: (1) the Director of the Ohio Department of Health (ODH) is required to grant a CON holder a 24-month extension to obligate capital expenditures and commence construction for a proposed project, (2) ODH is required to notify the CON holder of the date on which the 24-month extension expires, and (3) provides that the transfer of a CON, or transfer of the controlling interest in an entity that holds a CON, prior to completion of the reviewable activity for which the CON was granted, does not void the CON, as long as recognizing the transfer would not result in a violation of existing law that prohibits a CON application from being approved in various circumstances.

Additionally, for a CON granted on or before the effective date of the bill, the bill prohibits the Director of Health from imposing a civil penalty against a CON holder for obligating a capital expenditure in an amount between 110% and 150% of the approved project cost (current rules allow a monetary penalty for obligating more than 110% of the approved project cost). This provision applies to any CON granted on or before the effective date of the bill for which ODH is still monitoring the activities of the person granted the certificate.

Fiscal effect

ODH may experience a minimal increase in administrative costs to provide the notification. Any other impacts will depend on the number of CONs impacted and whether any fees or penalties would have been charged under current law.

HB0371EN/zg

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H.B. 501
134th General Assembly

Final Fiscal Note & Local Impact Statement

Click here for H.B. 501's Bill Analysis

Primary Sponsor: Rep. Hall

Local Impact Statement Procedure Required: Yes

Philip A. Cummins, Senior Economist, and other LBO staff

Highlights

- School districts and local governments may lose revenue because of new tax increment financing (TIF) property tax exemptions that the bill would allow townships to create.
- Townships, county auditors, and schools may incur costs for tax incentive review council scrutiny of these property tax exemptions.
- Counties, townships, and municipal corporations may incur some costs to regulate small solar facilities, as permitted by the bill. Any such costs would be at the discretion of the government entity.
- The bill provides authority for townships to use general funds for broadband expansion projects within unincorporated territory that did not receive funding under the Department of Development's Residential Broadband Expansion Grant Program.
- The Little Miami Joint Fire and Rescue District may earn additional investment revenue through the authority granted in the bill.

Detailed Analysis

Tax increment financing enhancement

The bill extends to townships provisions of municipal tax increment financing (TIF) law. It allows a township engaged in redevelopment to declare any increase in value of real property subsequent to adoption of a resolution to be a public purpose. To qualify, the parcel must previously have been owned by the township, and must be leased or sold by the township to another person. Residential property in the township may qualify if it is in a blighted area.

The township may require annual service payments in lieu of taxes (PILOTs). TIF PILOTs generally are used for public infrastructure improvements, though they may also be used for payments to school districts and for housing renovations and certain exemptions. Payments are charged and collected in the same manner and amount as the real property taxes that would have been charged and payable if not for the tax exemption. PILOTs cannot be required after the date on which the township has been paid back in full for the public infrastructure improvements.

Generally, not more than 75% of the increase in property value may be tax-exempted, for up to ten years. Up to 100% of the value increase, for up to 30 years, may be exempted with board of education approval. Also, if the resolution creating the exemption provides for PILOTs to be paid to the school district where the parcel is located, in the amount of the taxes that would have been payable to the district but for the tax exemption, the percentage of the value increase that may be exempted from taxation may exceed 75%, for up to 30 years. These restrictions match those in current law governing TIFs created by municipalities.

Current law provides for a township public improvement tax increment equivalent fund, into which TIF PILOTs are to be deposited. The bill allows a township to create a redevelopment tax increment equivalent fund for PILOTs from the new provisions that the bill would enact. Money in this new fund could be used for purposes authorized in the resolution establishing the fund. The bill does not limit such purposes to public infrastructure improvements.

Creation of this new property tax exemption by the bill may result in revenue losses for school districts and local governments. The revenue losses would be discretionary for townships enacting them, but not for other affected government entities except school districts if they approve the exemptions. The amount of any such losses is uncertain.

Tax incentive review council

Current law provides for tax incentive review councils for counties, townships, and municipal corporations that grant exemptions from certain taxes, including exemptions under TIF law. The bill extends the requirement for such a body to townships that exempt property from taxation under the provisions that the bill would enact. For a township, membership in the tax incentive review council includes the board of township trustees, the county auditor or the auditor's designee, and representatives of affected school districts. Townships, county auditors, and schools may incur costs for the required reviews.

Township governance

The bill also provides a streamlined process for a township to donate unneeded property to nonprofits. This provision does not appear to have any fiscal effect.

Local jurisdiction of small solar facilities

The bill permits counties, townships, and municipal corporations to regulate the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any small solar facility. It defines "small solar facility" as solar panels and associated facilities with a single interconnection to the electrical grid and designed for, or capable of, operation at a capacity of less than 50 megawatts.

Local governments may incur some costs to regulate small solar facilities. However, any such expenditures would be discretionary for local governments that elect to exercise this authority.

Changes to law governing townships

The bill includes permissive provisions affecting townships only. Any costs incurred related to these additional authorizations would be at the discretion of the townships.

Roth accounts and other nontax-deferred contributions

The bill allows a board of township trustees, as part of a local government deferred compensation program, to establish a designated Roth account feature or any other feature for retirement savings account contributions that are subject to state and federal income taxes when made. This provision appears to have negligible, if any, fiscal effects on townships that choose to offer such programs.

Fiscal officer compensation and vacancy

The bill allows a township fiscal officer's assistant to receive compensation allowable under a township's appropriation measure passed under R.C. 5705.38, which includes provision for needed supplemental appropriation measures, as an alternative to the amount allowable under an estimate of expenditures provided to the board of trustees, as under current law. This permissive change would let a township respond to changes subsequent to providing the board of trustees estimate.

The bill also allows a board of township trustees to appoint a deputy fiscal officer to fill the position of township fiscal officer if the office becomes vacant. This bill provision appears to have no fiscal effect.

Township use of general funds for broadband expansion

The bill would allow a township to use general funds to support broadband expansion projects within its unincorporated territory that do not receive a grant under the Department of Development's Residential Broadband Expansion Grant Program. It also creates a process under which a "challenging provider" may challenge the expending of township general funds to support broadband expansion projects. Because this provision is permissive, any related costs incurred would be at the discretion of the township.

Little Miami Joint Fire and Rescue District

The bill authorizes the treasurer or governing board that is a member of the Little Miami Joint Fire and Rescue District to invest all or part of the interim money in bonds or other obligations of the fire district of which it is a member. The bill also requires the fire district bonds and other obligations mature within 20 years. Finally, the bill exempts the treasurer or governing board from certain requirements of the Uniform Depository Act when investing this interim money from the Little Miami Joint Fire and Rescue District. Should the fire district exercise this authority, the district may be able to generate some additional investment revenue under this provision.

HB0501EN/lb

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H.B. 515
134th General Assembly

Final Fiscal Note & Local Impact Statement

Click here for H.B. 515's Bill Analysis

Primary Sponsors: Reps. Hoops and Riedel

Local Impact Statement Procedure Required: Yes

Jean J. Botomogno, Principal Economist

Highlights

- The bill specifies certain situations under which the sale of an equity or ownership interest in a business is considered business income, thus subject to preferential treatment under the business income deduction and the 3% rate in continuing law. This provision will reduce revenue from the personal income tax (PIT). Due to lack of data on such sales, LBO does not have an estimate of the magnitude of the annual revenue loss.
- The changes described above would apply to any audits, refund applications, petitions for reassessments, and appeals pending on or after the bill's effective date. This provision could result in a substantial reduction in PIT receipts, possibly tens of millions of dollars.
- Reductions in PIT revenue to the GRF as a result of the bill will lower amounts distributed to local governments and public libraries through the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065). In the current biennium, the PLF receives 1.70% of GRF tax revenue under an uncodified provision of H.B. 110 of the 134th General Assembly, the main operating budget act. In codified law, the LGF and the PLF each receive 1.66% of GRF tax revenue.
- The bill changes the reporting period for the sports gaming tax so that sports gaming proprietors must file monthly tax returns, instead of daily returns. This provision has no direct fiscal effect.

Detailed Analysis

Sales of business interests

The bill modifies income tax law related to sales of business interests. The bill codifies two situations in which the sale of an ownership interest will be considered business income: (1) the sale is treated as a sale of assets for federal income tax purposes, or (2) the seller materially participates in the activities of the business during the taxable year in which the interest was sold or during any of the five preceding taxable years. (Rules in the federal Internal Revenue Code for material participation generally consider the number of hours the taxpayer spent participating in the operation of a business.)

If either of the two conditions above are satisfied, the income from the sale of a business interest would be eligible for preferential treatment under the business income deduction (BID) and the 3% flat tax on business income. Under continuing law, a taxpayer can deduct their first $250,000 of business income ($125,000 for spouses filing separate returns) under the personal income tax (PIT). Any business income above that amount is subject to a 3% flat tax. Both apply only to income classified as "business" income. Nonbusiness taxable income is taxed at graduated PIT rates, up to 3.99% in codified law.

Income from the sale of ownership interest which is nonbusiness income is generally taxable for Ohio residents and nontaxable in Ohio for nonresidents (as nonbusiness income from the sale of their intangible property is allocable to the nonresident's domicile or home state).[1] By reclassifying certain nonbusiness income as business income, the bill will reduce PIT revenue due to the BID and the lower tax rate on business income, most likely starting with tax returns filed for tax year 2022 (FY 2023). The fiscal loss is likely to vary substantially from year to year, and the revenue decrease may be millions of dollars for years with sizable sales of businesses or business interests. No data on sales of business assets or business interests that would qualify under the bill are available to LBO to allow for a precise estimation.

Reclassifying such capital gains as business income may have a secondary effect, in some cases, that could partially offset the revenue loss explained above. Such reclassification could, in some cases, make taxable by Ohio the capital gains received by nonresidents of the state, when they may not be taxable currently. Potential revenue gains from this provision are unpredictable due to uncertainty regarding the particular facts and circumstances of a taxpayer's case that could make such income taxable.

Section 3 of the bill states it is a "remedial measure intended to clarify existing law." The bill's changes apply to any refund applications, petitions for reassessments, and appeals pending on or after the bill's 90-day effective date, and any transaction subject to an audit on or after the effective date of the bill. This provision would result in an undetermined one-time large reduction in PIT receipts, possibly in the millions of dollars, though this revenue decrease may occur over several fiscal years, possibly starting in FY 2023. LBO staff cannot rule out a revenue loss in the

[1] The tax treatment of income from the sale of an ownership interest in a business is affected by Ohio law, Supreme Court precedent, and Department of Taxation guidance. In general, the sale of an ownership interest is considered nonbusiness income, with certain exceptions.

several tens of millions of dollars. Separately, the Department of Taxation estimated the revenue loss from the retroactive component of the bill may potentially be in the lower hundreds of millions of dollars.

Reductions in PIT revenue to the GRF as a result of the bill would lower amounts distributed to counties, municipalities, and townships through the Local Government Fund (LGF, Fund 7069), and to public libraries through the Public Library Fund (PLF, Fund 7065). In the current biennium, the PLF receives 1.70% of GRF tax revenue under an uncodified provision of H.B. 110 of the 134th General Assembly (the main operating budget act). In codified law, the LGF and the PLF each receive 1.66% of GRF tax revenue, so the GRF would bear the bulk of any PIT revenue loss from the bill.

Sports gaming receipts tax reporting

H.B. 29 of the 134th General Assembly legalized sports wagering at brick-and-mortar locations in Ohio and via internet and mobile devices beginning no later than January 1, 2023. The bill also imposed a 10% tax on sports gaming receipts. The bill changes the reporting period for the sports gaming tax so that sports gaming proprietors must file monthly tax returns, instead of daily returns. This provision has no direct fiscal effect. (Continuing law, unchanged by the bill, requires casinos to file daily returns.)

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H.B. 567
134th General Assembly

Final Fiscal Note & Local Impact Statement

Click here for H.B. 567's Bill Analysis

Primary Sponsors: Reps. Stewart and Brown

Local Impact Statement Procedure Required: Yes

Shaina Morris, Budget Analyst

Highlights

- The bill's requirement for clerks of courts of common pleas to make the court's general docket and certain document images available online will result in increased costs for those that need to purchase, upgrade, or maintain an online docket system. As of late 2021, there were 47 counties that did not have images published online and three that did not offer any online publication, dockets or otherwise. Costs will vary based on county population and caseload, the court's current case management system capability, and case management vendor.
- Clerks of courts of common pleas may incur some one-time administrative costs related to preparing documents for online publication, such as redacting information.

Detailed Analysis

Courts of common pleas – online docket systems

The bill requires that the clerks of courts of common pleas make available online on the clerk's website the "general docket" of the court for remote access and printing, including all individual documents in each case file pertaining to civil cases filed on or after the effective date of the bill. The bill states that the clerk of court is not required to make available online the general docket of the domestic relations division, the juvenile court, or the probate court. If the court does not have a domestic relations division, the general docket in domestic relation cases is not required to be made available online. The bill does not require case files and/or documents ordered to be removed from public access by the court or those prohibited by law to be available online, nor does it require case information from before the effective date of the bill to be made available online. The required information must be made available online not later than

18 months after the bill's effective date. The bill also permits pleadings or documents filed with the clerk of court in paper format to be converted to electronic format, and documents created by the clerk to be created in electronic format. The bill grants immunity to a clerk of court who posts on its web site a case document with personal identifiers.

Most of Ohio's 88 counties have a case management and docketing system that is capable of some type of online access. According to the Ohio Clerk of Courts Association, as of August 2021, 38 counties have both the docket entries and case document images available for public access online. Presumably, these counties will be able to comply with the bill's requirement at little to no cost. Another 47 counties post docket entries online, but do not currently post case document images online. There are currently three counties that do not offer access to their docket or case document images online. Please see the attached "**Appendix**" for a list of counties that will either need to implement image scanning or upgrade their current case management system in order to comply with the bill's requirements.

Cost estimates to upgrade case management systems

In Ohio, courts are able to choose their own case management system vendor. Several vendors offer these services, two of which are Equivant/CourtView (services 60 counties) and Henchen & Associates (services 14 counties). According to a representative of Equivant/CourtView, 75% of the counties using their service currently have the ability to display case document images and the docket entries online using their existing purchased software. For counties that are not currently posting document images, it is generally due to reasons such as the need to redact certain information.

For counties that need to upgrade their current case management systems, there would likely be a one-time programming cost and potential ongoing maintenance and storage costs. Equivant/CourtView provided the following information as an example of the potential costs for those courts that utilize their system. These figures are only estimates and may not be reflective of what other vendors may charge. Counties that currently have no online case management system will incur additional costs that are indeterminate, but would likely be in the tens of thousands of dollars, or more. Total costs for each impacted clerk of court will differ based on county population and caseload, the court's current case management system, and case management vendor.

Sample Estimates to Implement Online Imaging (Users of Equivant/CourtView)	
One-Time Costs	
CMS Image Adaptor*	$1,500
iDMS Image Adaptor** (fee based on population)	$6,500
Services	$3,900
Recurring Annual Costs	
Maintenance (based on a 22% license fee)	$1,760

*CMS – Case Management System

**iDMS – Integrated Database Management System

Clerks of courts of common pleas – other provisions

Board of county commissioners duties in relation to clerk of the court of common pleas

The bill replaces the specific list of items (e.g., blankbooks, including printed trial dockets, blanks, and stationary, etc.) required to be provided by the board of county commissioners to the clerk of the court of common pleas with more general language.

To the extent that this creates greater efficiencies in the management and support of the duties of the clerk of the court of common pleas by the board of county commissioners, such effect is likely to be minimal at most.

Records kept by the clerk of the court of common pleas

The bill removes the requirement that the clerk of the court of common pleas must keep at least four books and use materials that comply with the minimum standards prescribed by the National Bureau of Standards, and instead requires the clerk to keep records as indicated by the Rules of Superintendence for the Courts of Ohio. The bill aligns the requirements for recording orders made out of court with the Rules of Superintendence for the Courts of Ohio. Any costs, or potential savings, will depend upon how current recordkeeping practices differ from those indicated by the Rules of Superintendence for the Courts of Ohio.

Notary requirements

Notarial certificates

The bill makes multiples changes to notarial certificates and forms of acknowledgement, including, redefining "acknowledgment," removing the requirement that the notarial certificate for an acknowledgment or jurat indicate the type of notarization being performed, adding a new form of acknowledgment for limited liability companies, and changing the authorized form of a jurat, from the signature of the person making the jurat (current law) to the "name of signer." These changes are not expected to have a direct fiscal impact on the state or its political subdivisions.

Notary application criminal records check

The bill exempts peace officers from the requirement of obtaining a criminal records check as part of the officer's application to be a notary public. Under current law, only Ohio-licensed attorneys are exempt from this requirement. To the extent that peace officers are currently obtaining criminal records checks as a part of the application to be a notary public, the bill could result in a negligible amount of lost revenue for these background check application fees. Entities that may be impacted by the revenue loss would include county sheriffs and the Bureau of Criminal Investigation (BCI) within the Office of the Attorney General.

Notarization requirements for certificate of title

The bill makes changes to notarization requirements as they relate to transfers of certain vehicles involving minors, certificates of motor vehicle titles, and nonresident purchases of a motor vehicle or a watercraft or outboard motor. These changes are not expected to have a discernible fiscal impact on the state or its political subdivisions.

Concurrent jurisdiction in PIVOT drug program

The bill provides that the Tiffin-Fostoria Municipal Court has concurrent jurisdiction indefinitely with the Seneca County Court of Common Pleas in drug abuse-related cases where an offender is admitted to participate in the Participating in Victory of Transition (PIVOT) drug recovery program. This provision effectively removes the original sunset of the authority to exercise concurrent jurisdiction in operating the PIVOT drug recovery program in the above-noted jurisdictions. As such, the provision has no new direct fiscal effect on the state or its political subdivisions.

Appendix

Counties Impacted by H.B. 567 (CMS Upgrades Needed)		
Adams	Guernsey	Noble*
Allen	Harrison	Pickaway
Ashtabula	Henry	Pike
Auglaize	Highland	Preble
Belmont	Hocking	Putnam*
Brown	Holmes	Richland
Carroll	Knox	Ross
Champaign	Lake	Sandusky
Clark	Lawrence	Scioto
Clermont	Licking	Seneca
Clinton	Logan	Stark
Columbiana	Lorain	Tuscarawas
Crawford	Madison	Vinton
Defiance	Monroe	Warren
Fulton	Morgan*	Williams
Gallia	Morrow	Wyandot
Greene	Muskingum	

*Shaded cells represent counties that do not publish online case imaging as well as any docket entries. Costs for these counties may be higher than those that only require imaging upgrades.

HB0567EN/zg

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S.B. 33
134th General Assembly

Final Fiscal Note & Local Impact Statement

Click here for S.B. 33's Bill Analysis

Primary Sponsors: Sens. Hottinger and Brenner

Local Impact Statement Procedure Required: Yes

Russ Keller, Senior Economist, and other LBO staff

Highlights

- Expanding the applicability of an existing personal income tax (PIT) deduction for the state-sponsored college savings plan to include investment offerings of other states would reduce PIT revenue beginning in FY 2024, when taxpayers file income tax returns for tax year 2023.
- Two other states, Kansas and Montana, enacted similar legislation, which increased the number of tax returns claiming their respective state tax deductions by about 50%. A similar increase in Ohio would decrease annual GRF tax receipts by $9.9 million or more, depending on Ohio taxpayers' behavior. However, it remains unclear whether the experiences in those two states can be generalized to Ohio. A third state, Missouri, enacted analogous legislation in 2008, but does not have taxpayer data to enable an evaluation of the behavioral effect.
- The GRF would bear 96.68% of any PIT revenue loss starting in FY 2024 under current law, while the Local Government Fund and Public Library Fund would each bear 1.66% of any such revenue loss.
- The bill modifies laws governing community reinvestment areas (CRAs) and the terms under which property may be exempted from taxation in these areas. Effects of the changes vary, with many tending to reduce costs for municipalities and counties establishing a CRA and to reduce revenues for school districts and other political subdivisions. The dollar amounts of most of these effects appear indeterminate.
- The bill eliminates a CRA fee, reducing revenue to a state fund, the Tax Incentives Operating Fund, by approximately $100,000 per year. This fund is used by the Department

of Development (DEV) to monitor economic development tax credits and CRA and enterprise zone designations.

- The bill reduces the role of the state in the creation of new CRAs, which may reduce costs to the state.

Detailed Analysis

Personal income tax deduction

Continuing Ohio law allows a state income tax deduction for contributions to Ohio's 529 plan, which is a tax-preferred education savings program administered by the Ohio Tuition Trust Authority (OTTA). The bill extends the deduction so that it would also apply to contributions to any 529 plan established by another state or by an educational institution beginning with tax year (TY) 2023.

A 529 college savings program is a state-operated investment plan named after the section of the federal Internal Revenue Code (IRC) that specifies the various tax advantages of participating in the program. These tax advantages include tax-free growth while the value of the account accumulates, and withdrawals that are exempt from both federal and state income taxes if the distributions are used to pay for qualified higher education expenses. The qualified expenses include tuition, room and board, and any other fees or costs that are required for enrollment or attendance at the college or university. Funds invested in the CollegeAdvantage Savings Plan, which is the 529 savings plan administered by OTTA, may be used at any college in the country.

