

2001 Local Impact Statement Report

Bills Passed in 2001 That Became Law

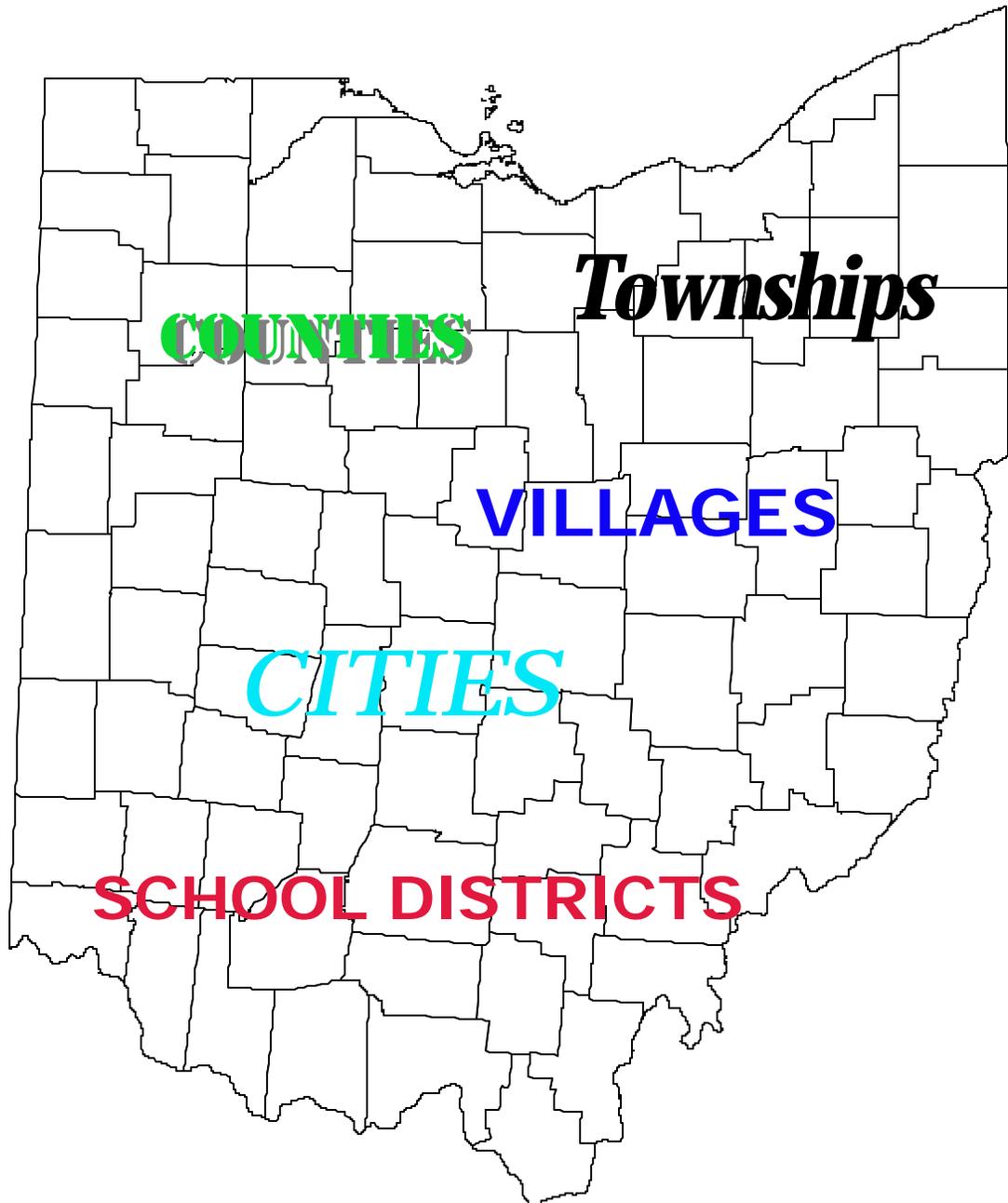


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Introduction

Why is this report being issued?

The Legislative Service Commission publishes the Local Impact Statement Report in accordance with section 103.143 of the Ohio Revised Code. Section 103.143 requires the office to compile the final local impact statements completed for all laws passed by both houses of the General Assembly every calendar year. This report is the seventh in the series of such reports. It covers all legislation that was passed and enacted during calendar year 2001.

As specified in ORC section 103.143, the Local Impact Statement (LIS) Law, this report is a compilation of estimates produced by LSC *during* the legislative process. This report does *not* present the *actual costs* to local governments, since these costs will not occur until after each law is implemented.

What is in this report?

The 2001 report includes summary charts and an overview of bills that were introduced, passed and enacted, and bore provisions that triggered a “Yes” local impact determination. The criteria that LSC uses to evaluate the effect of proposed legislation on local governments are detailed below.

Before its widespread distribution, LSC is required to circulate a draft of this report to the County Commissioners Association of Ohio, the Ohio School Boards Association, the Ohio Municipal League, and the Ohio Township Association for their review. Comments were received by the County Commissioners Association of Ohio, the Ohio School Boards Association, and the Ohio Township Association, and are part of the final report presented here. The Legislative Service Commission did not receive comments from the Ohio Municipal League.

What process is followed for local impact review?

By law, local impact determinations are based on LSC’s review of bills in their “As Introduced” form. The initial determination stays with the bill even if a bill is amended in such a way as to alter the initial local impact determination. However, there were no such bills in 2001. Occasionally an initial determination is wrong. If so, LSC corrects the LIS as soon as possible, and the correct determination is assigned to the bill from that point on.

The “Local Impact” determination is the first stage of LSC’s fiscal analysis of pending legislation. The purpose is to alert legislators to the various fiscal effects that legislation may impose on counties, municipalities, townships, and school districts. The bill sponsor, committee chair, and legislative leaders of the house to which the bill has been introduced all receive notification of LSC local impact determination. Although bills often affect other more specialized units of government, such as park districts, transit authorities and so forth, by law these entities are not included in the initial local impact review. These factors, however, *are* considered in the fiscal notes that accompany bills as they proceed through the legislative process.

What changes have been made to the Local Impact Statement Law?

The Local Impact Statement Law has been modified three times: first, in 1997 by H.B. 215 of the 122nd General Assembly; second, in 1999 by H.B. 283 of the 123rd General Assembly; and third, in 2001 by H.B. 94 of the 124th General Assembly. The combined effect of the first two acts is to exempt the following bills from the local impact determination process:

1. The main biennial operating appropriations bill;
2. The biennial operating appropriations bill for state agencies supported by motor fuel tax revenue;
3. The biennial operating appropriations bill or bills for the bureau of workers' compensation and the industrial commission;
4. Any other bill that makes the principal biennial operating appropriations for one or more state agencies;
5. The bill that primarily contains corrections and supplemental appropriations to the biennial operating appropriations bill;
6. The main biennial capital appropriations bill;
7. The bill that reauthorizes appropriations from previous capital appropriations bills.

Regardless, in accordance with ORC section 103.14, LSC continues to assess the impact that such bills have on local governments in the fiscal notes and analyses that accompany such bills. In 2001, six enacted bills were exempt from the Local Impact Statement Law pursuant to the reasons stated above. They are the biennial operating budget bill, Am. Sub. H.B. 94, and five additional corrective and/or budget bills: Sub. H.B. 73, Sub. H.B. 74, Sub. H.B. 75, Am. Sub. H.B. 299, and Am. Sub. H.B. 405.

House Bill 94 of the 124th General Assembly made two changes to the Local Impact Statement Law. First, it changed "Legislative Budget Office" to "Legislative Service Commission" to reflect the merger of the two organizations in September 2000. Secondly, H.B. 94 removed references to the State and Local Government Commission because of its abolishment.

What factors are considered in LSC's initial review for local impact?

LSC uses the following guidelines to determine if a bill may affect local governments in such a way to trigger a "Yes" LIS determination:

1. The estimated aggregate annual cost of the bill is more than \$100,000 for all affected local governments; or

2. The estimated annual cost is more than \$1,000 for any affected village and township with a population of less than 5,000 or for any school district with an average daily membership (ADM) of less than 1,000; or
3. The estimated annual cost is more than \$5,000 for any affected county, municipal corporation, and township with a population of 5,000 or more or for any school district with an ADM of 1,000 or more.

Finally, in the local impact review process, the following types of bills are excluded from a “Yes” determination: legislation that is deemed permissive; appears to impose only minimal costs on political subdivisions; or involves federal mandates.

Obtaining copies of this report

Copies are available upon request from the Ohio Legislative Service Commission at a cost of \$12.00 per copy. Call LSC at 614-995-9995 to receive a copy, or download the reports from the LSC website at <http://www.LSC.state.oh.us/>.

COMMENTS ON 2001 LOCAL IMPACT STATEMENT REPORT

COUNTY COMMISSIONERS ASSOCIATION OF OHIO

The 2001 Local Impact Statement Report prepared by the Ohio Legislative Service Commission (LSC) shows the impact of unfunded mandates on county government. The data this year again shows that counties are more heavily impacted than are schools, townships, or municipalities. Of the 12 bills that became law with a Local Impact Statement during 2001, all 12 impacted counties. At the same time, 9 of the bills impacted municipalities, 6 impacted townships, and 4 affected school districts.

Unfunded mandates continue to be a “hot button” with county commissioners and other county elected officials. The Local Impact Statement process is a valuable tool that makes members of the General Assembly more aware of how their decisions have financial implications to counties and other local units of government.

Yet, this report does not give a comprehensive and accurate view of unfunded mandates from the perspective of counties. The report does not include any review or analysis of how the state biennial budget financially impacts counties. This is not the fault of the Legislative Service Commission, as the General Assembly has exempted budget bills from the LIS process and thus the report.

All county officials know of the major reductions that have occurred as a result of the enactment of the current biennial budget. However, a casual observer reading this report would not know about the cuts that have been sustained by local governments as a result of cuts to the Local Government Funds, a form of state revenue sharing with local governments.

Likewise, the casual observer would not be aware of additional cuts in the state budget that have increased county costs for such functions as public defenders, adult and youth detention and corrections programs, and to run the state and federal child support program, to name a few. Yes, in our view, these are also unfunded mandates, and more significant mandates than those included in this report.

In a similar vein, this report does not mention the fact that, in the state budget bill, the county responsibility to pay for office space for Educational Service Centers was eliminated by the General Assembly, as recommended by the Governor. This was one of those old unfunded mandates that our Association has been trying to eliminate for over 20 years.

Finally, CCAO would be remiss if we did not mention the fact that this session of the General Assembly eliminated the State and Local Government Commission. While there is no direct fiscal impact on local governments, the Commission served a useful role in providing a forum for discussions on intergovernmental issues and with the General Assembly and Administration. Chaired by the Lt. Governor, the Commission gave local governments direct access to the Administration. Over the years, the Commission actually had a significant impact on unfunded mandates, and its elimination is unfortunate. CCAO hopes it does not signal an attitude on the part of the Legislature and the Administration that local governments are not important.

We again thank the Legislative Service Commission for the opportunity to comment on this report. The LSC staff is always fair and objective and they provide a true service to local governments in preparing professional Local Impact Statements under what is often challenging circumstances.

We hope that the General Assembly will consider including state budget bills under the LIS process and that these bills will be included in these reports in the future. Only then, will we have a true picture of the impacts of unfunded mandates on local governments.

OHIO SCHOOL BOARDS ASSOCIATION

The Ohio School Boards Association appreciates the Ohio Legislative Service Commission's efforts to afford OSBA and other political subdivisions the opportunity to comment on the annual local impact statement report required by S.B. 33 of the 120th General Assembly.

OSBA reiterates our previous statements on the importance of the local impact statement in the legislative process. They have always been important and may be even more important in today's term limit environment.

As the Ohio School Boards Association has said in past comments – while LSC deserves commendation – we believe there continues to be room for improvement. The fiscal impact statement law (section 103.143 of the Revised Code) can be improved to protect the fiscal integrity of political subdivisions. The current law restricts LSC's ability to analyze the fiscal impact of bills determined not to have a fiscal impact in its introduced form. As a bill progresses through the legislative process, an approved amendment may create the potential for a fiscal impact to occur to a political subdivision. In addition, subsection F of the current law also exempts LSC from having to create a local impact statement for biennial budget, capital appropriation, and budget correction bills.

OSBA believes impact statements should be required at each phase of the legislative process. This is particularly important as substitute versions and amended substitute versions of bills are enacted. An example of this issue is Amended Substitute House Bill 405 of the 124th General Assembly. H.B. 405 was amended to deal with state's fiscal shortfall – but also had H.B. 6 become part of the legislation in the Senate. H.B. 6 deals with expanding tax incremental financing districts significantly. This year's 2001 Local Impact Statement Report lists 4 enactments that contained a local impact statement that indicated a potential impact on schools. Of the four – only one, S.B. 5 – municipal annexation – indicated a fiscal impact on schools.

The issue of unfunded and underfunded mandates on schools and other political subdivisions continues to be of concern. Local impact statements help legislators understand the potential fiscal impact of proposed legislation they are considering. Their importance cannot be overstated.

To address the above concerns with the local impact statement law, OSBA continues to support the recommendations by the now defunct State and Local Government Commission (Commission). The Commission recommended that the General Assembly amend the local impact statement law to require impact statements throughout the process and to repeal the budget appropriations exceptions in the law.

In closing, OSBA appreciates this opportunity to comment on the 2001 Legislative Impact Statement Report. Local impact statements provide full information on legislation that threatens the fiscal integrity of a political subdivision. The knowledge of negative fiscal consequences for a political subdivision makes it less likely the bill will survive the legislative process. Thus, OSBA continues to support LSC in its effort to provide this very important legislative tool to all Ohioans. OSBA looks forward to addressing the above concerns and others in our ongoing working relationship with the General Assembly to repeal or fund all state education mandates.



OHIO TOWNSHIP ASSOCIATION

The Ohio Township Association (OTA) would like to thank the Ohio Legislative Service Commission (LSC) for the opportunity to comment on the proposed 2001 Local Impact Statement Report. The LSC Local Impact Report helps educate our membership and the members of the General Assembly on the affect certain legislation will have on townships' budgets and keeps legislators and local officials aware of any unfunded mandate created in legislation proposed and passed by the General Assembly.

A bill is determined to have fiscal impact if its estimated annual cost is more than \$1,000 for townships with a population of less than 5,000 or if its estimated annual cost is more than \$5,000 for townships with a population of more than 5,000. Although \$1,000 or \$5,000 may not seem like a great deal of money when compared with the total budget of the township, the loss of such revenue may create a significant impact.

As we have stated in the past, the fiscal impact legislation may have on townships often is under appreciated. Provisions established in legislation such as filing, notification and public hearing requirements could create significant costs for townships. The OTA is pleased that LSC takes such costs into consideration when determining local fiscal impact. Although the actual impact these new laws will have on townships will not be known until the laws are put into practice, the fiscal analyses provide a base for our townships to determine how a new law may affect their budgets. According to the 2001 report, there are six bills with a local impact for townships, potentially resulting in a loss of dollars for township governments.

The definition of employing unit was expanded in House Bill 157 to include a township or a department designated by the board of township trustees. In addition to the comments made by LSC regarding H.B. 157, we feel that this bill will certainly create a potential loss for townships in the immediate future but could be a cost savings measure in the long run. Townships could lose money when offering retirement incentives to employees. However, a potential savings is created by not having to offer the retirement incentives to all township employees.

Senate Bill 5 was one of our legislative priorities for the 124th General Assembly. We were very pleased to see this legislation passed and enacted. While LSC has expressed a varied net effect for townships in future years, they have expressed a potential loss in revenue for municipalities. The Ohio Township Association respectfully suggests otherwise. A municipality will gain revenue from inside millage on the land annexed and any income tax that is levied. This increase in revenue will far exceed any minimal costs the municipality incurs in the annexation process. A municipality annexes land solely for the revenue the property will bring in and would not accept the annexed land if it would create a potential loss for the community.

Finally, the Ohio Township Association believes townships should have been included in the list of local governments that potentially could lose revenue from Senate Bill 136. The statement was made in the S.B. 136 LIS that “local health departments situated in rural counties may realize more of an impact due to the exemptions of farm markets, farmers markets, and farm product auctions.” Townships fund almost entirely county health districts and thus in the rural counties that may lose revenue from such exemptions, townships may be asked to pay more money to help make up the loss in revenue.

The OTA appreciates the opportunity to provide our input and we look forward to working further with the Legislative Service Commission.

Part I

Analysis and Summary

Summary and Analysis

Introduction

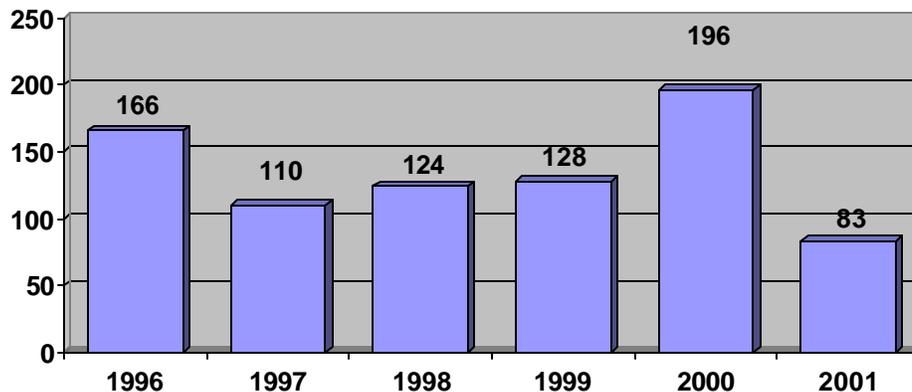
In 1995, the Legislative Budget Office (now the Legislative Service Commission Fiscal Staff) produced the first local impact statement (LIS) as required by S.B. 33 of the 120th General Assembly. The purpose of local impact statements is to provide members of the General Assembly with more thorough and timely information on the potential impacts of proposed legislation on counties, municipalities, townships, and school districts (referred to generically as “local governments” hereafter). The LIS information is designed to allow legislators to make better-informed decisions on bills that could affect local governments.

This section will examine the bills that were enacted in 2001 and during the 124th General Assembly. Comparisons are made with the bills enacted in 2001 and those enacted in previous years.

Bills Becoming Law

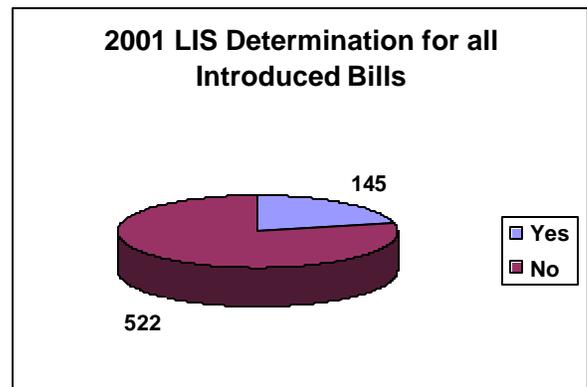
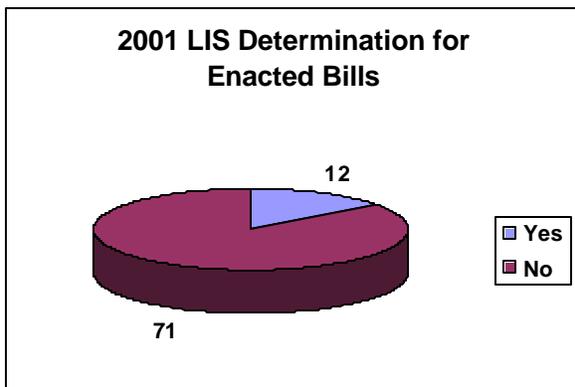
In calendar year 2001, the 124th General Assembly passed 50 House bills and 34 Senate bills. However, the Governor vetoed one of the Senate bills¹. Therefore, only 83 bills passed in 2001 actually became law. The total number of enacted bills over the past six years has varied from a low of 83 in 2001 to a high of 196 in 2000. The number of bills enacted in 2001 is significantly lower than the previous five years.

Bills Passed and Becoming Law, 1996 – 2001



¹ SB 148 was vetoed by the Governor in December, 2001.

Bills with Local Impact (YES) and without Local Impact (NO)



Of the 83 bills passed in 2001 that became law:

- 71 of the 83 bills that passed were initially determined by LSC to have no local impact.
- 12 of the 83 bills that passed were initially determined by LSC to have a local impact.²
- The same 12 bills had a local impact "As Enacted."

Of the 668 bills introduced in 2001:³

- 145 of all bills introduced in 2001 have a local impact.
- 522 of all bills introduced in 2001 have no local impact.

