

- **Ohio Historical Society.** Based on preliminary discussions with Ohio Historical Society personnel, the potential effect of the records review duty on its annual workload and related operating expenses appears unlikely to exceed minimal.
- **Office of the Attorney General.** The bill requires that the Attorney General develop, provide, and certify Public Records Law training programs and seminars and develop and provide to all public offices a model public records policy. As of this writing, it appears that the impact of these duties on the Attorney General's Public Records Unit may generate no more than a minimal increase in its annual cost of doing business. It should also be noted that the Attorney General is not permitted to charge any elected official or the appropriate designee any fee for attending the training programs and seminars that the Attorney General conducts.
- **Contracting training with other entities.** The bill permits the Attorney General to contract with one or more other state agencies to conduct the training programs and seminars for elected officials or their appropriate designees. The contracting entity is permitted to charge a registration fee, to be determined by the Attorney General, based on the actual and necessary expenses associated with the training program and seminars. Presumably, any state governmental entity opting to contract with the Attorney General for the provision of training programs and seminars would only do so if the amount of revenue generated was at least equal to its expenditures.
- **Auditor of State.** The bill requires the Auditor of State, in the course of an annual audit or biennial audit of a public office pursuant to Chapter 117. of the Revised Code, to audit the public office for compliance with certain sections of the Public Records Law. As this duty would be performed during an audit already required under current law, any additional annual cost to the Auditor of State would appear to be minimal, at most.
- **Public offices' public records policy.** The bill requires all public offices adopt a public records policy for responding to public records requests and perform other related duties. The requirements are largely one-time in nature, the cost of which for any given state agency would not appear to exceed minimal.
- **Mandatory training for elected officials.** All elected officials or their appropriate designees are required to attend three hours of training for every term of office for which the elected official was appointed or elected to the public office involved. If one of these individuals attends a training program or seminar conducted by the Attorney General, then there would be no fee charged. If, however, one of these individuals attends a training program or seminar conducted by a contractor, then a fee may be charged. As of this writing, it seems unlikely that the potential registration fee costs to the state if its elected officials or their appropriate designees opted to attend a contracted program or seminar will exceed minimal, if that.
- **Mandamus actions.** The potential cost to the state treasury due to the awarding of statutory damages, court costs, and attorney's fees depends on the future behavior of state officials, persons requesting public records, and courts, making the estimation of those costs for the purposes of this fiscal analysis rather problematic. Similarly, the amount of revenue that the state might gain if courts award court costs and reasonable attorney's fees if the court

determines that a mandamus action commenced against a state public office was frivolous conduct is problematic to predict.

- **Local Government Public Notice Task Force.** As of this writing, it does not appear that extending the deadline of the work to be performed by the Local Government Public Notice Task Force will create any immediately discernible state fiscal effects.

Local Impact Statement

LOCAL GOVERNMENT	FY 2007 – FUTURE YEARS
Counties, Municipalities, Townships, School Districts, and Other Special Districts	
Revenues	Potential annual gain in revenues from: (1) awards of court costs and attorney's fees associated with frivolous conduct; (2) registration fees if local government agency opts to contract with Attorney General as training service provider
Expenditures	(1) Potential, minimal at most, annual increase for mandatory training and implementing a public records policy; (2) potential annual increase to cover mandamus action-related statutory damages, court costs, and attorney's fees; (3) potential increase to provide mandatory training (offset by registration fees); (4) likely increase of uncertain magnitude in the operating expenses of local records commissions; (5) potential increase in county civil justice system operating costs to adjudicate mandamus actions; (6) potential decrease in expenditures for county treasurers

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

- **Mandatory training for elected officials.** All elected officials or their appropriate designees are required to attend three hours of training for every term of office for which the elected official was appointed or elected to the public office involved. If one of these individuals attends a training program or seminar conducted by the Attorney General, then there would be no fee charged. If, however, one of these individuals attends a training program or seminar conducted by a contractor, then a fee may be charged. As of this writing, it seems unlikely that the potential registration fee costs to local governmental entities if their elected officials or their appropriate designees opted to attend a contracted program or seminar will exceed minimal, if that.
- **Contracting training with other entities.** The bill permits the Attorney General to contract with one or more other local governmental agencies to conduct the training programs and seminars for elected officials or their appropriate designees. The contracting entity is permitted to charge a registration fee that is based on the Attorney General's determination of a reasonable amount for the registration fee based on the actual and necessary expenses associated with the training program and seminars. Presumably, any local governmental entity opting to contract with the Attorney General for the provision of training programs and seminars would only do so if the amount of revenue generated was at least equal to its expenditures.
- **Public offices' public records policy.** The bill requires all public offices adopt a public records policy for responding to public records requests and perform other related duties. The requirements are largely one-time in nature, the cost of which for local governmental entities would not appear to exceed minimal.