Federal tax law changes made in the Tax Cuts and Jobs Act (TCJA), H.R. 1 of the 115th Congress, permitted 529 account owners to use distributions from 529 plans to pay public or private elementary and secondary school ("K-12") tuition and related educational expenses. Annual withdrawals for K-12 expenses were capped at $10,000 per student by the TCJA. S.B. 22 of the 132nd General Assembly conformed state law to the federal government's expanded definition of eligible 529 plan expenditures. Consequently, taxpayers may claim a personal income tax (PIT) deduction on their state tax return in TY 2018 and years thereafter for contributions supporting previously ineligible education expenses.

Fiscal effect of PIT deduction modification

A handful of states permit a state income tax deduction on behalf of contributions to other states' 529 plans. LBO research indicates that Kansas, Missouri, and Montana enacted laws with provisions analogous to S.B. 33, which expanded their state's eligibility to all qualified tuition savings plans authorized by section 529 of the IRC. On the other hand, Arizona, Arkansas, Minnesota, and Pennsylvania permit deductions for contributions to other states' 529 plans, but multistate eligibility was enacted at the inception of their states' respective tax deduction policies. Therefore, the behavioral response of taxpayers to the bill's policy change can only be observed from Kansas (TY 2007), Missouri (TY 2008), and Montana (TY 2013) beginning with the year their respective state laws changed. LBO contacted officials in Missouri about their income tax data, but they recently implemented new database software and could not provide detailed statistics about their tax deduction claims in prior years.

State Income Tax Deductions Claimed for 529 College Savings Plan Contributions, As Reported by Other States Enacting Legislation Similar to S.B. 33 of the 134th General Assembly		
	Kansas	**Montana**
Number of tax returns (three-year average) claiming deduction, prior to law change	13,890	2,113
Number of tax returns (three-year average) claiming deduction, after law change	21,100	3,300
Increase after law change	**7,210 (51.9%)**	**1,187 (56.2%)**

Note: Kansas only published state tax deduction statistics about 529 plan contributions for two years prior to changing its law to permit deductions for contributions to plans sponsored by other states.

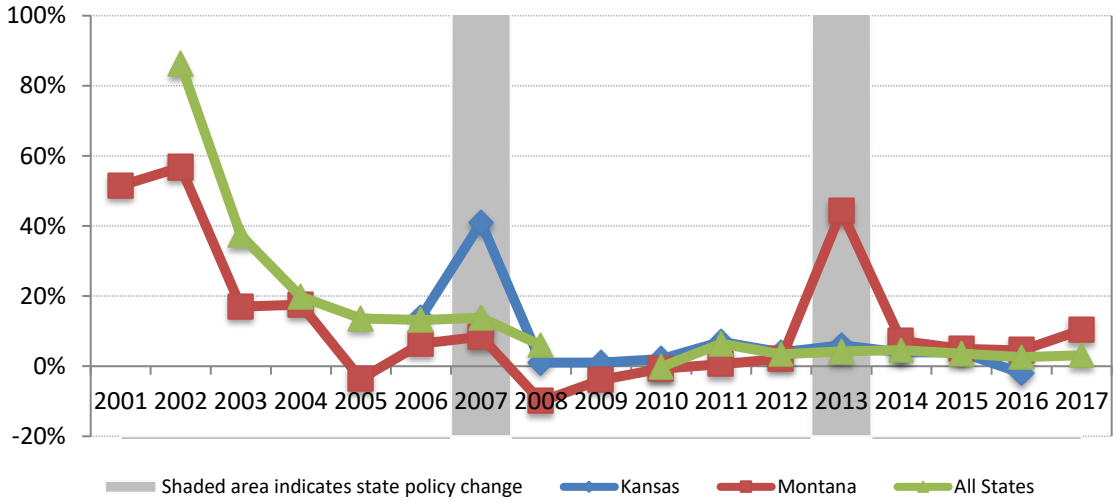
Prior to TY 2018, contributions to college savings plans could only be withdrawn without penalty for college tuition and other associated expenses. As mentioned above, the TCJA and S.B. 22 expanded the definition of eligible expenditures to include K-12 tuition. For this reason, the TY 2017 statistics may be the best baseline against which S.B. 33 should be estimated. In that year, PIT data shows that 114,103 tax returns claimed $334.6 million in deductions, or $2,932 per return. The TY 2017 returns were largely filed during FY 2018, reducing GRF receipts by $12.4 million due to the existing college savings plan deduction.[1]

If the experiences in Kansas and Montana were replicated in Ohio, S.B. 33 would spur an additional 59,228 tax returns to claim the college savings plan deduction. However, the college savings plan deduction was limited to $2,000 per beneficiary in TY 2017 whereas the current limit in continuing law is $4,000 per beneficiary. LBO previously estimated the annual GRF loss for the provision[2] that increased the contribution limit to $4,000 per beneficiary to be approximately $6.7 million. Therefore, the estimated annual revenue loss incurred for all tax deductible contributions to college savings plans is nearly $19.1 million per year. This estimate is fairly close to the most recent Tax Expenditure Report, which was released in February 2021, in which the Department of Taxation reports an estimated GRF revenue loss from the current deduction of $18.8 million in FY 2022. If S.B. 33 increases the number of tax returns by 52%, the bill could decrease GRF receipts by $9.9 million per year.

[1] Estimate according to the Tax Expenditure Report, which is released in conjunction with the executive budget proposal.

[2] Refer to the comparison document for H.B. 49 of 132nd General Assembly.

Annual Growth in Number of Tax Returns Claiming State Tax Deduction for 529 Contributions, as Compared to National Growth in Number of 529 Accounts



Note: "All states" number of 529 accounts collected prior to 2009 is not comparable due to change in methodology, from collegesavings.org/529-plan-data/.

Potential revenue losses could be higher depending on the behavioral response of those taxpayers that claim the college savings plan deduction for K-12 contributions after the enactment of the TCJA. Statistics concerning this behavioral response are not yet conclusive. It can take several years for a behavioral response to be widely adopted by targets of a broad-based tax incentive. If there is an interactive effect between the TCJA impact and the college savings behaviors spurred by S.B. 33, it may increase the PIT revenue loss beyond amounts estimated in this fiscal note.

Additional qualitative factors about Ohio's state-sponsored college savings plans are not explicitly incorporated in this revenue estimate. However, the experiences in Montana and Kansas may not be entirely comparable, as Ohio's CollegeAdvantage 529 Savings Plan is highly rated by independent analysts. Morningstar, which publishes research and recommendations for financial investments, annually evaluates college savings plans sponsored by states across the country. In its 2020 report, Morningstar "identified 35 best-in-class offerings, recognizing these programs with Analyst Ratings of Gold, Silver, or Bronze."[3] The CollegeAdvantage 529 Savings Plan issued by OTTA was among 11 plans to be rated "Silver," and only three plans earned the higher "Gold" rating. Neither Kansas nor Montana had plans rated as highly as Ohio. The implication for S.B. 33 is that Ohio taxpayers may not favor out-of-state plans much more than OTTA's offerings. Since Ohio's plan is highly rated and usable at any college in the country, the behavioral response to the bill may be diminished, as compared to experiences in Kansas and Montana.

The immediate beneficiaries of the bill may be those Ohio taxpayers that previously opened 529 accounts sponsored by other states. Taxpayers may have established these accounts

[3] morningstar.com/articles/1006084/the-top-529-college-savings-plans-of-2020.

when previously living in a different state or instead elected to contribute to other state-sponsored plans based on their individual preferences.

The bill first applies to TY 2023, so its fiscal effect will begin in FY 2024 once state income tax returns are filed. Under codified law, the GRF would bear 96.68% of any PIT revenue loss during fiscal years beginning July 1, 2023, while the Local Government Fund (LGF) and Public Library Fund (PLF) would each bear 1.66%.

Community reinvestment areas

Overview

A CRA is an economic development tool available to local governments. It is a geographic portion of a municipal corporation's territory or of the unincorporated part of a county, for which the legislative authority of the municipal corporation or county has adopted a resolution describing the boundaries of the area. The resolution must state that housing facilities or structures of historical significance are located in the area and new housing construction and repair of existing facilities or structures are discouraged. Historical or architectural significance, designated by the municipality or county, is based on age, rarity, architectural quality, or previous designation by a historical society, association, or agency.

Within the CRA, new residential, commercial, or industrial structures or the increased value of existing structures after remodeling began may be granted exemption from a percentage, up to 100%, of real property taxation for a specified number of years. For residential property, the exemption percentage and term are specified in the resolution creating the CRA. For commercial and industrial property, the exemption percentage and term are negotiated for each project. An owner of real property in a CRA may apply for tax exemption of the value of a new structure or of the increase in value of an existing structure after the start of remodeling. Commercial or industrial property owners pay a state application fee of $750 to be in a CRA.

Over 1,000 CRA identifying numbers are assigned, as indicated by data posted on the Department of Development's (DEV's) website. Whether all remain active is unclear. Use of CRAs is concentrated in the larger urban counties.

Fiscal effects of CRA modifications

School districts

A CRA tax exemption for commercial or industrial property may only be granted under continuing law if approved by the board of education of a school district with territory in the CRA, unless one or the other of two conditions is met. First, the school board may waive this right. Alternatively, approval is not needed if tax revenues for the property made partially tax exempt plus any payments to the school district equal or exceed a specified percentage of the amount that tax revenues would be in the absence of any exemption. In current law the percentage is 50%.

The bill would lower this percentage to 25%, i.e., school board approval is not needed if tax revenues plus any payment equal or exceed 25% of the amount of taxes if there were no exemption. This decrease would tend to make approval of tax exemption easier and might tend to increase tax revenue losses to school districts and other political subdivisions. The magnitude of such revenue losses would depend on future actions of municipal corporations and counties.

The bill amends a requirement in current law that municipalities share half of municipal income tax revenue from new employees at a commercial or industrial project in a CRA with the school district that has territory in the CRA, if the additional payroll of new employees is $1 million or more, increasing the threshold to $2 million and indexing the threshold for inflation.[4] This compensation is only required if the legislative authority establishing the CRA is unable to negotiate a compensation agreement with the school board. This change would tend to benefit municipal corporations and counties at the expense of school districts.

Limited home rule townships

The bill extends the authority to designate CRAs to townships that have adopted limited home rule government. Under current law, only a municipality or a county may designate an area within its jurisdiction as a CRA. In general, a township may become a limited home rule township, which grants it additional powers, if it has a township administrator, a population of at least 2,500 in its unincorporated territory, and a budget of at least $3.5 million. In some instances, voters must also approve its formation.

This change may result in exemption of additional areas from property taxes.

Elimination of CRA fees

The bill eliminates two CRA-related fees from the law. These fees pay for some of the administrative costs to local governments and to DEV in oversight of CRAs.

First, the bill repeals an annual fee payable by the property owner to the local government of 1% of taxes exempted, but no less than $500 or more than $2,500. However, the repealed section allows the legislative authority to reduce or waive the fee. So the repeal may reduce local fee income, though imposition of the fee currently appears to be discretionary for the local government creating the tax exemption.

Second, the bill repeals the authority for DEV to impose a state fee, currently set by rule at $750, on commercial and industrial property owners applying to join a CRA. The fee, under codified law, is determined by DEV based on the cost of administering the CRA Program, and is deposited in the Tax Incentives Operating Fund (Fund 5JR0). According to DEV, the eliminated CRA fee generated approximately $120,000 in revenue in FY 2020, and nearly $90,000 in each of FY 2018 and FY 2019. Fund 5JR0 is used to administer several tax credit programs, plus CRA and enterprise zone classifications.

Other fiscal effects

The bill reduces from five years to three years the wait required after discontinuation of a CRA commercial or industrial project before the project's owner becomes eligible for exemption in another CRA or in an enterprise zone. This change may increase revenue losses from tax exemptions.

[4] Current law's threshold applicable to other, non-CRA exemptions remains unchanged by the bill at $1 million or more in employee payroll.

The bill eliminates a requirement that proposed CRAs must receive a determination from the Director of Development that the territory of the CRA is eligible for tax exemption prior to the legislative authority granting such exemptions. This change may reduce costs to the state.

The bill makes changes to required content and recipients of CRA annual reports. It also repeals a requirement that a municipal corporation or county notify DEV of zoning restrictions, instead providing this notice through the annual report. LBO expects little or no fiscal effect from these changes.

SB0033EN/lb

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S.B. 135
134th General Assembly

Final Fiscal Note & Local Impact Statement

Click here for S.B. 135's Bill Analysis

Primary Sponsor: Sen. Cirino

Local Impact Statement Procedure Required: Yes

Edward M. Millane, Fiscal Supervisor, and other LBO staff

Highlights

Supplemental OCOG awards

- The bill may increase Department of Higher Education (DHE) expenditures from GRF line item 235563, Ohio College Opportunity Grant (OCOG), by providing supplemental OCOG awards to certain students already eligible or receiving OCOG if sufficient moneys remain in item 235563 after traditional OCOG awards are allocated. Ultimately, the total amount awarded is limited to the program's appropriation.

Second Chance Grant Pilot Program

- The bill may increase non-GRF DHE expenditures for the Second Chance Grant Program, initially created as a pilot program but made permanent and codified by the bill, by expanding student eligibility for a grant and reappropriating the unused balance of the program's FY 2022 appropriation of $3.0 million for FY 2023.

Tuition and fees

- A state institution of higher education may forego tuition and fee revenue due to various provisions of the bill.

Joint academic programming and dual enrollment agreements

- State universities also may lose revenue from tuition and general fees and State Share of Instruction (SSI) subsidy payments to the extent that the bill's requirement for state universities to enter into agreements with multiple community colleges to establish both joint academic programming and dual enrollment opportunities is not met by current

voluntary agreements and additional students begin their academic programs at community or technical colleges instead of state universities.

- Conversely, if community and technical colleges enter into additional agreements with state universities under this provision and enrollment increases, the colleges may experience gains in tuition and fee revenue and SSI subsidy received from DHE.

Administrative costs

- The bill may increase DHE's administrative expenses to adopt rules and issue various reports. The bill may also increase the administrative expenses of state universities to collect data and post reports on their websites.

Detailed Analysis

Overview

The bill makes numerous changes to existing higher education-related programs and procedures, and proposes several new ones. It also: (1) addresses free speech policies at state institutions of higher education, (2) modifies the law on K-12 career advising policies, (3) authorizes the Director of Administrative Services, with Controlling Board approval, to sell state-owned land held for the benefit of a state institution of higher education under certain circumstances, (4) requires the Superintendent of Public Instruction, in collaboration with the Chancellor of Higher Education and the Director of the Ohio Department of Job and Family Services (ODJFS), to develop a proposal to implement a statewide apprenticeship program for high school students, (5) modifies one of several requirements for a continuing law property tax exemption for qualified renewable energy facilities by expanding the entities with which a facility owner or lessee may coordinate to train individuals for careers in wind or solar energy, and (6) prohibits state institutions of higher education from entering into or renewing a contract with a company for a variety of services unless the contract declares the company is not boycotting Israel or other jurisdictions with whom Ohio can enjoy open trade. Provisions with notable fiscal effects are discussed below. For more information on all of the provisions in the bill, please see the bill analysis.

Supplemental OCOG awards

The Ohio College Opportunity Grant (OCOG) provides need-based financial aid to college students. In general, to be eligible for an OCOG award, a student must be an Ohio resident in an associate's degree, first bachelor's degree, or nurse diploma program at an eligible public, private nonprofit, or private for-profit institution of higher education. A student must also have an expected family contribution (EFC) of 2190 or less and a maximum household income of $96,000. To determine maximum per-student OCOG amounts for each fiscal year, the Chancellor of Higher Education, generally, subtracts the maximum federal Pell grant and EFC combination from the average instructional and general fees charged by the student's respective institutional sector. In FY 2022, OCOG generally provides eligible full-time students enrolled at public institutions an annual award up to $2,200; students enrolled at private, nonprofit institutions an annual award up to $3,700; and students enrolled at private, for-profit institutions an annual award up to

$1,400. OCOG awards are supported by appropriations from GRF line item 235563, Ohio College Opportunity Grant, under DHE's budget.

The bill provides supplemental OCOG to a student who is currently receiving OCOG, has completed at least two years of a bachelor's degree, and is making progress towards completing that bachelor's degree program. The bill requires the Chancellor to adopt rules to implement the provision, including a method to calculate supplemental grant amounts. The supplemental awards must be supported by appropriations from line item 235563, as long as the Chancellor determines that sufficient funds remain in line item 235563 after traditional OCOG awards are allocated. In other words, students that are eligible for supplemental OCOG awards will only receive additional support after all students eligible for traditional OCOG receive their awards in a fiscal year. Ultimately, the total amount awarded is limited to the program's appropriation. In FY 2021, approximately 52,000 students received OCOG awards totaling over $100 million.

Second Chance Grant Program

In October 2021, the Department of Higher Education (DHE) launched the Second Chance Grant Pilot Program[1] with the goal of reducing the financial barriers preventing Ohioans with some college credit but no bachelor's degree from returning to higher education to obtain a degree or credential. Under the program, a student who is a resident of the state and who (1) has not attained a bachelor's degree, (2) disenrolled from a state institution of higher education, while in good standing, without transferring to another institution for at least three semesters, (3) enrolls in a qualifying institution within five years of disenrolling from that state institution, (4) is not enrolled in the College Credit Plus Program, (5) completes the Free Application for Federal Student Aid (FAFSA) and applies for federal and state need-based aid, (6) is pursuing a credential or degree beyond which the student already possesses, and (7) is not a recipient of any state-supported scholarship can receive a one-time grant of $2,000 to be used in academic years 2021-2022 and 2022-2023. The grant is considered a "last-dollar" source of funding for the student, meaning that any other aid, grants, or scholarships received by the student, such as a federal Pell grant or award from the state's main need-based aid program, the Ohio College Opportunity Grant (OCOG), be applied by a qualifying institution to a student's tuition bill prior to applying funds from a Second Chance grant. If there are any unused funds remaining from the grant after a student's cost of attendance for that year is paid for, the qualifying institution must apply the remaining amount to the student's cost of attendance for any other academic year in which the student is enrolled as long as the pilot program is operating.

The bill codifies and makes permanent the existing program, with some changes, and renames it the Second Chance Grant Program. Among the changes, the bill expands student eligibility for the program by making eligible a student who disenrolls from a private, nonprofit or for-profit institution, or Ohio Technical Center (OTC), in addition to a state institution of higher education as under current policy, and reducing the minimum amount of time that an eligible student must be out of school after disenrolling from three semesters to two semesters.

[1] See DHE's Second Chance Grant Pilot Program: Overview (PDF) which is available on DHE's website: ohiohighered.org/second-chance.

H.B. 110 of the 134th General Assembly, the main operating budget act for FY 2022 and FY 2023, supports the pilot program with an FY 2022 appropriation of $3.0 million from Dedicated Purpose Fund 5YD0 line item 235494, Second Chance Grant Pilot Program. Fund 5YD0 was capitalized by an FY 2022 transfer of the same amount from the GRF. Under the program, DHE distributes grants to qualifying institutions and OTCs to provide grants to eligible students. The $3.0 million appropriation will support up to 1,500 grants ($3.0 million/$2,000 per grant) in FY 2022. The bill reappropriates the unused balance of item 235494 at the end of FY 2022 to FY 2023. It also codifies and renames Fund 5YD0 as the Second Chance Grant Program Fund[2] and authorizes DHE to use the fund to support any costs incurred by DHE to implement and administer the program, including, presumably, any costs associated with its duty to issue a report to the General Assembly in each of the academic years for which the program operates. The report must contain a variety of subjects, including, but not limited to, the number of participants in the program for that academic year, the institutions from which the participants initially disenrolled, information on how the grants were used, and if the participant completed a degree program with the grant.

Limitations on fees

Tuition and fees for online courses

The bill prohibits state institutions of higher education from charging more in tuition and general fees for an online course than for one that is taught in an in-person, classroom setting. According to a DHE spokesperson, this provision effectively codifies current practice specified under temporary law in H.B. 110 of the 134th General Assembly and has no fiscal impact. Essentially, universities, in FY 2022 and FY 2023, are limited to increases in undergraduate instructional and general fees, including, presumably, for online courses, of no more than 2% over what the university charged in the prior academic year. Community and technical colleges are limited to increases of no more than $5 per credit hour over what the college charged in the prior academic year.

The bill also requires that any "special" fees charged by a state institution for an online course be based on the actual cost incurred by the university to provide the course. Under the same current temporary law provision mentioned above, the Chancellor of Higher Education is required to approve all new or increased "special" fees. According to the DHE spokesperson, the provision effectively provides DHE with criteria in its determination of whether to permit the creation or increases of "special" fees related to online courses. If it is determined that a state institution is charging more in "special" fees than the actual demonstrated cost incurred to provide the online course, it may forego fee revenue.

