Fiscal Note & Local Impact Statement

122 nd General Assembly of Ohio

BILL: **S.B. 87** DATE: **May 8, 1997**

STATUS: **As Introduced** SPONSOR: **Sen. White**

LOCAL IMPACT STATEMENT REQUIRED: **No - Corrected after initial review**

CONTENTS: **Dairy Modernization**

State Fiscal Highlights

STATE FUND	FY 1997	FY 1998	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	-0-	
Expenditures	- 0 -	$,2,000 increase	$2,000 increase
Dairy Industry Fund			
Revenues	- 0 -	$22,500 gain	$22,500 gain
Expenditures	- 0 -	$4,000 increase plus increase less than revenue gain	$4,000 increase plus increase less than revenue gain
Dairy Fund			
Revenues	-0-	Potential minimal gain	Potential minimal gain
Expenditures	-0-	-0-	-0-
Food Safety Fund			
Revenues	-0-	$13,000 gain	$13,000
Expenditures	-0-	Minimal decrease	Minimal decrease
Lab Funds (Consumer Analytical, Lab Services, Weights and Measures, Animal Industry)			
Revenues	-0-	$25,000 gain	$25,000 gain
Expenditures	-0-	$25,000 increase	$25,000 increase

- $22,500 annual gain in revenues from manufactured milk licenses and increased expenditures for inspections, testing and lab oversight (SSR Dairy Industry Fund).
- $2,000 annual increases in GRF Milk Lab Program expenditures for the additional members and committees of the Milk Sanitation Board. $4,000 annual increases in SSR Dairy Industry expenditures for the additional members and subcommittees of the Milk Sanitation Board.
- Potential minimal gain in fine revenues to the Dairy Fund – See "Local Fiscal Highlights."

- $13,000 gain in revenues for SSR Food Safety Fund from the restructured ice cream freezer fees. Minimal decrease in administrative expenditures.

- Offsetting revenue and expenditure increase to various Lab funds.

Local Fiscal Highlights

STATE FUND	FY 1997	FY 1998	FUTURE YEARS
Counties			
Revenues	- 0 -	Potential minimal loss	Potential minimal loss
Expenditures	- 0 -	- 0 -	- 0 -

- Potential loss in fine revenues going to counties because the bill allows the court to distribute to the state more than 50 percent of the fines collected for violations of non-Grade A dairy related regulations. However, the potential is small, since there have been no cases for at least 10 years. Under current law, the state and political subdivision would each receive 50 percent of the fine revenue.

Detailed Fiscal Analysis

The bill revises and consolidates laws regulating the production, processing, and transportation of milk and dairy products. Line items related to revenues and expenditures for the administration of dairy regulations, lab services, and licensing/inspections are restructured.

Charging a fee for some lab services, no charge for official samples
Currently, the lab usually works out a contract with other agencies to do testing for them. The bill would codify the current practice of charging for lab services, allow the director to publish a list and fee schedule of laboratory services offered, and specify where those monies are to be deposited. The fees will be distributed amongst three SSR funds – Consumer Analytical Lab (new), Weights and Measures Lab (new), and Animal Industry Lab (existing) – depending on the type of testing which was performed. These monies will be used by the respective division for the purchase of supplies and equipment. The department is projecting approximately $10,000 in new revenues for each of the two new funds over the next few years. The department expects this provision of the bill to be offsetting; i.e. the charges for services will cover the department's costs for those services. A fee will not be imposed for testing of official samples, i.e. those samples collected within the department's regulatory duties. (The department's intent was to use the existing line item, 652 700-634 Laboratory Services for the deposit of funds from charges for the Consumer Analytical Lab instead of creating a new line item.)