² Please see the introduction for an explanation of the criteria LSC uses when making local impact determinations.

³ HB 246 was not assigned to a committee and therefore a local impact determination was not completed.

Impact of the LIS

The 124th General Assembly introduced 668 bills in 2001, and enacted 83, approximately 12.4%. However, 2001 is the first year of the 124th General Assembly, and many of the bills introduced in 2001 may be enacted in 2002. Therefore, it would be misleading to compare the number of bills introduced and the number of bills enacted in the previous General Assemblies. Nevertheless, 1999 and 1997, the first year of the 123rd General Assembly and of the 122nd General Assembly, respectively, can be compared to 2001. In 1999, 128 bills were enacted of the 761 introduced bills. Of the 128 enacted bills, 22 had a “Yes” local impact determination and 106 had a “No” local impact determination. In 1997, 110 bills were enacted of the 869 introduced bills. Of the 110 enacted bills, 20 had a “Yes” local impact determination and 90 had a “No” local impact determination.

Table 1: Bills Enacted in 2001, 1999, and 1997

The Numbers				The Percentages			
Year	# of YES	# of NO	TOTAL	Year	% YES	% NO	% TOTAL
2001	12	71	83	2001	14 %	86 %	100 %
1999	22	106	128	1999	17 %	83 %	100 %
1997	20	90	110	1997	18 %	81 %	100 %

Table 2 shows that in 2001, eight percent of all bills with a “Yes” local impact determination were enacted and 13.6% of all bills with no local impact were enacted. Thus, more bills with a “No” local impact determination were enacted than bills with a “Yes” local impact determination. Overall, 12.4% of all the bills introduced in 2001 were enacted.

Table 2: Bills Passed in 2001 that Became Law

Initial Review	# of Enacted Bills	# of Introduced Bills	% Becoming Law
YES	12	145	8%
NO	71	522	14%
TOTAL	83	668 ⁴	12%

⁴ HB 246 was not assigned to a committee and therefore a local impact determination was not completed.

Table 3 shows similar results for 1999, the first year of the 122nd General Assembly. Approximately 12% of bills with a “Yes” local impact determination were enacted and 18% of the bills with a “No” local impact were enacted. Approximately 17% of all the bills introduced in 1999 were enacted. In 1999, a higher percentage of the bills with a “No” local impact were enacted than those with a “Yes” local impact. Overall, more bills passed in 1999 than in 2001.

Table 3: Bills Passed in 1999 that Became Law

Initial Review	# of Enacted Bills	# of Introduced Bills	% Becoming Law
YES	22	178	12%
NO	106	583	18%
TOTAL	128	761	17%

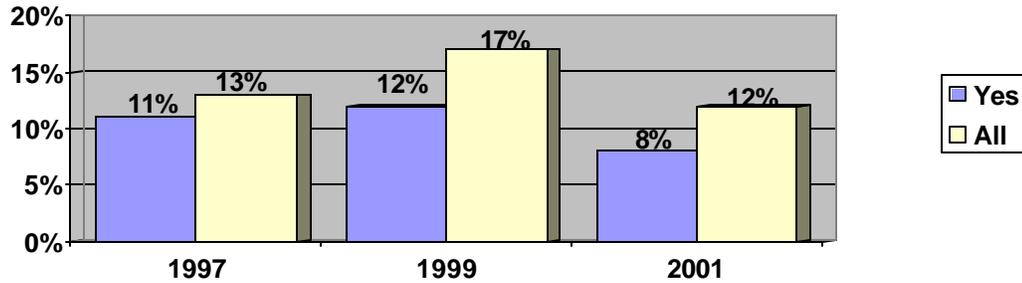
Table 4 also shows similar results for 1997, the first year of the 121st General Assembly. Approximately 11% of bills with a “Yes” local impact determination were enacted and 13% of the bills with a “No” local impact determination were enacted. Approximately 13% of all the bills introduced in 1997 were enacted. Again, in 1997, a higher percentage of the bills with a “No” local impact were enacted than those with a “Yes” local impact. Overall, there were more bills passed in 1997, when compared to 2001, but less than 1999. However, the highest percentage of bills that passed out of all bills introduced was in 1999.

Table 4: Bills Passed in 1997 that Became Law

Initial Review	# of Enacted Bills	# of Introduced Bills	% Becoming Law
YES	20	189	11%
NO	90	680	13%
TOTAL	110	869	13%

The chart below presents the data for the first year of all three General Assemblies, indicating that a lower percentage of bills with a “Yes” local impact are enacted when compare to the average for all bills.

Enacted Bills in the First year of the Past Three General Assemblies



Bills with Altered Impact

This section describes bills passed in 2001 that became law and were altered during the legislative process, so that the “As Enacted” impact on local governments was different from the “As Introduced” local impact. Out of the 83 bills enacted in 2001, none of the bills were altered after the initial determination so that the determination would have been different.

Table 5 demonstrates these results compared to previous years. In the past four years there have been 12 bill that were altered from a “Yes” local impact to a “No” local impact, and 12 bills that were altered from a “No” local impact to a “Yes” local impact.

Table 5: Local Effects Changing from Introduction to Enactment 1997-2001

	1998	1999	2000	2001	Total
Bills altered so that certain elements, which prompted a “Yes” local impact determination, were eliminated from the enacted bill.	5	2	5	0	12
Bills with a “No” local impact determination altered so that the changes made created a fiscal impact on local governments.	2	4	6	0	12

Local Impact by Political Subdivision

This section contains summary charts of the fiscal effects identified in the final Local Impact Statements for bills enacted in 2001 that were determined to have a local impact. There are four charts, one each for counties, municipalities, townships, and school districts. Wherever possible, an estimate is included as to the net effect on the political subdivision of each piece of enacted legislation. All 12 of the 12 bills impacted counties, 9 affected municipalities, 4 affected school districts, and 6 affected townships.

Counties

Bill	Time Frame	Revenues	Expenditures	Net Effect
HB 7	Annual	Minimal likely gain	Increase, potentially significant	Negative
HB 9	Annual	Up to \$20 million gain; potential minimal loss or gain	Up to \$20 million increase	Indeterminate
HB 11	Annual	-0-	\$39,654 increase for Butler Co.; \$71,322 increase in FY 2003 and \$15,897 increase in future years for Muskingum Co.	Negative for Butler and Muskingum counties
HB 157	Annual	-0-	Potential increase	Negative
HB 208	Annual	Potential loss of \$0 to \$1.68 million	Potential increase or decrease	Indeterminate
HB 231	Annual	-0-	Potential increase	Negative
HB 244	Annual	-0-	Potential increase or decrease	Varied
SB 3	Annual	Minimal gain	Increase	Negative
SB 5	Annual	Potential gain	Potential increase	Minimal
SB 59	Annual	Potential loss or gain	-0-	Varied
SB 74	Annual	Loss, partially offset	-0-	Negative
SB 136	Annual	Minimal loss	Minimal decrease	Minimal

Municipalities

Bill	Time Frame	Revenues	Expenditures	Net Effect
HB 7	Annual	Minimal likely gain	Increase, potentially significant	Negative
HB 9	Annual	Potential minimal loss	-0-	Negative
HB 157	Annual	-0-	Potential increase	Negative
HB 231	Annual	-0-	Potential increase	Negative
HB 244	Annual	-0-	Potential increase or decrease	Varied
SB 3	Annual	Minimal gain	Minimal increase	Minimal
SB 5	Annual	Potential loss	Potential increase	Negative

SB 59	Annual	Potential loss of \$300,000 for counties, municipalities, and townships	-0-	Negative
SB 136	Annual	Minimal loss	Minimal decrease	Minimal

School Districts

Bill	Time Frame	Revenues	Expenditures	Net Effect
HB 157	Annual	-0-	Potential increase	Negative
HB 231	Annual	-0-	Potential increase	Negative
HB 244	Annual	-0-	Potential increase or decrease	Varied
SB 5	Annual	Potential gain or loss	Potential increase or decrease	Varied

Townships

Bill	Time Frame	Revenues	Expenditures	Net Effect
HB 9	Annual	Potential minimal loss	-0-	Negative
HB 157	Annual	-0-	Potential increase	Negative
HB 231	Annual	-0-	Potential increase	Negative
HB 244	Annual	-0-	Potential increase or decrease	Varied
SB 5	Annual	Potential gain and foregone loss	Potential increase or decrease	Varied
SB 59	Annual	Potential loss of \$300,000 for counties, municipalities, and townships	-0-	Negative

Part II

Local Impact Statements

Local Impact Statements for Bills Enacted with “Yes” Determination “As Introduced”

The following chart lists all 12 bills passed in 2001 that became law and were designated with “Yes” local impact determinations in their “As Introduced” form.

Bill	Subject	Political Subdivision Affected ⁵	Page Number
HB 7	Provides a comprehensive mechanism to assist combating the illegal manufacture or production of methamphetamine	C, M	12
HB 9	Authorize governmental aggregation for retail natural gas service, PUCO certification, appropriation for THAW and HEABG	C, M, T	18
HB 11	Creates one additional judge for the Juvenile Division of Butler County Court of Common Pleas and one additional justice for Domestic Relations Division of the Muskingum County Court of Common Pleas	Butler and Muskingum counties only	25
HB 157	Provides annual cost of living increases paid to retired members of beneficiaries of Ohio’s state retirement system of 3% and makes other changes to the Ohio Police and Fire Pension Fund	C, M, T, SD	28
HB 208	Gives courts authority to permit direct payment of spousal support	C	31
HB 231	Requires a State Isolated Wetland Permit, permit fees and mitigation of isolated wetlands	C, M, T, SD	36
HB 244	Modifies penalties against employers who fail to submit reports, payments and information to the Ohio Police and Fire Pension Fund	C, M, T, SD	46
SB 3	Applies the Sex Offender Registration and Notification Law to persons adjudicated delinquent children for committing a sexually oriented offense	C, M	50
SB 5	Revises the Municipal Annexation Law	C, M, T, SD	57
SB 59	Includes various changes to the titling process for motor vehicles, watercraft, outboard motors, off-highway motorcycles, and all-purpose vehicles	C, M, T	66
SB 74	Adopts revisions to Article 9, that were recommended by the National Conference of Commissioners on Uniform State Laws	C	73
SB 136	To modify the laws pertaining to the administration and enforcement of food safety programs, requires each board of health to have a member who represents the activities licensed by boards of health	C, M	77

⁵ C=counties; M=municipalities; T=townships; SD=school districts

Presentation of 2001 Fiscal Notes & Local Impact Statements

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➤ Sub. H.B. 7-----	12
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➤ Sub. H.B. 157-----	28
➤ Sub. H.B. 208-----	31
➤ Sub. H.B. 231-----	36
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➤ Am. Sub. S.B. 5 -----	57
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➤ Am. Sub. S.B. 136-----	77

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2002	FY 2003	FUTURE YEARS
Counties & Municipalities			
Revenues	Minimal likely gain	Minimal likely gain	Minimal likely gain
Expenditures	Increase, potentially significant	Increase, potentially significant	Increase, potentially significant

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

- With a large number of new cases and convictions expected, county and municipal criminal justice systems will experience potentially significant increases in annual expenditures related to arresting, adjudicating, prosecuting, defending (if indigent), and sanctioning those who violate the bill's prohibitions.
- Counties and municipalities will also collect additional court cost and fine revenue. Given the difficulties of collecting such moneys from offenders, many of whom are indigent, these additional local revenues will likely be no more than minimal annually.

Detailed Fiscal Analysis

With respect to the illegal manufacture or production of methamphetamine, the bill creates two new drug offenses, as well as a penalty enhancement tied to existing law prohibiting the illegal manufacture of drugs.

Penalty Enhancement

The bill increases the penalty for the offense of illegal manufacture of drugs if the drug in question is methamphetamine, or a variation thereof, and if the offense is committed in the vicinity of a juvenile, school or other public premises. A public premise would include, among other things, hotel rooms, which law enforcement officials have discovered are increasingly common locations for methamphetamine laboratories. The volatile and toxic nature of many of the chemicals used in the methamphetamine manufacturing process present extreme public health threats when laboratories are located in public places. The illegal manufacture of drugs is currently a felony of the second degree carrying a mandatory determinate prison sentence of 2, 3, 4, 5, 6, 7, or 8 years. Under the enhanced penalty specification created by the bill, the offense would be a felony of the first degree carrying a mandatory determinate prison sentence of 3, 4, 5, 6, 7, 8, 9 or 10 years.

Problem Growth. The bill's penalty enhancement provision will not create any new criminal cases since the manufacture of methamphetamine is currently illegal. The bill will, however, affect the length of the mandatory prison sentence imposed on some percentage of those convicted after its

enactment. To estimate the number of offenders likely to receive longer mandated prison sentences, the growth of the methamphetamine phenomenon must be considered in conjunction with current sentencing data.

The genesis of the rapidly growing methamphetamine problem in the United States is clearly the west coast states and Mexico. Based on data compiled by the United States Drug Enforcement Administration (DEA), the problem is clearly moving eastward, as evidenced by the explosive growth in the numbers of illegal methamphetamine laboratory seizures. States to the west of Ohio, including Iowa, Missouri and Arkansas, have recently witnessed five and six times the number of laboratory seizures compared to just a few years ago. For 1999, the DEA reported 16 illegal laboratory seizures in Ohio, followed by approximately 27 in 2000. The number of seizures thus far in 2001 has jumped to 48. It appears as though the wave of growth in methamphetamine production has reached Ohio. This growth reflects the increasing effort by local entrepreneurs, operating on the periphery of the methamphetamine market, to exploit the expanding demand for the drug by producing smaller amounts of the drug in less complex, often very mobile, laboratories.

Intake data from the Department of Rehabilitation and Correction (DRC) indicate that, in FY 2000, 22 inmates were sentenced to prison for illegal manufacture of drugs, predominately involving methamphetamine, and to a lesser extent GHB, a date rape drug. This intake level reflects the smaller number of laboratory seizures in 1999 and 2000. As Ohio experiences the expected growth in methamphetamine production, arrests, convictions and incarcerations will all increase accordingly. Law enforcement experts in this field have stated that Ohio can expect between 100 and 200 illegal laboratory seizures over this next year. It is important to note that this growth is not a result of the bill, but rather the natural eastward expansion of this phenomenon.

Additional Incarceration Cost. The bill will only increase the state's annual incarceration costs to the extent that these additional arrests for the illegal manufacture of methamphetamine occur in the vicinity of juveniles and/or public premises. Data from the State of California suggests that children are present in about 25 percent of the illegal laboratory raids. Ohio law enforcement officials concur with this proportion and agree that we could expect perhaps a third of the arrests for methamphetamine production to occur in the vicinity of juveniles or some public premises, so defined by the bill. If 200 arrests occur over the next year, and assuming nearly all are convicted, then approximately 66 individuals would face the enhanced felony one penalty. The key fiscal question is how much additional prison time would they receive?

Time served data from DRC sheds some light on the sentencing differences between a felony of the second degree drug offense and a felony of the first degree drug offense. While this data does not specifically list illegal manufacture of drugs, it does show, on average, the differences in time served between different classes of felonies. If a felony of the second degree drug offense is enhanced to a felony of the first degree, then the time served is increased by an average of 1.5 years. This average figure can then be used to provide an estimate of the potential additional annual cost to the state resulting from the bill's penalty enhancement provision. If 66 inmates serve an additional 1.5 years due to the enhancement, and the current marginal cost of incarceration is about \$4,000, then the total potential annual increase in incarceration costs to the state is approximately \$396,000. This figure could grow if the number of methamphetamine laboratory seizures continues to increase annually. This fiscal

effect would not be fully realized for several years; that will be the point in time at which the additional time served as a result of the bill's penalty enhancement will actually kick in.

Criminal Offenses

The bill also creates two new drug offenses related to: (1) assembly of chemicals, and (2) possession of drug paraphernalia.

Assembly of Chemicals. The first of these new drug offenses involves the assembly of chemicals for the manufacture of illegal drugs. This would be a felony of the third degree and carries no presumption for or against prison.

Additional Cost. Law enforcement officials knowledgeable in this area have indicated that the assembly of chemicals for the manufacture of illegal drugs is a much more common occurrence than the actual operation of methamphetamine laboratories. Those who "cook" the drug often utilize a large number of individuals to gather, store and transport the necessary chemical ingredients. This provision of the bill would also affect arrests and prosecution of those possessing the chemicals to manufacture GHB, a date rape drug. Law enforcement officials estimate that, as a result of this new "assembly" charge, the number of new arrests could be three or four times the number of arrests for the illegal manufacture of methamphetamine. Again assuming a high rate of conviction, this provision of the bill could produce several hundred new convictions annually. Under the bill, judges would have a wide range of discretion in determining the appropriate sanctions. Since this is a new crime, there is unfortunately no sentencing data, and no way to make any precise predictions as to how judges will respond.

The minimum prison term for a felony of the third degree is 1 year. Given the judicial discretion built into the sentencing presumptions for a felony of the third degree, we can be reasonably certain that not everyone will be sent to prison. According to DRC data, the average prison time served for a felony of the third degree drug conviction is 1.8 years, compared with a possible maximum prison term of 5 years. The key fiscal question here is how many of these drug offenders would be sent to prison?

When changes were made to felony sentencing practices at the time of S.B. 2 in 1996, the intent was to incarcerate those offenders who were dearly linked to the illegal drug business. To the extent that an offender was peripheral to the illegal drug business, sentencing options other than prison were to be utilized more frequently. Despite the difficulties of predicting how judges will respond to a new law, LSC fiscal staff believe it is most prudent to express potential cost estimates in terms of an upper and lower range. If there are as many as 400 new convictions annually for this new crime, and because it is essentially a non-violent offense that could be judged as being somewhat farther removed from the illegal drug business than would be trafficking, then perhaps as few as 20 percent would be sent to prison. If this were the case, then 80 new prison inmates annually serving, on average, 1.8 years would cost the state approximately \$3.1 million in annual incarceration costs. If 50 percent of these new convictions were sent to prison annually for an average of 1.8 years, then the annual incarceration cost to the state would be approximately \$7.9 million.

Many variables affect such estimates, not the least of which is judicial discretion. If judges choose not to rely on prison, but instead utilize other community based sentencing options, then the estimated annual incarceration cost to the state would be much lower. On the other hand, if judges perceive methamphetamine as a serious threat to their communities, they may adopt tougher sentencing standards in an effort to stem the tide. Another possibility is that judges may order a defendant convicted of this illegal assembly of chemicals charge to serve time in a local jail. Data from the Ohio Criminal Sentencing Commission suggests that about 8 percent of those convicted of a felony of the third degree drug offense were sentenced to a local jail. The average time served was 20.5 days. If 8 percent of 400 new annual convictions, or 32 offenders, received the average 20.5 days in a local jail, at an average cost of about \$60 per day, then the additional annual cost to counties statewide would be around \$39,360.

Drug Paraphernalia. The second drug offense created by the bill involves the possession of the equipment, instruments, and so forth, used in the manufacture of methamphetamine. The definition of “drug paraphernalia” is expanded to include such equipment. The offense of possessing or using methamphetamine drug paraphernalia would be a misdemeanor of the fourth degree and selling such paraphernalia would be a misdemeanor of the second degree. The fiscal impact of this provision of the bill will likely be small as much more serious charges will be filed when a methamphetamine laboratory is raided. A drug paraphernalia charge would likely be stacked on to the more serious felony charges.

Local Costs. Given the new drug offenses created by the bill will likely result in a large number of new arrests being made annually statewide, significant fiscal burdens will be placed on counties and municipalities. As these new criminal cases are processed, counties and municipalities will experience annual expenditure increases related to the adjudication, prosecution, defense (if indigent), and sanctioning of these drug offenders, including the cost of pre-trial and post-conviction stays in local jails.

Revenue. In addition to any fines and local court costs charged, those convicted must pay locally collected state court costs. State court costs for a felony conviction total \$41 (\$30 for the Victims of Crime/Reparations Fund and \$11 goes to the GRF). State court costs for a misdemeanor conviction total \$20 (\$9 for the Victims of Crime/Reparations Fund and \$11 goes to the GRF). Given the relatively large number of additional annual convictions expected, state court cost revenue for the GRF and the Victims of Crime/Reparations Fund will be gained, possibly reaching several thousand dollars annually. Collecting this revenue can also be very problematic, so the actual gain in annual revenue is uncertain.

