Fiscal Note & Local Impact Statement

122 nd General Assembly of Ohio

BILL: **Am. Sub. H.B. 426** DATE: **March 23, 1998**

STATUS: **As Passed by the Senate** SPONSOR: **Rep. Clancy**

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

CONTENTS: **Local governments' reserve balance accounts and special funds; definition of large manufacturing facility and transfer of credits against the corporate franchise tax**

State Fiscal Highlights

STATE FUND	FY 1998	FY 1999	FUTURE YEARS
GRF, LGF and LGRAF			
Revenues	- 0 -	Potential minimal loss	Potential minimal loss
Expenditures	- 0 -	- 0 -	- 0 -

- The transfer of the investment tax credit could result in a loss of corporate franchise tax revenue to the state General Revenue Fund (GRF), Local Government Fund (LGF), and Local Government Revenue Assistance Fund (LGRAF).

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1998	FY 1999	FUTURE YEARS
Certain counties, municipalities and townships			
Revenues	Potential gains and losses	Potential gains and losses	Potential gains and losses
Expenditures	- 0 -	- 0 -	- 0 -

- Potential shift in Local Government Fund and Local Government Revenue Assistance Fund revenues among local governments in counties which use a statutory formula for distributing those funds and where some local governments create reserve balance accounts as provided for in the bill. There could be a loss in revenues among local governments which do not create these accounts and a gain in revenues among local governments which do create the accounts.

- Eight counties used the statutory formula in calendar year 1997. Assuming those same counties (and no others) continue to use the statutory formula, local governments within those counties could be affected by the bill. The eight counties are: Coshocton, Harrison, Jefferson, Lawrence, Logan, Morgan, Tuscarawas, and Wyandot.

- The expanded definition of "large manufacturing facility" could result in a small statewide loss of local property tax revenues which could have a significant impact on certain school districts and other local governments. Also, the transferability of the credits could result in small losses from the LGF and LGRAF.

Detailed Fiscal Analysis

Reserve Accounts and Local Government Fund

The bill authorizes local governments to create reserve balance accounts in certain funds to reserve moneys for budget stabilization, self-insurance claim payments, and the payment of claims under retrospective ratings plans for workers' compensation. It also allows local governments to create special funds for accumulated sick, compensatory, and vacation leave for terminated or retired employees and officers, salaries during any fiscal year in which the number of pay periods exceeds the usual number, and non-expendable trust funds. In addition, the bill allows local governments to establish a capital projects fund for the acquisition, construction, or improvement of fixed assets, and includes motor vehicles under the definition of fixed assets. These special funds will allow local governments to do more long-term planning and saving.

The bill specifies that, as long as the county budget commission determines that the balances in the reserve accounts are reasonable, a local government's taxing authority cannot be reduced because of the creation of reserve accounts or the accumulation of moneys in a non-expendable trust fund. The bill also precludes the reduction of local government fund (LGF) distributions due to the existence of a reserve balance account or fund accumulation, as long as the county budget commission considers the balances in the accounts to be reasonable. The bill allows the county budget commission to require documentation on the balance held in any reserve account, and allows them to consider any unreasonable balance as unencumbered and as revenue, for the purposes of determining LGF distributions and taxing authority.

For calendar year 1997, eight of Ohio's 88 counties distribute their Local Government Fund (LGF) moneys among their political subdivisions using the statutory method. The current statutory formula for the distribution of local government fund moneys requires "relative need" to be examined. Relative need is a measure of the expenditures made by a subdivision, less certain deductions specified in statute, relative to expenditures, less those deductions, made by other subdivisions in that county. One of the deductions specified is for estimated end-of-year unencumbered balances.

The bill allows balances in the reserve accounts or trust funds to be included as an unencumbered balance if the county budget commission determines that the balances are unreasonable. However, it is possible that a local government in a county which uses the statutory method of distributing the LGF funds could gain additional LGF money by putting what is considered a reasonable amount of money in a reserve account created under the bill's provisions, thus increasing its measure of "relative need". In such a case, other local governments in that county would lose a corresponding amount of LGF money. The counties which use the statutory method are: Coshocton, Harrison, Jefferson, Lawrence, Logan, Morgan, Tuscarawas, and Wyandot.

The alternative formulas used by the other 80 counties differ from county to county, but generally are not based on the statutory definition of "relative need". Thus, the bill should have no effect in those counties.

Tax Abatements and Tax Credits

The bill somewhat loosens the definition of "large manufacturing facility" as it pertains to enterprise zone law. Enterprise zone agreements involving the purchase of such a facility may in certain circumstances permit the facility to receive a tax abatement of up to 100 percent of the assessed value of tangible personal property used in business at the project site and/or 100 percent of the assessed valuation of real property constituting the project site. Enterprise zone agreements concerning plants which do not meet the definition of "large manufacturing facility" may qualify for tax abatements of only up to 75 percent of the assessed value of tangible personal property ***first used in business at the project site as a result of the agreement*** and/or 75 percent of the ***increase in*** the assessed valuation of real property constituting the project site. The tax abatement may be a greater percentage if approved by the affected school board, but in any case the amount of property that may receive an abatement is likely to be less for plants which do not fit the definition of "large manufacturing facility." Moreover, large manufacturing facilities do not need a school board's approval for the higher abatement. Therefore, if the looser definition allows additional facilities to qualify as large manufacturing facilities, then certain enterprise zone property is likely to receive a higher abatement resulting in a loss of property tax revenue for school districts and other local governments.

The number of firms for which the looser definition is likely to matter is relatively small, so that any property tax loss is likely to be relatively small from a statewide perspective but possibly significant at the local level. The enterprise zone law is currently scheduled to sunset on June 30, 1999; but any agreements entered into by that date may continue for 10 years.

The bill also provides for the transfer of the investment tax credit established under section 5733.33 of the Revised Code. The transferability would apply only to firms which enter into an enterprise zone agreement with a municipality which involves the purchase of a "large manufacturing facility." The tax credit established by Revised Code section 5733.33 allows for a credit against the corporate franchise tax for a taxpayer that purchases new manufacturing machinery and equipment between calendar years 1995 and 2000 as long as certain other criteria are met. The credit may be equal to either 7.5 percent or 13.5 percent of the cost of the manufacturing machinery and equipment. (The higher percent is for equipment to be used in areas which meet certain distress criteria.) The credit is to be taken over a period of 7 years, with a three-year carry over period, as well. Currently, the "remaining credit" may not be transferred if the facility is sold, although "carry-forward" amounts may be transferred. The remaining credit may, however, be transferred in a merger. The bill slightly expands the transferability of the credit by allowing the credit to be transferred in the case of the sale of a large manufacturing facility as part of a municipal enterprise zone agreement. This provision is likely to result in a small increase in the amount of the credit taken against the corporate franchise tax. However, it is difficult to say what the overall impact of the transfer provision would be because so few facilities are likely to qualify and it is not clear that any that would qualify would otherwise continue to operate at the same level if the sale were somehow stifled.

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