- **Mandamus actions.** The potential cost to local governments due to the awarding of statutory damages, court costs, and attorney's fees depends on the future behavior of local officials, persons requesting public records, and courts, making the estimation of those costs for the purposes of this fiscal analysis rather problematic. Similarly, the amount of revenue that local governments might gain if courts award court costs and reasonable attorney's fees if the court determines that a mandamus action commenced against a local public office was frivolous conduct is problematic to predict.
 - **Local records commissions.** Relative to existing records commissions laws, the bill requires existing local records commissions to send any application for records disposal or schedule of records retention and disposition to the Ohio Historical Society for its review and creates records commissions for public libraries, special taxing districts, and local and joint vocational school districts. As of this writing, the potential effect on the workload and any related operating expenses of local records commissions generally is uncertain.
 - **County treasurers.** By allowing county treasurers to use public records training to satisfy a portion of their continuing education requirements, some county treasurers may realize a modest cost savings. These savings will occur in those counties that pay for or subsidize a portion of their county treasurer's general continuing education requirements. At the time of this writing, it is unclear as to what magnitude these savings could be, or which counties would realize any savings at all.
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Detailed Fiscal Analysis

Provisions of the bill

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

- Revises the Public Records Law, including expansion of the definition of a public record, and requires public officials to comply with their obligations under that Law.
- Requires all elected officials or their appropriate designees to attend three hours of training for every term of office for which the elected official was appointed or elected to the public office involved.
- Requires the Attorney General to develop, provide, and certify Public Records Law training programs and seminars for all elected officials or their appropriate designees.
- Permits the Attorney General to contract with one or more other state agencies, political subdivisions, or other public or private entities to conduct the training programs and seminars for elected officials or their appropriate designees.
- Requires the Attorney General to develop and provide to all public offices a model public records policy.
- Requires all public offices to adopt a public records policy for responding to public records requests and perform other related duties.

- Provides that an aggrieved person who files a mandamus action against a public office may recover statutory damages, reasonable attorney's fees, and all court costs.
- Requires the court to award court costs and reasonable attorney's fees to the public office if the court determines that a mandamus action was frivolous conduct.
- Requires the Ohio Historical Society to provide state archive administration services to additional local records commissions and review applications from local records commissions to dispose of certain records.
- Requires local records commissions to send applications to dispose of certain records to the Ohio Historical Society.
- Creates a library records commission in each public library, a special taxing district records commission in each special taxing district, and a school records commission in each local and joint vocational school district.
- Allows county treasurers to use certain public records training to satisfy part of their continuing education requirement.
- Extends the Local Government Public Notice Task Force until May 1, 2008.

Provision of training programs and seminars for elected officials

Currently, the Attorney General is voluntarily providing training, free of charge, on the Public Records Law for all interested elected officials, which is a duty of the Public Records Unit. The bill requires the Office of the Attorney General to develop, provide, and certify training programs and seminars for all officials elected to a local or statewide office or their appropriate designees in order to enhance their knowledge of the duty to provide access to public records. The training must be three hours for every term of office for which the elected official was appointed or elected to the public office involved. The Attorney General is not permitted to charge any elected official or the appropriate designee any fee for attending the training programs and seminars that the Attorney General conducts. Based on prior discussions with the Attorney General on the As Introduced version of the bill, it appeared that the Public Records Unit anticipated no more than a minimal increase in its annual cost of doing business. From LSC fiscal staff's perspective, the enacted version of the bill does not appear to change that fiscal assessment.

Contracting training with other entities

The bill permits the Attorney General to contract with one or more other state agencies, political subdivisions, or other public or private entities to conduct the training programs and seminars for elected officials or their appropriate designees. The contracting entity is permitted to charge a registration fee that is based on the Attorney General's determination of a reasonable amount for the registration fee based on the actual and necessary expenses associated with the training program and seminars. Presumably, any state or local governmental entity opting to contract with the Attorney General for the provision of training programs and seminars would only do so if the amount of revenue generated was at least equal to its expenditures.