Cleanup. Another important area of cost to be mentioned involves the toxic waste cleanup required when methamphetamine laboratories are raided. The production process yields a great deal of dangerous chemical waste that is often just dumped at the site of the laboratory. The laboratories also usually have containers of dangerous chemicals that must be subject to toxic waste disposal procedures. The average cost of a cleanup following a laboratory seizure is between \$3,000 and \$5,000. Most local jurisdictions cannot afford these cleanup costs. At the present time, local law enforcement agencies usually request DEA assistance when a laboratory is seized. If they are present, DEA will pay the cost of an independent toxic waste disposal company to perform an emergency cleanup of the laboratory site. Thus, at present, the federal government and not state or local agencies pay for the removal of the toxic waste. A problem may develop if the rapid growth of methamphetamine sweeps across Ohio as expected. If federal cleanup resources become depleted, the state or local governments will be forced to

bear the significant expenses associated with emergency cleanups. This has already happened in Arkansas, which seized 540 illegal laboratories in 1999. Local law enforcement agencies face great difficulties in paying for the hazardous waste cleanup.

LSC fiscal staff: Joseph Rogers, Budget Analyst

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- The General Revenue Fund receives 95.2% of funds collected under each of these taxes.
- The bill would create a new line item in the budget of the Department of Job and Family Services and appropriate \$20 million to that line item to be distributed to county departments of job and family services. The funds would be used to assist Ohio households whose income is less than 200% of the federal poverty guidelines in paying their home heating bills.
- The Public Utilities Commission of Ohio would need to hire additional staff to implement the certification program created by the bill, increasing expenditures by approximately \$111,000 in future fiscal years, assuming the required funds are appropriated.
- Am. Sub. H.B. 283 of the 123rd General Assembly would be amended to increase the appropriation to item number 195-611 in the Department of Development’s budget by \$20 million. The additional appropriation would increase funding for the Low Income Energy Assistance Program.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2001	FY 2002	FUTURE YEARS
Counties			
Revenues	up to \$20,000,000 gain	- 0 -	- 0 -
Expenditures	up to \$20,000,000 increase	- 0 -	- 0 -
Counties & Transit Authorities			
Revenues – permissive local sales tax	Potential minimal gain	Potential gain up to \$1.4 million or more	Potential gain up to \$3.3 million or more
Expenditures	- 0 -	- 0 -	- 0 -
Counties, municipalities and townships			
Revenues – Local Government Funds (LGF & LGRAF)	Potential minimal loss	Potential minimal loss	Potential loss
Expenditures	- 0 -	- 0 -	- 0 -

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

- The THAW program would provide \$20,000,000 from the GRF to county departments of job and family services, which would be expended in providing assistance to low-income households in paying their heating bills. Given the number of applications received to date, it is possible that part of the \$20 million may remain after paying all the benefits for which applications were received.
- The statewide sales tax base would be increased, as households signed up for aggregation programs. The increase in the sales tax base would be minimal in the short run but would increase over time. The average permissive sales tax rate levied by counties and transit authorities statewide is 1.1%.

- The Local Government Fund would receive 4.2% of any increase in state sales tax collections; the Local Government Revenue Assistance Fund would receive 0.6% of any increase.
- The public utility excise tax base would be reduced as households signed up for governmental aggregation programs. The decrease would be minimal in the short run but could become significant over time. 4.2% of excise tax revenue losses would come from the Local Government Fund and 0.6% would come from the Local Government Revenue Assistance Fund.
- Even though counties with permissive sales taxes may experience a net gain in revenues, counties without permissive sales taxes as well as municipalities and townships would lose revenues.
- It is unclear at this time to what extent administering the THAW program would increase county expenditures.
- Local governments would incur costs in establishing and administering an aggregation program. These costs would vary by program. These programs are optional, of course.

Detailed Fiscal Analysis

Background.

Substitute House Bill 9 (Sub. H.B. 9) contains four provisions that might have a fiscal impact on state or local budgets. First, it would allow a board of township trustees or a board of county commissioners to act as an aggregator for the provision of competitive retail natural gas service. Local governments are currently authorized to serve as aggregators for electricity service within their jurisdiction under Senate Bill 3 of the 123rd General Assembly, so this provision of the bill would ultimately create parity between natural gas service and electricity service. (Municipal corporations are assumed to have the authority to aggregate already, under the home-rule provisions of Article XVIII of the Ohio Constitution, so the bill would have no impact on aggregation within municipal boundaries.⁶) Second, the bill would create a new line item in the budget of the Department of Job and Family Services and appropriate \$20 million in fiscal year 2001 for that line item. The funds would be distributed to county departments of job and family services to assist households with incomes below 200% of the federal poverty guidelines in paying their heating bills. The total expenditures for the program would not exceed \$20 million, nor would the assistance to any individual household exceed \$250. Third, the bill would subject retail natural gas suppliers and governmental aggregators to certification by the Public Utilities Commission of Ohio (the PUCO). And fourth, the bill increases the fiscal year 2001 appropriation for the Low Income Home Energy Assistance Program administered by the Department of Development.

Currently, natural gas sold through marketers in Ohio is included in the sales tax base, while gas sold directly by a natural gas utility is included in the public utility excise tax base, rather than the sales tax base. Therefore any effect the bill might have on the dollar value of natural gas sales would have a

⁶ See February 12, 2001 issue of LSC publication *For Members Only*. The publication is available on-line at www.lsc.state.oh.us/membersonly/124homerule.pdf.

direct impact on these two tax bases. The statewide sales tax is currently 5%, with 95.2% of the revenue collected going to the GRF, 4.2% going to the Local Government Fund, and 0.6% to the Local Government Revenue Assistance Fund. On top of the statewide tax, counties and transit authorities may levy an additional sales tax. By its nature, the rate of this permissive tax varies from one jurisdiction to another, but the average rate statewide is 1.1%, making the combined average tax rate statewide 6.1%. The public utility excise tax rate is 4.75%, which is distributed in the same way as the statewide sales tax: 95.2% to the GRF, etc.

Currently there are 28 natural gas utilities in the state that pay the public utilities excise tax; of these, just three have a Choice Program: Columbia Gas of Ohio; Cincinnati Gas & Electric; and Dominion East Ohio Gas. The PUCO reports the following figures for the total customer base of these utilities as of December 2000, and for the number of those customers enrolled in the respective Choice Programs:

Choice Program Enrollment in Ohio, December 2000			
Nat. Gas Utility	Total Customers	Enrolled Customers	Percent of Total Customers Enrolled
<i>Columbia Gas</i>	1,360,615 (<i>resid.</i>)	432,325 (<i>resid.</i>)	31.8%
	120,528 (<i>comm.</i>)	42,198 (<i>comm.</i>)	35.0%
<i>Dominion East Ohio</i>	1,126,000 (<i>resid.</i>)	242,464 (<i>resid.</i>)	21.5%
	83,000 (<i>comm.</i>)	12,586 (<i>comm.</i>)	15.2%
<i>Cincinnati Gas & Elec.</i>	360,000 (<i>resid.</i>)	29,493 (<i>resid.</i>)	8.2%
	35,070 (<i>comm.</i>)	3,844 (<i>comm.</i>)	11.0%

source: Public Utilities Commission of Ohio.

Representatives of Columbia Gas and of Dominion East Ohio have testified before the Senate Ways and Means Committee that high gas prices have increased the percentages enrolled in their Choice programs, however the following analysis will assume the percentages shown here. LSC has investigated the impact of using the higher percentages testified to, and found the differences to be small.

Authorization of Governmental Aggregation.

The primary motivation for allowing for governmental aggregation is presumably to aid consumers in reducing their natural gas bills. To the extent that the bill was successful in accomplishing this, the public utility excise tax base would be reduced, as household consumers opted for the lower prices available by aggregating, and thus shifted to the sales tax base. The consequent increase in the sales tax base would almost certainly be somewhat reduced by the probable reduction in (dollar value of) natural gas sales to households currently in a Choice Program.⁷ The increase in the number of households paying the sales tax would increase the sales tax base overall, consequently increasing sales tax revenues.

⁷ Whether the dollar value of natural gas sales to households currently paying the sales tax would rise or fall with a fall in the price of gas depends on a concept that economists call “price elasticity of demand.” The demand for natural gas is almost certainly inelastic, meaning that if the price of gas were to fall by, say 5%, unit sales of natural gas would increase by something less than 5%, with the result that sales revenue would fall.

Unfortunately, the data to quantify these changes in tax collections are simply not available. We do not know by what percentage allowing aggregation would reduce the price of gas. Nor do we know precisely what is the price elasticity of demand for natural gas. Most fundamentally, we do not know how quickly consumers would enroll in governmental aggregation programs. The fiscal effect would also depend heavily on the magnitude of the savings that consumers would experience in their natural gas bills. A September 8, 2000 press release from Columbia Gas of Ohio⁸ indicated that Columbia customers had saved \$73 million since 1997 as a result of Columbia's Choice Program, or about a 10% savings on the average residential bill. The \$73 million figure seems to be consistent with testimony provided by the Ohio Consumers' Counsel before the House Public Utilities Committee. Nevertheless there are several sources of very significant uncertainty regarding the fiscal impact of the bill.

In order to get some idea of the impact on tax revenues, LSC economists have computed the results generated under several assumptions that seemed reasonable. The following analysis assumes that the bill has no impact on the ability of municipalities to implement natural gas aggregation programs. The U.S. Bureau of the Census estimated that the number of residents of townships in Ohio in 1998 was 3,981,642, out of a total estimated Ohio population of 11,209,493. Taking the ratio of the former number to the latter yields a ratio of 35.5%, which is the maximum percentage of households in the state that this bill would newly allow to be aggregated under a governmental aggregation program. The PUCO website shows the current savings from the Choice Program for an average residential household in each of the three programs. Suppose that governmental aggregation saves households that are currently in a Choice program 2% annually, and saves households that are not in a Choice program 12% annually. Suppose further that 110,507 eligible Ohio households were signed up for an aggregation program in FY 2002 and that 276,268 households were signed up in FY 2003. Under these assumptions, we arrive at total residential consumer savings of \$15.7 million in FY 2002 and \$38.2 million in FY 2003.

Under the foregoing assumptions, the reduction in the public utility excise tax would amount to \$6.7 million in FY 2002 and \$16.1 million in FY 2003. Partially offsetting this, state sales tax collections would increase by \$6.2 million in FY 2002, and by \$15.0 million in FY 2003. Similarly, permissive local sales tax collections would increase by about \$1.4 million in FY 2002 and about \$3.3 million in FY 2003. Over and above these effects, there may be some changes to both tax bases involving commercial customers, meaning that the numbers shown here might be increased by an amount in the range of a few hundred thousand dollars.

One final issue related to the aggregation provisions in the bill is that of so-called "stranded costs." Section 4929.25 of Sub. H.B. 9 allows a natural gas company to recover capacity and commodity costs if the PUCO certifies those costs to be recoverable under the terms of the bill. Any such cost recovery approved by PUCO would increase the prices paid by consumers, thereby increasing the sales tax base. This provision of the bill is incorporated into the above projections, subject to the same uncertainty associated with the other assumptions underlying those projections.

Temporary Heating Assistance for Warmth (THAW) Program.

Sub. H.B. 9 would also create a new line item in the budget of the Department of Job and Family Services, item 600-437, Temporary Heating Assistance for Warmth, and appropriate \$20 million to that line item in fiscal year 2001. The funds would be provided to county departments of job and family

⁸ This press release can be found on-line at www.columbiagasohio.com/releases.

services to distribute to households whose income is less than 200% of the federal poverty guidelines. Each eligible household could receive a one-time payment up to either 50% of one primary heating bill (billed after October 1, 2000 and before April 1, 2001), including arrearages that arose due to heating bills incurred between December 1, 2000 and April 1, 2001, or \$250, whichever is lower. The total expenditures for the program would not exceed \$20 million.

The Department of Job and Family Services would issue guidelines for the program. Guidelines could determine, for example, how to handle the situation if households applied for more payments than were available under the bill. According to the most recent data available from the Current Population Survey (a joint project between the U.S. Bureau of Labor Statistics and the Bureau of the Census), there are 1,315,107 Ohio households with an income that puts them at or below 200 percent of the federal poverty guidelines. The non-TANF portion of this population can be calculated by subtracting the number of TANF households that have at least one adult.⁹ In January, 2001 there were 51,058 households that had at least one adult. Thus, the number of non-TANF Ohio households meeting the income criteria of Project THAW is over 1.2 million. If each of these households applied for these funds, the \$20 million ceiling could easily be reached. However the Governor's office has reported that the number of applications received as of March 2, 2001 was approximately 24,500 and the average amount applied for in those applications was \$180. From the data to date, the Governor's office anticipates that there will be sufficient funds to pay all benefits for which applications are received, subject to the terms of the program.

It is unclear at this time to what extent administering the THAW program would increase county expenditures.

Certification of Retail Natural Gas Suppliers and of Governmental Aggregators.

Sub. H.B. 9 would require the certification of retail natural gas suppliers and governmental aggregators by the PUCO. The bill also provides that retail natural gas suppliers may be required to provide a performance bond to protect consumers and natural gas companies from the consequences of failure on the part of the retail supplier. The PUCO reports that implementing a certification program that complied with the provisions of the bill would require an additional two full time staff, in the Utility Specialist 1 classification. These positions would cost a total of an additional \$111,400 per year at current compensation levels, including benefits.

In addition, the certification requirements, together with the costs associated with providing a performance bond, would have possibly significant effects on existing CHOICE Programs and on new governmental aggregation programs. These provisions of the bill would increase the costs of retailers, and may reduce the number of retailers in the market. The effect of these provisions may thus reduce the price discounts enjoyed by consumers, which would in turn reduce the fiscal impact of the bill. These provisions of the bill, like the stranded cost provision, are incorporated into the above projections, subject to the same uncertainty associated with the other assumptions underlying those projections.

⁹ Payments to TANF households could be made from currently available TANF funds under existing guidelines; no additional appropriation authority for TANF funds would be necessary.

Low Income Home Energy Assistance (LIHEAP).

Finally, the bill would amend Am. Sub. H.B. 283 of the 123rd G.A. to increase the appropriation in line item 195-611, Home Energy Assistance Block Grant, by \$20 million. Funding for the LIHEAP Program is provided by the federal government through a block grant, and the program provides home heating assistance to households with incomes at or below 150% of the federal poverty guidelines. The federal government increased the amount of the block grant and other contingency funds in October and December of 2000 and January of 2001. Twenty million dollars represents Ohio's share of this increase.

LSC fiscal staff: Ross Miller, Economist

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Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2002	FY 2003	FUTURE YEARS
Butler County			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Likely one-time capital improvements	\$39,654 increase	\$39,654 annual increase
Muskingum County			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	\$71,322 increase*	\$15,897 annual increase

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

*LSC fiscal staff assume that Muskingum County's required one-time reimbursement to the state of \$55,425 will occur in FY 2003.

- **Butler County.** The annual salary and benefits for one additional judge will cost Butler County \$15,897, which is comprised of \$14,000 in annual base salary, plus 13.55 percent, or \$1,897, for PERS benefits. Additionally, the Butler County Court of Common Pleas expects to hire one courtroom clerk support person to assist with caseload management. The annual salary and benefits for this new support person will be \$23,757. Lastly, Butler County will likely incur a one-time expense for remodeling existing courtroom space to accommodate the new judge. At this time, however, the county has not developed any detailed planning or cost estimates.

- **Muskingum County.** The annual salary and benefits for one additional judge will cost Muskingum County \$15,897, which is comprised of \$14,000 in annual base salary, plus 13.55 percent, or \$1,897, for PERS benefits. The bill contains uncodified law requiring Muskingum County to reimburse the state for the state's portion of the compensation of the new judge of the Muskingum County Court of Common Pleas for services that judge performs from January 2, 2003 through June 30, 2003. The net fiscal effect of this provision is to shift the burden of covering a six-month period of salary and benefits totaling \$55,425 in FY 2003 from the state to Muskingum County. No other additional annual operating costs will be generated or capital improvements required as a direct result of the bill.

Detailed Fiscal Analysis

Full-time Judge

Salaries for common pleas court judges consist of a state share and a local share paid by the county. The local contribution varies slightly depending on a county's population as determined by the decennial census. This local amount is based on eighteen cents per capita in the county, but may not be less than \$3,500 or more than \$14,000. The state share is equal to the total salary minus the local contribution. Substitute House Bill 712 of the 123rd General Assembly established a common pleas court judge's salary at \$113,100 for calendar year 2004. Based on the 1990 census, Butler and Muskingum counties would each be required to pay the \$14,000 maximum total annual contribution

towards their new common pleas court judge's salary. (The year 2000 census will not result in a lessening of the maximum local annual contribution provided by either county.) The state will cover the remainder of the judicial salary, which would amount to \$99,100 per judgeship in FY 2004, the first full state fiscal year for these two new judgeships. The state share of these judicial salaries will increase annually, through calendar year 2009, according to the smaller of the Consumer Price Index or 3 percent, as established in Sub. H.B. 712.

The bill also contains uncodified law requiring Muskingum County to reimburse the state for the state's portion of the compensation of the new judge of the Muskingum County Court of Common Pleas for services that judge performs from January 2, 2003 through June 30, 2003. The net fiscal effect of this provision is to shift the burden of covering a six-month period of salary and benefits totaling \$55,425 in FY 2003 from the state to Muskingum County.

PERS

State and local elected officials are exempt from membership in PERS (Public Employees Retirement System), unless they choose to become members. Most do. Therefore, this analysis includes PERS payments, which assumes that both of the additional judges join PERS. The state contributes at the rate of 13.31 percent of its supplemental salary amount, while the county pays 13.55 percent on its base share amount. Under that PERS contribution formula, Butler and Muskingum counties will each pay \$1,897 annually, while the state will contribute \$23,824 annually.

In addition to PERS, the state also makes contributions for other purposes: 1.45 percent of gross salary for Medicare for all employees hired after April 1986, 0.67 percent for workers' compensation, and 0.28 percent for the administration of the state's Central Accounting System (CAS). These contributions, in total, comprise about 2.4 percent of the state's portion of the judicial salary. For the additional two judges to be seated in Butler and Muskingum counties, these miscellaneous annual contributions will cost the state \$4,757 in FY 2004, the first full state fiscal year for these two new judgeships. The state's miscellaneous annual contributions will continue to rise through calendar year 2009 along with the increases in the state's share of judicial salaries that are mandated in Sub. H.B. 712.

Additional Local Costs

Butler County. An additional judge will likely create some additional costs for Butler County in terms of increased staff and remodeling. The court anticipates hiring one courtroom clerk support person, but believes that no other employees will be immediately necessary. The annual salary and benefits for this support person will cost Butler County \$23,757. There will also be one-time costs incurred by the county for remodeling existing courtroom space to incorporate the new judge. Since this new judge is not scheduled to take office until calendar year 2003, the court has not progressed very far in terms of contracting for design work and obtaining construction estimates.

Muskingum County. Muskingum County does not anticipate any additional local costs as a result of the bill. The county did recently purchase a new court building, which is currently being renovated. The space needed to accommodate the additional judge has already been incorporated into the project's scope. The court is also planning to hire two additional support persons to assist with the current workload. They will be in place before the new judge is sworn in and are not being hired as a result of the bill.

*LSC fiscal staff: Joseph Rogers, Budget Analyst
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Police and Fire Pension Fund and the Death Benefit Fund. It is unknown how many persons would become eligible for this benefit. However, it is expected to be minimal.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2002	FY 2003	FUTURE YEARS
Political Subdivisions			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase	Potential increase	Potential increase

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

- Contributions to the state’s five retirement systems constitute a large expense for Ohio’s political subdivisions. Any increase in expenditures for those systems could indirectly put pressure on the system to increase the rates of employer contributions. Although the probability of actually increasing rates as a result of this bill is small, it is nevertheless a factor in determining whether the bill has a potential local impact.

Detailed Fiscal Analysis

Fiscal Effect of 3% COLA Increase

State Retirement Systems

Currently, the cost-of-living adjustment (COLA) in the state’s five retirement systems is calculated annually using a formula based on the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). The COLA is identical to the increase in the CPI-W, with a maximum increase of 3%. In years where the CPI-W increases more than 3%, the difference between the CPI-W increase and 3% is placed in a “bank” for the benefit of the retiree. In subsequent years where the CPI-W increases below 3%, the system takes the credit from the retiree’s bank and applies it to the current COLA until the bank is exhausted or the COLA reaches 3%. In years where the CPI-W decreases, no COLA is given.

