

Fiscal Note & Local Impact Statement

122nd General Assembly of Ohio

BILL: **Sub. S.B. 21** DATE: **December 2, 1998**

STATUS: **As Recommended by Senate Civil Justice Subcommittee** SPONSOR: **Sen. Drake**

LOCAL IMPACT STATEMENT REQUIRED: **No Minimal cost**

CONTENTS: **Makes various changes to regulations concerning sales representatives; clarifies the definition of "termination" as it applies to sales representative contracts; and further defines the terms under which exemplary damages are payable**

State Fiscal Highlights

| STATE FUND | FY 1998 | FY 1999 | FUTURE YEARS |
|-----------------------------|---------|--------------------------------------|--------------------------------------|
| General Revenue Fund | | | |
| Revenues | - 0 - | - 0 - | - 0 - |
| Expenditures | - 0 - | Potential, though unlikely, increase | Potential, though unlikely, increase |

- The bill expands the types of contracts subject to regulation under ORC section 1335.11, includes both out-of-state and Ohio entities within the definitions of principal and defines a sales representative as a person who solicits orders for either products or the provision of services. These changes expand the "general universe" of contract regulation and could result in an increase in the number of civil actions. Since the state shares the cost of common pleas court judges with counties, additional cases generated by this bill may raise these costs. However, it is unlikely that the number of cases would be large enough to affect state costs.

Local Fiscal Highlights

| LOCAL GOVERNMENT | FY 1998 | FY 1999 | FUTURE YEARS |
|------------------|---------|----------------------------|----------------------------|
| Counties | | | |
| Revenues | - 0 - | Potential minimal gain | Potential minimal gain |
| Expenditures | - 0 - | Potential minimal increase | Potential minimal increase |

- The bill expands the types of contracts subject to regulation under ORC section 1335.11, includes both out-of-state and Ohio entities within the definitions of principal and defines a sales representative as a person who solicits orders for either products or the provision of services. These changes expand the "general universe" of contract regulation and could result in an increase in the number of civil actions. Since counties share the costs of judges' salaries with the state, and because counties fund the operations of common pleas courts, both of these acts could raise revenues and expenditures for counties.



Detailed Fiscal Analysis

This bill makes various changes to the regulation of contracts for the solicitation by a sales representative of orders for either products or services. The bill expands the definition of principal to include any person (even if that person has no permanent or fixed place of business in Ohio) that engages in the business of providing services to customers and is involved in the manufacturing, producing, importing, or distribution of one or more products for sale to customers who purchase products for resale or for consumption or utilization in the manufacturing process. The definition of sales representative is modified to include individuals who contract with principals to solicit orders for a product or orders for the provision of services. Both of these definitional changes result in a larger number of both principals and sales representatives who are subject to the regulations found in section 1335.11 of the Revised Code.

The bill also further clarifies the process involved in civil actions that may be instituted for payment of commissions owed after termination of a contract between a principal and a sales representative. A principal's failure to pay all commissions owed to a sales representative within a stipulated time period after termination of their contract will subject the principal to liability in a civil action. If it can be proven that either willful, wanton, or reckless misconduct or bad faith was involved in the principal's failure to comply or that the presumption that the principal acted willfully and in bad faith can be raised, the principal can be held liable for exemplary damages in an amount not to exceed three times the amount of the commissions owed.

The bill would increase the number of principals and sales representatives who could potentially be involved in civil actions. If the increase in caseload brought about by the increase in litigation was substantial, it could result in the need for additional judges. Since counties and the state share the costs of judges' salaries, and because counties fund the operations of common pleas courts, this could increase expenditures for both counties and the state. It is highly unlikely, however, that caseloads would increase at a rate that would result in any more than a minimal fiscal effect.

□ LBO staff: Sharon Hanrahan, Budget/Policy Analyst

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