Prohibition on additional regular coursework fees

The bill also prohibits state institutions of higher education from charging students an additional fee for an employee of the university, or an entity contracting with the institution, to complete any academic activity associated with regular coursework, including grading student

[2] Accordingly, the bill renames item 235494 as "Second Chance Grant Program."

assignments. To the extent an institution is currently charging these fees, it may experience a loss in revenue to stop doing so.

Joint academic programming and dual enrollment agreements

The bill requires each state university to enter into agreements with multiple community colleges to establish both joint academic programming and dual enrollment opportunities to assist students in completing their degrees. Currently, state universities and community colleges voluntarily partner with each other through a variety of agreements that can result in a bachelor's degree being completed at the university. In fact, most, if not all, state universities have these agreements in place with community colleges. The most popular of these agreements appears to be "2 + 2" programs, whereby a student can earn an associate's degree (two years of credit) at a community college and then transfer those credits to the partnering university to complete a bachelor's degree in an aligned discipline. On its website, the Ohio State University (OSU) lists dozens of these agreements, including "1 + 3" and "2.5 + 2" programs, that it has with Central Ohio Technical College, Columbus State Community College, North Central College, and Rhodes State College.[3] Similarly, Central State University (CSU) lists on its website its agreements with Clark State Community College, Columbus State Community College, Cuyahoga Community College, Sinclair Community College, and Stark State College.[4]

If these current agreements meet the bill's requirements, as well as any rules adopted by DHE, then there may little if any fiscal effect. However, to the extent that they do not, state universities and community colleges may incur administrative costs to establish the agreements. If additional agreements are established, state universities may also experience tuition revenue losses to the extent a student enrolls in a community or technical college and pays the college's tuition and general fees instead of university fees for courses taken on its campus. They could also experience a decrease in revenue received from SSI subsidy payments since, under the current SSI formula for universities and regional campuses, the credit hours earned for an associate's degree do not count toward a bachelor's degree in programs where an associate's degree is earned first followed by bachelor's degree completion. On the other hand, community and technical colleges entering into additional agreements with universities under this provision may experience gains in revenue from both tuition and general fees and SSI subsidy received from DHE if student enrollment increases.

Accommodations for students unable to enroll in a course

Under current law, state institutions of higher education, in certain circumstances, are required to waive an eligible student's tuition and general fees for a course that is necessary to complete a bachelor's degree if the student was unable to enroll in that course in the student's final year. The bill revises this requirement to require state institutions to offer an eligible student one of several prescribed accommodations, including tuition and fee waivers or reimbursements,

[3] See OSU's Pathway Agreements, which may be accessed by conducting a keyword "Pathway Agreements" search on OSU's website: osu.edu.

[4] See CSU's Articulations and Partnerships, which may be accessed by conducting a keyword "Articulations and Partnerships" search on CSU's website: centralstate.edu.

if the student is unable to register for a nongeneral elective course necessary to complete the student's bachelor's degree program in one of the student's final two academic years. Similar to the waiver requirements in current law, this provision is likely to most affect state universities since, with the exception of "applied" bachelor's degree programs, two-year public colleges generally offer two-year degree or shorter programs. Therefore, state universities may forego revenue from waiving or reimbursing fees for a student who meets the standards for the accommodations proposed in the bill. The amount of foregone revenue will depend on the number of students eligible for a tuition waiver or reimbursement and each institution's tuition rates.

Ohio Guaranteed Transfer Pathways

The bill codifies the existing Ohio Guaranteed Transfer Pathways (OGTP) Initiative. The OGTP provides a path for community college students to transfer to a state university to complete a bachelor's degree. Currently, every state university offers a pathway for at least one bachelor's degree program.

Statewide apprenticeship program proposal

The bill requires the Superintendent of Public Instruction, in consultation with the Chancellor of Higher Education and Director of Job and Family Services, to develop a proposal for a statewide apprenticeship program for high school students on a pathway to employment upon graduation or enrollment in a postsecondary educational institution. The Ohio Department of Education, DHE, and the Ohio Department of Job and Family Services may incur minimal additional expenses for the creation of the proposal. In developing the proposal, the bill requires the departments to consider at least nine factors, including a funding formula to pay businesses for the costs associated with employing students under the apprenticeship program. The proposal must be submitted to the Governor and General Assembly for consideration by June 1, 2023.

New administrative responsibilities

The bill also may increase the administrative costs of state institutions of higher education and DHE to fulfill various reporting requirements and provisions with respect to free speech policies and to develop and adopt rules for various provisions. These requirements and provisions are described in the bill analysis.

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Legislative Budget Office

S.B. 225
134th General Assembly

Final Fiscal Note & Local Impact Statement

Click here for S.B. 225's Bill Analysis

Primary Sponsor: Sen. Schuring

Local Impact Statement Procedure Required: Yes

Philip A. Cummins, Senior Economist

Highlights

Fund	FY 2022-FY 2023 Biennium	Future Years
State General Revenue Fund		
Revenues	Loss of up to $82.1 million	Loss of up to $82.2 million during the FY 2024-FY 2025 biennium
Local Government and Public Library funds (counties, municipalities, townships, and public libraries)		
Revenues	Loss of up to $2.9 million	Loss of up to $2.8 million during the FY 2024-FY 2025 biennium

Note: The state or school district fiscal year runs from July 1 through June 30 and is designated by the calendar year in which it ends. For other local governments, the fiscal year is identical to the calendar year.

- The bill increases the amount of historic building rehabilitation tax credits that may be issued in each of FY 2023 and FY 2024 from $60 million to $120 million. Some of the credits issued in those years may be claimed in subsequent fiscal years.
- For such tax credits approved after the bill's effective date and before the end of FY 2023, the allowable credit is increased to 35% of the dollar amount of qualified rehabilitation expenditures from 25%, in a county, a township, or a municipal corporation that has a population of less than 300,000. Reapplication for the larger credit is permitted, for credits approved between the start of FY 2021 and the bill's effective date if construction has not started. The enhanced rehabilitation tax credit claimed for any one project may not exceed $10 million for these credits, up from $5 million for credits approved in other years.

- A limit is increased on the amount of nonrefundable Opportunity Zone credits that may be issued, to $75 million in the July 2021-June 2023 biennium, up from $50 million that may be claimed in earlier biennia. The limit is changed to a fiscal-year basis in FY 2024 when $50 million in credits may be issued. Thereafter the limit is $25 million.
- Persons other than state income taxpayers would be allowed to invest in Ohio Opportunity Zones and could transfer acquired credits to taxpayers.
- Revenue sharing with local governments and public libraries via the Local Government Fund and Public Library Fund would be reduced.
- The bill relieves Canton of responsibility for administering a 19th century charitable fund.

Detailed Analysis

The bill makes temporary changes to the historic building rehabilitation tax credit program and to the Ohio Opportunity Zone investment tax credit program. In addition, the bill permanently shifts the limit on Opportunity Zone credits to an annual basis, and opens investment in Ohio qualified opportunity funds to persons other than taxpayers subject to the state income tax. It also relieves the city of Canton of responsibility for administration of a small charitable fund with which it has been tasked since 1879.

Revenue losses in the "**Highlights**" table above are shown in the years when the additional tax credits could be issued. Some portion of the revenue losses resulting from use of the credits might instead occur in subsequent years.

Historic building rehabilitation tax credits

The bill increases the total amount of rehabilitation tax credits that may be approved to $120 million for each of FY 2023 and FY 2024 from $60 million in prior law and for subsequent years. In addition, for a tax credit approved after the bill's effective date and before the end of FY 2024, a certificate holder may claim a tax credit equal to 35% of the dollar amount on the tax credit certificate if the project is located in a county, a township, or a municipal corporation that has a population of less than 300,000, based on the 2020 decennial census. For larger cities and counties, the tax credit equals 25% of the dollar amount on the certificate, the percentage that applies to all rehabilitation tax credits in other years. The bill allows the owner or qualified lessee of a historic building that is approved for a tax credit between June 30, 2020, and the bill's effective date to reapply for an enhanced tax credit, so long as construction of the project has not yet commenced.

For credits approved in these years, the total tax credit claimed may not exceed $10 million for any year, up from $5 million for other years. The enhanced $10 million annual credit cap prescribed by the bill applies on a per-project basis. Credits in excess of tax liability may be refunded in full. For credits approved in other years, if any portion of the credit is refunded, the amount refunded cannot exceed $3 million, and any balance of the credit in excess of the amount claimed may be carried forward for not more than five years.

The bill provides that a state historic rehabilitation tax credit certificate is "effective" on the date that all historic buildings rehabilitated by the project are "placed in service," according

to the meaning prescribed by the federal historic building rehabilitation tax credit. The substantive effect of the provision is unclear in terms of when the credit certificate is issued or when the credit is claimed. However, it might nullify existing authority to issue or claim a credit for completing part of a multi-phase rehabilitation project.

In continuing law, the historic preservation tax credit can be claimed against the state personal income tax, financial institutions tax, and both foreign and domestic insurance premium taxes. The historic preservation tax credit is not transferable, and is to be applied to the tax liability of the applicant, or if the applicant is a pass-through entity,[1] to the partners or members of the pass-through entity.

The bill requires the Director of Development, when considering whether to award a historic rehabilitation tax credit to a historic theater, to consider the potential for increased attendance and gross revenue. In current law, a cost-benefit analysis is already required, for the purpose of determining whether rehabilitation will result in a net revenue gain in state and local taxes when the rehabilitated building is placed in service.[2] For a building intended to be used as a theater, future returns to the building's owner, and associated income and property taxes, would depend in part on theater attendance and revenue. The provision does not appear to alter the need for such an assessment, as part of the cost-benefit analysis, so appears to have no fiscal effect.

Opportunity Zone credits

The bill expands the Ohio Opportunity Zone Program for the current biennium and FY 2024 only. It allows certificates for Ohio Opportunity Zone tax credits to be issued in a total amount in the FY 2022-FY 2023 biennium of $75 million or less, up from $50 million or less in credits claimed in earlier fiscal biennia. It shifts to determination of compliance with the cap based on total credits issued by the Director of Development rather than total credits claimed by recipients. The bill transitions from a biennial cap to an annual cap beginning in FY 2024, when $50 million in credits may be issued. In subsequent fiscal years the cap is $25 million in credits issued, approximating the previous cap of $50 million in credits that could be claimed per biennium. The fiscal effect of this change is a revenue loss of up to $25 million in the current biennium and $25 million in the FY 2024-FY 2025 biennium, with the timing of the loss likely to fall mostly in those biennia, but possibly extending to future years.

The bill also allows not only state income taxpayers but also others to earn such credits by investing in projects through these funds. Only state income taxpayers may use the credits. The bill permits the credits to be transferred. It allows a certificate holder to transfer the unused portion of a partially claimed tax credit. It allows a certificate holder to transfer a portion of the tax credit and retain the remainder, or to transfer portions of the tax credit to multiple transferees. It allows the same tax credit, or portion thereof, to be transferred more than once provided each transfer is reported to the Tax Commissioner in the same manner as transfers by the certificate holder under current law. These changes have no specified end date.

[1] Pass-through entities (PTEs) include partnerships, limited liability companies, and S-corporations.

[2] R.C. 149.311(B)(6).

Ohio Opportunity Zone tax credits equal 10% of a person's investment in Ohio qualified opportunity funds that are in turn invested in projects located in Ohio Opportunity Zones, areas designated for development under the federal Tax Cuts and Jobs Act of 2017. The Ohio Opportunity Zone tax credit is nonrefundable and may be claimed against the individual income tax. The credit may be claimed by a taxpayer for the year when a qualifying investment is made in a project or for the next year. Any unused credit amount may be carried forward for up to five years.

The bill requires the Director of Development to conduct two annual Opportunity Zone credit application periods for the Ohio Opportunity Zone tax credits, each covering investments by Ohio qualified opportunity funds in Ohio Opportunity Zone projects during the six preceding calendar months. Current law provides for one application period each year. This change appears to have no fiscal effect.

Revenue sharing

Reductions in revenue as a result of the provisions of the bill described above will lower amounts distributed to local governments and public libraries through the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065). In the current biennium, the PLF receives 1.70% of GRF tax revenue under a provision of H.B. 110 of the 134th General Assembly, the main operating budget. In codified law, both the LGF and PLF receive 1.66% of GRF tax revenue.

All taxes affected by these provisions are considered GRF taxes. If tax revenues in the current biennium decline by $85 million, distributions to the LGF and PLF will be reduced by a total of about $2.9 million and amounts remaining for use by the GRF will be reduced by about $82.1 million.

Provisions affecting TIFs and DRDs

The bill expands the applicability of provisions adopted in H.B. 110 of the 134th General Assembly, the main operating budget, relating to tax increment financing (TIF) districts and downtown redevelopment districts (DRDs). One provision expressly allows subdivisions to use TIF or DRD service payments for off-street parking facilities, including those in which all or a portion of the parking spaces are reserved for specific uses when determined to be necessary for economic development purposes. Another provision allows municipalities that create certain types of TIFs under R.C. 5709.41 the discretion to designate the beginning date of the TIF exemption, rather than start the exemption automatically on the effective date of the designating ordinance. Under current law, these provisions only apply to ordinances adopted after, or proceedings initiated after or in progress on, September 30, 2021 (H.B. 110's 90-day effective date). The bill amends Section 803.210 of H.B. 110 to provide that these provisions may also apply to ordinances or projects completed before that effective date.

This provision of S.B. 225 appears in part to ensure that ordinances adopted by municipalities in anticipation of the amendment of R.C. 5709.41 by H.B. 110 going into effect, but before that change's effective date, would be subject to the amended version of that section. The provision may also expressly authorize uses already made of service payments to pay for off-street parking facilities, prior to the effective date of that additional explicitly permitted use. Although

prior law did not expressly allow use of service payments for these facilities, it did allow for uses not limited to those enumerated. For such projects this provision may have no fiscal effect.

Canton Hartford-Houtz Poor Fund

The bill provides that the city of Canton is not to be required to appoint a board of trustees to take charge of the Hartford-Houtz Poor Fund, bequeathed to the city by S.B. 51 of the 63rd General Assembly (1879). It authorizes the city of Canton to distribute all moneys and proceeds bequeathed to the city under S.B. 51 and subsequent amendments, to the Canton Ex-Newsboys Association or any other charitable organization.

Documents associated with this provision of the bill show the principal of this fund was approximately $100,000 in 2017 and $67,000 in April 2020. Interest earnings in recent years for distribution to benefit needy children in Canton have been small. The bill relieves Canton of administrative costs associated with oversight of the fund.

SB0225EN/lb

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S.B. 246
134th General Assembly

Final Fiscal Note & Local Impact Statement

Click here for S.B. 246's Bill Analysis

Primary Sponsors: Sens. Rulli and Lang

Local Impact Statement Procedure Required: Yes

Philip A. Cummins, Senior Economist

Highlights

Fund	FY 2023	FY 2024	Future Years
State General Revenue Fund			
Revenues	Potential loss up to $75.7 million, depending on participation rates	Potential loss up to $77.5 million, depending on participation rates	Potential annual losses, depending on participation rates
Expenditures	Possible increase	Possible increase	Possible increase
Local Government and Public Library funds (counties, municipalities, townships, and public libraries)			
Revenues	Potential loss up to $2.6 million, depending on participation rates	Potential loss up to $2.7 million, depending on participation rates	Potential annual losses, depending on participation rates

Note: The state or school district fiscal year runs from July 1 through June 30 and is designated by the calendar year in which it ends. For other local governments, the fiscal year is identical to the calendar year.

- The bill provides a new option for a pass-through entity (PTE) to comply with Ohio income tax law by directly imposing an income tax on the PTE, if the PTE elects to be subject to this tax. The PTE's owners or investors would then be able to claim a refundable credit on their individual income tax returns equal to their proportionate share of the tax paid by the PTE.
- The bill does not affect PTE owners' or investors' tax liabilities. However, the bill would lower the withholding rate from the current 3.99% for income reported on Form IT-4708

to 3%. Therefore, it would result in a decrease in state income tax revenue, despite also decreasing the amount of unclaimed refunds. The magnitude of the decrease in state income tax revenue depends on the number of taxpayers opting for the bill's option. Historically, withholding tax paid by PTEs exceeds refundable credits claimed annually.

- Estimates shown in the table above are based on analysis from the Department of Taxation (TAX) and assume that the share of refundable credits not claimed will remain in line with recent experience. To the extent that GRF tax revenue is reduced, revenue sharing through the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065) would also be lowered.
- TAX may incur added expenses to administer the new tax and associated credits.

Detailed Analysis

Pass-through entities (PTEs) include S corporations, partnerships, and limited liability companies. PTEs generally share the characteristic of "passing through" tax liability to their owners, thereby taxing income only at the owner level and avoiding taxation at both the entity and owner levels. The bill levies a tax on income of a PTE apportioned to Ohio at a rate of 5% for taxable years beginning in 2022 and 3% for taxable years thereafter, but only if that entity elects to become subject to the tax. All tax revenue from the new tax would be credited to the GRF. An owner of an interest in the PTE would be authorized to claim a refundable credit against the owner's Ohio income tax liability equal to the owner's proportionate share of the tax paid by the PTE.

The bill is a response to a provision of the 2017 federal Tax Cuts and Jobs Act, which limited the amount of state or local income or general sales tax (SALT) that a federal income taxpayer could deduct to $10,000 (for married taxpayers filing separately, $5,000). Under an Internal Revenue Service determination, taxes paid by a PTE are not taken into account for federal income tax purposes in applying the SALT deduction limitation to an individual who is a partner or owner of the PTE.[1]

Effects on state income tax revenue[2]

PTEs subject to Ohio law are required to withhold tax on the proportionate share of income to nonresident owners. The nonresident investors are entitled to refundable credits based on the amounts of this withholding tax paid by the PTEs, which they can apply against Ohio income taxes due from them on this income. Alternatively, if withholding taxes paid on their

[1] Notice 2020-75.

[2] The estimates in this section rely on analysis provided by the Department of Taxation (TAX). The Department anticipated a shift in the timing of payments with the bill, with some payments from taxpayers that would occur in June 2022 under current law instead being received in July, in FY 2023, with the bill. With the passage of time, LBO instead assumes the revenue loss estimated by TAX for June of FY 2022 now occurs in FY 2023. The timing of losses would depend on when the bill is enacted and its effective date.

behalf by the PTE equal or exceed the Ohio income taxes that they owe, the nonresident owners need not file Ohio returns.[3]

Historically, withholding tax paid by PTEs exceeds refundable credits claimed. The amount of unclaimed credits is sizable. Various reasons may account for out-of-state taxpayers not claiming all credits to which they are entitled. The specific reasons that account for the large amounts not claimed are uncertain. Whatever the reasons, historically part of these refundable credits that nonresident taxpayers are eligible to claim have nevertheless remained unclaimed.

The analysis of the bill's effects on state income tax revenue is based on an assumption that out-of-state taxpayers will continue not to claim all refundable credits that they are eligible to claim, and that the share of credits not claimed will remain in line with recent experience.

While the bill does not affect PTE owners' or investors' tax liabilities, the revenue loss from the bill is expected to result from a reduction in the tax rate paid on a portion of PTE income, from 3.99% for PTEs that would file the current IT-4708 composite return to 3% with the bill in tax year 2023 and thereafter. For taxpayers who claim the credits for PTE withholding tax paid on their behalf, this revenue loss to the state would be fully offset by payment of smaller refunds to those taxpayers, or of no refunds if none are owed with the lower withholding tax rate. But for taxpayers who would not claim these credits under current law, there would be no offset for the revenue loss to the state from the lower withholding tax rate. Resulting estimated all funds income tax revenue losses are up to $78.3 million in FY 2023, up to $80.1 million in FY 2024, and continuing revenue losses thereafter. The figures reported here assume that all eligible PTEs opt to pay the new tax. While that is a strong assumption, a reliable alternative assumption is not available, so the figures shown are the likely upper limit of any revenue losses from the bill, and actual annual losses could be significantly smaller depending on participation rates.

To the extent that GRF tax revenue is decreased by the bill, revenue to the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065) would be reduced. Each fund receives 1.66% of GRF tax revenue under codified law. During the current biennium, the PLF receives 1.70% of GRF tax revenue as provided by an uncodified provision of H.B. 110, the main operating budget act.

TAX may incur costs to implement and administer the bill's provisions. These costs may be paid from GRF line item 110321, Operating Expenses.

SB0246EN/lb

[3] More precisely, if total allowed credits equal or exceed taxes otherwise due, no return is required.