The following is an illustration how the current formula works. Mike is receiving a retirement benefit from the Public Employees Retirement System (PERS). In year 2002, the CPI-W is 2.7%. Mike would receive a COLA of 2.7%. In year 2003, the CPI-W is 3.2%. Mike would only receive a COLA of 3.0% because the adjustment is capped at 3.0%. However, a “bank” is created for Mike and 0.2% is placed in the bank to his credit. In year 2004, the CPI-W is 2.6%. Mike would receive the 2.6% plus the 0.2% increase in his bank, thus creating a total COLA of 2.8%. Under the system conceived by this bill, Mike would receive a 3% COLA each year.

According to an actuarial analysis (dated May 31, 2001) conducted by Milliman USA for this bill, the current COLA formula may be expected to pay less than 3% annually even when price inflation

averages as much as 4%. Therefore, the analysis continues, a change that provides a guaranteed 3% increase annually will increase actual costs to the state's retirement systems. However, if this prediction were incorrect and the current COLA formula were to pay 3% *every* year in the future, this bill would have no cost. Under no scenario would this bill decrease costs to the retirement systems. Currently, the actuarial assumption is that a 3% COLA will be paid each year. Therefore, this bill would not result in a change to actuarial analyses of the systems.

Political Subdivisions and State Funds

The effect on political subdivisions and state funds would be indirect. Costs associated with contributions to the state retirement systems constitute a large expense for political subdivisions and state agencies. Any increase in costs to the state retirement systems may result in pressure on the systems to increase employer contributions. This, however, is unlikely in this instance due to the fact that actuarial analyses of the systems currently assume that an annual 3% COLA increase will be paid. In other words, the retirement systems already assume they must bring in necessary revenue to cover a 3% COLA increase each year.

Ohio Police and Fire Pension Fund

This bill requires the Ohio Police and Fire Pension Fund (OP&F) to pay monthly survivor benefits to the surviving spouses of members of the local police and fire pension systems whose benefits were terminated due to remarriage prior to the formation of the OP&F in 1965. According to sponsor testimony, there are nineteen known persons who would be affected by this bill. The bill would require OP&F to provide survivor benefits to these persons in the amount of approximately \$7,000 per year. If there are nineteen persons who would become eligible for this benefit due to this bill, expenditures of the OP&F would increase by approximately \$133,000 per year. According to an actuarial analysis conducted by Watson Wyatt for OP&F, the liability would be considered minimal and would lead to a very small increase in the amortization period of the fund.

This bill also provides a monthly death benefit to surviving spouses who became widowed prior to the creation of the Ohio Police and Fire Pension Fund and the Death Benefit Fund. To be eligible, the firefighter or police officer must have been killed in the line of duty. The surviving spouse would receive one-half of the member's monthly salary prior to the member's death plus any salary increase the deceased member would have received before retirement. It is unknown how many persons would become eligible for this benefit. However, it is expected to be minimal. This bill also provides for a minimal increase of \$13.50 per month in the monthly pension received by eligible surviving children of members.

LSC fiscal staff: Sean S. Fouts, Budget Analyst

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Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2002	FY 2003	FUTURE YEARS
Counties			
Revenues	Potential loss of approximately \$0 to \$1.68 million	Potential loss of approximately \$0 to \$1.68 million	Potential loss of approximately \$0 to \$1.68 million
Expenditures	Potential increase or decrease	Potential increase or decrease	Potential increase or decrease

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

- If spousal support payments were made directly to the obligee, then the counties would not be able to collect the 2% administrative fee on those support orders and would therefore experience a loss of revenue. For the months of March and April, the total statewide administrative fee collections for spousal support only cases were around \$140,000 for each month. (This amount fluctuates each month depending on the total amount of collections for spousal support only payments.) Some of the loss may be regained if an obligor defaults on the direct payments and is then required to make future payments through JFS. The potential loss for 2002, 2003, and subsequent years would be approximately \$0 to \$1.68 million annually. The administrative fee is disbursed to the county with jurisdiction over the support order. Therefore, any loss of such revenue will vary from county to county depending on the number and the amount of spousal support orders each county has jurisdiction over for which courts permit direct payments to obligees.
- Child support enforcement agencies could experience a decrease in expenditures since they would not be responsible for monitoring compliance of spousal support payments made directly to the obligee or for investigating an obligor who is in default.
- The bill authorizes, but does not require, CSEAs to take additional action to collect arrearage amounts for orders issued before March 22, 2001, unless the obligee and obligor agree in writing that the additional actions be limited to interception of any federal or state income tax refund owed by the obligor. It is, therefore, possible that CSEAs could incur additional costs associated with taking the additional actions authorized by the bill.
- The bill provides the 20 percent arrearage amount be rebuttably presumed rather than allow for a showing of "good cause." The bill could slightly increase the length of a hearing so as to allow an obligor to present evidence to refute the 20 percent presumption. The fiscal impact of lengthening hearings would likely be minimal.

Detailed Fiscal Analysis

Direct Payment of Spousal Support

The bill authorizes a court that issues or modifies a spousal support order or grants or modifies a decree of dissolution of marriage incorporating a separation agreement that provides for spousal support, to permit the direct payment of spousal support to the obligee, instead of payment through the Department of Job and Family Services (JFS), if the obligor have no minor children born as a result of a marriage and the obligee has not assigned the support amounts to the JFS under certain law related to public assistance.

If spousal support payments were made directly to the obligee, then the orders would not be processed through Ohio Child Support Payment Central. The contract between JFS and Bank One for processing support payments is based on the number of transactions. Under the bill, there would be fewer transactions and therefore a decrease in expenditures. Since costs for administration of support payments are paid from more than the GRF, other state funds would also be affected. In addition, counties would not be able to collect the 2% administrative fee on those support orders and would therefore experience a loss of revenue. For the months of March and April, the total statewide administrative fee collections for spousal support only cases were around \$140,000 for each month. This amount fluctuates each month depending on the total amount of collections for spousal support only payments. The potential loss for 2002, 2003, and subsequent years would be approximately \$0 to \$1.68 million annually. The administrative fee is disbursed to the county with jurisdiction over the support order. Therefore, any loss of such revenue will vary from county to county depending on the number and the amount of spousal support orders each county has jurisdiction over for which courts permit direct payments to obligees. The loss of revenue is potential for the following reasons:

- (1) If the court has reason to believe that it is in the best interest of the parties to order payment through JFS, the court may order payment through JFS in cases that involve spousal support only. The counties would not lose the 2% administrative fee for those cases.
- (2) Some of the loss may be regained if an obligor defaults on the direct payments and is then required to make future payments through JFS. (See ***Defaults on Direct Payments of Spousal Support*** below.)

Record of Payment

The bill also requires that support payments made directly to the obligee be made as a check, money order, or in any other form that establishes a clear record of payment.

Default on Direct Payment of Spousal Support

If the court permits an obligor to make spousal support payments directly to the obligee and the obligor is in default in making the support payments, the court, upon motion of the obligee or on its own motion, may rescind the permission granted for direct payment. After rescission, the court is to determine the amount of arrearages and order the obligor to make to the Office of Child Support in JFS any spousal support that are in arrears and any future spousal support payments. If the court orders arrears and future spousal support payments through JFS, then current law relative to collection, withholding, or deduction of the obligor's spousal support payments applies.

Under current law, the child support enforcement agency (CSEA) is the entity that identifies the default, takes action to investigate, and if necessary, imposes withholding or deduction requirements on the obligor. Under the bill, the court or the obligee may make a motion for the court to act if the obligor is in default. The provision of the bill that authorizes the court to rescind its grant of direct payment may cause an increase in the amount of court time and cost spent on such matters.

Additionally, CSEAs would not incur the administrative costs of monitoring compliance with a support order and the costs of investigating an obligor who is in default unless, an obligor defaults, the court orders that payment be made through JFS, and the obligor continues to be in default.

Child Support Arrearage Payments

Under current law, there are several actions that CSEAs may take to collect an arrearage amount owed under a child support order. The actions are limited to orders issued on or after March 22, 2001 (the effective date of Am. Sub. S.B. 180 of the 123rd General Assembly). The bill removes the limitation on actions to orders issued on or after March 22, 2001. However, if the obligee and obligor agree in writing that the additional actions be limited to interception of any federal or state income tax refund owed by the obligor, then the CSEA is limited to that additional method of collection. This provision authorizes, but does not require, CSEAs to take additional action to collect arrearage amounts for orders issued before March 22, 2001. It is, therefore, possible that CSEAs could incur additional costs associated with taking the additional actions authorized by the bill.

Current law requires that a withholding or deduction notice for the payment of child support or an order to collect current support and any arrearage owed, include an amount, for payment on the arrearage equal to 20 percent of the amount ordered for current support. However, the arrearage payment could be reduced to less than 20 percent if the obligor could show good cause that a lesser amount be collected. The bill provides the 20 percent arrearage amount be rebuttably presumed (which is a presumption that may be rebutted by evidence) rather than allow for a showing of "good cause" (which was linked to the maximum amount permitted to be withheld from the obligor under the Consumer Credit Protection Act). In addition, the bill adds a provision allowing a court or administrative hearing officer to consider evidence of household expenditures, income variables, extraordinary health care issues and other reasons for a deviation from the 20% presumption. Currently, once a support amount is determined, an obligor can request a hearing if the obligor wishes to refute whether the individual is the correct person to pay support and/or arrearage, the total amount of an arrearage, and the payment schedule recommended by the CSEA. The bill could slightly increase the

length of a hearing so as to allow an obligor to present evidence to refute the 20 percent presumption. The fiscal impact of lengthening hearings would likely be minimal.

LSC fiscal staff: Maria E. Seaman, Budget Analyst
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- Under this bill, the Dredge & Fill Fund is created and will gain the revenue generated from application fees (\$200 per application) and review fees (\$500 per acre for isolated wetlands; not to exceed \$5,000 per application) for State Isolated Wetland Permit. The OEPA estimates the fees will generate between \$20,000 and \$30,000 in revenues.
- The expenditures associated with this bill, including publication, public hearings, and the Level 1, 2, and 3 Reviews will be distributed as follows: 20% of the total costs to the Dredge and Fill Fund and 80% of the total costs to the General Revenue Fund (Surface Water). The OEPA estimated three years ago that the average cost for publications and holding public hearings is between \$4,000 and \$5,000 per application. This average was found by combining the cost of those applications that required only publications and those applications with public hearings. The cost will be distributed as follows: at least \$800 to \$1,000 to the Dredge and Fill Fund and at least \$3,200 to \$4,000 to the General Revenue Fund (Surface Water). The OEPA estimates that a Level 3 Review will cost about \$5,000 to administer¹⁰. Level 1 and 2 Reviews are estimated to cost less. The cost of the reviews for each applicant will be distributed as follows: increase up to \$1,000 to the Dredge and Fill Fund and increase up to \$4,000 to the General Revenue Fund (Surface Water).
- This bill places a five-year limit on the General State Isolated Wetland Permit and a two-year limit on work performed. If work is not completed within two years, the person must submit a new pre-activity notice. The OEPA cannot estimate the number of persons that will need to submit a new pre-activity notice and therefore the LSC fiscal staff cannot estimate the possible revenue generated.
- This bill requires the director of the OEPA to submit an annual report to members of the General Assembly on the total acreage of isolated wetlands that were subject to filling during the immediately preceding year as well as the total acres of isolated wetlands that were restored, created, enhanced, or preserved through mitigation that same year as a result of state isolated wetland permits. The OEPA estimates that this report will not require additional substantial costs to administer.
- This bill requires the Director of Budget and Management to prepare a full zero-based budget for the biennium ending June 30, 2005, for the Environmental Protection Agency and one state agency that the Director shall select. The implementation of a zero-based budget would likely require the Office of Budget and Management, the EPA, and the selected state agency to prepare information in fiscal year 2003 for FY 2004 - FY2005 budget process. This may result in an increase in expenditures and could result in indirect future savings depending on future implementation.

¹⁰ This estimate is based on a three year old estimate where the OEPA estimated the cost of a full review to be between \$3,200 and \$3,400.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2001	FY 2002	FUTURE YEARS
Any municipal corporation or political subdivision			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Payment to mitigation bank: \$13,000 to \$20,000 per acre; cost of on-site mitigation between \$35,000 and \$100,000 per acre	Payment to mitigation bank: \$13,000 to \$20,000 per acre; cost of on-site mitigation between \$35,000 and \$100,000 per acre	Payment to mitigation bank: \$13,000 to \$20,000 per acre; cost of on-site mitigation between \$35,000 and \$100,000 per acre

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

- A “person” that seeks to fill an isolated wetland is required to pay an application fee and review fees for a State Isolated Wetland Permit to Ohio EPA. *The definition of “person” includes any municipal corporation or political subdivision.* However, local governments are specifically exempted from these fees under the bill.
- Mitigation banks work on a system of credits; one credit equals one acre of restored wetlands. The price of a credit is determined by market forces, and typically runs between \$13,000 to \$20,000 per credit.
- Costs associated with on-site mitigation, conducted by the person or entity proposing to impact a wetland, can be significantly higher. Cost per mitigated acre may run between \$35,000 and \$100,000, on average. On-site mitigation is preferred.

Detailed Fiscal Analysis

Background

Prior to the 2001 decision of the United States Supreme Court, *Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers*, persons wishing to discharge dredged or fill material into a wetland had to obtain a Section 404 permit (Isolated Wetland Permit) from the U.S. Army Corps of Engineers and a Section 401 Water Quality Certification from Ohio EPA¹¹ in accordance with the Clean Water Act. Section 401 Water Quality Certifications were granted upon demonstration that any discharge complied with all applicable effluent limitations and water quality standards; receipt of a Section 401 Water Quality Certification is a precondition to the issuance of a Section 404 permit from the Army Corps of Engineers.

¹¹ Under certain project circumstances, Ohio EPA could pre-grant Section 401 permits to 404 permits when wetland degradation was considered minimal. In these cases, applicants received only a Nationwide Permit. No fees were assessed for projects authorized under Nationwide Permits.

Fees associated with a Section 401 Water Quality Certification are credited to Fund 4K4, Surface Water Protection, and are outlined below:

Table 1
401 Water Quality Certification Permit Fees

<u>Cubic Yards of Dredged or Fill Material</u>	<u>Fee</u>
Less than 500	\$15
501 to 5,000.....	\$25
5,001 to 15,000.....	\$50
15,001 to 30,000	\$75
30,001 to 50,000	\$100
More than 50,000	\$200

Since the Supreme Court decision, the authority of the Army Corps of Engineers and Ohio EPA to regulate certain isolated wetlands under the Clean Water Act is no longer clear. This bill establishes requirements for the issuance of a State Isolated Wetland Permits to persons proposing to impact waters of the state.

Fiscal Components of House Bill 231

Ohio EPA fees

Ohio EPA estimates it receives about 200 applications for 401 Water Quality Certification permits per year. Under the current fees, the majority of these permits fall between the \$15 and \$25 range outlined above. In 2000, the agency estimates these fees generated approximately \$3,800. However, the overall cost of administering Ohio EPA’s wetland program reportedly costs the agency over \$1 million per year.

Currently, Ohio EPA 401 Water Quality Certification fees are deposited in Fund 4K4, Surface Water, and generate approximately \$3,800 per year for the fund. However, under this bill these fees will no longer be collected and deposited into this fund. Therefore there will be an approximate \$3,800 loss.

Under this bill, the Dredge and Fill Fund is created and credited with the revenue generated from application fees and review fees for State Isolated Wetland Permits. This bill requires an application fee and review fees for a State Isolated Wetland Permit.

Table 2
State Isolated Wetland Permit

Application Fee:	\$200 per application
Review Fees:	
Isolated Wetlands.....	\$500 per acre
Total Review fee not to exceed \$5,000 per application.	

If an application is denied, the Director of OEPA will refund one-half of the amount of paid review fees and shall explain the reason for the denial of the application. If an application is not obtained prior to conducting activities requiring a State Isolated Wetland Permit, the person shall pay twice the amount of the application and review fees, not to exceed \$10,000. All application fees and review fees collected are credited to the Dredge and Fill Fund. The Ohio EPA predicts they will generate \$20,000 to \$30,000 in revenue from the payment of application and review fees.

This bill requires the publication of the receipt of a complete application for an individual State Isolated Wetland Permit in a newspaper of general circulation in the county in which the proposed filling of the waters of the state will take place. The OEPA estimated three years ago that the average cost for publications and holding public hearings is between \$4,000 and \$5,000 per application. This average was found by combining the cost of those applications that required only publications and those applications with public hearings. The cost will be distributed between the Dredge and Fill Fund (20%) and the General Revenue Fund (Surface Water) (80%).

This bill places a five-year limit on the General State Isolated Wetland Permit and a two-year limit on work performed. If work is not completed within two years, the person must submit a new pre-activity notice. The OEPA cannot estimate the number of persons that will need to submit a new pre-activity notice and therefore the LSC fiscal staff cannot estimate the possible revenue generated.

Classification of Wetlands

In this bill, isolated wetlands are classified as: category 1 isolated wetlands; category 2 isolated wetlands; and category 3 isolated wetlands. This bill adopts the classification of isolated wetlands set forth in rule 3745-1-54 of the Administrative Code. The following is a brief overview of each isolated wetland category:

Category 1 isolated wetlands: support minimal wildlife habitat, and minimal hydrological and recreational functions; do not provide critical habitat for threatened or endangered species or contain rare, threatened or endangered species.

Category 2 isolated wetlands: support moderate wildlife habitat, or hydrological or recreational functions; dominated by native species but generally without the presence of, or habitat for, rare, threatened or endangered species; wetlands that are degraded but have a reasonable potential for reestablishing lost wetland functions.

Category 3 isolated wetlands: support superior habitat, or hydrological or recreational functions; contain or provide habitat for threatened or endangered species; high quality forested wetlands, including old growth forested wetlands, and mature forested riparian wetlands, vernal pools, and wetlands which are scarce regionally and/or statewide including but not limited to bogs and fens¹².

This bill requires the director of the OEPA to submit an annual report to members of the General Assembly on the total acreage of isolated wetlands that were subject to filling during the immediately preceding year as well as the total acres of isolated wetlands that were restored, created, enhanced, or

12 Summarized from the rule 3745-1-54 of the Ohio Administrative Code.

preserved through mitigation that same year as a result of state isolated wetland permits. The OEPA estimates that this report will not require additional substantial costs to administer.

Review Levels Required for a General State Isolated Wetland Permit

This bill requires a review, according to the category and size of the isolated wetland, prior to obtaining a State Isolated Wetland Permit.

Level 1 Review is necessary for category 1 isolated wetlands, or category 2 isolated wetlands of one-half acre or less. This review requires the submission of a pre-activity notice including an application, an acceptable isolated wetland delineation, an isolated wetland categorization, a description of the project, a description of the acreage of the isolated wetland that will be subject to filling, site photographs, and a mitigation proposal for the impact to the isolated wetland. Isolated wetlands requiring a Level 1 Review is authorized by a General State Isolated Wetland Permit unless the director of the EPA notifies the applicant within 30 days after receipt of the pre-activity notice of filling of the isolated wetland will result in a significant negative impact on state water quality.

Level 2 Review is necessary for category 1 isolated wetland greater than one-half acre of the proposed filling of a category 2 isolated wetland of greater than one-half acre, but less than or equal to three acres. This review requires the submission of all information required to be submitted with a pre-activity notice; the U.S. Army Corps of Engineers public notice of a receipt of a Section 404 Application; identification of the source of the fill material to be used for filling; submission of an analysis of practicable on-site alternatives to the proposed filling that would have a less adverse impact on the isolated wetland ecosystem; submission of information indicating whether high quality waters are to be avoided. Isolated wetlands requiring a Level 2 Review is authorized by an individual State Isolated Wetland Permit not later than 90 days after the receipt of an application for the permit.

Level 3 Review is necessary for category 2 isolated wetland of greater than three acres or a category 3 isolated wetland. This review requires the submission of all information required to be submitted with a pre-activity notice; the U.S. Army Corps of Engineers public notice of a receipt of a Section 404 Application; a full antidegradation review; submission of information indicating whether high quality waters are to be avoided. Isolated wetlands requiring a Level 3 Review is authorized by an individual State Isolated Wetland Permit not later than 180 days after the receipt of an application for the permit.

**Table 3
Required Review Levels**

Wetland Category	
Level 1 Review:	category 1 or category 2 (0.5 acres or less)
Level 2 Review:	category 1 (>0.5 acres); 2 (>0.5 up to 3 acres)
Level 3 Review:	category 2 (>3 acres); any category 3

The Ohio EPA estimated three years ago, that the cost associated with administering a Level 3 Review would be between \$3,200 and \$3,400 per review. However, due to an increase in salary levels, etc. over

the last three years, a Level 3 Review may be close to \$5,000 per review to administer. The OEPA also estimates that Level 1 and 2 Reviews will cost less. The cost of the reviews for each applicant will be distributed in increments of 20% to the Dredge and Fill Fund and 80% to the General Revenue Fund (Surface Water). The Dredge and Fill Fund will decrease by up to \$1,000 per review and the General Revenue Fund (Surface Water) will decrease by up to \$4,000 per review. At this time, LSC fiscal staff is unable to estimate the potential number of each level review and thus unable to present a total cost per year.