Model public records policy

The bill requires the Attorney General to develop and provide to all public offices a model public records policy. Presumably, the Attorney General's Public Records Unit would perform this duty. Although uncertain as of this writing, it would not appear that the one-time cost for that unit to develop and distribute this policy will be significant.

Auditor of State

Audit duties. The bill requires the Auditor of State, in the course of an annual audit or biennial audit of a public office pursuant to Chapter 117. of the Revised Code, to audit the public office for compliance with certain sections of the Public Records Law. As this duty would be performed during an audit already required under current law, any additional annual cost to the Auditor of State would appear to be minimal, at most.

Local records commissions. Under current law, local records commissions are required to send a list of records scheduled for disposal to the Auditor of State, and the Auditor has 60 days to either approve or disapprove of the proposed action in whole or in part. Under the bill, the Ohio Historical Society would forward the information for the Auditor of State's approval or disapproval. As of this writing, it does not appear that this provision will noticeably affect the Auditor of State's daily operations and related annual operating costs.

Mandatory training for elected officials

As noted, all elected officials or their appropriate designees must attend three hours of training for every term of office for which the elected official was appointed or elected to the public office involved. If one of these individuals attends a training program or seminar conducted by the Attorney General, then there would be no fee charged. If, however, one of these individuals attends a training program or seminar conducted by a contractor, then a fee may be charged. As of this writing, it would not appear that the registration fee costs to the state or any affected local jurisdiction will exceed minimal, if that, annually.

Public offices' public records policy

The bill requires all public offices adopt a public records policy for responding to public records requests, distribute the public records policy to the employee who is the records custodian or records manager or otherwise has custody of the records of that office and include the policy in any general policies and procedures manual or handbook established for employees. The requirements are largely one-time in nature, the cost of which for the state or any local jurisdiction would not appear to exceed minimal.

Mandamus action

Current law allows an allegedly aggrieved person to commence a mandamus action to obtain a judgment that orders the public office to comply with certain provisions of the Public Records Law. Relative to a mandamus action, the bill:

- Provides that an aggrieved person who files a mandamus action against a public office may recover statutory damages (fixed at \$100 for each business day during which requested public records were not made available, up to a maximum of \$1,000).
- Requires the court to determine and award all court costs and, subject to certain reductions, reasonable attorney's fees.
- Requires the court to award court costs and reasonable attorney's fees to the public office if the court determines that a mandamus action was frivolous conduct.

As of this writing, from LSC fiscal staff's perspective, predicting the number of mandamus actions that will result from the alleged failure of a public official to comply with an obligation in accordance with the Public Records Law, as well as their outcomes, is rather problematic. Thus, the potential fiscal effects of the bill's mandamus action-related provisions on state and local government revenues and expenditures are uncertain.

Ohio Historical Society

The bill modifies existing law relative to the Ohio Historical Society's duty to function as the state archives administration for the state and its political subdivisions. Most notably: (1) the society would be required to make its services available to the library and special taxing district commissions, which are created by the bill, (2) local records commissions would be required to send any application for records disposal or schedule of records retention and disposition to the society for its review, and (3) the society would then be required to forward the application or schedule to the Auditor of State for approval in whole or in part. Based on preliminary discussions with society personnel, the potential effect of this records review duty on its annual workload and related operating expenses appears unlikely to exceed minimal.

Local records commissions

Relative to existing records commissions laws, the bill most notably:

- Requires existing county records commissions, municipal records commissions, school district records commissions, educational service center records commissions, and township records commissions send any application for records disposal or schedule of records retention and disposition to the Ohio Historical Society for its review.
- Creates a records commission in each public library, special taxing district, local and joint vocational school district, and requires those commissions to function in a manner similar to existing local records commissions.

As of this writing, the potential effect on the annual workload and any related operating expenses of local records commissions generally is uncertain.

County treasurers

The bill will allow county treasurers to use certain public records training to satisfy part of their continuing education requirements. Under current law, county treasurers are generally required, subject to certain conditions, to take a specified number of hours of continuing education during each biennial cycle. By allowing county treasurers to use public records training to satisfy a portion of their continuing education requirements, some county treasurers may realize a modest cost savings. These savings will occur in those counties that pay for or subsidize a portion of their county treasurer's general continuing education requirements. At the time of this writing, it is unclear as to what magnitude these savings would be, or which counties would realize any savings at all.

Local Government Public Notice Task Force

As of this writing, it does not appear that the extension of the Local Government Public Notice Task Force will create any immediately discernible state fiscal effects.

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