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S.B. 288
134th General Assembly

Final Fiscal Note & Local Impact Statement

Click here for S.B. 288's Bill Analysis

Primary Sponsor: Sen. Manning

Local Impact Statement Procedure Required: Yes

Jeffrey E. Golon, Principal Analyst, and other LBO staff

Highlights

Criminal Law

- The bill makes a number of changes to current law's sealing and expungement provisions that are likely to result in a significant increase in the workloads and operating costs of courts, clerks of courts, prosecutors, and probation authorities involved in the court's determination regarding an application, as well as public offices or agencies in possession of records subject to a sealing/expungement order.
- The bill's new strangulation offense will largely function as a penalty enhancement, as certain misdemeanor domestic violence offenses involving allegations of strangulation or suffocation can instead be charged as a felony. As a result, a potentially significant number of misdemeanor cases, and the related processing and sanctioning costs, will shift from municipal and county courts to common pleas courts. The annual magnitude of the potential expenditure savings and expenditure increases for municipal and county criminal justice systems, respectively, is not readily quantifiable. Neither is the amount of related annual revenue (fines, and court costs and fees) that will shift. The GRF-funded incarceration costs incurred by the Department of Rehabilitation and Correction (DRC) may increase by hundreds of thousands of dollars annually, as the likely number of felony offenders affected by the bill appears to be quite large.
- The bill expands the current judicial release mechanism to apply with respect to "state of emergency-qualifying offenders" (SEQ) during a declared state of emergency. Subsequent to such declaration, the notice, hearing, and other procedural requirements triggered by the filing of a motion for an SEQ offender judicial release creates work and costs generally

for the court, the clerk of courts, county prosecutors, county sheriffs, and DRC. The amount of work and costs will depend on the number of motions filed, hearings scheduled, offenders conveyed to the county sheriff, and judicial releases granted.

- The bill's modifications to existing transitional control and earned credit provisions create a potential savings in incarceration costs, as certain offenders may be released from prison sooner than otherwise may have been the case under current law. The costs that DRC's Adult Parole Authority incurs to supervise such a prisoner subsequent to their release from prison may reduce the magnitude of that savings.
- Because of the bill's enhanced penalty for speeding, more violations may be contested and taken to trial than otherwise may have occurred under current law. The result may be (1) additional costs for the court, clerk of courts, prosecutors, law enforcement, and jails, and (2) additional revenues in the form of fines, and court costs and fees, some of which would be distributed to the state. The net fiscal effect for local criminal justice systems is indeterminate, as the number of applicable situations is unknown.

Distracted driving

- There may be a minimal annual gain in fine revenue collected from drivers cited for using an electronic wireless communications device (EWCD) while driving by the Ohio State Highway Patrol and credited to the state's existing Security, Investigations, and Policing Fund (Fund 8400).
- Law enforcement agencies, including the Ohio State Highway Patrol, may incur additional costs if the officer or trooper who issued a citation has to appear in court for a traffic violation charge that otherwise might not have been issued or contested under existing law.
- The state may gain a minimal amount of court cost revenue annually to be apportioned between certain state funds.[1]
- There may be a minimal annual gain in fine, court cost and fee revenue from traffic citations distributed pursuant to state law between counties, municipalities, and townships.
- State and local law enforcement agencies will likely have to expend additional time and effort, thus incurring additional costs, to comply with the bill's reporting requirements. This is particularly true for those law enforcement agencies that do not have the capability to compile the required information electronically and will instead be required to hand tabulate all citations written in the previous two-month period.
- The Ohio Department of Transportation will incur costs to design and erect signs regarding the EWCD-while-driving prohibition at certain specified locations. The one-time costs will be up to around $100,000, and to be paid from the Highway Operating Fund (Fund 7002).

[1] The state funds include the Indigent Defense Support Fund (Fund 5DY0), the Victims of Crime/ Reparations Fund (Fund 4020), the Drug Law Enforcement Fund (Fund 5ET0), and the Justice Program Services Fund (Fund 4P60).

Fentanyl drug testing strips

- The bill's removal of fentanyl drug testing strips from the offense of "illegal use or possession of drug paraphernalia" has the potential to create a minimal cost savings to county and municipal criminal justice systems.

Tenth Amendment Center

- The bill codifies the Office of the Solicitor General and creates the Tenth Amendment Center, both of which already exist within the Office of the Attorney General. Thus, this provision has no direct fiscal effect on the state or political subdivisions.

Sexual assault examination kits for trafficking in persons cases

- Local law enforcement agencies may incur minimal ongoing operating costs to comply with the bill's requirement that biological evidence in a trafficking in persons investigation or prosecution be secured for a specified period.
- The Office of the Attorney General's Bureau of Criminal Investigation (BCI) may experience a minimal increase in annual workload and costs related to performing a DNA analysis of any sexual assault examination kit related to a trafficking in persons offense forwarded by a law enforcement agency.
- Local law enforcement agencies generally will experience a short-term increase in administrative costs to review all records and reports related to investigations of trafficking in persons, and forward the contents of any related sexual assault examination in its possession to BCI. The one-time cost increase to any given agency will depend on the length of the lookback period and the number of cases requiring such review.
- There may be a relatively small increase in the number of persons charged and convicted of a felony sex offense and subsequently sentenced to a term of incarceration in state prison. The associated annual operating costs for county criminal justice systems and the Department of Rehabilitation and Correction are expected to be minimal at most.
- Eliminating the authorization in certain circumstances for the use of the Reparations Fund (Fund 4020) to pay for electronic monitoring may result in a potential savings of up to $300,000 per year for Fund 4020, and a potential cost increase for certain courts if they continue to order monitoring for indigent persons who are unable to pay, the amount of which is uncertain.

Disturbing a lawful meeting

- The increased penalty for the offense of "disturbing a lawful meeting" may create some additional costs for county or municipal criminal justice systems, in terms of increased jail time and adjudication costs. Any increase is likely to be minimal annually and may be partially offset by fines, court costs and fees, if collected.

Mandatory reporter of adult abuse, neglect, or exploitation

- Local criminal justice systems may experience a minimal increase in their annual operating costs to process cases involving failure to make a mandatory report. The number of impacted cases statewide is likely to be negligible for any given jurisdiction.
- Local criminal justice systems may realize a negligible annual reduction in revenue, as the maximum fine amount decreases from $500 to $250.

Age-appropriate child sexual abuse instruction

- Some school districts, community schools, and STEM schools may incur minimal costs to update their health education curricula and in-service training programs to meet the requirements of the bill and to provide a parental notification.

Detailed Analysis

Criminal record sealing and expungement

The bill makes a number of changes to current law's sealing and expungement provisions, most notably by expanding eligibility, shortening waiting periods, and requiring the court hold a hearing between 45 and 90 days after the filing date of an application. The result is likely to be a significant increase in the workloads and operating costs of courts, clerks of courts, prosecutors, and probation authorities involved in the court's determination regarding an application, as well as public offices or agencies in possession of records subject to a sealing/expungement order.

The bill specifically: (1) modifies and reorganizes the current laws regarding the sealing of conviction records and records of bail forfeitures, (2) modifies and reorganizes the current laws regarding the sealing of records after a not guilty finding, a dismissal of proceedings, or a no bill by grand jury, and extends those laws to also apply regarding records after a pardon, (3) maintains and relocates the current laws regarding the expungement in limited circumstances of certain conviction records, (4) enacts new provisions regarding the expungement of a conviction record in the same manner and under the same procedures that apply regarding sealing of a conviction record, and (5) enacts a new mechanism pursuant to which a prosecutor may request and obtain, in specified circumstances, the sealing or expungement of the record of conviction of a low-level controlled substance offense.

Under current law, the court is required to send notice of an order to seal or expunge to the state's Bureau of Criminal Investigation (BCI) and to any public office or agency that the court knows or has reason to believe may have any record of the case, whether or not it is an official record. The latter potentially includes state and local law enforcement, prosecuting attorneys, probation departments, and the Adult Parole Authority.

According to data collected by the Ohio Criminal Sentencing Commission, BCI received, on average, approximately 38,000 sealing/expungement orders annually from calendar year (CY) 2016 through 2018. The actual number of applications was higher, as the BCI data does not reflect applications denied or withdrawn. Because of the bill, the number of applications received and subsequent sealing/expungement orders issued will increase, perhaps significantly so in certain, likely urban, jurisdictions.

There is a difference between the terms sealing a record and expungement of record. "Sealing" a court record means that the criminal record is removed from all public records and the public no longer has access to the records of the criminal case, including employers generally. "Expungement" usually means that the criminal record is completely destroyed, erased, or obliterated from all records.

Under the bill, expunge means the following:

- As used in R.C. 2953.32, "expunge" means the expungement process described in R.C. 2953.32 of the Revised Code.
- As used in R.C. 2953.33 to 2953.521, "expunge" means both of the following: (a) the expungement process described in R.C. 2953.36, 2953.39, and 2953.521, and (b) to destroy, delete, and erase a record as appropriate for the record's physical or electronic form or characteristic so that the record is permanently irretrievable.

Filing fee

The bill changes the provisions governing the filing fee for an application for sealing of a conviction record (or, as currently added under the bill, for expunging a conviction record) so that:

- The fee generally will be not more than $50, unless it is waived (currently, it is $50, unless waived);
- The fee will be waived if the applicant presents a poverty affidavit showing that the applicant is indigent (currently, the poverty affidavit is not required);
- The court will: (1) pay three-fifths of the fee collected into the state treasury, with half of that amount credited to the Attorney General Reimbursement Fund (Fund 1060) and the General Revenue Fund (GRF), respectively, and (2) pay two-fifths of the fee collected into the county general revenue fund if the sealed or expunged conviction or bail forfeiture was under a state statute or into the general revenue fund of the municipality involved if it was under a municipal ordinance (currently, the court pays $30 of the fee collected into the state treasury for crediting to the GRF, and $20 of the fee collected into the county general revenue fund if the sealed, or expunged under the bill, conviction or bail forfeiture was under a state statute, or into the general revenue fund of the municipality involved if it was under a municipal ordinance).

The additional application revenue generated because of the bill will not offset the potentially significant increase in the workloads and operating costs of courts, clerks of courts, prosecutors, and probation authorities involved in the court's determination regarding an application, as well as public offices or agencies in possession of records subject to a sealing/expungement order.

The bill's change in the crediting of the state's $30 portion of the filing fee means that $15 of the fee that, which under current law is credited to the GRF, instead will be credited to Fund 1060. LBO has yet to estimate the potential annual magnitude of the revenue shift.

Sealing

The bill's modifications to the current record sealing law generally are summarized in the table below, most notably in terms of increasing eligibility, shortening waiting periods, and setting hearing deadlines.

Table 1. Criminal Record Sealing		
Subject Matter	**Current Law**	**Bill's Proposed Changes**
Recording sealing definitions	Defines "eligible offender" based upon the offense level of conviction(s) and the number of prior convictions.	Eliminates definition of "eligible offender" and instead limits applicability of the record-sealing statutes by excluding specified types of convictions.
Number of convictions and waiting periods	Current waiting periods (from final discharge of case): ▪ Three years for third degree felony except for a violation of theft in office. ▪ One year for fourth or fifth degree felony or one misdemeanor except for theft in office or an offense of violence. ▪ Seven years for one conviction of soliciting improper compensation in violation of theft in office.	Expands sealing eligibility and access by eliminating cap on number of convictions and reducing waiting periods to: ▪ Three years from final discharge for one or two third degree felonies, so long as none is theft in office. ▪ One year from final discharge for one or more fourth or fifth degree felonies or one or more misdemeanors, so long as none is theft in office or a felony offense of violence. ▪ Seven years from final discharge if record includes one or more convictions for soliciting improper compensation in violation of theft in office. ▪ In limited circumstances for sexually oriented offenders subject to SORN Law notification requirements five years after their notification requirements end. ▪ Six months from final discharge for minor misdemeanor.
Timing of hearing on application	Left to the court's discretion.	Requires the court hold a hearing between 45 and 90 days after the filing date, requires the prosecutor

Table 1. Criminal Record Sealing		
Subject Matter	**Current Law**	**Bill's Proposed Changes**
		object in writing 30 days prior to that hearing date, and requires the victim to be notified of the date and time of the hearing.

Expungement

The bill permits an application for expungement to be made in the same manner as for an application for sealing, as described above, but modifies as follows:

- If the offense is a misdemeanor, at the expiration of one year after the offender's final discharge.
- If the offense is a minor misdemeanor, at the expiration of six months after the offender's final discharge.
- If the offense is a felony, at the expiration of ten years after the time specified in the bill's current provisions setting forth the time at which a person convicted of an offense may apply for sealing with respect to that felony offense.
- Specifies that the bill's provisions regarding expungement of a conviction record do not apply with respect to convictions of more than two third degree felonies.
- Specifies that a person may apply for the expungement of the record that pertains to the case at any time after the expiration of three years from the date on which the bail forfeiture was entered on the court's minutes or journal, whichever entry occurs first.

With regard to the expungement process described in R.C. 2953.32, the bill:

- Requires BCI, when it receives notice from a court that a conviction has been expunged, to maintain a record of the expunged conviction record for the limited purpose of determining an individual's qualification or disqualification for employment in law enforcement.
- Prohibits the court from compelling BCI to expunge those records.
- Provides that those records may only be disclosed or provided to law enforcement for the limited purpose of determining an individual's qualification or disqualification for employment in law enforcement.

Divulging confidential information

The bill relocates existing provisions regarding investigatory work product and divulging confidential information related to sealed records. Specifically, the bill retains the provision that prohibits an officer or employee of the state or any of its political subdivisions from knowingly divulging any information or other data concerning any arrest, complaint, indictment, information, trial, adjudication, or correctional supervision the records of which have been

sealed, but adds that such an officer or employee divulged the information or data "knowing" the records had been sealed. A divulging confidential information violation is a fourth degree misdemeanor under current law and is unchanged by the bill.

Anecdotal information suggests that an officer or employee as described above being charged for such a violation is likely to be rare. If true, then the bill's addition of the term "knowing" should have no discernible direct fiscal effect on the state or its political subdivisions.

Sealing and expungement – "low-level controlled substance offense"[2]

The bill: (1) enacts a mechanism under which the prosecutor in a case in which a person is or was convicted of a "low-level controlled substance offense" may apply to the sentencing court for the sealing or expungement of the record of the case that pertains to the conviction, and (2) enacts procedures under the mechanism similar to those of the bill's current mechanism under which a person convicted of an offense may apply to the sentencing court for the sealing or expungement of the record of the case that pertains to the conviction.

The fiscal effect on the state and its political subdivisions will depend on the frequency with which prosecutors opt to apply to a sentencing court for the sealing or expungement of the record of the case that pertains to the conviction, which is unknown.

Under the mechanism, the bill:

- Provides for offender and victim notification and an opportunity to object to the application; and
- Provides for the sealing or expungement of the record of the case if the court determines after a hearing that no criminal proceeding is pending against the offender, that the offender's interests in having the records sealed or expunged are not outweighed by legitimate governmental needs to maintain the records, and that the offender's rehabilitation has been attained to the court's satisfaction.

Strangulation offense

The bill creates the offense of strangulation and adds strangulation to the definition of "offense of violence." The new offense prohibits a person knowingly, by means of strangulation or suffocation, from: (1) causing serious physical harm, (2) creating a substantial risk of serious physical harm, or (3) causing or creating a substantial risk of physical harm. Depending on the circumstances present, a violation is either a second, third, fourth, or fifth degree felony.

Existing offenses

According to the Ohio Prosecuting Attorneys Association, prosecutors typically have two choices under current law in strangulation and suffocation cases, prosecute the case as:

[2] The bill defines a "low-level controlled substance offense" as a violation of any provision of R.C. Chapter 2925 that is a fourth degree misdemeanor or minor misdemeanor or of a substantially equivalent municipal ordinance that, if it were to be charged under the R.C. provision, would be a fourth degree misdemeanor or minor misdemeanor.

(1) felonious assault (second degree felony), or (2) domestic violence (first degree misdemeanor). However, prosecuting the case as felonious assault can be difficult, particularly in cases without proof of external trauma, as the offense imposes a standard of "serious physical harm." For cases without external trauma, such a charge often depends on the strength of the available evidence of internal harm. The bill provides a clear avenue to prosecute the prohibited behavior as a felony offense in cases where serious physical harm is not involved or difficult to prove.

Because of the serious harm standard for felonious assault, absent the bill, strangulation and suffocation involving family or household members in many cases otherwise would be charged and prosecuted as domestic violence. The bill can arguably be seen as enhancing the penalty of domestic violence involving this conduct from a first degree misdemeanor to a fourth or third degree felony.

Domestic violence incidents

The Office of the Ohio Attorney General compiles data on the number of domestic violence incidents occurring statewide. In CY 2019, law enforcement responded to 37,607 incidents of domestic violence in which domestic violence charges were filed; in CY 2018, that number was 38,475.[3] Information obtained from the Domestic Violence Division of the Columbus City Attorney's Office indicates that, in CY 2018, approximately 20% of their estimated 3,200 domestic violence cases involved allegations of strangulation or suffocation. Extrapolating this number across the state (20% of 38,000 or so charges) suggests that thousands of misdemeanor domestic violence cases involving strangulation or suffocation could instead be charged as a fourth or third degree felony. In some cases, a felony charge may induce some offenders to accept a plea bargain, but this does not alter the possibility that thousands of cases could shift from municipal and county courts that currently handle domestic violence misdemeanor cases to common pleas courts that have jurisdiction over felonious strangulation or suffocation cases.

State fiscal effects

Incarceration expenditures

Under current law and sentencing practices, around 700 offenders per year enter prison for felony domestic violence offenses. The bill will shift some felony domestic violence cases to, predominately, a felony of the third degree if the offender is charged with, and then convicted of, strangulation. As a result, these offenders would be sentenced for a longer prison term that they otherwise would have received under current law. The bill also will increase the number of offenders entering prison by: (1) potentially shifting a large number of the misdemeanor domestic violence cases involving strangulation or suffocation to a third degree felony, and (2) potentially increasing ease of prosecution for felony cases under the offense of "strangulation or suffocation" instead of "felonious assault." The GRF-funded incarceration costs incurred by the Department of Rehabilitation and Correction (DRC) may increase by hundreds of thousands of dollars or more annually, as the potential number of offenders affected by the bill each year

[3] The Attorney General's report does not distinguish between misdemeanor and felony domestic violence charges. Based on anecdotal evidence, it appears that the majority of charges were for misdemeanor offenses.

appears to be quite large. For FY 2021, the average annual cost of incarcerating an offender in prison was $97.00 per day, or $35,405 per year.

Court cost revenues

The bill's strangulation offense will largely function as a penalty enhancement, as certain misdemeanor domestic violence offenses involving allegations of strangulation or suffocation can instead be charged as a fourth or third degree felony. A conviction in this situation creates the possibility of increased state revenues from the $60 in court costs imposed for a felony conviction, an amount that is $31 more than the $29 in court costs imposed for a misdemeanor conviction. The amount collected annually is likely to be minimal at most because many felony offenders are either financially unable or unwilling to pay. The state court costs are apportioned between the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

Local criminal justice system fiscal effects

Expenditures

As previously mentioned, the bill's new offense carries the potential to shift a significant number of cases that, based on current law, would most likely be adjudicated as misdemeanors in a municipal court or county court to a felony-level charge in a common pleas court. Relative to a misdemeanor, a felony is generally a more expensive criminal matter in terms of the costs to process the case and sanction the offender.

From the fiscal perspective of local governments, such an outcome will simultaneously:

- Increase county criminal justice system expenditures related to investigating, prosecuting, adjudicating, and defending (if the offender is indigent) additional felony offenders; and
- Decrease the analogous municipal and county court criminal justice system expenditures related to the prosecution of that subset of misdemeanor domestic violence offenses involving strangulation or suffocation.

The annual magnitude of the potential expenditure savings and expenditure increases for municipal and county criminal justice systems, respectively, is not readily quantifiable.

Revenues

The bill will affect the local revenue collected from strangulation or suffocation cases as follows:

- The elevation of a misdemeanor to a felony means that revenue from fines, and court costs and fees collected by municipal and county courts will instead be collected by courts of common pleas. The maximum fine for a misdemeanor is $1,000 (first degree misdemeanor). The fines for felonies generally start at up to $2,500 (fifth degree felony); and
- The enhancement of an existing felony domestic violence offense, if the offender is charged with, and then convicted of, "strangulation," creates the possibility of increased

fine revenues. The maximum permissible fines for fifth, fourth, or third degree felonies are $2,500, $5,000, and $10,000, respectively.

The likely revenue loss for municipal criminal justice systems and revenue gain for county criminal justice systems, while potentially significant, is difficult to calculate precisely because many offenders, especially those convicted of a felony, are either financially unable or unwilling to pay. It is also the case that the court rarely imposes the maximum permissible fine.

Judicial release mechanisms

The bill addresses four mechanisms that use the sentencing court as a means of releasing certain offenders from prison.

1. Eligible offenders

The bill modifies several aspects of the existing mechanism that applies with respect to inmates who are "eligible offenders." An "eligible offender" is any person who, on or after April 7, 2009, is serving a stated prison term that includes one or more nonmandatory prison terms, but the term does not include any person who, on or after April 7, 2009, is serving a stated prison term for any of a list of specified criminal offenses that was a felony and was committed while the person held a public office in Ohio. A person may be an eligible offender and also may be an 80% qualifying offender or, during a declared state of emergency, a "state of emergency-qualifying offender" for purposes of the judicial release expansion described below that applies with respect to such offenders.