Mitigation Requirements

This bill requires mitigation according to the category and required review level of the isolated wetland.

Mitigation for the proposed filling of an isolated wetland subject to a Level 1 Review shall be conducted by the applicant and without the objection of the director and at the discretion of the applicant, the applicant shall conduct either on site mitigation, at a isolated wetland mitigation bank within the same district as the location, or off-site mitigation. The filling of the isolated wetland must be complete within two years after the end of the 30-day period following the receipt of the pre-activity notice by the director. If the filling is not complete, the person shall submit a new pre-activity notice.

Mitigation for the proposed filling of a category 2 isolated wetland subject to Level 2 Review shall be conducted by the applicant and without the objection of the director and at the discretion of the applicant. Mitigation shall occur in the following preferred order: practicable on-site mitigation; reasonably identifiable, available, and practicable off-site mitigation within the same watershed; within the same mitigation bank service area; in a watershed that is adjacent to the watershed in which the isolated wetland is located.

Mitigation for the proposed filling of a category 2 or 3 isolated wetland subject to a Level 3 Review shall occur in the following preferred order: practicable on-site mitigation; reasonably identifiable, available, and practicable off-site mitigation within the same watershed; within the same mitigation bank service area; in a watershed that is adjacent to the watershed in which the isolated wetland is located.

Mitigation for impacts to isolated wetlands shall be conducted at the following ratios:

Category 1 and 2 isolated wetlands (other than forested category 2 isolated wetlands): ratio rate of 2 x the size of the area of isolated wetland that is being impacted.

Forested Category 2 isolated wetlands: ratio rate of 2.5 x the size of the area of isolated wetland that is being impacted.

All other mitigation shall be subject to mitigation ratios established in rule 3745-1-54 of the Administrative Code.

In addition, this bill gives authority to the director of the EPA to impose any practicable terms and conditions on an individual State Isolated Wetland Permit to ensure adequate protection of state water quality and to ensure compliance with state or federal environmental laws administered by the EPA.

Mitigation Banking

Mitigation banking began in Ohio in 1992 as an agreement between the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, the Natural Resource Conservation Service, U.S. EPA, Ohio EPA, and the Ohio Department of Natural Resources. These six agencies form a mitigation bank review team (MBRT), with final approval for the creation of a mitigation bank residing with the U.S. Army Corps of Engineers. Mitigation banks are normally privately owned and operated, and operate under a five-year monitoring plan with the Army Corps. The five-year monitoring plan establishes standards, which the bank owner is solely responsible for meeting. These standards are set to guarantee that the mitigation of isolated wetlands have achieved a jurisdictional, functional, and self-sustaining status. After five years, and upon meeting these standards, a permanent conservation easement on the property is assigned to a non-profit entity, such as the Department of Natural Resources (DNR)¹³, a metro park, or a university, that will ensure that the isolated wetlands remain in perpetuity.

Mitigation banks work on a system of credits; one credit equals one acre of restored isolated wetlands. Because banks are privately owned, credit prices are determined by market forces. Currently, one credit costs between \$13,000 and \$20,000.

Table 4 contains a status of constructed mitigation banks, as well as projects that are currently being reviewed under the MBRT process in Ohio:

**Table 4
Constructed and Proposed Mitigation Bank Sites**

Site	Banker	County	Acreage	Status	Long-term Manager
Hebron State Fish Hatchery**	Ohio Wetlands Foundation	Licking	33 acres	Built. 5 years of monitoring concluded.	DNR, Division of Wildlife
Big Island Wildlife Area**	Ohio Wetlands Foundation	Marion	380 acres	Built. 5 years of monitoring concluded.	DNR, Division of Wildlife
Sandy Ridge Metro Park**	Ohio Wetlands Foundation	Lorain	115 acres	Built. In year 4 of monitoring.	Lorain Metro Parks
Slate Run Metro Park	Ohio Wetlands Foundation	Fairfield	130 acres	Built. In year 2 of monitoring.	Columbus Metro Parks
Little Scioto Bank	Wetlands Resource Center	Marion	130 acres	Built. In year 1 of monitoring.	DNR, Division of Wildlife
Panzer Brothers Bank	Panzer Brothers	Summit	95 acres	Built (in phases). In year 2 of monitoring.	Revere Land Trust

¹³ When turning a mitigation bank over to DNR, the agency normally charges \$1,000 per acre to cover the costs associated with long-term maintenance of the site.

Site	Banker	County	Acreage	Status	Long-term Manager
Grand River Sites	Wetlands Preservation, Inc.	Ashtabula	100 acres (at 2 sites)	Built. In year 2 of monitoring.	Mt. Pleasant Rod and Gun Club
Three Eagles Bank	Ohio Wetlands Foundation	Sandusky	150 acres	Built. In year 2 of monitoring.	DNR, Division of Wildlife
Trumbull Creek	Ohio Wetlands Foundation	Ashtabula	200 acres	MBRT agreement not yet signed	DNR, Division of Wildlife
Little Scioto Bank (Phase II)	Wetlands Resource Center	Marion	170 acres	MBRT agreement not yet signed	DNR, Division of Wildlife
	Regional Council of Park Districts	Erie, Sandusky, Medina, Lorain	Unknown	MBRT agreement not yet signed	Four-county metro parks system
Crystal Springs	Wetlands Preservation, Inc.	Carroll	Unknown	Planning stages	Mt. Pleasant Rod and Gun Club
	Leslie Family Trust	Unknown	50 acres	Planning stages	Mt. Pleasant Rod and Gun Club
	Wulsin Bank	Pike	Unknown	Planning stages	Unknown

** *Known* that credits are no longer available for sale

On-site Mitigation

As provided by the Ohio Department of Transportation (ODOT), costs associated with on-site mitigation run between \$35,000 and \$100,000 per acre. In one incidence, ODOT paid close to \$220,000 per acre.

According to information provided by the Mile High Wetlands Group, a mitigation banking company in Colorado, planning and implementing a mitigation project may require the expertise of a certified wetland scientist, or other professional discipline, to add expertise through the mitigation process. That process can include: 1) a site selection/feasibility analysis, 2) development of a conceptual design for regulatory review/approval, 3) negotiations with the regulatory agency regarding details of the plan, 4) preparation of construction design drawings/specifications, 5) contractor selection, 6) construction implementation and oversight, 7) as-built reports, 8) annual monitoring reports issued to the regulatory agency, 9) post-construction maintenance and corrective measures, and 10) a final delineation report.

Zero-Based Budget

This bill requires the Director of Budget and Management to prepare a full zero-based budget for the biennium ending June 30, 2005, for the Environmental Protection Agency, and one state agency,

selected by the Director, that has fewer full-time equivalent personnel than the EPA. The implementation of a zero-based budget would likely require the Office of Budget and Management, the EPA, and the selected state agency to prepare information in fiscal year 2003 for FY 2004-FY 2005 budget process. This may result in an increase in expenditures, depending on how it is accomplished. At this time, LSC fiscal staff cannot estimate the cost to implement a zero-based budget. Implementation of a zero-based budget may result in indirect future cost savings.

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required information is late and the payroll of the employer, the penalties under the bill could be more or less than the fines under current law. Employers with smaller payrolls may be assessed penalties at higher percentages than employers with larger payrolls.

- The bill requires the Fund to reduce penalties or refund penalties owed by local governments that could total up to \$3,879,000.

Detailed Fiscal Analysis

The bill modifies various penalties assessed against employers that fail to meet deadlines for submitting certain contributions and reports to the Ohio Police and Fire Pension Fund (Fund) and creates a new penalty for failure to meet a reporting deadline for service credit contributions. The bill also allows the Fund to reduce existing penalties against employers if the employer submits the reports as specified by the bill and pays the reduced penalties by June 1, 2002. The bill also provides for refunds of penalties that have been paid, under the same conditions for the reduction.

Changes in Penalties

The first two charts below show the two penalty schemes for late reporting as envisioned by the bill. The third chart shows the penalties assessed under current law and the penalty for the same violation under the bill.

Penalty Under ORC 742.352 (As in the Bill)

Days Late	Penalty
1-10	\$100
11-30	Greater of \$1000 or 1% of payment
31-180	Greater of \$3000 or 2% of payment
181-210	Greater of \$7500 or 5% of payment
211 days or more	Greater of \$7500 or 5% of payment plus \$50 per day

Penalty Under ORC 742.353 (As in the Bill)

Days Late	Penalty
1-10	\$100
11-30	\$1000
31-180	\$3000
181-210	\$7500
211 days	\$7500 plus \$3.75 per day

Comparison of Penalties Under Current Law and Under the Bill

Reporting Requirement	Penalty Under Current Law	Penalty Under Bill
Employee Contributions*	5% of total due	Penalty under ORC 742.352
Employer Contributions	5% of total due	Penalty under ORC 742.352
Form for Retiring Officer	\$100 per day	Penalty under ORC 742.353
Physical Examination**	\$100 per day	Penalty under ORC 742.353
Purchase of Service Credit	\$0	Penalty under ORC 742.352

*Current law allows the Fund to charge interest on the amount of the penalty if the penalty has not been paid within three months of being added to the regular employer billing. The bill allows the Fund to charge interest if the penalty has not been paid within sixty days of being added to the regular employer billing on the amount of the penalty *and* the total amount due.

**Current law requires the physical examination report to be sent to the Fund within thirty days after the employee becomes a member of the fund. The bill extends this deadline to sixty days.

Examples of Penalties

The following examples illustrate possible differences between the fines assessed under current law and the fines envisioned by this bill. (The penalties in the bill can be superseded if rules are adopted by the Fund establishing penalties not exceeding these penalties.) It would be impossible to give an exact dollar amount for the total amount of penalties that will be collected under the bill. The bill increases penalties dependent on the number of days the required information or contributions are late. This should serve as an incentive for employers to submit the required information in a timely matter. However, the actual future behavior of employers cannot be predicted.

Employer Contribution Example: An employer with a four-month payroll of \$600,000 fails to submit the required quarterly employer contributions of \$117,000 to the Fund. The employer contribution is 85 days past due. Under current law, the penalty is 5% of the total due. That totals \$5,850. Under the bill, the payment is considered 25 days late (both the bill and current law give employers a 60-day grace period before penalties are assessed). The bill requires a penalty of \$1000 or 1% of total payment due, whichever is greater. The 1% penalty would total \$1,170 and it would be assessed. However, if in this example the required contributions were only nine days late, the penalty would be \$100 instead of the current \$5,850. In most instances, the penalty under the bill would be less than the penalty in current law, however, the highest penalty under the bill as amended would equal the 5% penalty that is assessed currently, with an additional \$50 per day for each day over 210 days past due.

Employee Contribution Example: A smaller employer with a one-month payroll of \$75,000 fails to submit the required employee contribution of \$7,500 to the Fund. Under current law the employer is given a 30-day grace period. (The bill changes this to the last day of the month after the last day of the reporting period.) The current penalty would be 5% of the total amount due, which is \$375. Under the bill, the penalty for a payment one to ten days late would be \$100. If the payment were 11 to 30 days late, the penalty would be the greater of \$1000 or 1% of the total due. In this case the fine would be \$1000, 13.3% of the amount due. The penalty would increase subsequently, up to a possible \$7,500 plus \$50 per day, if the contribution is over 210 days past due.

Form for Retiring Member Example: Under current law, an employer who fails to return a form sent by the board for a retiring member will be fined \$100 per day, thirty days after receiving notice. Under the bill, the fine would be \$100 if one to ten days late; \$1000, if 11 to 30 days late; up to a fine of \$7500 plus \$3.75 per day if over 211 days late. To illustrate, current law would require a fine of \$3000 for a form thirty days late. Under the bill, the fine would be \$1000. Under both current law and the bill, the Fund is required to make payment to the retired member equal to the amount of the penalty if the member's pension doesn't commence by the ninety-first day after the Fund has sent a request for information to the employer.

Physical Examination Report Example: Under current law, a fine of \$100 per day is assessed for each day the physical examination report is late. (The report is considered late if it is not sent to the Fund within thirty days after the employee becomes a member of the Fund or 28 days after receiving a request for such a report from the board for a member who has applied for a disability benefit. The bill extends this deadline to sixty days). The bill applies the same penalties for this violation as for the form for a retiring member, which is illustrated above.

Purchase of Service Credit Report: Current law does not assess a penalty for an employer's late submission of the contributions and/or report for the purchase of service credit. The bill assesses the same penalties as are assessed for late submission of employer and employee contributions, as illustrated in the first chart.

Reduction and Refund of Penalties

The bill also includes a reduction and refund of penalties. An employer that has incurred a fine for failing to submit the physician's report shall have its fine reduced by ninety percent if the employer submits the report in the form required by the Ohio Police and Fire Pension Fund Board before the effective date of this bill. If the employer has paid the full amount of the fine before the effective date of this bill, the employer shall receive a ninety percent refund. According to the Fund, there are approximately \$4 million in fines that will be subject to this reduction and refund. If all employers were to submit the required physician's reports before the effective date of this bill, the total amount reduced and refunded would be approximately \$3.6 million.

An employer that has incurred a penalty between January 1, 2000 and the effective date of this bill for late submission of employer contributions or employee contributions and/or the corresponding reports shall have its penalty reduced by fifty percent under the bill if the report is submitted within six months after the report was due. According to the Fund, there are \$558,003 in penalties that will be subject to this reduction. If all employers were to submit the reports within six months after the report was due, the total amount reduced and refunded would be \$279,000.

LSC fiscal staff: Sean S. Fouts, Budget Analyst

HB0244EN

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2001*	FY 2002	FUTURE YEARS
Counties			
Revenues	- 0 -	Gain, minimal at most	Gain, minimal at most
Expenditures	- 0 -	Increase, most likely significant in the more populous counties	Increase, most likely significant in the more populous counties
Municipalities			
Revenues	- 0 -	Gain, minimal at most	Gain, minimal at most
Expenditures	- 0 -	Increase, minimal at most	Increase, minimal at most

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

*This analysis assumes that local governments will not begin to experience any noticeable fiscal effects resulting from the bill until the start of FY 2002.

- County sheriff departments will incur additional personnel expenditures for administration of the sex offender registration and notification system at the local level. These increases will depend upon county size and the number of juvenile sex offenders residing in each county. LSC fiscal staff believe that some jurisdictions will, as a result, require additional staff or the elevation of part-time staff to full-time status at an annual cost of \$10,000-to-\$20,000 or more.
- The additional fiscal burdens that many of the bill's provisions will place on county juvenile justice systems, in particular juvenile courts, will be greater in more populous jurisdictions where there are likely to be a larger number of juvenile sex offenders. While it is difficult to estimate what the magnitude of those additional fiscal burdens stemming from these provisions will be for juvenile courts around the state, LSC fiscal staff believe that the annual costs of those new fiscal burdens could be significant in many urban areas.
- It is likely that additional cases will be adjudicated in juvenile court and additional cases prosecuted in criminal court because juveniles or their parents or legal guardian fail to comply with the juvenile's registration requirements. These new cases will increase annual county and municipal expenditures related to investigating, prosecuting, adjudicating, defending (if indigent), and sanctioning these juveniles and their parents or legal guardian. LSC fiscal staff believe, however, that on an annual basis the number of new adjudications or criminal prosecutions in a given jurisdiction will be relatively small. Thus, any such increases in county and municipal expenditures related to these new adjudications and criminal prosecutions would likely be no more than minimal.
- Court cost and fine revenue generated for counties and municipalities will be affected by the bill as a result of the provisions that criminalize the failure of juvenile sex offenders and their parents or legal guardian to comply with the juvenile's registration requirements. At this time, LSC fiscal staff believe that a relatively small number of cases will actually be adjudicated in juvenile court or prosecuted in adult criminal court, and thus, at most, a minimal amount of additional court cost and fine revenue will be collected by counties and municipalities annually.

Detailed Fiscal Analysis

Sex Offender Registration & Notification

In Ohio, three classes of offenders currently are required to register upon release: sexual predators, habitual sex offenders, and sexually oriented offenders. All are required to provide fingerprints, photographs, criminal histories, and vehicle registration information.

Registration & Verification. Sex offenders must register with the county sheriff within seven days of entering/establishing residence in any county, and within seven days of an address change. These requirements also apply to out-of-state sex offenders establishing residence in Ohio. The penalties for failure to register in Ohio are dependent upon the sexually oriented offense the offender committed. Offenders who are required to register as the result of committing a misdemeanor sex offense would be charged with a first-degree misdemeanor for failure to register. A first-degree misdemeanor may be sentenced up to six months in jail and fined up to \$1,000. Offenders who are required to register as the result of committing a felony sex offense would be charged with a fifth-degree felony for failure to register. A fifth-degree felon may be sentenced to a prison term of between six and twelve months and may be fined up to \$2,500.

Notification. Current law relative to adult sex offenders requires county sheriffs to provide written notices containing specified information, and within a specified period of time, to victims, neighbors, and certain members of the public. The people and entities that have to be notified depend upon whether the individual in question is a sexually oriented offender, a habitual sex offender, or a sexual predator. Sexual predators and a select number of habitual sex offenders are subject to community notification. Most habitual sex offenders and no sexually oriented offenders are subject to notification. The bill does not use the term “sexually oriented offender” in relationship to juvenile offenders, instead the term “juvenile sex offender registrant” is used to designate the lowest level of juvenile sex offenders required by the court to register as a sex offender.

Sex Offender Registration & Notification System Duties

According to information provided by the Office of the Attorney General, there are roughly 3,200 adult sex offenders registered in Ohio. The operation of the Ohio sex offender registry is dependent upon interagency cooperation among many state and local governmental agencies, including the Department of Rehabilitation and Correction (DRC), the Bureau of Criminal Identification and Investigation (BCII), and county sheriff departments. All of these agencies carry a fiscal burden for their legally mandated involvement in the registry program.

DRC. At the time of a sex offender’s release from prison, DRC reviews the registry requirements, obtains background information on the offender, including the offender’s intended place of residence, and forwards this information to the county sheriff’s department in the intended area of residence and to BCII. The bill would require the Department of Youth Services (DYS) to function similarly to DRC. Because, however, DHS is smaller than DRC, the annual fiscal burden falling on DHS should be less.

County Sheriffs. County sheriffs currently bear the major fiscal burden of the sex offender registration and notification system. Offenders are required to register with the county sheriff, who is in turn responsible, in the case of some offenders, for notifying certain individuals and entities. County sheriffs are also required to forward address verifications and related offender information to BCII.

Bureau of Criminal Identification and Investigation. Pursuant to current law, the Office of the Attorney General has established and maintains the State Registry of Sex Offenders, which is housed at BCII. This registry contains all of the sex offender information forwarded from local officials and DRC. BCII also forwards this information to the FBI for inclusion in its National Sex Offender Database.

Operation of the Bill and Fiscal Effects

Number of Juvenile Sex Offender Registrants. The bill establishes the term “juvenile sex offender registrant” to distinguish juvenile from adult sex offenders. From information provided by DYS, LSC fiscal staff have ascertained that roughly one-third of the department’s approximately 2,000 juveniles in custody, or around 660, have been adjudicated delinquent due to a sex offense. The department has further estimated that, in any given year, the number of juveniles that would be registering as a result the bill could easily approach 700 or more, many of whom are sanctioned locally and not sentenced into the custody of DYS. Some number of those 700 or more youth will not be required to register, because, unlike adult sex offenders who register for all felonies and certain misdemeanors, the bill requires that the underlying offense committed by a juvenile must be a felony of the fourth degree or higher.

Two things need be noted about the age of the juveniles to whom the bill would apply. First, the bill requires that juveniles must be at least 14 years old for the requirements of registration and notification to be applied to them. Second, juveniles who are 16 or 17 years of age who commit serious sex offenses may already be subject to the existing registration and notification law because they are being bound-over and prosecuted in adult court. As a result of the bill, as well as the state’s existing bind-over law, the juveniles most likely to be subject to the bill will be 14 or 15 years of age. By setting the minimum age for registration at 14, a few juvenile offenders younger than 14 will likely be exempted from registration and possible notification requirements. This is not likely to significantly reduce the overall number of juvenile sex offender registrants because of the relatively small number of juveniles younger than 14 who commit applicable offenses.