The bill's modifications, as described below, appear unlikely to generate any significant increase in the judicial release workload and related operating cost of county criminal justice systems (courts, clerks of courts, county prosecutors). The fiscal impact on a county to modify its judicial release practices should be minimal at most, assuming compliance with current law. Under the bill, the pool of "eligible offenders" does not appear to change, which suggests that, from the perspective of DRC, the number of offenders eligible to file a motion and subsequently be granted judicial release may not be all that different from what otherwise might have occurred under current law.

The bill's modifications include:

- Requiring the county prosecutor, upon receiving notice from the court regarding the scheduling of a hearing for an eligible offender motion, to notify the victim or victim's representative pursuant to the Ohio Constitution and an existing statutory provision;
- Adding a preliminary step to the decision process on an eligible offender motion by specifying that, if an inmate files a motion as an eligible offender and the court makes an initial determination that the subject offender satisfies the criteria for being an eligible offender, the court then is to determine whether to grant the motion;
- Requiring the prosecuting attorney, after the court rules on the motion, to notify the victim of its ruling pursuant to an existing statutory provision; and
- Requiring the county prosecutor, subsequent to receiving notice from the court granting an eligible offender motion for judicial release, to notify the victim or victim's

representative when required pursuant to the Ohio Constitution and, in all other circumstances, pursuant to an existing statutory provision.

2. State of emergency-qualifying offenders

The bill expands the above-discussed "eligible offenders" judicial release mechanism to apply to a "state of emergency-qualifying offender" (SEQ offender)[4]. Upon the filing of a motion by an SEQ offender with the sentencing court, or the court on its motion, the court may reduce the offender's aggregated nonmandatory prison term or terms through a judicial release.

Subsequent to a state of emergency declared by the Governor, the notice, hearing, and other procedural requirements triggered by the filing of a motion for an SEQ offender judicial release creates work and costs generally for the court, the clerk of courts, county prosecutor, county sheriff, and DRC. The amount of work and costs depends on the number of motions filed, hearings scheduled, offenders conveyed to the county sheriff, and judicial releases granted. Generally, it is less expensive for DRC to supervise an offender in the community than it is to house an offender in prison.

The notice, hearing, and other procedural requirements are described below under the subheadings "**Motion**," "**Hearing**," and "**Court determination**."

Motion

With regard to a motion having been filed, the bill:

- Permits the court to deny the motion without a hearing, schedule a hearing on the motion, or grant the motion without a hearing;
- Requires the court to notify the prosecuting attorney of the county in which the offender was indicted of the motion;
- Permits the court to order the prosecuting attorney to respond to the motion in writing within ten days (the prosecutor must notify the victim, and must include any statement that the victim wants to be given to the court);
- Requires the court, after receiving the response from the prosecuting attorney, either order a hearing as soon as possible, or enter its ruling on the motion as soon as possible; and
- Specifies that existing notice provisions regarding a hearing on a motion made by an "eligible offender" apply (i.e., notice to DRC, the prosecuting attorney, and victims).

[4] The bill defines a "state of emergency-qualifying offender" as any inmate to whom all of the following apply: (1) the inmate is serving a stated prison term during a declared state of emergency declared by the Governor as a direct response to a pandemic or public health emergency, (2) the geographical area covered by the declared state of emergency includes the location at which the inmate is serving the stated prison term, and (3) there is a direct nexus between the emergency that is the basis of the Governor's declaration of the state of emergency and the circumstances of, and the need for release of, the inmate.

- Provides that a SEQ offender may only file a motion for judicial release with the sentencing court during the declared state of emergency once every six months.

Hearing

With regard to a hearing being scheduled, the bill:

- Requires DRC, prior to the date of the hearing, send certain specified information on the offender while in prison, including an institutional summary report, program participation, work assignments, disciplinary history, and security level to the court, and the county prosecutor or law enforcement, if requested.
- Specifies that existing notice provisions regarding a hearing on a motion made by an "eligible offender" apply (i.e., notice to DRC, the prosecuting attorney, and victims).
- Requires: (1) the offender to attend the hearing if ordered to do so by the court, (2) DRC to deliver the offender to the sheriff of the county in which the hearing is to be held, and (3) the sheriff to convey the offender to and from the hearing; and
- Requires, if a hearing is conducted, the court to conduct the hearing in open court or by a virtual, telephonic, or other form of remote hearing.

Court determination

With regard to a court determination, the bill:

- Requires the court: (1) if a hearing is held, to enter its ruling on the motion within ten days after the hearing, or (2) if the court denies the motion without a hearing, to enter its ruling on the motion within ten days after the motion is filed or after it receives the response from the prosecuting attorney; and
- Requires the court, if it court grants a motion for judicial release, order the SEQ offender's release, place the offender under an appropriate community control sanction (for a period not exceeding five years), under appropriate conditions, and under supervision of the probation authority serving the court, and reserve the right to reimpose the reduced sentence if the offender violates the sanction.

3. 80% release mechanism replacement

The bill enacts a new judicial release mechanism that largely mirrors the current "80% release mechanism" (R.C. 2929.20) and repeals the statute that contains the current 80% release mechanism (R.C. 2967.19).

The bill specifies that separate from and independent of the provisions of the other judicial release mechanisms, DRC's Director may recommend in writing to the sentencing court that the court consider releasing from prison, through a judicial release, an "80% qualifying offender." The Director may file the recommendation by submitting to the sentencing court a notice, in writing, of the recommendation, within the same timeframe applicable to the making of a recommendation under the current 80% release mechanism.

It appears that there is no difference between the types of offenders eligible under the new or current 80% release mechanisms. If so, then this suggests that the bill will not change the

number of offenders for whom the DRC Director will recommend a judicial release from what otherwise might have occurred under current law. How the bill's changes, as described below, may affect future judicial release decisions by the courts is unknown.

For the purposes of this fiscal analysis, the bill most notably:

- Establishes a rebuttable presumptive release (no presumption for or against under current law);
- Requires the court, if it makes an initial determination that the offender satisfies the criteria for being an 80% qualifying offender, to determine whether to grant the offender judicial release (current law does not require);
- Requires the court to hold the hearing in open court not less than 30 or more than 60 days after the Director's notice is submitted (current law leaves to court's discretion);
- Requires the court, if it makes an initial determination that the offender satisfies the criteria for being an 80% qualifying offender, to determine whether to grant the offender judicial release (current law does not reference the making of an initial determination);
- Requires the court to grant the release unless the prosecuting attorney proves to the court, by a preponderance of the evidence, that the legitimate interests of the government in maintaining the offender's confinement outweigh the interests of the offender in being released from that confinement (current law does not require);
- Requires the court to enter its ruling on the notice recommending judicial release within ten days after the hearing is conducted (current law leaves to court's discretion); and
- Permits DRC's Division of Parole and Community Services, if the court does not enter a ruling on the notice from DRC recommending judicial release within ten days after the hearing is conducted, to release the offender.

4. Medical reasons

The bill modifies the current judicial release mechanism that applies with respect to offenders who are in imminent danger or death, are medically incapacitated, or are suffering from a terminal illness in two ways. The modifications described below have no readily apparent direct fiscal effect on the state or its political subdivisions.

First, the bill clarifies that the procedures that apply under the mechanism include the victim notification provisions of the existing provisions regarding an eligible offender that are modified by the bill. Second, the bill specifies that the bill's provisions with respect to a judicial release motion regarding an eligible offender or an SEQ offender that require a court to issue an order granting the judicial release if the court does not take certain actions within a specified period of time do not apply regarding a motion made under this mechanism.

Transitional control

Current law establishes a "judicial veto" that applies whenever DRC wishes to transfer a prisoner in a specified category to any transitional control program DRC establishes. Currently, the "judicial veto" provisions apply whenever DRC proposes a transfer to transitional control of

a prisoner who is serving a definite term of imprisonment or definite prison term of two years or less for an offense committed on or after July 1, 1996, or who is serving a minimum term of two years or less under a nonlife felony indefinite prison term. The bill retains a "judicial veto," but changes the categories of prisoners with respect to whom the "judicial veto" provisions apply. Under the bill, they apply whenever DRC proposes a transfer to transitional control of a prisoner who is serving a definite term of imprisonment or definite prison term of *less than one year* for an offense committed on or after July 1, 1996, or who is serving a minimum term of *less than one year* under a nonlife felony indefinite prison term.

In CY 2018, DRC submitted 3,104 judicial notices in accordance with their transitional control program. Of those, 2,437 notices received a response, and of those, 1,131 were subjected to a judicial veto. In CY 2019, numbers were similar with 3,071 judicial notices sent, 2,356 responses received, and 1,136 vetoed. Due to timing, there is some overlap in these year-to-year statistics. The number of these transitional control decisions that would not have been subject to a "judicial veto" had the bill been in effect at that time is unknown.

By limiting the circumstances in which a judicial veto is applicable, DRC will likely realize cost savings in terms of administrative workload and incarceration expenditures. Currently, as part of the process to prepare an individual for transitional control, DRC first determines that an offender is eligible. A letter is then produced and mailed to the appropriate court. The correspondence is tracked via a database and if a judge denies the request, DRC must notify the inmate and the home institution. Additionally, all administrative tasks that had been completed in anticipation of the transfer must be reversed. For a portion of these cases, due to the time constraints, DRC would have already completed work to make referrals to a halfway house to ensure space would be available. If enacted, the bill would effectively eliminate the need to send and track the judicial notices and subsequent costs incurred to roll back preparations that may have been taken. In terms of incarceration expenditures, the GRF-funded incarceration costs incurred by DRC are likely to decrease, as more offenders will likely be transferred to transitional control, which is typically less expensive than remaining in an institutional setting. The potential cost savings will depend on the total number of prisoners who meet the criteria for transfer and are no longer subject to a possible judicial veto. Additional revenue may be collected from offenders that otherwise may not have been allowed to participate in the transitional control program.

Courts of common pleas may experience a cost savings because the court will no longer receive notice of the pendency of the transfer to transitional control for certain prisoners identified by DRC. The magnitude of those savings will vary from court to court but will likely be commensurate with the number of offenders adjudicated by each court. In other words, courts with higher criminal caseloads and convictions will experience larger savings as they will likely receive fewer notices of pendency of transfer.

Earned credits

Maximum amount

Current law provides two mechanisms under which a DRC prisoner generally may earn credit against their sentence. The bill amends the mechanism that provides for an award of days of credit to a prisoner for participation in, or completion in specified circumstances, of

programming. The maximum amount of earned credit a prisoner may earn is 8% of the total number of days in their prison term. The bill increases that maximum to 15% of the prisoner's prison term. The result is that a prisoner reaching existing law's maximum earned credit will be able to reduce their prison term even further under the bill.

The bill specifies that:

- The earned credit provisions of existing law will apply, until the date that is one year after the effective date of the bill, to persons confined in a state correctional institution or in the substance use disorder treatment program.
- Beginning one year after the effective date of the bill, the earned credit provisions of the bill will apply to persons confined in a state correctional institution or in the substance use disorder treatment program.

The table below displays LBO examples of what may happen under the bill to a prisoner serving a term of one, two, or three years, including DRC's potential institutional operating cost savings. The costs that DRC's Adult Parole Authority incurs to supervise such a prisoner subsequent to their release from prison may reduce the magnitude of that savings. That said, it is generally less expensive for DRC to supervise an offender in the community than it is to confine them in a prison.

Table 2. Maximum Amount of Earned Credit (Expressed in Days)

Earned Credit	Length of Prison Term		
	1 Year	2 Years	3 Years
8% (under current law)	29.20	58.40	87.60
15% (under the bill)	54.75	109.50	164.25
Days Earned Increase	25.55	51.10	76.65
Total Marginal Cost Savings*	**$282.07**	**$564.14**	**$846.22**

*DRC's reported marginal daily incarceration cost per offender for FY 2021 was $11.04.

Types of programs

Current law authorizes the awarding of days of credit to prisoners who actively participate in or complete certain programs developed by DRC, including education, vocational training, and substance abuse treatment. The bill expands the types of activities for which earned credit may be awarded upon completion to also include any other constructive program developed by DRC with specific standards for performance by prisoners. The bill also modifies the provisions that specify the amount of credit that may be awarded so that: (1) a prisoner serving a prison term that includes a term imposed for a sexually oriented offense committed prior to September 30, 2011, may earn one day of credit under the mechanism for each completed month during which the prisoner productively participates in such a program or activity, and (2) if clause (1) does not apply, a prisoner may earn five days of credit for each completed month during which the

prisoner productively participates in such a program or activity. The amount of additional credit that may be earned is unknown.

Correctional employee and youth services employee body-worn camera recordings

The bill establishes, for body-worn camera recordings of a correctional employee and a youth services employee, the same public records exemption that current law provides for recordings made by a visual and audio recording device worn on a peace officer or mounted on a peace officer's vehicle. For purposes of the bill:

- "Correctional employee" means any DRC employee who in the course of performing the employee's job duties has or has had contact with inmates and persons under supervision.
- "Youth services employee" means any employee of the Department of Youth Services (DYS) who in the course of performing the employee's job duties has or has had contact with children committed to the custody of DYS.

Under current law, unchanged by the bill, certain "restricted portions" of a body-worn camera or a dashboard camera recording are exempted from disclosure under the Public Records Law. If a person requests a recording that contains restricted portions, a state or local law enforcement agency is required to redact objectionable parts of the recording, unless consent is obtained when certain criteria are met.

The practical impact of adding correctional employee and youth services employee to the same public records exemption is that some recordings may require redaction that otherwise would not have been the case under current law. As a result, DRC and DYS may likely experience an increase in administrative work, including time and effort, to comply with the bill's exemption. The associated costs will depend on the volume of requests, the number of staff available to handle requests, the manner in which redaction is performed, the extent to which DRC or DYS utilizes cameras, and how long recordings are retained. DRC and DYS will also incur a likely no more than minimal one-time cost to adjust existing public records training and public records policy.

Under continuing law, if a public office denies a request to release a restricted portion of a body-worn or dashboard camera recording, any person may: (1) file a writ of mandamus with the appropriate court of common pleas or court of appeals, or (2) file a complaint with the Court of Claims to order the release of all or portions of the recording. A person may choose one or the other, but not both. The number of filings and state legal and settlement expenses that could result subsequent to the bill's enactment are unpredictable.

Youthful offender parole review

Current law provides special parole eligibility dates, under certain specified circumstances, for persons serving a prison sentence for an offense committed when under 18. The Parole Board, a section of DRC, is required: (1) to conduct a hearing to consider the prisoner's release on parole within a reasonable time once a prisoner is eligible for parole, (2) to permit the State Public Defender to appear at the hearing to support the prisoner's release, and (3) to notify

the State Public Defender, the victim, and the appropriate prosecuting attorney at least 60 days before the Board begins any review or proceeding.

Exemption

The bill exempts an offender who is paroled on an offense committed when the offender was under 18 years of age who subsequently returns to prison from being eligible for parole under the special youthful offender parole provisions of current law. As the effective date of these provisions was April 12, 2021, little is known as to how many offenders might be exempt in the future that otherwise may have been eligible under current law. That said, LBO expects that, to the degree there is a fiscal effect on DRC, the State Public Defender, and county prosecutors, it will be minimal annually.

Parole hearings

Current law governing special parole eligibility dates of offenders convicted of a crime committed when under age 18 requires that, if the Parole Board denies release on parole, it must conduct a subsequent release review not later than five years after release was denied. The bill instead requires that, if the Board denies release on parole, it must set a time for a subsequent release review and hearing in accordance with rules adopted by DRC in effect at the time of the denial. This change has no direct fiscal effect on DRC.

Prison term for repeat OVI offender specification

Currently, the prison term for conviction of a repeat OVI offender specification only applies if the requisite number of offenses (five) occurred within the past 20 years. Because of the 20-year look back, certain offenders who previously served an additional mandatory prison term for the specification have been able to avoid a later imposition of the specification, even after committing an additional felony OVI offense. The bill imposes the repeat OVI offender specification (an additional one-, two-, three-, four-, or five-year mandatory prison term) on an OVI offender who has previously been convicted of the specification, *regardless of the number of years between offenses*. The offender serves the additional prison term consecutively and prior to any prison term imposed for the underlying offense.

It appears that very few OVI offenders have avoided the imposition of the additional mandatory prison term. DRC's annual marginal cost to incarcerate an offender in FY 2022 was $4,128 ($11.31 per day x 365 days).

Prison term for a third degree felony OVI offense

The bill specifies that the discretionary prison term, in addition to the mandatory prison term, that may be imposed for a third degree felony OVI (operating a vehicle while impaired) offense is 12, 18, 24, 30, 36, 42, 48, 54, or 60 months, rather than 9, 12, 18, 24, 30, or 36 months as specified by the 2015 Ohio Supreme Court in *State v. South*. The resulting potential increase in prison time served for certain OVI offenders is unclear. DRC's annual marginal cost to incarcerate an offender in FY 2022 was $4,128 ($11.31 per day x 365 days).

Local jails

County correctional officers carrying firearms

The bill authorizes a county correctional officer to carry firearms while on duty in the same manner as a law enforcement officer if the county correctional officer is specifically authorized to carry firearms and has received firearms training. This provision largely affects operations of county sheriffs, the Attorney General, and affiliated Ohio Peace Officer Training Commission (OPOTC).

County sheriffs

With regard to the authorization of a county correctional officer to carry firearms while on duty, the bill requires: (1) certification by OPOTC as having successfully completed training that qualifies the officer to carry firearms while on duty, and (2) completion of an annual firearms requalification program approved by OPOTC's Executive Director. It appears to be the intention of county sheriffs generally to pay costs to train and equip officers, including, as necessary, a firearm, ammunition, holster, duty belt, belt stays, ammunition pouches, and gun belt. The county sheriff's costs will depend, to some degree, on the number of county correctional officers the sheriff authorizes to carry firearms while on duty. There may be an offsetting savings effect related to prisoner transportation, e.g., court dates or medical visits, if an armed county correctional officer is available in lieu of using a deputy sheriff that otherwise might have been performing other duties.

Attorney General

The bill requires OPOTC to recommend to the Attorney General, and the Attorney General to adopt rules governing the training and certification of county correctional officers authorized to carry firearms while on duty. The one-time rule adoption costs are likely to be minimal. The subsequent ongoing costs for OPOTC will depend on the number of county correctional officers authorized to carry firearms while on duty.

Protection from civil and criminal liability

The bill grants a county correctional officer who is carrying firearms as described above with protection from civil or criminal liability for any conduct occurring while carrying firearms to the same extent as a law enforcement officer. The practical effect may be to reduce the amount a county otherwise may have incurred to litigate and settle allegations of misconduct by a county correctional officer carrying firearms while on duty.

Internet access for prisoners in jails

The bill allows prisoner access to the internet for uses or purposes approved by the managing officer of a county or municipal correctional facility or their designee, rather than only while participating in an educational program that requires use of the internet for training or research, as under current law. If a facility opts to permit such access, the cost would depend on the type of computer network, computer system, computer services, telecommunications service, or information service utilized and any related monitoring or supervision. A potential financing source is the commissary fund, which consists of money deducted from a prisoner's personal account for their purchases from the commissary.

There are approximately 300 local jails in Ohio. Jails are classified into five types: (1) full-service jails, (2) minimum security jails, (3) 12-day jails, (4) 12-hour jails, and (5) temporary holding facilities. LBO estimates that the operations of 144 of these jails are potentially affected by this provision as follows: 88 full-service jails, 51 12-day jails, and five temporary holding facilities.

Grand jury inspection of local correctional facility

The bill expressly authorizes grand jurors of involved counties to periodically visit, and examine conditions and discipline at, multicounty, multicounty-municipal, and municipal-county correctional centers and report on the specified matters. Current law requires: (1) the report be submitted, in writing, to the common pleas court of the county served by the grand jurors, and (2) the court's clerk forward a copy of the report to DRC.

LBO has identified four local correctional centers, typically referred to as regional jails (identified below), affected by this provision.

- Corrections Center of Northwest Ohio (located in Stryker and serves Defiance, Fulton, Henry, Lucas, and Williams counties).
- Multi-County Correctional Center (located in Marion and serves Marion and Hardin counties).
- Southeastern Ohio Regional Jail (located in Nelsonville and serves Athens, Hocking, Morgan, Perry, and Vinton counties).
- Tri-County Regional Jail (located in Mechanicsburg and serves Champaign, Madison, and Union counties).

Grand juries are not currently inspecting any of these four regional jails. There would be minimal at most costs for any county served by a regional jail to assist with a grand jury inspection and subsequent reporting.

County coroner

Law enforcement investigative notes in possession of coroner

The bill modifies current law to eliminate a journalist's ability to submit to the county coroner a request to view records of a deceased person that are confidential law enforcement investigatory records. The practical effect is that more of the records in the possession of a county coroner may not be available until a case is concluded. The additional work and costs for a county coroner will depend on the number of public records requests submitted by journalists, the availability of staff to respond, the need for legal assistance from the prosecuting attorney of the county, and the redaction process (blacking out portions of a document so that they cannot be read).

Civil protection orders

Definition of "family or household member"

The bill corrects the definition of "family or household member" in the civil stalking protection order law by referring to the family or household member of the *petitioner*. It appears that courts, with the exception of one court's decision that was successfully appealed, are interpreting the definition as intended. Thus, this correction should have no direct fiscal effect on the courts of common pleas handling civil protection order matters.

Speedy Trial Law

The bill provides an additional 14 days to begin a trial after a person charged with a felony has been discharged because the person has not been brought to trial within the required amount of time. The bill provides that, if it is determined by the court that the time for trial has expired, no additional charges arising from the same facts and circumstances as the original charges may be added during the 14-day period specified under the bill.

Currently, a charged individual must be brought to trial within 270 days after the person's arrest. If the preliminary hearing is not held within that time, the felony charge is dismissed and further criminal proceedings based on the same conduct are dismissed with prejudice, although such situations occur infrequently.

Currently, the previously described outcome generally occurs when a person has been arrested on one or more felony charges on more than one occasion within 270 days of their first charge. This complicates the calculation of the 270-day window and results in charges being dismissed. The bill affords the prosecution an additional two weeks to begin trial proceedings. As noted, these circumstances are relatively infrequent, which means the number of felony cases that could move forward to trial, result in a conviction, and the imposition of a jail or prison term will be relatively small. Any additional costs to prosecute, defend (if indigent), adjudicate, and sanction offenders will be minimal annually. If the convicted offender spent all, or a considerable portion, of those 270 days in jail awaiting trial, a judge may opt to sentence that offender to time served, thus avoiding a longer jail stay or possible prison term. The number of offenders likely to be sentenced to prison will be relatively small, which means at most a minimal increase in DRC's annual incarceration costs. The annual marginal cost of adding a relatively small number of offenders to the prison population in FY 2022 was $4,128 per inmate (based on DRC's reported FY 2022 marginal daily cost of $11.31).

The potential revenue effects of a relatively small increase in felony convictions will originate from fines, and court costs and fees that the sentencing court generally is required to impose on the offender. The county retains the fees and fines, and a portion of the court costs, collected from the offender. Of the court costs collected, $60 is forwarded to the state, with $30 being deposited into the Victims of Crime/Reparations Fund (Fund 4020) and $30 being deposited into the Indigent Defense Support Fund (Fund 5DY0). As the felony matters affected by the bill are relatively small, and collecting payments from offenders can be problematic, the amount of annual revenue that might be gained will be minimal for any given county and negligible for the state.

Department of Youth Services

The two provisions of the bill described below directly affect DYS operations. The Department's existing staff and funding levels should be sufficient to absorb any associated work or costs.

Transitional services program

The bill permits DYS to develop a program to assist a youth leaving its supervision, control, and custody at 21 years of age. The program is required to provide supportive services for specific educational or rehabilitative purposes under conditions agreed upon by both DYS and the youth and terminable by either.

Quality assurance committee

The bill replaces current law creating the Office of Quality Assurance and Improvement in DYS (including appointment of a managing officer) with a requirement that the Director of Youth Services appoint a central office quality assurance committee consisting of staff members from relevant DYS divisions.

Traffic law

Expansion of the OVI law to include "harmful intoxicants"

The bill expands the scope of the OVI laws by prohibiting the operation of a vehicle or watercraft while under the influence of a "harmful intoxicant." According to data provided by the Bureau of Motor Vehicles (BMV), in recent years, more than 40,000 individuals were convicted annually of an OVI-related violation in Ohio. The bill's "harmful intoxicant" provision may result in a relatively small increase in that number for the following two reasons:

- Over the previous five years, the Ohio State Highway Patrol has issued around 100 traffic citations for abusing harmful intoxicants, or an average of about 20 per year statewide. Although there are no comparable traffic law violation statistics readily available for local jurisdictions, anecdotal information suggests that any increase in OVI-related arrests and convictions under the jurisdiction of counties, municipalities, and townships will be relatively small.
- In OVI cases involving a drug of abuse where there is no physical evidence such as urine or blood results to establish the presence of a drug of abuse, the court is limited to circumstantial evidence. This suggests that securing an OVI conviction where use of a harmful intoxicant may be present generally could be problematic.

State revenues

The vast majority of OVI-related convictions are misdemeanors. In addition to any mandatory fines, state court costs totaling $29 are also imposed on an offender convicted of or pleading guilty to a misdemeanor, $20 of which is directed to the Indigent Defense Support Fund (Fund 5DY0) and $9 is directed to the Victims of Crime/Reparations Fund (Fund 4020). If the statewide number of additional OVI convictions resulting from offenders driving under the influence of "harmful intoxicants" were relatively small, the additional court cost revenue collected by the state would be no more than minimal annually.

Under current law, those convicted of an OVI-related offense face a one-year administrative license suspension (ALS) of their driver's license. The reinstatement fee for a suspended driver's license resulting from an OVI-related offense is $475. The reinstatement fee revenue is distributed across eight state funds, which are listed in the table below. Given the expectation that the bill would yield a relatively small number of new OVI convictions, the likely revenue gain for any given fund would be no more than minimal per year.

Table 3. Distribution of $475 License Reinstatement Fee	
State Fund	**Portion of Fee**
State Bureau of Motor Vehicles Fund (Fund 4W40)	$30.00
Indigent Drivers Alcohol Treatment Fund (Fund 7490)	$37.50
Victims of Crime/Reparations Fund (Fund 4020)	$75.00
Statewide Treatment and Prevention Fund (Fund 4750)	$112.50
Services for Rehabilitation Fund (Fund 4L10)	$75.00
Drug Abuse Resistance Education Programs Fund (Fund 4L60)	$75.00
Trauma & Emergency Medical Services Grants Fund (Fund 83P0)	$20.00
Indigent Drivers Interlock and Alcohol Monitoring Fund (Fund 5FF0)	$50.00
Total Reinstatement Fee	**$475.00**

Because of the likely small number of additional OVI-related convictions stemming from the bill, LBO staff estimates that very few, if any, additional offenders might be sentenced to prison annually. This means that the potential increase in DRC's annual incarceration costs would be minimal at most.

Local revenues

The amount of the mandatory fine for an OVI violation depends on certain specified circumstances, such as the number of prior OVI convictions, and ranges from $375 to $10,500.[5] As the number of additional OVI convictions is likely to be relatively small and those convicted are not expected to have many, if any, prior OVI convictions, the amount of fine revenue that would be generated annually for any given governmental entity and/or fund would be minimal at most.

The disposition of the fine generally can be described as follows:

[5] R.C. 4511.19(G).

- $25 of the fine imposed for a first offense and $50 of the fine imposed for a second offense are deposited into the county or municipal indigent drivers' alcohol treatment fund under the control of the court. The court is permitted to use this money to pay the cost of offender assessments (including transportation) and alcohol and drug addiction services.
- $50 of the fine imposed is deposited into special projects funds under the control of the court to be used to cover the cost of immobilizing or disabling devices, including ignition interlock devices and remote alcohol monitoring devices. If no special projects fund exists, the $50 is deposited into the indigent drivers interlock and alcohol monitoring fund of the county where the conviction occurred.
- Between $75 and $500, depending on the number of prior convictions, is transmitted to the state treasury for deposit into the Indigent Defense Support Fund (Fund 5DY0). Fund 5DY0 is used by the Ohio Public Defender Commission to support the state and county criminal indigent defense service delivery systems.
- Between $25 and $210, depending on the number of prior convictions, is paid into an enforcement and education fund established by the legislative authority of the law enforcement agency that was primarily responsible for the arrest of the offender. Such funds are to be used to support enforcement and public information efforts by the law enforcement agency.
- Between $50 and $440, depending on the number of prior convictions, is paid to the political subdivision that pays the cost of housing the offender during the offender's term of incarceration.

The balance of the fine imposed is distributed as provided by law, which generally means the county or municipal general fund depending on the court where the conviction occurred.

Expenditures

The bill will likely result in a small number of additional OVI cases statewide and a corresponding increase in expenditures related to the arrest, prosecution, possible indigent defense, adjudication, and sanctioning in these cases. Since the potential number of new cases in any jurisdiction is expected to be small, any additional local expenditures would not likely exceed minimal annually.

Affirmative defenses for certain driving offenses

The bill allows a person to assert the existing affirmative defense of driving in an emergency with regard to a prosecution for driving under a suspended driver's license under specified laws. This provision may result in a relatively small statewide reduction in the number of persons that, under current law, otherwise may have been convicted of driving under suspension (DUS). A DUS violation is a misdemeanor offense, the penalty for which depends on the type of suspension and prior DUS convictions. Penalties for DUS include jail time, fines, vehicle immobilization or forfeiture, impoundment of license plates, community work services, and additional suspension time. The fiscal effect on local criminal justice systems and the state,

in particular the BMV that administers the license suspension and reinstatement process, is expected to be minimal at most annually.

Enhanced penalties for speeding violations

Current law establishes an "enhanced penalty" that applies to a first-time speeding offense under three specified circumstances. The enhanced penalty is a fourth degree misdemeanor; the standard penalty is a minor misdemeanor. If the offense under those circumstances is the offender's second offense within one year, the standard penalty applies. The bill expands the scope of the "enhanced penalty" so that it applies to the second offense within one year.

A minor misdemeanor carries a fine of up to $150, but jail time is not authorized. A fourth degree misdemeanor carries a potential of up to 30 days in jail, a fine of up to $250, or both. Thus, under the bill, for a second-time speeding offense, as described in the immediately preceding paragraph, the "enhanced penalty" applies rather than the standard minor misdemeanor penalty as under current law. Thus, more speeding violations may be contested and taken to trial than otherwise may have occurred under current law. The result may be: (1) additional costs for the court, clerk of courts, prosecutors, law enforcement, and jails, and (2) additional revenues in the form of fines, and court costs and fees, some of which would be distributed to the state. The net fiscal effect for local criminal justice systems is indeterminate, as the number of applicable situations is unknown.

Underage drinking

The bill reduces the penalty for underage drinking from a first degree misdemeanor to a third degree misdemeanor. To the degree that this provision has a fiscal effect, it may be in reducing sanctioning costs and fine revenues.

Operating a vehicle after underage alcohol consumption (OVUAC)

The bill modifies provisions of current law that provide for consideration of prior convictions of operating a vehicle or vessel after underage alcohol consumption as a penalty enhancement or for other specified purposes. The fiscal effect of these modifications on the state and counties is likely to be some reduction in sanctioning costs and fine revenue that otherwise might have resulted under current law. The number of offenders that will be affected by these penalty enhancement modifications is unknown.

The bill's modifications involve:

- Removing a conviction of a prior OVUAC offense (while under age 21, operating a vehicle with a specified prohibited concentration of alcohol in the person's whole blood, blood serum or plasma, breath, or urine) as a penalty enhancement for subsequent conviction of certain offenses. The penalty enhancements include an increased term of confinement, a longer driver's license suspension, impoundment of vehicle, a higher fine, etc. The offenses with respect to which this removal applies are: (a) a current OVUAC offense, (b) an OVI offense, (c) refusing to submit to a chemical test (i.e., "implied consent"), (d) aggravated vehicular homicide, (e) aggravated vehicular assault, and (f) operating a watercraft vessel while under the influence;

- Repealing the specification that imposes an additional six-month jail term for an offender who commits an OVUAC offense and has been convicted of or pleaded guilty to five or more prior equivalent offenses;
- Removing consideration of prior OVUAC offenses when considering whether an offender is eligible for the enhanced prison term for the multiple OVI specification;
- Removing consideration of a prior operating a watercraft vessel after underage consumption of alcohol offense in order to enhance the penalty of a current offense (similar to OVUAC, above); and
- Removing a conviction of an OVUAC offense or operating a watercraft vessel after underage consumption of alcohol offense from the definition of "equivalent offense" that applies to the Motor Vehicle Law, and a prior conviction of which is a penalty enhancement for endangering children (committing an OVI offense while children are in the vehicle), for driving under an OVI suspension, for the enhanced prison term for the felony OVI specification, and for certain other provisions that could result in certain increased sanctions or negative consequences for an offender.

Fourth degree felony OVI – community alternative center

The bill expands the authorized use of "community alternative sentencing centers" (CASCs) so that they may be used with respect to fourth degree felony OVI offenses. Currently, CASCs generally may be used only for confinement of offenders sentenced for qualifying misdemeanor offenses or for OVI under a term of confinement of not more than 90 days (this which precludes the use for certain fourth degree felony OVI offenders who must be sentenced to a 120-day term of incarceration). The local fiscal effects of these OVI sentencing provisions is uncertain.

With respect to CASCs, the bill:

- Authorizes a court to sentence a person guilty of a fourth degree felony OVI (generally, someone who has three or four prior OVI offenses within the past ten years of the current OVI offense) to serve the person's jail term or term of local incarceration, up to 120 days, at a CASC or district CASC; and
- Expands from 90 days to 120 days the maximum amount of time that a person sentenced for an eligible OVI offense may serve at a CASC or district CASC, in order to encompass the minimum term of local incarceration for a fourth degree felony OVI offender with a high test for alcohol.

Good Samaritan Law

Medical assistance for drug overdose – immunity

The bill provides immunity from arrest, charges, prosecution, conviction, or penalty for the offenses of "possessing drug abuse instruments," "illegal use or possession of drug paraphernalia," and "illegal use or possession of marihuana drug paraphernalia" if a person seeks or obtains medical help for another person experiencing an overdose, experiences an overdose and seeks medical assistance, or is the subject of another person seeking or obtaining medical

assistance for that overdose. Similar immunity currently exists for a minor drug possession offense when a person seeks or obtains medical assistance for an overdose.

Under the bill, a person is qualified for the expanded immunity and the current minor drug possession offense immunity if the person acts in good faith to seek or obtain medical help for self or another person or is the subject of another person seeking or obtaining medical help, in one of the specified manners (currently, under a criterion repealed by the bill, the person also must not be on community control or post-release control).

The bill extends the criteria for being within the scope of the protections currently applicable with respect to minor drug possession offenses to also apply with respect to the drug paraphernalia offenses. The bill extends the limitation on immunity that currently applies with respect to minor drug possession offenses to also apply with respect to the drug paraphernalia offenses. Under the bill, no person may be granted immunity under the controlled substance offense Good Samaritan provisions more than two times, and the immunity provisions do not apply to any person who twice previously has been granted immunity.

This immunity provision may reduce the number of persons, who because of seeking medical assistance, otherwise might have been arrested, charged, prosecuted, and sanctioned for drug instruments/paraphernalia offenses. For counties and municipalities with jurisdiction over such matters, this could mean some decrease in cases requiring adjudication, thus creating a potential expenditure savings and related revenue loss (fines, fees, and court costs generally imposed on an offender by the court).

Anecdotal information suggests the number of instances in which a person is, under current law and practice, prosecuted subsequent to seeking medical assistance is relatively small, especially in the context of the total number of criminal and juvenile cases handled by counties and municipalities annually. Thus, the net annual fiscal effect of any expenditure savings and revenue loss is likely to be minimal. For the state, there may be a related negligible annual loss in court costs that otherwise might have been collected for deposit in the state treasury and divided between the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/ Reparations Fund (Fund 4020).

Possible indirect effects

Because of the bill, it is possible that additional individuals will receive treatment in public hospitals for drug-related medical emergencies. Thus, government-owned hospitals could indirectly realize an increase in treatment costs. The increase would depend on the number of individuals receiving treatment, the services rendered, and the insurance status of the individual. Government-owned hospitals might receive reimbursements or payments for individuals who have insurance coverage or who are enrolled in the Medicaid Program.

Likewise, the Medicaid Program could also experience an indirect increase in costs for treatment relating to the medical emergency and possibly for substance abuse treatment if the individual seeks such treatment after release from the hospital. Under the Medicaid Program, the federal government typically reimburses the state for approximately 64% of medical service costs.

Gross sexual imposition penalty

Currently, the court must impose on an offender convicted of gross sexual imposition in violation of either of the two prohibitions under the offense of "gross sexual imposition" in certain specified circumstances a mandatory prison term for a third degree felony if either of the following applies:

1. Evidence other than the testimony of the victim was admitted in the case corroborating the violation.
2. The offender previously was convicted of or pleaded guilty to gross sexual imposition, rape, the former offense of felonious sexual penetration, or sexual battery, and the victim of the previous offense was less than 13 years of age.

The bill eliminates (1), above, as a reason for imposing a mandatory prison term. As the Ohio Supreme Court, in *State v. Bevly* (2015), found that provision unconstitutional, its elimination from the Revised Code has no direct fiscal effect on the state or its political subdivisions.

Statewide electronic warrant system

The bill:

- Requires that any warrant issued for a "Tier One Offense" (32 specified serious offenses) be entered into the state's Law Enforcement Automated Data System (LEADS) and the appropriate federal National Crime Information Center (NCIC) database by the law enforcement agency requesting the warrant within 48 hours of receipt of the warrant, and entered into LEADS by the law enforcement agency that receives the warrant with a nationwide extradition radius; and
- Requires that any warrant issued for a "Tier One Offense," if entered in error, be removed within 48 hours after discovering the error, and removed within 48 hours of warrant service, dismissal, or recall by the issuing court.

Any costs for the state and its political subdivisions may be minimized to the degree that eWarrants can be utilized to comply with these requirements. eWarrants is a free, centralized, web-based system for entering protection orders and warrants for law enforcement, courts, and clerks across all 88 counties. It is being developed and implemented by Innovate Ohio in partnership the departments of Public Safety and Administrative Services.

Fraudulent or nonconsensual assisted reproduction

The bill creates the offense of "fraudulent assisted reproduction" and provides for civil actions for an assisted reproduction procedure without consent. These provisions of the bill are not likely to result in a notable number of new criminal or civil case filings, as it seems likely that few health care professionals would knowingly engage in the prohibited conduct. Thus, any resulting state and local fiscal effects will be minimal.

Criminal penalty

The bill prohibits a health care professional from knowingly using human reproductive material from the health care professional, a donor, or any other person while performing an assisted reproduction procedure if the patient receiving the procedure has not expressly consented to the use of the material. A violation is a third degree felony, which is punishable by a 9, 12, 18, 24, 30, or 36-month definite prison term, a fine of up to $10,000, or both. If the violation occurs as part of a course of conduct involving fraudulent assisted reproduction violations, the offense is a second degree felony. Under current sentencing guidelines, a felony of the second degree is punishable by an indefinite prison term consisting of a minimum term selected by the sentencing judge from the range of terms authorized for a second degree felony (2, 3, 4, 5, 6, 7, or 8 years), a fine of up to $15,000, or both.

Civil penalties

The bill authorizes a civil action for recovery against a health care professional to be filed by: (1) the patient on whom the procedure was performed and the patient's spouse or surviving spouse when performed without consent, (2) the child born as a result of the procedure, and (3) a donor of human reproductive material when the donor's material was used and the health care professional knew or reasonably should have known it was used without consent.

Illegal use or possession of marijuana drug paraphernalia

The bill:

- Provides that an arrest or conviction for illegal use or possession of marijuana drug paraphernalia does not constitute a criminal record and does not need to be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record;
- Repeals a provision that authorizes the court to suspend for not more than five years the offender's driver's or commercial driver's license or permit; and
- Removes a conviction for illegal use or possession of marijuana drug paraphernalia from a list of disqualifying offenses for certain categories of service, employment, licensing, or certification.

The fiscal effects of these changes could be as follows: (1) a one-time cost for certain state and local governmental entities to modify their respective procedures for recording and reporting criminal histories, (2) a decrease in costs and license reinstatements fee revenue for the state's Bureau of Motor Vehicles, and (3) a gain in state and local revenue from licensing or certifying persons who otherwise might have been disqualified under current law.

Limitation on implementing new licensing collateral sanctions

During the period commencing on the bill's effective date and ending on the date that is two years after that effective date, a "licensing authority" is prohibited from refusing to issue a license to a person, limit or otherwise place restrictions on a person's license, or suspending or revoking a person's license under any Revised Code provision that takes effect during that period and that requires or authorizes such a collateral sanction as a result of the person's conviction

of, judicial finding of guilt of, or plea of guilty to an offense. Under current law, unchanged by the bill, "licensing authority" means a state agency that issues licenses under Title XLVII or any other provision of the Revised Code to practice an occupation or profession.

The potential fiscal effect of this "moratorium" provision on state licensing authorities cannot be readily determined, and thus is unknown.

Certificate of qualification for employment filing fee

The bill changes the provisions governing the fee for an application for a certificate of qualification for employment so that:

- The fee generally will be not more than $50, including local court fees, unless waived (currently, it is $50, unless waived);
- The court may waive all or some of the fee for an applicant who presents a poverty affidavit showing that the applicant is indigent (currently, the poverty affidavit is not required); and
- If an applicant pays the fee, the first $20 or two-fifths of the fee, whichever is greater, collected is to be paid into the county general revenue fund, and the $30 or three-fifths, is paid into the state treasury for crediting to the GRF (currently, if the fee is partially waived, the first $20 collected is paid into the county general revenue fund and any amount collected in excess of $20 is paid into the GRF).