An additional group of juveniles to whom the bill would apply are those adjudicated delinquent for a sex crime in another state and then move into Ohio. Within seven days of becoming a resident of Ohio, any juvenile who was required to obey a registration law by the state in which they were adjudicated delinquent must register with the county sheriff in their county of residence. In addition, even if not required to register by the state in which they were adjudicated delinquent for a sex crime, a juvenile must register with the county sheriff in their county of residence if they would be a mandatory “juvenile sexual offender registrant” under Ohio law. At this time, LSC fiscal does not believe that a large number of juveniles will be coming into Ohio from other states that would be subject to registration. Thus the cost to county sheriffs due to this provision of the bill should be minimal at most.

Under the bill, juvenile courts are charged with informing juvenile sex offender registrants of their registration requirements, county sheriffs are given information collection and dissemination duties, and the State Registry of Sex Offenders maintained by BCII will grow with the addition of juvenile sex offender registrants. In addition, DYS will be required to forward to BCII information on

juvenile sex offenders it releases, and, although the bill appears to be silent on the matter, will likely feel compelled to disseminate information to the affected juveniles and their parents or legal guardian, juvenile courts, and county sheriffs.

DYS. As was just mentioned, *DYS* will assume additional information dissemination duties that will be triggered each and every time it releases a juvenile sex offender. Our best estimate at this time is that the number of juveniles being released by *DYS* annually that would be affected by the bill could be in the range of 100-to-200. A conversation with the department on this matter led us to believe that the additional administrative burden associated with releasing these juveniles will create at most a minimal increase in its annual operating expenditures.

The bill also specifies that sex offenders committed to *DYS* be given treatment to decrease the likelihood that these juveniles would commit future sex offenses. This should not create additional costs for *DYS*, as the department already provides rehabilitative treatments to all sex offenders sent to its institutions.

BCII. Based upon information provided by the Office of the Attorney General, LSC fiscal staff have estimated that *BCII*'s current annual operating costs in relation to maintaining the State Registry of Sex Offenders can be detailed as follows:

- Salaries and fringe benefits total approximately \$143,000 annually for two full-time administrative and support positions, two part-time trainers, and one part-time Automated Fingerprint Identification System (AFIS) operator;
- An additional 18% of the salary cost for equipment and space (\$25,740); and
- Forms to be distributed to law enforcement total approximately \$5,000 annually.

From these numbers, LSC fiscal staff have been able to ascertain that *BCII*'s annual operating cost for the State Registry of Sex Offenders currently totals close to \$200,000. In addition, LSC fiscal staff have learned that the one-time initial set-up costs for this state registry totaled around \$70,000.

The addition of 700 or more juvenile offenders annually to the existing State Registry of Sex Offenders will increase *BCII*'s operational costs. Drawing again from a conversation with the Office of the Attorney General, LSC fiscal staff believe that the additional annual operating cost for *BCII* as a result of the bill will total less than \$200,000, which includes up to two additional staff and related maintenance and equipment expenses. It is also likely that *BCII* will incur a one-time start-up cost similar to that for the existing State Registry of Sex Offenders containing adult sex offenders. What is unknown is whether the Office of the Attorney General will wish to integrate the State Registry of Sex Offenders into AFIS. If they plan to do so, it could markedly alter the projected cost of system integration.

County Sheriffs. County sheriffs already have an assortment of information collection and dissemination duties under the state's existing adult sex offender registration and notification law. Under the bill, these duties will be expanded to be generally applicable to juvenile sex offenders. Internet dissemination of information on juvenile sex offender registrants would be restricted to only the most serious of felony sex-related offenses; however, the number of those juveniles that would be eligible for internet posting should be very small, as many are probably already being prosecuted and registered as

adult sex offenders. County sheriffs are also, under the bill, required to give notice to the principal where the juvenile sex offender attends school.

LSC fiscal staff are unable to precisely estimate the fiscal consequences of this additional duty that would be placed on county sheriff departments. LSC fiscal staff do believe, however, that in certain areas of the state the cumulative effects of having to keep track of an increasing number of juvenile sex offenders will increase a county sheriff's operating requirements to the point that an additional part- or full-time person has to be assigned or hired to handle these sex offender registration and notification tasks. The annual cost of adding another part- or full-time person could easily hit \$10,000-to-\$20,000 or more.

Courts. The bill also contains the following four provisions that will increase the burdens on county juvenile justice systems, in particular juvenile courts. First, juvenile courts are required to: (1) determine if a juvenile is an offender subject to registration, which would most likely include a psychological examination, and (2) notify juveniles of their registration requirements. These hearings would be held before disposition if the juvenile, regardless of age, has a prior record for a sexual offense. However, for juveniles with no previous adjudication for a sexual offense, the registration determination is made after the juvenile completes the sanction handed down by the court (if that sanction involves sentencing to a secure facility, otherwise the hearing would be held at the time of disposition).

For juveniles who are 16 or 17 years of age, this hearing is mandatory. If the juvenile in question is 14 or 15 years of age, the hearing is up to the discretion of the judge, and the judge may decide based a number of factors whether the juvenile should be subject to juvenile sex offender registrant requirements. This means that a single hearing will be needed to determine registration status. It is unclear what kind of fiscal impact this requirement will have on juvenile courts. Because of the likely number of cases involved and the difficult nature of the decisions being made, registration determinations in many jurisdictions will likely create annual costs for juvenile courts that exceed minimal.

Second, the bill requires juvenile courts to be responsible for notifying the following parties about the registration requirements of a particular juvenile: the juvenile, the juvenile's parents or legal guardian, BCII, and the county sheriff of the juvenile's county of residence. The bill is silent on how that notification is to be made. LSC fiscal staff believe that the method used will most likely involve some kind of form letter that will be delivered or mailed to the appropriate parties (except the juvenile and their parents or legal guardian who will receive copies in court).

Third, juvenile courts are also given authority over reclassification and declassification of juvenile sex offender registrants. A juvenile sex offender registrant has the option of appealing their status to the juvenile court that had original jurisdiction over their case. The first of these appeals can be made three years after the post-sanction hearing. The second appeal can be made three years after the first appeal, and then every five years after that appeal as long as the registration requirements apply. This means that, even after a person passes their age of majority, they would return to juvenile court to have their registration requirements modified or removed. A juvenile required to register as a sexual predator (which compels lifetime compliance with registration requirements) could file for a modification to be made every five years until they die. However, in a single hearing, the lowest level of

classification that a sexual predator would ever declassify to is juvenile sex offender registrant status. The declassification out of sex offender registrant status would have to be done in a separate hearing.

Habitual sex offenders would be permitted in a single hearing to have the burden of registering as a sex offender removed entirely, thus skipping the level of juvenile sex offender registrant. When looking at adult data, it is obvious that there are relatively few sexual predators; therefore, the more costly mandatory multiple hearing declassification process will be fewer in number. Because it is at the judge's discretion whether to grant a total declassification at the first hearing, it is extremely unclear what the ultimate cost of this provision would be. One thing is certain, however, sexual predators will always have at least one more hearing in their declassification process than will habitual sex offenders.

Fourth, the bill extends adult rights to juveniles subject to the juvenile sexual offender registration and notification provisions contained in the bill. Those rights include the opportunity to testify, present evidence, call and examine witnesses and expert witnesses, cross-examination of witnesses and expert witnesses, and the right to counsel and appointed counsel if indigent.

The additional annual fiscal burdens that these four provisions of the bill will place on county juvenile justice systems will be greater in more populous jurisdictions where there are likely to be a larger number of juvenile sex offenders. While it is difficult to estimate what the magnitude of those additional fiscal burdens stemming from these provisions will be for juvenile courts around the state, LSC fiscal staff believe that those annual costs could be significant in many urban areas.

It should also be noted that the bill includes language clarifying that a magistrate in the juvenile justice system can perform the same duties as a juvenile judge with regard to these registration and classification determinations. This clarification may in effect decrease some of the adjudicatory costs for the juvenile justice system, as a magistrate's time is going to be less expensive than that of a juvenile judge.

Failure to Comply. It is likely that additional cases will be adjudicated in juvenile court and additional cases prosecuted in criminal court because juveniles or their parents or legal guardian fail to comply with the juvenile's registration requirements. These new cases will increase annual county and municipal expenditures related to investigating, prosecuting, adjudicating, defending (if indigent), and sanctioning these juveniles and their parents or legal guardian. LSC fiscal staff believe, however, that on an annual basis the number of new adjudications or criminal prosecutions in a given jurisdiction will be relatively small. Thus, any such increases in county and municipal expenditures related to these new adjudications and criminal prosecutions would likely be no more than minimal.

State & Local Revenue. Court cost and fine revenue generated for counties, municipalities, and the state will be affected by the bill as a result of the provisions that criminalize the failure of juvenile sex offenders and their parents or legal guardian to comply with the juvenile's registration requirements. At this time, LSC fiscal staff believe that a relatively small number of these cases will actually be adjudicated in juvenile court or prosecuted in adult criminal court, and thus, at most, a minimal amount of additional court cost and fine revenue will be collected by counties and municipalities annually. The amount of additional locally collected state court cost revenue that would be collected and deposited to the credit of the state GRF and the Victims of Crime/Reparations Fund (Fund 402) will be negligible.

*LSC fiscal staff: Laura A. Potts, Budget Analyst
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- Counties could gain fee revenue and have increased annexation hearing and legal costs. Revenue gains could largely offset any cost increase.
- Overall, the bill could have a significant negative fiscal impact on municipalities. Significant cost increases could result from the change in the payment schedule to townships after an annexation and exclusion, from increased hearing and legal costs, and potential losses in revenue from an increase in the number of annexations denied.
- The bill could result in more denials of annexations, which could have varying impacts on school districts costs and revenues, depending upon the land use of the territory at the time of annexation, after annexation, and other factors.
- Overall, the bill could have a positive fiscal impact on townships, as a township would better be able to challenge an annexation that might have a negative fiscal impact on it, and the bill would enable townships to keep more revenue or receive higher payments from municipalities in cases when an annexation is approved.
- Townships would also have to pay fees to counties permitted under the bill and could choose to incur legal costs to hire expert witnesses, subpoena testimony, and other expenses it considers necessary for any potential annexation. However, increased negotiating position under the bill could make it easier for townships to obtain negotiated agreements from municipalities and reduce costs associated with annexation hearings.

Detailed Fiscal Analysis

Bill Provisions

The bill revises existing law and enacts new standards for the approval of municipal annexations, procedures applicable to municipal annexations, and statutory schedules of payments to be made to townships for the loss of tax revenues as a result of municipal annexations. It specifies that notice to property owners is sufficient if sent by regular United States mail to the tax mailing address listed on the county auditor's records, while notice to government officers shall be made by certified mail or in person. This notice is sent from the agent for the petitioners to the owner's property adjacent to the area for annexation. Current law has no provisions for property owner notification.

Impact of Changes to Normal Annexation Procedure

Most of the changes made by the bill to the normal annexation process could make it more likely that municipal annexations would be denied under the bill by giving county commissioners more discretion to deny annexations and making other changes. A 1995 LBO survey suggests that annexation petitions are typically approved.¹⁴ Reducing the number of annexations approved could cause municipalities to forgo tax revenue gains along with increases in expenditures for services that could have resulted from an annexation. Conversely, the denial of more municipal annexation requests could prevent the loss of

¹⁴ These survey results and their implications are referenced throughout the fiscal note. Specific key results from the survey are detailed at the end of the fiscal note.

township property tax revenues and prevent decreases in expenditures for services. There could also be fiscal implications for other entities, particularly school districts.

The overall impact, on both the annexing municipality and the affected township, would vary from case to case. Conventional wisdom suggests that annexations result in a fiscal benefit to the municipality and a fiscal loss to the township losing land. This is not necessarily the case. Research in this area suggests that annexation can be fiscally beneficial to either entity, to neither entity, or to both entities.¹⁵ The same can be said for the impact on taxpayers and schools in each community.¹⁶

For example, if an annexation results in commercial development that increases property values without bringing in many new students, a school district could gain revenue. Conversely, if an annexation resulted in a large residential development that brought many new students and relatively little additional tax revenue, a school district could have cost increases above the revenue gain. On the other hand, if the land use and development did not significantly change after annexation, there may be no notable fiscal impact.

The fiscal impacts of annexation depend on the fiscal position of each community and the particular circumstances surrounding each annexation. The land use type of the property when annexed, and in the years after annexation, affect the fiscal impact on both the municipality and the township. Typically agricultural land uses have lower service costs and generate lower revenues than other uses. Conversely, commercial and industrial uses can have relatively higher service costs, but also can generate higher revenue, particularly for municipalities that levy an income tax.

Under current law, a regular annexation petition must be approved if the board of county commissioners (hereafter the Board) finds that all procedural steps were followed and it determines that the:

- Territory to be annexed is not unreasonably large
- General good of territory is served by the annexation, which has been defined by the courts to mean the interests of the property owners in the territory to be annexed

The bill defines the “general good of territory” so that it takes into account both the interests of the property owners in the territory to be annexed and the interests of any unincorporated territory not included in the petition that is within one-half mile of the territory to be annexed. This criterion gives the Board much more discretion to approve or deny an annexation.

The bill also requires the Board to find that no street will be divided by a boundary line creating a road maintenance problem or that the municipality has agreed to assume maintenance responsibilities for the street. This criterion adds another largely factual criterion for denying an annexation that could make it more difficult to have an annexation approved. This provision could also induce a municipality to take on additional maintenance responsibilities so that an annexation it supports is approved. This is a cost that would not have to be incurred under current law.

15 Edwards, Mary. “Annexation: A “Winner Take All Process?” *State and Local Government Review*. Fall 1999. Vol. 31, No. 3. Fall 1999. Carl Vinson Institute of Government: Athens, Georgia, pg. 229.

16 An indirect effect of an annexation can be the changing of school district boundaries. If only part of a school district is annexed, the State Board of Education must approve the transfer unless the school district has entered into an agreement with an urban school district that governs the transfer.

Another key provision in regard to fiscal impact is that the bill makes townships a necessary party in the annexation hearing and gives townships standing to appeal an annexation decision. The bill also lowers the burden of proof in cases where an approved annexation is appealed. Current law requires appellees to prove their case with clear and convincing evidence.

The bill would change this to a “preponderance of the evidence” test, which is a much lower standard. These changes, along with the expanded reasons for denying an annexation listed above, could result in longer annexation hearings, more challenges to annexations, and more appeals of annexation decisions. Therefore, the cost of the annexation process could increase and the number of annexations denied and appealed could increase. This could increase the costs incurred by counties, municipalities, townships, and property owners for the annexation process.

Impact of Special Annexation Procedures

The bill creates three “special” annexation procedures that may be used when all landowners have signed an annexation petition and have requested one of the special procedures be used. The LBO survey suggests that in most cases it is the property owners in an area that initiate the annexation process, and, in a little less than 10% of annexation cases, at least one property owner opposes the petition. The special procedures could shorten the time and cost of an annexation process, particularly in cases where neither the township(s) nor the municipality objects to the petition. LBO survey data suggest that about one-third of annexations are opposed by at least one person or entity, with townships accounting for about two-thirds of those objections. In addition to reducing the time and cost of the process, the three procedures have unique fiscal implications that are explained below:

Special Procedure One: A county must approve an annexation *without a hearing* at its next regular session after the petition is filed when all parties, including the annexing municipality and any affected townships, have consented to the annexation and the municipality and township(s) have signed an annexation agreement or a cooperative economic development agreement (CEDA)¹⁷. The fiscal impact of signing an annexation or CEDA agreement could vary depending upon the agreement, but any positive or negative impact could be significant. Annexations approved under this procedure are not open to appeal, which would eliminate the possibility of parties having to incur legal expenses over an appeal of the decision. However, it seems unlikely that an appeal would occur under current law if all landowners and the township and county approved of the annexation and had signed a CEDA. On the other hand, the changes made in the bill could make it more likely that parties will seek and reach an agreement to avoid lengthy hearings and appeals.

Special Procedure Two: The major difference between special procedure two and the other special procedures or the normal procedure is that any territory annexed under this procedure cannot be

¹⁷ All but one provision allowed under the newly created annexation agreements can currently be agreed to under the CEDA Law. The one new provision permits an agreement as to the reallocation of minimum mandated levies established under the Tax Levy Law *in areas annexed*. The potential effects of this are discussed in the “*Other notable changes*” section of the analysis in regard to inside millage.

excluded from the township, meaning that the township could continue to collect general property tax revenue, in certain cases, and some inside millage. Any residents in an unexcluded, annexed, area could have to pay more in taxes than other residents in the township or municipality, as they could have to pay certain property taxes to both entities. Annexations approved under special procedure two are not open to appeal.

The second procedure is more like current law in that the reasons for which the annexation can be denied are limited largely to factual determinations, making it more likely that the annexation will be approved. However, there are more factual criteria (8 in total) to be met regarding procedural matters, the size and location of the area to be annexed, and service provision, which decreases the likelihood of approval compared to current law. The eight criteria include the requirement that no street will be divided by a boundary line creating a road maintenance problem or that the municipality has agreed to assume maintenance responsibilities for the street. This provision could induce a municipality to take on additional maintenance responsibilities so that an annexation it supports is approved. This is a cost that would not have to be incurred under current law. If the board determines that the special criteria have not been met under this procedure, it must convert the annexation case back to the procedures and decision criteria for a regular annexation. These changes could reduce the likelihood of an annexation approval and increase the costs and time spent deciding an annexation request compared to current law.

Special Procedure Three: The most important aspect of the third procedure is that the petitioners must demonstrate that the purpose of the annexation is to undertake a “significant” economic development project. The bill defines significant to mean a project will result in more than \$10 million in private investment, not including any amounts raised through tax increment financing, and more than \$1 million in new payroll. If the annexation is approved, the territory cannot be excluded from the township. This could mean a reduction in lost tax revenue for townships.

The definition of a “significant” economic development is such that this provision could likely not be used in most cases, except for the larger economic development projects undertaken in the state. However, for projects that obviously would meet the criteria, the likelihood of approval would be quite high, as is the case under current law. There would also be no possibility for appeal and the costs associated with an appeal if the annexation were approved using this procedure. The Department of Development must certify that a project meets the threshold amounts set in the bill. If the Department of Development certifies that the project meets the threshold amounts, the criteria is deemed to have been met and the annexation cannot be appealed on this basis.

The third procedure is more like current law in that the reasons for which the annexation can be denied are limited largely to factual determinations, making it more likely that the annexation will be approved. However, there are more factual criteria (5 in total including the significant economic development certification) to be met regarding procedural matters and service provision, which decreases the likelihood of approval compared to current law. The five criteria include the requirement that no street will be divided by a boundary line creating a road maintenance problem or that the municipality has agreed to assume maintenance responsibilities for the street. This provision could induce a municipality to take on additional maintenance responsibilities so that an annexation it supports is approved. This is a cost that would not have to be incurred under current law.

Annexations approved under this procedure are not open to appeal, and a landowner that signed the petition can only appeal a denial of the annexation. This change would reduce the likelihood of parties having to incur legal expenses over an appeal of the decision.

Other Selected Provisions

Changes primarily affecting counties:

1. The bill allows boards of county commissioners to establish fees to cover the costs incurred in annexation proceedings and to require a deposit. Compared to current law, the change could result in a revenue gain to counties and increased costs for any property owner, municipality, or other entity filing an annexation petition. County commissioners are not currently allowed to charge for annexation proceedings. Under the bill, the responsibilities of the county commissioners with regard to annexation proceedings are greatly expanded along with the ability to charge “reasonable” fees. Therefore, counties may experience an increase in expenditures and a gain in revenues that could largely offset the cost.
2. The bill requires the county to keep a record of any annexation hearing. There should be little to no additional cost for this provision, since counties already would keep some record of these proceedings. Also, if any party wants a court reporter to record the hearing or a transcription of the proceedings that party must pay the additional cost.
3. The legislation requires counties to serve individuals with subpoenas as requested by the parties to the annexation, which could result in increased costs. However, the bill permits counties to charge the parties fee and mileage expenses that could offset this cost.

Changes primarily affecting municipalities and townships

The bill changes payment schedules that municipalities have to pay townships for the loss of tax revenue when an area is annexed and excluded under any of the procedures of the bill, unless there is an annexation agreement or CEDA. These changes could significantly increase the cost of annexation to a municipality if it ever seeks to exclude the annexed area from the township. The bill’s new payment schedule could also result in a significant revenue gain to townships if and when an annexed area is excluded from the township.

In the event that a municipality grants a tax abatement on the annexed territory, the municipality must pay the township an amount equal to what the taxpayer would have owed in taxes had the exemption not been granted. This provision could significantly increase expenditures for certain municipalities that offer tax abatements.