These changes do not appear to affect in any significant way the amount of filing fee revenue that otherwise would have been collected and distributed under current law.

Theft offense name

The bill renames the offense of "petty theft" as "misdemeanor theft," a change that has no readily apparent direct fiscal effect on the state or its political subdivisions.

Transfer of a child's case (bindovers)

The bill provides that if a complaint or complaints are filed in juvenile court alleging that a child is a delinquent child for committing an act that would be a felony if committed by an adult, if the court is required to transfer the child's "case" or is authorized to do so, and if the complaint or complaints containing the allegation that is the basis of the transfer includes one or more counts alleging that the child committed an act that would be a felony if committed by an adult, both of the following apply:

- Each count included in the complaint or complaints with respect to which the court found probable cause to believe that the child committed the act charged must be transferred and the court to which the case is transferred has jurisdiction over all of the counts so transferred; and
- Each count included in the complaint or complaints that is not transferred must remain within the jurisdiction of the juvenile court to be handled by that court in an appropriate manner.

The bill makes similar changes to other transfers of a child's case, including "reverse bindovers," and defines "case" as all charges that are included in the complaint or complaints containing the allegation that is the basis of the transfer and for which the court found probable cause.

The fiscal effect of these bindover changes on the juvenile and general divisions of courts of common pleas is uncertain.

Sex offender therapy location

The bill specifies that, in the provision regarding removal of Sex Offender Registration and Notification(SORN) Law duties of a person convicted of "unlawful sexual conduct with a minor," one criterion to be an eligible offender under the provision is that the offender must complete sex offender therapy in the county in which the offender was sentenced if completion of such a program is ordered by the court, or, if such a program is ordered by the court and none is available in the county of sentencing, then in another county. This provision of the bill has no readily apparent direct fiscal effect on the state or its political subdivisions.

Intervention in lieu of conviction

The bill authorizes a court that grants an offender intervention in lieu of conviction to place the offender under the general control and supervision of a community-based correctional facility (but only during the period commencing on the effective date of the bill and ending two years later), as an alternative to the county probation department, the Adult Parole Authority, or another appropriate local probation or court services agency that are authorized under current law. The fiscal effect during this two-year period, in particular for counties, will depend on the number of offenders placed with a community-based correctional facility, and whether that placement is more or less expensive than the other available alternatives.

Aggravated murder or murder – statute of limitations

The bill specifies that there is no period of limitations for the prosecution of a conspiracy or attempt to commit, or complicity in committing, aggravated murder or murder. Currently, under the decision of the Ohio Supreme Court in *State v. Bortree* (November 3, 2022), Slip Opinion No. 2022-Ohio-3890, the period of limitations for attempted aggravated murder and attempted murder is six years. This change applies to such offenses: (1) committed on or after the bill's effective date, and (2) committed prior to that effective date if prosecution for that offense was not barred under the period of limitations for the offense as it existed on the day prior to that effective date.

The number of cases that this modification of existing provisions regarding criminal statutes of limitations relative to aggravated murder and murder may affect is uncertain, as are the fiscal effects on county criminal justice systems with jurisdiction in such matters.

Searches regarding convicted offender under supervision

The bill makes changes to the authority of probation officers and Adult Parole Authority (APA) field officers to conduct searches as described below. These changes appear to make it

quicker and easier for such searches to be conducted, and possibly discover that an offender is not abiding by the law or otherwise not complying with their sanctioning conditions.

The bill:

- Specifies the circumstances for a search of a felony offender sentenced to a nonresidential sanction that probation officers and Adult Parole Authority (APA) field officers have the authority to search, with or without a warrant, the offender's person, real property, motor vehicle, or personal property; and
- Specifies the circumstances for a search of a felon who is granted a conditional pardon or parole, transitional control, or another form of authorized release that APA field officers have the authority to search, with or without a warrant, the offender's person, real property, motor vehicle, or personal property.

Mandatory report of adult abuse, neglect, or exploitation

The bill increases the penalty for instances when a mandatory reporter of adult abuse, neglect, or exploitation fails to make such a report, and specifies that the culpable mental state for the offense is "knowingly."

The penalty increases from an unclassified misdemeanor offense, which is subject to only a monetary fine of $500, to a fourth degree misdemeanor. The penalty for a fourth degree misdemeanor is a fine of not more than $250, a possible jail term of not more than 30 days, or both. Because of this penalty enhancement, future cases filed in county and municipal courts may be impacted, possibly adding time and effort to process as the potential for jail time could add certain complexities to a case. As such, local criminal justice systems may experience a minimal increase in their annual operating costs.

Since the maximum permissible fine decreases from $500 to $250 under the bill, jurisdictions may realize less revenue than otherwise might have been the case under current law and practice. Judges commonly assess a fine in an amount that is less than that permitted in the law. A cursory review of adjudication data held by the Ohio Supreme Court via the Ohio Courts Network found no failure to report convictions from CYs 2016 through 2020. It is possible though that the data is incomplete, or a case was dismissed or resolved with a plea to a lesser charge.

Under current law, and unchanged by the bill, individuals who are subject to the mandatory reporting requirement, include, but are not limited to, attorneys, doctors, dentists, nurses, home health agency employees, nursing home employees, firefighters, peace officers, and clergy.

Fentanyl drug testing strips

The bill provides that the offense of "illegal use or possession of drug paraphernalia" does not apply to a person's use, or possession with purpose to use, any drug testing strips to determine the presence of fentanyl or a fentanyl-related compound. Under current law, the penalty for a violation of this offense is a fourth degree misdemeanor, punishable by a jail term of not more than 30 days, a fine up to $250, or both.

According to the Ohio Prosecuting Attorneys Association, although the above offense as it relates to drug testing strips for testing fentanyl or a fentanyl-related compound is currently prohibited behavior, it is likely that under current law individuals are being arrested and charged with "illegal use or possession of drug paraphernalia" in combination with possession of other types of paraphernalia or other offenses, such as trafficking. To the degree that criminal charges are being pursued solely for the possession of drug testing strips that are being utilized to determine the presence of fentanyl or a fentanyl-related compound, the bill has the potential to create a minimal cost savings to local criminal justice systems, including courts, prosecutors, public defenders, law enforcement agencies, and detention/supervision facilities. Likewise, any fines, fees, and court cost revenue that are associated with these types of offenses would also be forgone, the net fiscal impact being effectively neutral.

According to the Ohio Department of Health's (ODH) 2020 Ohio Unintentional Drug Overdose Deaths Data report, the percentage of unintentional drug overdose deaths involving fentanyl has continued to increase over the years. From 2019 to 2020, the number of fentanyl-related overdose deaths has increased nearly 32%, increasing from 3,070 in 2019 to 4,041 in 2020. Since 2011, 2020 had the highest number of unintentional drug overdose deaths (5,017 deaths) with the second highest year being 2017 (4,854). In 2020, fentanyl was involved in 81% of all unintentional drug overdose deaths.[6]

Distracted driving

The bill modifies the law governing texting while driving by expanding the prohibition to a general prohibition against using an electronic wireless communications device (EWCD) while driving. This means that a person generally cannot use, hold, or physically support with any part of the person's body, as opposed to only handheld under existing law, any EWCD while operating a motor vehicle on any street, highway, or public property.[7] Under the bill, a law enforcement officer must visibly observe the offense in order to have probable cause to stop the vehicle and enforce the bill's prohibition against use of an EWCD while driving.

The bill also:

- Specifies that operating a motor vehicle, trackless trolley, or streetcar while using, holding, or supporting an electronic wireless communications device is a strict liability offense (similar to most other traffic offenses);[8]

[6] See page 4 of ODH's 2020 Ohio Drug Overdose Data: General Findings (PDF), which is available on ODH's website, under Injury Surveillance and Data: odh.ohio.gov/.

[7] The bill's exemptions from the EWCD while driving law include: (1) use of a two-way radio transmitter or receiver by a person licensed by the FCC to participate in the Amateur Radio Service, (2) storing an EWCD in a holster, harness, or article of clothing on the person's body, (3) use of an EWCD while in a stationary position at a red light or parked on a road or highway due to an emergency or road closure, and (4) use of an EWCD by a person who is holding the EWCD directly near the person's ear for purposes of conducting a telephone call.

[8] Strict liability exists when a defendant is liable for committing an action, regardless of what that person's intent or mental state was when committing the action.

- Makes the use of an EWCD while driving a primary traffic offense for all drivers instead of only those drivers who are under 18 years of age, as under existing law;
- Creates reporting requirements for law enforcement officers relating to use of an EWCD-while-driving violations;
- Waives, for a first-time offender within a two year period, the two points that would otherwise be assessed against the offenders driver's license for use of an EWCD while driving if the offender attends and successfully completes the existing distracted driving safety course;
- Requires the Ohio Department of Transportation to erect related highway warning signs; and
- Specifies a six-month warning period before authorizing full enforcement.

Citation activity

Under existing law, use of a handheld EWCD while driving is considered a secondary offense. This means that a law enforcement officer generally cannot issue a ticket, citation, or summons for use of an EWCD while driving unless the officer also arrests the driver or issues a ticket, citation, or summons for an offense other than a secondary offense. By making the bill's broader offense of using an EWCD while driving a primary traffic offense, the state, and those political subdivisions that have not already enacted stricter local ordinances, may experience an increase in the number of citations issued for such behavior. The magnitude of any increase in citation activity would depend upon how aggressively the state and each political subdivision enforces the bill's prohibition, including their willingness to allocate resources to handle contested violations.

LBO is aware that some cities and villages have utilized their constitutional home rule authority to enact local ordinances making distracted driving a primary offense. As such, the bill will have no impact on those municipalities. While no comprehensive list of those municipalities exists, LBO's research suggests that at least 39 municipalities (listed in the table below) may already be enforcing distracted driving, including the use of an EWCD while driving, as a primary offense.

Table 4. Enforcement of Distracted Driving as a Primary Offense				
Known Municipalities with Local Ordinances				
Avon	Cincinnati	Hilliard	New Albany	University Heights
Bay Village	Cleveland	Huron	North Olmstead	Upper Arlington
Beachwood	Cleveland Heights	Kettering	North Royalton	Walton Hills
Belpre	Columbus	Lakewood	Pepper Pike	Wauseon

Table 4. Enforcement of Distracted Driving as a Primary Offense				
Known Municipalities with Local Ordinances				
Bexley	Delaware	Lyndhurst	Portsmouth	Westerville
Brooklyn	Dublin	Mantua	Shaker Heights	Woodmere
Brook Park	Fairview Park	Marietta	South Euclid	Worthington
Canal Winchester	Granville	Moreland Hills	Toledo	

Note: Additional cities and villages may be enforcing distracted driving as a primary offense than those that are included in this table.

Violation revenues

Under existing law, the use of an electronic wireless communications device while driving is a minor misdemeanor, subject to a fine of up to $150. In the case of a minor misdemeanor, a law enforcement officer generally does not arrest a person, but instead issues a citation. In lieu of making a court appearance, that person either in person, by mail, or online where available, can waive their right to contest the offense before the court or jury, and pay the total amount of fines, fees, and court costs to the clerk of the court.

The bill makes the offense an unclassified misdemeanor, generally retaining the existing fine of not more than $150; however, the bill adds two points to the driver's license for a conviction. The bill has tiered penalties (see table below) where both the fine assessed and the number of points added to the driver's license increase with the number of prior convictions in the preceding two-year period. If an offender has had three or more convictions within that period, they may also be subject to a 90-day license suspension. The bill also increases the fine to two times the amount imposed for the violation if the offense occurred in a construction zone. Under the bill, an offender may elect to attend the existing Department of Public Safety Distracted Driving Safety Course in lieu of payment of the $150 fine for a first offense and prohibits a jail term or residential community sanction.

Because of increased citations issued under the bill and the potential for an increased fine, there will be a corresponding gain in the amount of fine, fee, and court cost revenue collected and distributed pursuant to state law between the state, counties, municipalities, and townships. The magnitude of any increase in fine, fee, and court cost revenue annually will depend upon how aggressively the state and each political subdivision enforces the bill's prohibition. The fine, fees, and court costs for using an EWCD while driving are summarized in the table below.

Table 5. Fine, Fees, and Costs: Use of an EWCD While Driving		
Financial Penalty Component	**Amount Paid by Violator**	**Recipient of Amount**
Fine	**R.C. violation** ▪ Up to $150 *(1st offense)* ▪ Up to $250 *(2nd offense)* ▪ Up to $500 *(subsequent offense)*	If citation is issued by: ▪ Sheriff or municipal law enforcement agency – retained by county ▪ Township – retains 50%, remainder to county (if accompanied by speeding violation, that portion of the fine is retained solely by the county) ▪ Ohio State Highway Patrol – credited to state's Security, Investigations, and Policing Fund (Fund 8400)
	Local ordinance violations Fine varies by local jurisdiction	Retained by the municipality
Local court costs and fees	Varies by local jurisdiction	Generally retained by the county or municipality with subject matter jurisdiction over traffic violations
State court costs*	$37.50	Deposited in state treasury as follows: ▪ $25 to the Indigent Defense Support Fund (Fund 5DY0) ▪ $9 to the Victims of Crime/Reparations Fund (Fund 4020) ▪ $3.40 to the Drug Law Enforcement Fund (Fund 5ET0) ▪ 10¢ to the Justice Program Services Fund (Fund 4P60)

*An additional $1.50 is sent to the county or municipal indigent drivers alcohol treatment fund under the control of the court.

Reporting requirements

The bill creates reporting requirements for state and local law enforcement agencies related to the issuance of EWCD-while-driving citations. Specifically, a law enforcement officer must report the issuance of the ticket, citation, or summons to the officer's law enforcement agency, and ensure that the report indicates the offender's race. Every other month, the agency must collect all of the reports from its officers for the prior two months and submit the data to the Office of the Attorney General.

The impact on law enforcement will vary by agency depending on whether the bill's required information is already being collected by the agency and whether or not the agency has the ability to compile that information electronically. The Model Uniform Traffic Ticket (MUTT) is used by all law enforcement agencies throughout the state. The MUTT currently includes a "race" data field. As such, it does not appear that new data collection methods will need to be created. A number of agencies, including the Ohio State Highway Patrol, currently use an electronic citation writing method, or e-Citation, whereby the citation is generated electronically in the patrol car, printed using a mobile printer, and then issued to the violator. Data from the traffic stop is stored on a central computer. LBO is aware of at least 139 local agencies that currently utilize the e-Citation software made available by the Patrol. An unknown number of additional agencies may also be using proprietary e-Citation software. With more than 900 law enforcement agencies in operation throughout the state though, the majority are still using hand-written, paper traffic citations.

Local law enforcement agencies

Under the bill, local law enforcement agencies will need to develop their own way of compiling EWCD-while-driving and related race statistics, as well as transmit or send the data to the Office of the Attorney General. While the impact on a given agency is likely to vary, in some cases the additional time, effort, and costs involved to comply with the reporting requirements may be significant, meaning they may exceed $5,000 for any given political subdivision, or $100,000 statewide. This is due to the extra time and effort that will be required to compile the necessary information and submit it to the Attorney General, especially if an agency does not have an electronic records management system.

For agencies utilizing e-Citation, compiling the necessary reporting information should only minimally increase administrative costs. For agencies that still hand write citations, compiling the necessary statistics will be a manual process and could be significant in both time and effort. The impact on these agencies will be greater than the impact on their counterparts with electronic records management systems. Some agencies may choose to compile the reports using simple databases or spreadsheets, while others may opt to create a specialized tracking system, or convert to e-Citation.

The bill is silent as to how these data reports are to be sent to the Attorney General. However, if standard email were sufficient, costs to transmit would likely be negligible.

Ohio State Highway Patrol

The bill's reporting requirement will likely have a no more than a minimal effect on the Ohio State Highway Patrol, as they will be able to compile the required information from their existing e-Citation database and transmit that information electronically to a designated recipient in the Office of the Attorney General.

Attorney General

The Office of the Attorney General will realize an increase in administrative workload to collect the required data and prepare an annual report on violations of the EWCD-while-driving prohibition or the distracted driving law. According to staff of the Attorney General, no

supplemental resources will be required to complete the report. Any related costs will be minimal.

Department of Public Safety

The bill requires the written driver's test to test the applicant's knowledge of the use of an EWCD while operating a motor vehicle. This will involve no more than minimal one-time costs for the Department to adopt such rules and to modify the written test.

Bureau of Motor Vehicles

The bill waives, for a first-time offender within a two-year period, the two points that would otherwise be assessed against the offender's driver's license for use of an EWCD while driving if the offender attends and successfully completes the existing distracted driving safety course. This may result in some administrative savings for the Bureau of Motor Vehicles if they no longer need to assess points against the driver's license of certain offenders. However, the amendment may also generate additional administrative work by having to verify that an offender has successfully completed the distracted driving safety course. The net effect on the Bureau of Motor Vehicles is minimal, at most.

The bill also specifies that operating a motor vehicle, trackless trolley, or streetcar while using, holding, or supporting an electronic wireless communications device is a strict liability offense (similar to most other traffic offenses). This provision has no direct fiscal effect, as it is technical in nature. Under Ohio's existing traffic law, prohibitions generally are strict liability offenses. Strict liability exists when a defendant is liable for committing an action, regardless of what that person's intent or mental state was when committing the action.

Department of Transportation

The bill requires the Ohio Department of Transportation (ODOT) to design and erect signs regarding the EWCD-while-driving prohibition. The bill specifies that ODOT is to erect the signs in the following locations: (1) where an interstate or United States route enters Ohio, and (2) where a road, originating from a commercial service airport, exits the airport's property. The one-time costs for ODOT to design and erect the signs will be approximately $100,000, to be paid from the Highway Operating Fund (Fund 7002).

Chief justice of the court of appeals

The bill changes the title of the chief judge of the court of appeals, selected annually by the judges of the court of appeals, to the chief justice of the court of appeals. This change has no direct fiscal effect on the state or its political subdivisions.

Tenth Amendment Center

The bill requires: (1) the Attorney General to set the duties of the Solicitor General, (2) the Tenth Amendment Center to actively monitor federal executive orders, federal statutes, and federal regulations for potential abuse overreach, and (3) to provide adequate staff, equipment, and materials to the Solicitor General and the Center. The Attorney General's compliance with these requirements will not necessitate modification or expansion of existing operations nor the allocation of additional resources.

The Solicitor General: (1) represents the state of Ohio and its agencies on appeals in the U.S. Supreme Court, the U.S. Court of Appeals for the Sixth Circuit, the Ohio Supreme Court, and other state and federal courts, (2) aides the Attorney General in the preparation of petitions, briefs, and other papers filed by the state on appeal, and (3) participates in oral arguments before those courts.

The Tenth Amendment Center, which is currently housed within the Office of the Solicitor General, actively monitors federal executive orders and federal regulations for potential abuse or overreach. Same as current practice, under the bill, the Tenth Amendment Center is required, upon determining that a federal order, statute, or regulation is not supported by law, to make a recommendation to the Solicitor General, who then advises the Attorney General about possible causes of action. The Attorney General has discretion about how to respond.

In FY 2022, the costs of operating the Office of the Solicitor General, including the Tenth Amendment Center, totaled $2.09 million. Of that amount, $1.98 million, or 94%, was paid from the GRF and the remainder, around $115,400, or 6%, was paid from the Attorney General Claims Fund (Fund 4190). In FY 2021, those costs totaled $1.83 million ($1.83 million, or 92%, GRF and $142,000, or 8%, Fund 4190).

Sexual assault examination kits for trafficking in persons cases

Preservation of biological evidence

The bill requires government retention entities in possession of a sexual assault examination kit during an investigation or prosecution for an offense of "trafficking in persons" to follow current law procedures for preserving and cataloging biological evidence. Local law enforcement agencies may incur minimal ongoing operating costs to comply with the bill's requirement that biological evidence in a trafficking in persons investigation or prosecution be secured for a specified period. There are likely to be no costs for law enforcement agencies with practices already compliant with this requirement.

The procedure currently applies to: (1) aggravated murder, (2) murder, (3) voluntary or involuntary manslaughter, (4) aggravated vehicular homicide, (5) rape or attempted rape, (6) sexual battery, and (7) certain cases of gross sexual imposition (generally pertaining to cases where the victim is less than 13 years of age).

Performance of DNA analysis

The bill requires sexual assault examination kits collected in relation to a trafficking in persons case to be tested and submitted to the Attorney General's Bureau of Criminal Investigation (BCI) or another crime laboratory for a DNA analysis of the contents of the kit if a DNA analysis has not previously been performed on the kit. The bill does not change the sexual assault examination kit collection process. An examination kit will continue to be voluntary, and a suspected victim will still be able to stop the biological evidence collection process at any time.