Municipal costs could be incurred if a city chooses to provide optional and additional services to an annexed territory.

There are two areas of the provisions with fiscal effects.

1. Fee and mileage expenses incurred by a county board of commissioners for the issuance and mailing of subpoenas for witnesses or for books, papers, correspondence, memoranda, agreements, or other documents or records relevant to the annexation petition shall be paid in advance by the party making the request for the subpoena, and the remainder of these expenses shall be paid out of fees charged by the board for the annexation proceedings. This provision has offsetting costs.
2. The second fiscal effect is found in the reparations of moneys from municipalities to townships. The reparations schedule is shown in the following table.

Reparation Schedule of Moneys Paid by Municipalities to Townships for Annexed Township Areas	
TAX TYPE: Commercial, Industrial, Real, Personal, and Public Utility	
Years Following Effective Annexation Date	Percent of Moneys Townships Would Have Kept if No Annexation Had Occurred
1-3	80.0%
4-5	67.5%
6-7	62.5%
8-9	57.5%
10-12	42.5%
TAX TYPE: Residential and Retail Property	
Years Following Effective Annexation Date	Percent of Moneys Townships Would Have Kept if No Annexation Had Occurred
1-3	80.0%
4-5	52.5%
6-10	40.0%
11-12	27.5%

For comparison, the reparations schedule in *current law* is shown in the following table.

Current Law for Reparations of Moneys Paid by Municipalities to Townships for Annexed Township Areas	
TAX TYPE: Real, Public Utility, and Tangible Personal Property	
Years Following Effective Annexation Date ("Annexation Period" of 1-12 months)	Percent of Moneys Townships Would Have Kept if No Annexation Had Occurred
1-3	100 %
4	80 %
5	60 %
6	40 %
7	20 %
Years Following Effective Annexation Date ("Annexation Period" of 13-24 months)	Percent of Moneys Townships Would Have Kept if No Annexation Had Occurred
1-2	100 %
3	80 %
4	60 %
5	40 %
6	20 %
Years Following Effective Annexation Date ("Annexation Period" of 25-36 Months)	Percent of Moneys Townships Would Have Kept if No Annexation Had Occurred
1	100 %
2	80 %
3	60 %
4	40 %
5	20 %

The bill also modifies provisions that specify when a municipality can petition to annex property. Notable differences between current law and the bill include:

- A county must approve any request to annex state land if the Director of Administrative Services consents to the annexation. There is no provision for this under current law. Such annexations would be rare.
- The bill removes a current provision that allows municipalities to put an annexation on the ballot to be voted on. This provision is rarely if ever used by municipalities and would likely have no practical impact.
- The legislation prohibits a municipality from purchasing property below its appraised fair market value, annexing the property, and then selling back to the original owner. This change could have an impact on affected municipalities, townships, and property owners by making such transactions more difficult. However, the provision could probably be circumvented by creating a corporation to sell the property back to or involving a third party. This fact and the fact that such instances likely make up a small percentage of all annexations should severely reduce, if not negate, the fiscal impact of this change.
- The bill prohibits land annexed under a municipal petition from being excluded from the township. This change could reduce the negative fiscal impact on townships of such annexations and could mean that the property owners will have to pay more in taxes than under current law. The fact that such instances rarely occur should the fiscal impact of this change relatively small.

The bill permits townships to spend general fund moneys to cover any costs associated with an annexation proceeding, including hiring witnesses and consultants. Current law only permits townships to hire attorneys to represent the township. Townships could choose to incur increased legal costs under this provision.

Other notable changes

1. The bill specifies the procedure for municipalities and townships for sharing inside property tax millage when annexed territory has not been excluded from the township. Basically, if the municipality and township cannot reach an agreement, the millage is split equally. The bill requires other entities to be held harmless by any millage split under these circumstances. Depending on current practice in counties, this specification could have no impact or a revenue gain or loss for affected municipalities, townships, and other local governments.
2. The bill changes hearing notice requirements that could negligibly increase or decrease notification costs for a particular annexation, depending upon the number of property owners involved. Petitioners would bear any additional costs. Typically, property owners are the petitioners. Notable changes include requiring the petitioners to:
 - Publicize the hearing at least once in a newspaper prior to the meeting instead of for four consecutive weeks

- Send mail notification about the hearing to all property owners in the territory proposed for annexation. The cost increase or decrease resulting from these changes could be minimal.

For example, assuming a newspaper advertisement is \$50, current law would require the petitioners to pay \$200 in newspaper advertising. Assuming it costs 50 cents in materials and time to send out a mail notification and that there were less than 300 property owners to be notified by mail, the petitioners would realize a slight savings in notification costs after paying for the mailing and one newspaper advertisement. Every mail notification beyond 300 would cost an additional 50 cents in expense over current notification costs.

3. The bill prohibits an annexation from being denied simply due to procedural errors. There could be little to no impact from this provision over current law. In practice, under current law, denials or successful appeals for such errors are rare to nonexistent.
4. The legislation requires that all signatures on an annexation petition be obtained no more than 180 days before the filing date. This change could make it more difficult to obtain enough valid signatures for an annexation petition. In turn, this could reduce the number of valid annexations filed and/or approved.
5. The bill specifies that a person who owns more than one parcel of real estate can only be counted as one owner for purposes of signing a petition. Depending upon current practice in a county, this change may or may not make it more difficult to obtain the necessary signatures for a petition.

Annexation Activity in Ohio

According to the Secretary of State's records, 202 annexations became effective in 1999, 317 became effective in 1998, and 334 in 1997.

In 1995, LBO surveyed all 88 Ohio counties on annexation activities within each county from 1990 to 1994. Thirty-seven of 88 counties responded, reporting 957 annexation request filings in the five-year period. Among those responding, the annual average was 191 annexation filings, or 26 per county. Fourteen counties (or 38%) averaged at least one annexation filing per year. However, only two counties, Franklin and Montgomery, averaged more than 10 annexation requests per year. In fact, Franklin county accounted for nearly one-third of all the annexation filings each year with an average of 55 annexations.

Of the 957 annexation filings reported, the county commissioners approved 877. In more than 60% of the cases, property owners initiated the annexation process. From 1990 to 1994, 286 filings were opposed by one or more entities. Of the annexations opposed:

- 1 was opposed by a city
- 3 by villages
- 7 by other entities
- 83 by individuals
- 192 by townships

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- The Department of Public Safety estimated decreased costs for the Bureau of Motor Vehicles (BMV) associated with allowing electronic dealers to issue temporary license placards. There may be **decreased costs of up to \$538,700 annually** associated with a reduction in data entry.
- **Public Safety estimated total one-time data processing costs of implementing SB 59 to be \$292,500 (\$150,000 for existing internal staff and \$142,500 for consultants).**
- SB 59 requires that the Registrar of Motor Vehicles will adopt rules to establish a pilot program to appoint limited authority deputy registrars to conduct: initial motor vehicle registrations, transfer motor vehicle registrations, and vehicle inspection number (VIN) inspections. It is unknown how many LADRs will be appointed, however, the following estimate was provided by the Bureau of Motor Vehicles reflecting **total one-time costs of \$189,300 and annual costs of \$591,000** for the Department.
- Potential **annual losses of \$300,000 in revenue** to the Department of Public Safety have been estimated associated with allowing the public to access motor vehicle title information using electronic means. No fee will be charged for this access. Any loss to the BMV's 4W4 Fund may impact local governments when monthly redistributions of revenue occur.
- Public Safety estimates that the process to allow individuals to access vehicle title information electronically may be outsourced to a third party for **an unknown, additional annual cost**.
- The bill allows the Registrar of Motor Vehicles to use money from the Automated Title Processing Fund to pay expenses related to implementing the provisions of this bill. It is assumed that any one-time and on-going costs for the Department of Public Safety, the Department of Natural Resources, the Clerks of Courts, and Limited Authority Deputy Registrars would be funded by the Automated Title Processing Fund. Based upon BMV estimates **additional costs of \$786,300 in FY02 and \$603,000 in FY03 may occur related to implementing the pilot program**. These costs are **not factored into the ATPS expenditure line in the table above but are within the agency expenditure lines for DNR and Public Safety**.
- The Registrar of Motor Vehicles is required to make monthly payments, from the Automated Title Processing Board Fund to any Clerk who certifies a net loss for an applicable reporting period as determined by the Registrar. Payments shall equal 100 percent of the net loss during the first year, 75 percent during the second year, and 50 percent during the third year. Using a report provided by the Clerks of Courts, it appears that there were approximately 1.6 million annual transactions where a vehicle was purchased in a different county than where the vehicle was actually registered. It was assumed that all of these transactions would result in a shift of \$2.25 per title between Clerks of Courts. In addition, there will be a revenue loss for the Clerks associated with no longer collecting a \$2.00 fee for title data. As a result, it is estimated that the ATPS Fund may provide **\$3.6 million in the first year, \$2.7 million in the second year, and \$1.3 million in the third year** after the effective date to Clerks of Courts as reimbursement for any net losses in revenues. The BMV has also provided an estimate that the fund will provide **\$6.7 million in FY02, \$5.0 million in FY03, and \$3.4 million in FY04**.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2001	FY 2002	FUTURE YEARS
Counties (Clerks of Courts)			
Revenues	Potential loss for some and potential increase for others	Potential loss for some and potential increase for others	Potential loss for some and potential increase for others
Expenditures	- 0 -	- 0 -	- 0 -
Counties, Municipalities, and Townships			
Revenues	Potential loss of approximately \$300,000	Potential loss of approximately \$300,000	Potential loss of approximately \$300,000
Expenditures	- 0 -	- 0 -	- 0 -
County Certificate of Title Administration Funds			
Revenues	Potential gain	Potential gain	Potential gain
Expenditures	- 0 -	- 0 -	- 0 -

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

- Allowing for cross-county titling **may decrease revenues for some clerks and increase the revenues of other clerks.** Currently, vehicle or watercraft owners may complete title transactions only with the clerk in their county of residence. As a result, the clerks collect and retain service and poundage fees. If this bill is enacted, individuals may use any clerk to process title transactions and those clerks will retain any fees.
- The Registrar of Motor Vehicles is **required to make monthly payments, from the Automated Title Processing Board Fund to reimburse any Clerk who certifies a net loss for an applicable reporting period** as determined by the Registrar. Payments shall equal 100 percent of the net loss during the first year, 75 percent during the second year, and 50 percent during the third year.
- Eliminating the requirement that an application for a title or an assignment of a title for transactions, except for casual sales, be sworn to before a notary public may result in a **minimal reduction in revenues for Clerks of Courts.** Clerks currently charge a \$1.00 fee associated with this function.
- Allowing Clerks to charge a \$5.00 fee for each “non-negotiable evidence of ownership” **may increase revenues collected by counties** associated with: watercrafts, outboard motors, motor vehicles, off-highway vehicles, and all-purpose vehicles. The number of individuals who may request this document is unknown.
- As BMV’s revenue sources increase or decrease, revenues available for redistribution to local governments increase or decrease. SB 59 **appears to reduce BMV Fund 4W4 revenues by approximately \$300,000** therefore; local governments may receive lower monthly revenue redistributions from the state.
- Fees collected by Clerks of Courts for conducting deputy registrar services or conducting transactions or inspections as a limited authority deputy registrar will be paid into county Certificate

of Title Administration Funds. Therefore, these county funds may experience an increase in revenues.

Detailed Fiscal Analysis

Senate Bill 59 proposes several changes to the current motor vehicle titling system for motor vehicles, off-highway motorcycles, all-purpose vehicles, watercraft and outboard motors. The following estimate includes various references to sections within the bill, however, it is intended to provide examples of places to find relevant text and it not intended to provide an exhaustive list of cites for each fiscal impact. For a comprehensive list of sections affected by the bill, please see the Legislative Service Commission's bill analysis.

DEPARTMENT OF NATURAL RESOURCES: Watercraft and Outboard Motors:

1. Paperless Titles and Public Access to Information: Individuals may decide to not have a paper title printed when they apply for a certificate of title from a clerk of court. If a paper copy were not issued, the electronic record would become the official record (Sec. 1548.021). In addition, it allows the public to access title information using electronic means; no fee will be assessed (Sec.1548.141).

- **Fiscal Impacts:** The Division of Watercraft estimates **annual maintenance costs of approximately \$12,000**. The Department **estimates a minimal annual revenue loss** associated with no longer receiving a fee for providing this information.

DEPARTMENT OF PUBLIC SAFETY: Motor Vehicles (including Mobile Homes and Recreational Vehicles); Off-Highway Motorcycles, and All-Purpose Vehicles:

1. Temporary License Placards: Require dealers to electronically notify the Registrar of the issuance of temporary license placards (Sec. 4503.182).

- **Fiscal Impacts:** The Department of Public Safety estimates potential **decreased costs for the Department of up to \$538,700 annually** associated with a reduction in data entry.

2. Public Access to Information: Allow the public to access motor vehicle title information using electronic means; e.g., Internet access; no fee will be charged (Sec. 4505.141 and 4519.631).

- **Fiscal Impact:** The Department of Public Safety estimates a **potential annual loss of \$300,000 in revenue**. Any loss to the BMV's 4W4 Fund may impact local governments when monthly redistributions of revenue occur. The Department also estimates that the process may be outsourced to a third party. This would be similar to what the BMV currently does with vehicle registration renewals performed on-line for a per transaction cost of \$1.59 and would be **an additional cost to the Department**. Total annual costs are unknown at this time since the number of individuals who would choose to access this information on-line is not known.

3. Costs Associated with Data Processing Changes:

- **Fiscal Impact:** The Department estimates total **one-time costs** of implementing SB 59 to be **\$292,500** (\$150,000 for existing internal staff and \$142,500 for consultants).

CLERKS OF COURTS:

1. Allow for Cross-County Titling: A certificate of title may be filed electronically by any clerk of courts; fees will be kept by the clerk performing the transaction; and information shall be sent to a clerk in an individual’s county of residence (Sec. 1548.06 and 4505.06 (A)).

- **Fiscal Impact:** This provision **may decrease revenues for some clerks and increase the revenues of other clerks.** Currently, vehicle or watercraft owners may complete title transactions only with the clerk in their county of residence. As a result, the clerks collect and retain service and poundage fees. If this bill is enacted, individuals may use any clerk to process title transactions and those clerks will retain any fees.

2. Require Fees to be Deposited into Certificate of Title Administration (CTA) Funds: Fees collected by Clerks of Courts for conducting deputy registrar or limited authority deputy registrar transactions shall to be deposited into county CTA Funds. This fund is to be used to pay for costs associated with processing titles. However, if funds exceed needs, the surplus may be transferred to the county general fund and used for other county purposes.

- **Fiscal Impact:** This provision **may increase revenues for county Certificate of Title Administration Funds.**

3. Allow Clerks to Assess a \$5.00 Fee for Non-Negotiable Evidence of Ownership Documents:

- **Fiscal Impact:** Allowing Clerks to charge a \$5.00 fee for each “non-negotiable evidence of ownership” **may increase revenues collected by counties** associated with: watercrafts, outboard motors, motor vehicles, off-highway vehicles, and all-purpose vehicles. The number of individuals who may request this document is unknown.

4. Eliminate Notary Requirement: Transactions associated with other than casual sales will no longer require an application for title or an assignment of title to be sworn to before a notary public.

- **Fiscal Impact:** Clerks may experience a minimal reduction in revenues associated with a loss of \$1.00 per transaction.

PILOT PROGRAM FOR LIMITED AUTHORITY DEPUTY REGISTRARS (LADRs):

SB 59 requires that the Registrar of Motor Vehicles will adopt rules to establish a pilot program to appoint limited authority deputy registrars to conduct: initial motor vehicle registrations, transfer motor vehicle registrations, and vehicle inspection number (VIN) inspections. A LADR may collect a \$2.25 fee for each transaction or a \$1.50 fee for each physical inspection that is conducted. Until the Registrar adopts rules to establish this pilot, it would appear there are no stated constraints on which groups may be eligible to be appointed by the Registrar.

- **Fiscal Impacts:** It is unknown how many LADRs will be appointed, however, the following estimate was provided by the Bureau of Motor Vehicles reflecting **total one-time costs of \$189,300 and annual costs of \$591,000:**

<u>Cashiers Staff (annual costs)</u>	
3 Accountant Examiner III Staff	\$135,000
<u>Deputy Registrar Field Staff (annual costs)</u>	
10 Deputy Registrar Field Rep Staff	\$450,000
<u>Deputy Registrar Field Staff Equipment (one-time costs)</u>	
10 Vehicles	\$165,200

10 Laptop Computers	\$ 24,100
<u>Bank Charges (annual costs)</u>	\$ 6,000

Assumptions Used For Fiscal Impacts:

1. 10 Clerks of Courts and 100 Dealers will participate in the pilot program for Limited Authority Deputy Registrar (LADR). Should the participation be higher, the costs would also increase.
2. The BMV will pay the banking costs for Clerks of Courts who become LADR's, but Dealers will be responsible for their own equipment, banking, and communication line expenses.
3. Inventory for vehicle registration transactions will not be maintained at the LADR's. (The BMV will mail the completed transactions. Customers will pay for associated postage costs.)

AUTOMATED TITLE PROCESSING FUND:

Using Fund for Expenses: Allow the Registrar of Motor Vehicles to use money from this fund to *pay expenses* related to implementing the provisions of this bill (Sec. 4505.25). Since additional funds are not appropriated for this purpose, the Department of Public Safety will be required to request additional spending authority from the Controlling Board. It is assumed that **any one-time and on-going costs** for the Department of Public Safety, the Department of Natural Resources, the Clerks of Courts, and Limited Authority Deputy Registrars would be funded by the Automated Title Processing Fund.

- **Fiscal Impact:** Total annual fiscal impacts **are unknown** at this time due to uncertainties related to the number of Limited Authority Deputy Registrars who may be appointed. However, assuming all state agency costs are covered, the **minimum total impact may include:**
 1. Reimbursements for DNR's **on-going** data processing costs = **\$12,000**
 2. Reimbursement for Public Safety's **one-time data processing costs** = **\$292,500**
 3. The LADR pilot costs may include **additional staff and operating expenses for Public Safety are estimated at \$189,300 in FY02 and \$591,000 in FY03.**
 4. A portion of Public Safety's costs may be offset by the \$538,700 saved by having dealers electronically process temporary license placards.

Reimbursing Clerks for Net Revenue Losses: In addition, Section 5 of SB 59 will allow the Clerk of Courts to be reimbursed for a portion of net revenues lost during the first three years following the effective date of the bill. The Registrar of Motor Vehicles is required to make monthly payments to any Clerk who certifies a net loss for an applicable reporting period as determined by the Registrar. Payments shall equal 100 percent of the net loss during the first year, 75 percent during the second, and 50 percent during the third.

- **Fiscal Impact:** Using a report provided by the Clerks of Courts to estimate impacts, it appears that there were approximately 1.6 million annual transactions where a vehicle was purchased in a different county than where the vehicle was actually registered. It was assumed that all of these transactions would result in a shift of \$2.25 per title issued between Clerks of Courts. As a result, it has been estimated that the ATPS Fund may provide \$3.6 million in the first year, \$2.7 million in the second year, and \$1.3 million in the third year after the effective date to Clerks of Courts as reimbursement for any net losses in revenues. There may be additional unknown losses due to fees no longer be assessed for title data sales.
- However, the Department of Public Safety has estimated potential revenue shifts associated with cross-county titling and revenues lost from the sale of title data of \$6.7 million in the first year, \$5.0 million in the second year, and \$3.4 million in the third year resulting in a **range of \$3.6 -**

\$6.7 million in the first year and \$2.7 - \$5.0 million in the second year, and \$1.8 – \$3.4 million in the third year potentially being reimbursed by the ATPS Fund.

It should be noted that **any significant depletion of the fund might result in the need to increase fees in the future if the original purpose of the fund is to be completed** – to provide for an ongoing automated title processing system for the State of Ohio.

MOTOR VEHICLE DEALERS:

1. Electronic Motor Vehicle Dealers: Allow the Registrar to designate dealers as “electronic motor vehicle dealers” providing certain criteria are met; require electronic dealers to use computer equipment purchased and maintained by the dealer (Sec. 4503.034, Sec. 4519.511, and Sec. 4503.182 (B)).

- **Fiscal Impacts:** Public Safety assumes that the Bureau of Motor Vehicles would not be responsible for the installation or operation of a dealer’s data communications line. Therefore, **no costs to the state would accrue** associated with this provision.
- It is permissive upon dealers to become electronic dealers and, if they choose to do this, it would be their responsibility to purchase necessary computer equipment. It has been estimated that **costs of approximately \$2,000 would occur for each electronic dealer.**
- In combination with the cross-county titling provision, **dealers would experience reduced costs** associated with no longer having to send “runners” around the state to have their title work processed.

2. Non-Negotiable Evidence of Ownership: Allow electronic motor vehicle dealers to print a non-negotiable evidence of ownership and require that they pay the clerks of courts a \$5.00 fee (Sec. 4505.08 (G) and Sec. 4505.09 (A)).

- **Fiscal Impacts:** The fiscal effect should be **neutral** since the new \$5.00 fee is consistent with current fees.

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Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2002	FY 2003	FUTURE YEARS
Counties			
Revenues	Loss of revenue, partially offset by state reimbursement	Loss of revenue, partially offset by state reimbursement	Loss of revenue, partially offset by state reimbursement
Expenditures	- 0 -	- 0 -	- 0 -

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

- Loss of revenue to county recorders as a result of the elimination of most county lien filings. For the year 2000, on the county level, Ohio had approximately 270,000 UCC filings with statewide county revenue of \$2.5 million.
- Counties will be reimbursed by the Secretary of State based on the following percentages: 50% in state FY 2002, 40% in state FY 2003, 30% in state FY 2004, 20% in state FY 2005, and 10% in state FY 2006.

Detailed Fiscal Analysis

Article 9 of the Uniform Commercial Code involves secured transactions such as mortgages on loans involving collateral. As of 1999, 32 states had adopted Article 9.

Fiscal and Operational Impact on Secretary of State

The Secretary of State will realize the following impacts from SB 74:

1. **Two-day processing time.** The two-day turnaround timeline for entry of filing data at the Secretary of State could create a need for staff training and/or increase in staff number. Failure to adhere to the two-day processing time could result in civil liability to the Secretary of State's office.
2. **Information Technology operating system upgrades.** Of the two basic types of searches, uncertified and certified, the revised certified search procedures proposed in SB 74 could cause the Secretary of State's current operating systems to need one-time adjustments and upgrades so that search results comply with legislated rules. Estimated costs to the Secretary of State amount to approximately \$1.1 million to bring the SOS's systems into compliance with Revised Article 9, as proposed in SB 74. Part of the upgrades would include modifications for weeding out bogus lien filings.
3. **Increased workload to Secretary of State.** Four additional filings are proposed for addition to those already accepted by the Secretary of State. Two of these filings

constitute (a) the transfer of all *original* agriculture lien filings, which are currently filed with county recorders, to the Secretary of State's filing system, and (b) the *removal* of the original agriculture lien filings when the original liens are paid off, which are also currently filed with the county Recorders. These two combined agricultural lien filings equal nearly 100,000 filings per year. This number is estimated to increase by approximately 5% in future years.

4. **Production of records for sale in every medium and in bulk.** The Secretary of State may experience an increase in requests for records and subsequent increase in costs if records are made available for sale in *every* medium versus the current cost-effective CD-ROM availability of records, especially considering the reproduction costs of images. Under current law, the SOS may only charge "actual cost" for records. The additional volume in requests could add unrecoverable costs for processing and human resources. Likewise, filling requests for bulk quantities would add expenses to the Secretary of State's budget.
5. **Reimbursement costs to county recorders.** The Secretary of State's graduated reimbursement of lost revenue associated with filings to the county recorders would constitute an expense to the Secretary of State. The reimbursable amount is not funded by the provisions of the proposed legislation and expenses to the Secretary of State would accrue from the administrative costs and information technology costs associated with the assumption of these filings, as discussed in item 3.
6. **Increases in filing and indexing fees.** The bill generally increases the fees for filing and indexing a record, and furnishing filing data in the office of the Secretary of State in conformity with the fee structure in Am. Sub. H.B. 94.
 - The fee for filing and indexing a record under R.C. 1309.501 to 1309.527 is \$12.
 - The fee for responding to a request from the filing office, including for communicating whether there is on file any financing statement naming a particular debtor is \$20 if the request is communicated in writing and \$20 if the request is communicated by another medium authorized by the filing office rule.
 - The fee is \$5 if the request is limited to communicating only whether there is on file any financing statement naming a particular debtor and the name of the secured party on record relating to the statement.

Fiscal and Operational Impact on County Recorders

1. **Reduction in workload.** Fewer filings would be processed at the county level (county recorder) due to the transfer of all filings for both the *original* and *removal* agricultural liens to the Secretary of State's filing system.
2. **Decrease in revenue.** The county recorder would lose filing fee revenue. These losses would be partially reimbursed by the Secretary of State based on a graduated percentage of revenue lost to individual counties as a result of the transfer of filings.

Unknown Factors

The volume of revenue from filing fees that would be paid for corporations domiciled out of state, but that maintain their physical plant in Ohio is an unknown number. These filing fees fall under

the UCC category, but are not based upon the number of companies. Rather, filing numbers are based upon the volume of secured transactions. There is no way to determine the number of corporations whose physical plant is outside Ohio with domicile in Ohio compared to those companies whose physical plant is in Ohio with domicile outside Ohio. Since SB 74 proposed doubling the filing fee for this UCC type of filing from its current \$9 per filing, an increase in revenue would be realized, but the amount is unknown.

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- The Department of Agriculture could lose minimal license fees from the exemptions to the retail food establishment licensing requirements. The state collects \$24 per license. If establishments are exempt from these requirements, the state will lose revenue. The revenue loss is expected to be minor. For example, Middletown City Health Department estimates that the state will lose approximately \$72 from these exemptions in Middletown. Columbiana County Health Department estimates that the state will lose approximately \$240.
- An exempt maple syrup or sorghum processor or beekeeper is authorized to request that the Director of Agriculture conduct a voluntary inspection of the processor or beekeeper’s facilities. The department does not plan on assessing a fee for this service.
- The bill provides that all food products are subject to food sampling conducted by the Director of Agriculture to determine whether a food product is misbranded or adulterated. This extends to food products produced and packaged by a cottage food production operation and all packaged maple syrup, sorghum, and honey. The department states that sampling tests will follow standard laboratory sampling procedures. The department is considering testing for lead in maple syrup and pesticides in honey. The lead tests range from \$25 to \$30, while the pesticide testing is approximately \$400. At this time, the tests are still under consideration and no costs have been estimated for the department.
- The Department of Health estimates that 2 new staff members will need to be hired as a result of this bill. The additional staff would be responsible for reviewing the methodology of the local health departments’ licensing fee structure. The cost to the department should be between \$150,000 and \$170,000 per year for the two staff members. This includes fringes and benefits. The figure for fiscal year 2002 was adjusted to reflect that about eight months remain in FY 2002.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2002	FY 2003	FUTURE YEARS
Counties and municipalities			
Revenues	Minimal losses	Minimal losses	Minimal losses
Expenditures	Minimal decreases	Minimal decreases	Minimal decreases

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

- Local health departments could lose licensing revenue due to the provisions within this bill. The losses would be minor for the most part. Also, the local departments would also realize a decrease in expenditures since health inspectors would inspect fewer facilities. The Columbiana County Health Department will license 10 fewer establishments, which will result in a loss of approximately \$1100. The Middletown City Health Department has three retail food establishment licenses that would be exempt due to the elimination of the provision that classifies persons or public entities that sell over-the-counter drugs, nutrients used in lieu of pharmaceuticals, and dietary supplements classification as retail food establishments. This exemption would cost the department approximately \$440 per year. The City of Columbus Local Health Department estimated that the exemptions would not apply to their department. This is because the establishments that sell over-the-counter drugs, nutrients used in lieu of pharmaceuticals, and dietary supplements usually sell other goods such as

milk, which is a perishable good. As such, the places already have a license to sell perishable goods. Local health departments situated in rural counties may realize more of an impact due to the exemptions of farm markets farmers markets, and farm products auctions.

Detailed Fiscal Analysis

The Department of Agriculture

In this bill, the Director of Agriculture is required to establish or adopt rules regarding food safety programs. The requirements the Director of Agriculture must fulfill are the following:

- Adopt good manufacturing practices for food processing establishments that conform with standards for foods established by the United States Food and Drug Administration;
- Adopt rules to establish standards for food sampling and procedures for administration. This is due to the fact that all packaged maple syrup, sorghum, and honey are subject to food sampling conducted by the Department of Agriculture to determine if the food is misbranded or adulterated.
- Adopt rules that establish the standards that maple syrup or sorghum processors and beekeepers must satisfy in order to be permitted to place on the label of their food products a seal of conformity and inspection;
- Adopt rules that clearly outline the food items that a cottage food production operation may produce;
- Prescribe forms for use in calculating the licensing fees that may be charged;
- Review forms from local health departments regarding methodology of fees for retail food establishment licenses;
- Request audits of local health departments to determine if fees are appropriate;
- Issue letters of opinion with the Director of Health. These letters are binding unless rules are adopted that override the letters of opinion;
- Conduct inspections of registered farm markets, farmers markets, and farm product auctions at a frequency deemed appropriate by the director.

These provisions will create an increase in expenditures for the Department of Agriculture. At this time, an estimate of these costs has not been calculated. The department may also see a minimal decrease in revenues. This is due to the fact that exemptions may reduce the number of retail food establishment licenses granted by the local health departments. On the other hand, the department will be able to register farm markets, farmers markets, and farm product auctions. This registration should bring in revenue for the department.

The Department of Health

The Director of Health must also issue a joint letter of opinion along with the Director of Agriculture. This letter shall provide a detailed interpretation of the rules that are the subject of the Retail Food Safety Advisory Council's recommendation. This letter shall be binding uniformly throughout this state unless rules are adopted that override these. The Director of Health must also prescribe forms for use in

calculating the licensing fees. The Department of Health must review these forms in the case of fees being charged for food service licenses. The director may request an audit of a local health department to ensure the licensing fees are appropriate. The department stated that the only costs associated with this bill would be to fund two new staff. The staff will be responsible for reviewing the licensing methodology of the local health departments. The cost will be approximately \$150,000 to \$170,000 per fiscal year. This includes benefits.

Local Health Departments

This bill makes many changes to the retail food establishment law. Many establishments will be exempt from retail food licensing requirements with the passage of this bill. Persons and public entities that sell over-the-counter drugs, nutrients used in lieu of pharmaceuticals, and dietary supplements are exempt from the licensing requirement. Some cottage food producers, as well as some beekeepers, maple syrup producers and sorghum producers are also exempt. Also, farm markets, farmers markets, and farm product auctions are also exempt if they are registered with the Director of Agriculture. The local departments are required to submit annually to the Departments of Agriculture and Health a copy of the forms it uses to calculate its licensing fee. Fines will result in a failure to submit.

The Middletown City Health Department and the Columbus City Health Department responded to inquiries regarding fiscal impacts with this bill. Both departments replied that exemptions should affect them minimally if at all. Middletown City Health Department will lose approximately \$440 in revenues, while Columbus City Health Department will lose nothing. Local health departments in small, rural counties may be more affected by these exemptions. Columbiana County Health Department estimates that they will license 10 fewer establishments due to this bill. The lost revenue to Columbiana will be approximately \$1100.

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APPENDIX

All House Bills Passed in 2001 that Became Law

House Bill	LIS	Subject
3	No	Provides for implementation of Clean Ohio through brownfield revitalization, natural resources projects, and farmland preservation
5	No	Revises election law: specifies criteria for evaluating and handling paper ballots with chads; specifies when an armed service absent voter's ballot is counted as a valid vote; specifies when someone with a disability may receive assistance with voting; creates an Election System Study Committee
7	Yes	Provides a comprehensive mechanism to assist combating the illegal manufacture or production of methamphetamine
9	Yes	Authorize governmental aggregation for retail natural gas service, PUCO certification, appropriation for THAW and HEABG
10	No	Allows the Korean War Veterans Assoc. to recommend persons to be appointed to a county Veterans Service Commission
11	Yes	Creates one additional judge for the Juvenile Division of Butler County Court of Common Pleas and one additional justice for Domestic Relations Division of the Muskingum County Court of Common Pleas
21	No	Enables subdivisions and local taxing units to use super blanket certificates for qualified purchases of any amount
35	No	Exempts non-monetary administrative-related appeals from the requirement of a supersedeas bond
46	No	Requires BMV to submit driver license, permit, or identification card application information to the Selective Service System
57	No	Requires counties to develop a comprehensive joint plan; requires Ohio Family and Children First Council to collect information; expands opportunities for Juvenile courts to obtain federal funds
73	No	To make appropriations for the Departments of Transportation and Public Safety and the Public Works Commission
74	No	To make appropriations for the Industrial Commission
75	No	To make appropriations for the Bureau of Workers' Compensation
77	No	Grants high school diplomas to WWII veterans and makes an appropriation
84	No	Prohibits an elected official from receiving PERS while earning a salary for same public office; municipal income tax on alternative retirement plans
85	No	Probate revisions and probate court procedure for declaring a man to be the father of an adult child if specific conditions are met
94	No	Biennial operating budget bill
117	No	Extends the sales and use tax exemptions for items used to assist handicapped persons in operating motor vehicles
120	No	Permits DAS and political subdivisions to buy supplies and services through reverse auctions
125	No	Designates April 6 of each year "Tartan Day"
126	No	Provides a four-year statute of limitations on any civil or criminal action or proceeding under the Antitrust Law
143	No	Specifies that a fire chief is not required to be a resident or elector of the respective political subdivision in which they hold the position

157	Yes	Provides annual cost of living increases paid to retired members of beneficiaries of Ohio's state retirement system of 3% and other changes
158	No	Permits PERS-LE members with 25 years of service credit to retire with full benefits at age 48
161	No	To reenact amendments to the Fireworks Law and other changes in the Fireworks Law relating to fireworks incidents and their investigation
165	No	Designates April as "Ohio Child Abuse Awareness Month"
174	No	Permits township road projects to include landscaping and beautification
175	No	Establishes the Task Force on Nonprofit, Faith-Based, and Other Nonprofit Organizations and requires that it recommend the best means for the state to assist in providing public services
178	No	Modifies establishment of trusts to fund supplemental services for beneficiaries with physical or mental disabilities
181	No	Provides funding for the 12th Grade Proficiency Stipend
182	No	Create the Citizens Advisory Committee within the BMV
192	No	Grants a qualified immunity from civil liability in damages and injunctive relief to members of the firearms industry
196	No	To permit school districts that establish alternative schools to contract with nonprofit or for profit entities to operate those schools, to create a one-year conditional teaching permit for alternative school education teachers
200	No	Puts certain restrictions on agreements and expands the relationship between dealers and suppliers of farm machinery and construction equipment to include compact trailers
208	Yes	Gives courts authority to permit direct payment of spousal support
212	No	Permits assuming insurers to make reinsurance payments directly to an insured or beneficiary, to introduce defenses that it believes are available to the ceding insurer, permits insurers to invest in limited liability company membership interest insurance companies
226	No	Authorizes counties, townships, and statutory municipalities to dispose of unneeded, obsolete, or unfit county personal property by Internet auction
229	No	To allow retail sellers to receive compensation beyond 2% of the principle balance of retail installment contracts
230	No	Creation of the Ohio Aerospace and Defense Advisory Council
231	Yes	Requires a State Isolated Wetland Permit, fees, and mitigation
233	No	Excludes from the prohibition against awarding attorney's fees in declaratory relief claims the award of attorney's fees to be paid out of trust or estate property in accordance with equitable principles
244	Yes	Modifies penalties against employers who fail to submit reports, payments and information to the Ohio Police and Fire Pension Fund
245	No	Permits the offices of village clerk and treasurer to be combined into an appointed officer or village fiscal officer
269	No	Withdraws the state from the Interstate Compact for the Supervision of Parolees and Probationers and joins the Interstate Compact for Adult Offender Supervision
272	No	Allows real estate brokers licensed in other states to transact business on commercial property in Ohio and requires a 3 year license renewal system
279	No	Eliminates the requirements that deeds, mortgages, land contracts, leases and memoranda of leases of real property, memoranda of trust, certain powers of attorney, be signed and attested to in the presence of witnesses

289	No	Removes penalty for school districts that exceed allowed number of calamity days due to meningococcal disease
299	No	To make various budget-related corrections and adjustments
362	No	Eliminates electrocution as an option for the execution of a death sentence
405	No	Revises Am. Sub. H.B. 94 of the 124th G.A. regarding services for persons with mental retardation and makes other budget related modifications

Yes means a local impact for both introduced and enacted.

No means no local impact for both introduced and enacted.

All Senate Bills Passed in 2001 that Became Law

Senate Bill	LIS	Subject
1	No	Deals with changes to state academic standards, testing, and report cards
3	Yes	Applies the Sex Offender Registration and Notification Law to persons adjudicated delinquent children for committing a sexually oriented offense
4	No	Revise the “prompt pay” statutes applicable to third-party payers
5	Yes	Revises the Municipal Annexation Law
11	No	Authorizes the Director of Administrative Services to investigate impermissible uses of foreign steel in public works projects, including school construction projects where Education Trust Fund moneys have been used, and imposes a new civil penalty for such violations; requires the Attorney General to prosecute any violations
15	No	Requires the Division of Mineral Resources Management to adopt rule s governing the use of lime mining wastes
16	No	Designates the Blaine Hill Bridge in Belmont County the state’s Bicentennial Bridge
17	No	Designates June 7th as Dean Martin Day
21	No	Designates a portion of State Route 7 within Columbiana County as the “Melvin E. Newlin Memorial Highway”
24	No	Include as a governmental function under the Political Subdivision Sovereign Immunity Law the operation of a bicycle motorcross, bicycling, skating, skate boarding, scooter riding, wall climbing, rope course, or all-purpose vehicle facility
27	No	Requires a public or private entity that places a child, who has been adjudicated a delinquent child, for adoption to inform of the child’s background; modifies child support law; creates a task force to study behaviors of children in foster care and adoption systems
31	No	Prohibit the display of Social Security numbers on motor vehicle certificates or registration
32	No	Revisions to the Securities Law regarding license and notice filing fees
33	No	Designates the month of March as “Colorectal Cancer Awareness Month”
40	No	Expands certain elements of the offenses of menacing by stalking, disrupting public services, disorderly conduct, and misconduct at an emergency to include emergency facility personnel
59	Yes	Includes various changes to the titling process for motor vehicles, watercraft, outboard motors, off-highway motorcycles, and all-purpose vehicles
74	Yes	Adopts revisions to Article 9, that were recommended by the National Conference of Commissioners on Uniform State Laws
76	No	Mortgage broker and loan officers regulations
77	No	Amends requirements of business entities obtaining a certificate of authorization from the State Board of Registration for Professional Engineers and Surveyors
80	No	Limits the prohibition against operating a vessel at greater than idle speed or at a speed that creates a wake within three hundred feet of certain dock and harbor areas to vessels operating on Lake Erie or the Ohio River

83	No	To revise the statutes governing the surface and in-stream mining of minerals other than coal
97	No	To revise the Uninsured and Underinsured Motorist Coverages Law
99	No	Clarifies procedures regarding unemployment benefits, requires that the information be merged into one report, and modifies the threshold for penalties for late and improper filing of quarterly reports
108	No	Repeals the Tort Reform Act, revives the law as it existed prior to the Tort Reform Act, continues any subsequent amendments made to sections in the Tort Reform Act that have been subsequently amended
110	No	Amends ORC relative to the authority of a corporation to issue option rights or securities having conversion or option rights with respect to shares and the general duties of a director of a corporation
116	No	To exempt accredited, for-profit, non-state-assisted, baccalaureate-granting institutions from regulation by the Proprietary School Registration Board, thereby providing for regulation by the Board of Regents alone
117	No	Establishes requirements for certain vessels containing medical gases and requires the State Board of Pharmacy to establish a medical gases safety program
119	No	Permits multiple transfers of service credit and contributions between the state's retirement systems
122	No	To amend and repeal sections of ORC as it results from A.M. Sub. S.B. 285 of the 121st G.A. relative to the determination of a defendant's competency to stand trial
136	Yes	To modify the laws pertaining to the administration and enforcement of food safety programs, requires each board of health to have a member who represents the activities licensed by boards of health
158	No	Revise law regarding organ donor designations made by persons over age 18 and the use of funds for organ donor awareness programs in schools
164	No	Conveys specified state real estate to various political subdivisions and private interests; augments military leave benefits to state employees
170	No	Requires each child support enforcement agency to review child support orders to determine whether federal law was complied with regarding state income tax refund intercepts and to apply certain provisions; requires the DJFS to distribute payments consistent with findings of the review

Yes means a local impact for both introduced and enacted.

No means no local impact for both introduced and enacted.

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