According to the Attorney General's Office, law enforcement and other entities that may possess human trafficking-related sexual assault examination kits are not prohibited from forwarding the contents of a kit to BCI, or a laboratory under contract with BCI, for DNA analysis. BCI and other laboratories are permitted to test any kit that is submitted. These entities are

required to test examination kits related to specified sexual offenses that, according to subject matter experts, would also be an underlying part of the trafficking in persons offense. As a matter of practice, if law enforcement suspects that a person is a victim of a sexual offense, evidence is obtained including if that offense is an element of a trafficking in persons case. This would suggest that the potential number of additional kits submitted for analysis will be relatively small and the related annual operating costs for BCI minimal.

Law enforcement agency review of records and reports

The bill requires that a law enforcement agency review all of its records and reports pertaining to its investigation of any violation of a trafficking in persons offense as soon as possible. If the review determines that a person committed a trafficking in persons offense, the law enforcement agency must forward the contents of the sexual assault examination kit to BCI not later than one year after the effective date of the bill. The one-time cost increase to any given agency will depend on the length of the lookback period and the number of cases requiring such review.

The table below provides a selected summary of Ohio's human trafficking statistics for the five-year period from CYs 2016 through 2020.[9] It includes the number of human trafficking investigations, arrests, and successful criminal convictions.

Table 6. Ohio Law Enforcement Human Trafficking Statistics, CYs 2016-2020

Human Trafficking Statistic	2016	2017	2018	2019	2020
Investigations	135	202	242	251	216
Arrests	79	70	80	166	76
Criminal Convictions	28	18	61	56	18

Criminal prosecutions

Because of the bill, there may be a relatively small increase in the number of persons charged and convicted of a felony sex offense and subsequently sentenced to a term of incarceration in state prison. The associated annual operating costs for county criminal justice systems to prosecute and adjudicate such cases are expected to be minimal at most.

As of December 2021, the prison population managed by the Department of Rehabilitation and Correction (DRC) totaled 43,234. For FY 2022, the average annual cost per inmate was $36,485 ($99.96 per day). The annual marginal cost of adding a relatively small number of offenders to the prison system was $4,128 per offender. If, as assumed, the bill will affect a relatively small number of offenders then any increase in DRC's annual incarceration costs is likely to be minimal.

[9] Data from the Office of the Attorney General's annual human tracking reports.

Engaging in prostitution with a person with a developmental disability

The bill creates the offense of "engaging in prostitution with a person with a developmental disability." Specifically, a person is prohibited from recklessly inducing, enticing, or procuring another to engage in sexual activity for hire in exchange for the person giving anything of value to the other person if the other person is a person with a developmental disability and the offender knows or has reasonable cause to believe that the other person is a person with a developmental disability. A violation of the prohibition is a third degree felony.

The practical effect of the new offense is that it will serve as a victim-based penalty enhancement by creating felony status for conduct that is already prohibited in the Revised Code under the offense of "engaging in prostitution," which is a first degree misdemeanor. The following table shows the fine and term of incarceration applicable under current law for the existing misdemeanor offense of "engaging in prostitution" and the new felony offense of "engaging in prostitution with a person with a developmental disability."

Table 7. Felony and Misdemeanor Penalties for Engaging in Prostitution

Offense Level	Fine	Possible Term of Incarceration
Third degree felony (New victim enhancement)	Up to $10,000	9, 12, 18, 24, 30, or 36 month definite prison term
First degree misdemeanor (Existing general offense)	Up to $1,500	Jail, not more than 180 days

*In the case of a third degree felony generally, there is no presumption for a prison term versus community control.

By bifurcating the offense of "engaging in prostitution" to make conduct against a person with a developmental disability a felony offense, the bill would shift what is likely to be a small number of cases from misdemeanor jurisdiction of a county or municipal court to the felony jurisdiction of a court of common pleas. Although felony cases tend to be more time consuming and expensive to adjudicate, any related cost shifting that may occur will be minimal annually. Depending on the amount that an offender is fined and whether or not they pay that amount, it is possible that counties could experience a slight increase in fine, and fee and court cost revenue that would partially offset any increased costs.[10]

Additionally, if an offender is convicted of "engaging in prostitution with a person with a developmental disability," that offender could be sentenced to a term of incarceration in a state prison instead of local confinement in a jail. To the extent that a judge would sentence a prison term, DRC could incur marginal costs to incarcerate a small number of additional offenders and

[10] The state court costs total $60 for a felony and $29 for a misdemeanor. The $60 felony amount is divided as follows: $30 to the Indigent Defense Support Fund (Fund 5DY0) and $30 to the Reparations Fund (Fund 4020). The $29 misdemeanor amount is divided as follows: $20 to Fund 5DY0 and $9 to Fund 4020.

local jails may experience a corresponding decrease in costs. The magnitude of any increase or decrease in incarceration expenditures is expected to be negligible, as a small number of cases are expected to be impacted. The FY 2022 annual marginal cost of adding a small number of offenders to the prison system was $4,128 per offender.

Electronic monitoring

Under current law, if an offender violates a protection order that was issued under R.C. 2151.34 or 2903.214 and the offense required electronic monitoring of the offender, the court may require, in addition to any other sentence imposed, that the offender be electronically monitored by a law enforcement agency designated by the court. The court may also order electronic monitoring for violators of either of those types of protection orders. Unless the court determines that the offender is indigent, the court must order that the offender pay the costs of the installation of the electronic monitoring device and the cost of monitoring the device. If the court determines that the respondent or offender is indigent, the installation and monitoring costs may be paid out of the Reparations Fund (Fund 4020), with the amounts paid subject to a maximum amount of $300,000 per year for all such payments and according to rules of the Attorney General. The bill eliminates this authorized use of the Reparations Fund. The elimination may result in a potential savings of up to $300,000 per year for the Reparations Fund and a potential cost increase for certain courts if they continue to order monitoring for indigent persons who are unable to pay, the amount of which is uncertain.

Funeral expenses for crime victims

The bill expands the circumstances the Attorney General is permitted to make an emergency award of reparations to include funeral expenses of a decedent victim of a crime when all of the following conditions are met:

- There is reasonable belief that the requirements of the written findings of fact and decision of the investigation before granting an award of reparations will be met;
- The decedent and claimant are indigent; and
- The claimant will suffer undue hardship if not granted immediate relief.

The bill will not increase the number of claims filed or amount disbursed as reparations under the state's Victim of Crime Compensation Program,[11] but will expedite part of the reimbursement of funeral expenses, that otherwise would have been paid before the full award. There is no statutory provision dictating the amount of time the Attorney General's office has to make a decision on a request for an emergency award however, according to the Attorney General, it typically takes two weeks. In FY 2021, the average processing time for a homicide claim for a final award of reparations was 125 days and 114 for all other claim types.

[11] The Attorney General pays for the reparations awards with money appropriated from the Reparations Fund (Fund 4020) and secondarily from the federal Crime Victim Assistance Fund (Fund 3FV0).

Disturbing a lawful meeting

The bill increases the penalty for "disturbing a lawful meeting" when committed in either of the following situations:

- The violation is committed with the intent to disturb or disquiet any assemblage of people met for religious worship at a tax-exempt place of worship and disturbs the order and solemnity of the assemblage.
- The violation is committed with the intent to prevent, disrupt, or interfere with a virtual meeting or gathering of people for religious worship, through use of a computer, computer system, telecommunications system, or other electronic device or system, or in any other manner.

Under current law generally, the offense of "disturbing a lawful meeting" is a misdemeanor of the fourth degree, punishable by up to 30 days in jail, a fine of up to $250, or both. The bill increases this penalty to a misdemeanor of the first degree, punishable by up to 180 days in jail, a fine of up to $1,000, or both, if either of the above two conditions apply.

Because of the bill, a person who violates the bill's conditions could serve additional jail time and a higher fine if convicted. Since the conduct is generally already prohibited under current law, the bill is not expected to generate new cases. Instead, it is likely the bill will only impact a relatively small number of cases that may be subject to the penalty enhancement (from a fourth degree misdemeanor to a first degree misdemeanor), possibly resulting in additional court time to adjudicate a case due to the potential for increased jail time and fines. Taken together, any increase a county or municipal criminal justice system incurs to process cases is likely to be minimal annually and may be partially offset by fines, and fees and courts costs, if collected.[12]

Elder Abuse Commission member appointments

The bill adds six new members to the Elder Abuse Commission, increasing the number of members from 39 to 45. Members are not compensated but may be reimbursed for travel and other necessary expenses. The amount necessary for the Attorney General to reimburse these additional members will be minimal at most annually.

Aggravated vehicular homicide – prison term specification

The bill applies a mandatory five-year prison term for aggravated vehicular homicide when the victim is a firefighter or an emergency medical worker. Current law applies the same mandatory sentence when the victim is a peace officer or a BCI investigator.

A violation of the offense of aggravated vehicular homicide, depending on the circumstances present, is a first, second, or third degree felony, each carrying varying penalties. A first or second degree felony carries a mandatory indefinite prison term with a minimum and maximum sentence by the sentencing court; a third degree felony carries a discretionary prison

[12] It is not unusual for fines to go uncollected, as some offenders are unwilling and/or unable to pay.

term. The additional five-year prison term enacted by the bill is served prior to, and consecutive to, the term imposed for the underlying aggravated vehicle homicide, as required under current law.

There are at least two likely future outcomes compared to what may have occurred in the sentencing of such persons under current law: (1) the person will be sentenced to a prison term instead of being sanctioned locally at the county's expense for a third degree felony offense, or (2) the person will serve an additional five years in prison.

The most notable fiscal effect will be to increase the Department of Rehabilitation and Correction's (DRC) annual incarceration costs. From FY 2018-FY 2022, the number of offenders committed annually to prison for the primary offense of aggravated vehicular homicide averaged 78 (ranged from 65 to 95). The number of those offenders involving a firefighter or an emergency medical worker is unknown. If that number is relatively small, then the increased incarceration costs are likely to be minimal annually. In FY 2022, DRC's annual cost to incarcerate an offender was $36,485; their annual marginal cost was $4,128.

Promising or giving things of value – debar vendor

When a person violates the prohibition against promising or giving things of value to a public official or employee, the bill: (1) allows a court to prohibit the person from participating in a public contract with any public agency for a period of two years if recommended by the agency employing the official or employee, and (2) allows a court to order the person to pay an additional fine equal to the amount of any thing of value unlawfully given. When a person violates certain provisions of Ohio Ethics Law, involving amounts or money or things of value unlawfully solicited, accepted, or received, the bill also requires a court to order the person to pay the costs of investigation and prosecution if requested by the Ohio Ethics Commission. The amount of money that might be generated for crediting to the Ohio Ethics Commission Fund (Fund 4M60) is unknown.

Domestic violence victim – prohibit reimbursement

The bill prohibits counties, townships, and municipal corporations from requiring reimbursement for costs associated with assisting a victim of rape, attempted rape, domestic violence, dating violence, abuse, or a sexually oriented offense. The number of local governments engaging in this practice is uncertain. The amount of money those local government will forego that otherwise would have been collected is also uncertain and would depend on the frequency that reimbursements are charged and able to be collected.

Age-appropriate child sexual abuse instruction

The bill adds two new areas of instruction to general health curriculum requirements that pertain to school districts, community schools, and STEM schools: (1) child sexual abuse prevention in grades K-6 and (2) sexual violence prevention in grades 7-12. The bill also requires schools to incorporate training on child sexual abuse into the in-service training required under current law for teachers, nurses, counselors, psychologists, and administrators, and requires such training to be provided by law enforcement officers or prosecutors with experience handling cases involving child sexual abuse or child sexual violence. Current law mandates instruction in personal safety and assault prevention under general health curriculum requirements for

students in grades K-6. Current law also mandates instruction in dating violence prevention education under those requirements for students in grades 7-12 and requires that the Ohio Department of Education (ODE) provide on its website links to free curricula addressing dating violence prevention. In addition, current law in-service trainings already must cover child abuse prevention and intervention.

School districts and schools may incur minimal costs to update their health education curriculum and in-service training programs to meet the requirements of the bill. However, many schools may already be teaching sexual abuse prevention as part of health curriculum instruction in personal safety for elementary students and sexual violence prevention as part of instruction in dating violence prevention for middle and high school students. In addition, there are various resources available at no cost to schools to assist them in meeting the bill's requirements. The Center for P-20 Safety and Security, a collaborative effort between the Ohio Department of Higher Education and ODE, links to several sources of curriculum that address both dating violence and sexual violence prevention on its website. There are other free resources available addressing these topics. For example, the Centers for Disease Control and Prevention (CDC)[13, 14] and the National Sexual Violence Resource Center[15] both provide links to resources and program guides. Resources are also provided through state-level organizations funded through the Department of Justice's State Sexual Assault and Domestic Violence Coalitions Program. In addition, ODE has developed in-service training curriculum that covers violence against children to help districts and schools meet the current law training requirement. This curriculum focuses on child abuse and human trafficking but also includes some information on sexual abuse. However, this training may need to be updated or adapted to meet the bill's requirements.

As noted above, the bill requires any in-service training provided on child sexual abuse to be presented by either law enforcement officers or prosecutors with experience handling cases involving child sexual abuse or child sexual violence. While the bill requires a law enforcement officer or prosecutor to deliver the training, it is silent on whether a state or local law enforcement agency or local prosecutor's office must participate if asked by a school district or community school. The bill also does not specify any arrangement by which schools and law enforcement agencies or prosecutors must administer the training. Presumably, school districts or community schools could enter into contracts to pay law enforcement agencies or prosecutors' offices for the time and resources necessary to conduct the training or share the costs of the training, or participating law enforcement agencies or prosecutors' offices could choose to bear any costs themselves or donate their time and expertise to schools.

Additionally, the bill may minimally increase district and school administrative costs by requiring districts and schools to notify parents and legal guardians of students receiving

[13] Centers for Disease Control and Prevention, "Child Abuse and Neglect Prevention," available online at cdc.gov/violenceprevention/childabuseandneglect/index.html.

[14] Centers for Disease Control and Prevention, "Sexual Violence Prevention Resources," available online at cdc.gov/violenceprevention/sexualviolence/resources.html.

[15] National Sexual Violence Resource Center, "Child Sexual Abuse Prevention: Programs for children," available online at nsvrc.org/publications/child-sexual-abuse-prevention-programs-children.

instruction in sexual violence prevention and dating violence prevention that such instruction is required as part of the school's curriculum, that parents or legal guardians may examine the instructional materials upon request, and that students will be excused from the instruction upon written request from their parent or legal guardian.

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Appendix
All House Bills Enacted in 2022

House Bill	LIS Required?	Subject
4	Yes	Revises child abuse reporting requirements
23	No	Requires EMS/peace officers to undergo dementia-related training
30	No	Revises the law regarding slow-moving and animal-drawn vehicles
35	No	Permits mayors to solemnize marriages anywhere within Ohio
37	Yes	Regards emergency prescription refills
45	No	Establishes a temporary tax amnesty program
51	No	Regards valuation adjustments for damaged or destroyed property
66	No	Requires reporting of property tax exemptions and makes other tax changes
93	No	Revises the Address Confidentiality Program and recorder fees
95	Yes	Allows income tax credits for beginning farmers
99	No	Regards persons authorized to go armed within school safety zone
107	No	Revises the Elevator Law
120	No	Permits compassionate care visits in long-term care facilities
126	No	Regards process for local governments to contest property value
136	No	Regards Medicaid coverage of chiropractic services
138	No	Regards the scope of emergency medical services
140	No	Enacts the Ballot Uniformity and Transparency Act
150	No	Establishes the Ohio Public Defender State Loan Repayment Program
158	No	Prohibits the use of certain firefighting foam for testing or training
175	No	Deregulates certain ephemeral water features
178	No	Enacts Makenna's Law to limit water pressure at pools
184	No	Revises Police and Fire Pension Fund disability determinations

House Bill	LIS Required?	Subject
188	No	Prohibits insurers from discriminating against living organ donors
193	No	Regards electronic prescriptions
206	No	Permits township police enforce certain offenses on interstate
223	Yes	Allows vendors to deduct sales tax remitted for certain bad debts
229	No	Provides qualified immunity to camp operators for inherent risks
238	No	Designates July 28 as Buffalo Soldiers Day
254	No	Provides for domestic violence fatality review boards
265	No	Regards children's crisis care facilities and infant care centers
272	No	Regards transparency by certain online sellers
279	No	Revises filing deadlines for wrongful death claims
281	No	Enacts the Mental Health and Disability Terminology Act
286**	No	Changes the venue for appeal from an agency order
291	No	Designates Staff Sgt. Kyle R. McKee Memorial Highway
321	No	Eliminates apprentice auctioneer and special auctioneer licenses
338	No	Revises motorcycle safety and education program
340	No	Designates International Underground Railroad Month
343	Yes	Revises the law regarding rights of crime victims
353	No	Enacts The Testing Your Faith Act
364	No	Regards waterworks infrastructure improvement surcharge
371	Yes	Regards screening mammography and dense breast tissue
377	No	Provides coronavirus fiscal recovery funding for local government
392	No	Authorizes ambulance transport – police dog injured in line of duty
397	No	Revises the agricultural lease law
405	No	Clarifies appointing authority – boards of county hospital trustees

House Bill	LIS Required?	Subject
423	No	Designates All-American Soap Box Derby as gravity racing program
427	No	Prohibits manipulation of controlled substance addiction
430	No	Regards property development
440	No	Expands Agricultural Linked Deposit Program, Treasurer's authority
447	No	Regards workers' compensation and employees who work from home
458	No	Eliminates August special elections except for U.S. House nomination
462	No	Prohibits swatting
487	No	Changes the process for bidding and awarding contracts for printing ballots
501	Yes	Authorizes property taxes for school resource officer services
504	No	Increases the penalty for disturbing a religious worship meeting
507	No	Revises number of poultry chicks that may be sold in lots
509	No	Revises and streamlines occupational regulations
513**	No	Regards bad debts for cigarette, tobacco, vapor product taxes
515	Yes	Exempts from income tax certain gains from sale of a business
518	No	Creates the Fulton County Municipal Court; abolish Fulton County County Court
537	No	Designates Cholangiocarcinoma Awareness Day
545	No	Allows privileged testimonial peer support services communication
554	No	Requires issuance of certain temporary educator licenses
558	No	Regards drug repository program for donated prescription drugs
567	Yes	Requires common pleas court docket to appear on clerk's website
569	No	Authorizes establishment of Ohio Hidden Hero Scholarship Programs
575	No	Modernizes fraternal benefit society solvency regulation
578	No	Creates Revere Local Schools license plate
583	No	Regards educator licenses for substitute teachers

House Bill	LIS Required?	Subject
597*	No	Provides capital reappropriations for the FY 2023-FY 2024 biennium
687*	No	Provides capital appropriations for the FY 2023-FY 2024 biennium

*Not required for budget bills

**Vetoed by the Governor

***Portions vetoed by the Governor

All Senate Bills Enacted in 2022

Senate Bill	LIS Required?	Subject
9	No	Reduces regulatory restrictions in administrative rules
11	No	Designates Congenital Heart Defect Awareness Week
15	No	Revises fiscal officer liability for loss of public funds
16	No	Regards civil action by, and crimes against, first responders
25	No	Enacts Relapse Reduction Act regarding drug tests and trafficking
33	Yes	Expand tax deduction for 529 education savings plans
47	No	Excepts certain tasks from overtime pay requirements
56	No	Regulate indemnity clause – certain professional design contracts
61	No	Regards condos, planned communities, and the New Community Law
63	No	Allows county probation department to accept credit card payments
105	No	Requires political subdivisions to recognize certain state business enterprise certifications
131	No	Requires occupational license if experienced in another state
135	Yes	Regards state institutions of higher education and free speech
156	No	Limits the way knives may be regulated by political subdivisions
160	No	Creates the Veteran Information Act
164	No	Modifies prohibitions against companion animal cruelty
181	No	Allows for student religious expression in athletics
202	No	Prohibits disability from being used to deny, limit parenting
204	No	Enters Ohio into the Counseling Compact
210	No	Expands the ability of spouses to alter their legal relations
215	No	Outlines the conditions for lawfully possessing concealed handguns

Senate Bill	LIS Required?	Subject
224	No	Revises the law regarding funerals and funeral services
225	Yes	Allows for the temporary modification of certain tax credits
231	No	Authorizes income tax refunds – deceased taxpayer's fiduciary
236	No	Enables insurers auto-enroll purchasers – digital communications
239	No	Regards adoption and foster care home assessor qualifications
246	Yes	Levies tax on pass-through entity's income; allow owner credit
249	No	Creates a regulatory sandbox for financial products, services
256	No	Revises travel insurance law
259	No	Adds a Paralyzed Veterans of America representative to Veterans Advisory Committee
264	No	Regulates remote work by mortgage loan originators, others
273	No	Expands coverage of the Ohio Life and Health Insurance Guaranty Association
287	No	Allows county credit card charges for veteran assistance
288	Yes	Revises the Criminal Law related to various offenses
302	No	Revises the Unemployment Compensation Law

*Not required for budget bills

**Vetoed by the Governor

***Portions vetoed by the Governor

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