Inspection and accreditation of labs
The bill would allow the department to continue the current practice of accrediting labs. There is no mechanism in place now, however, for the department to charge a lab for the inspection and accreditation. Private labs may have a contract to perform testing on milk samples taken from a dairy farm. These private labs must be inspected and accredited by a FDA approved and certified lab. The lab at the Department of Agriculture is the only lab in the state with such FDA approval. While the Department of Agriculture is responsible for testing the final dairy product, i.e. the step before it gets to the consumer; the private labs may be contracted to test samples before it gets to this final stage. The department estimates that they inspect 5-10 labs in a two-year period. The cost for certification may vary depending on the amount of time spent on inspections. An average cost for inspection and accreditation of a lab might be around $1,000. The department projects that this revenue will offset their expenditures. It is intended that monies received from these charges will be deposited in the respective lab funds (Lab Services, Weights & Measures, and Animal Industry).

Renames/Restructures Foods, Dairies, Drugs → Food Safety
The Foods, Dairies, and Drugs Division is renamed to Food Safety Division. The line item associated with this division, GRF 700-407 Foods, Dairies, and Drugs, is renamed to Food Safety.

Regulation of sheep and other animals
The bill includes updated definitions for dairy related terms. The bill would expand the department's current authority to the regulation of milk from sheep and other animals. The addition of sheep and other animals to the dairy related definitions means the department would be able to issue the relevant licenses. The department is projecting a negligible increase in the

number of new licenses related to sheep and other animals. Any additional revenues, therefore, related to sheep and other animals are anticipated to be negligible.

Regulation of Manufactured Milk

The bill includes updated definitions for dairy related terms. The bill would expand the department's current authority to include the regulation, licensing and inspection of manufactured milk. Manufactured milk products were previously not licensed. The department is projecting approximately 1500 new licenses to be issued for manufactured milk products. This figure includes those persons who are issued registrations instead of licenses. There will be a revenue gain of approximately $22,500 annually from these new licenses. The department is anticipating increased expenditures related to the additional inspections, testing and lab oversight necessary for manufactured milk products in order to meet USDA standards. The Milk Sanitation Board will have the authority to prescribe inspection fees for manufacture milk producers, processors, or haulers, but not until July 1, 1998. A projection of the anticipated revenues from inspection fees for manufactured milk producers, processors, or haulers is not available at this time.

Exclusivity

The bill codifies current practice that local government entities do not regulate standards for milk. In 1985, legislation moved responsibility for dairy standards from local municipalities to the Department of Health. Currently, there are no municipalities issuing dairy-related licenses, i.e. no local government entity would be losing any revenue due to provisions in the bill. The bill would ensure that in the future, the Department of Agriculture would be the only state entity to issue licenses related to milk.

Milk Sanitation Board

Board membership is increased from 5 members to 7 excluding the Director of Agriculture and the Director of Health. Basically, the board will function as it currently functions, except that in addition to the inspection fees the board already prescribes, the board will also prescribe inspection fees for manufacture milk producers, processors, or haulers but not until on or after July 1, 1998. According to the bill, the board will also be required to create three standing subcommittees and will be allowed to create others if necessary. These subcommittees will review issues relevant to Ch. 917 and make recommendations to the full board. The Department of Agriculture estimates that currently the board meets about 6 times per year and spends approximately $40-$50 per person per meeting. Board expenditures will increase by approximately $480-$600 annually due to the addition of 2 board members attending 6 meetings. The department is projecting that the three standing subcommittees may meet 12-15 times per year. Each subcommittee will have 8 members. Annual expenditures for the three standing subcommittee meetings will be approximately $3,840 - $6,000. Any additional subcommittee which is created will incur costs of approximately $320-$400 per meeting. Travel and necessary expenses are paid 37% from GRF Milk Lab Program and 63% from SSR Dairy Industry.

Creation of Dairy Industry Fund and Dairy Fund

The bill creates two new SSR funds – Dairy Industry Fund and Dairy Fund. The Dairy Industry Fund will receive monies from license and inspection fees that formerly went into 4V0 700-602 Grade A License Fees, 4R2 700-637 Dairy Inspection Fund, the new manufactured milk product license fees, and weigher/sampler/tester/dealer fees and frozen dessert fees from 4P7 700-610 Food Safety. The Dairy Fund will receive fines for violations of dairy laws. Formerly, if fines had been imposed – Grade A fines would have gone into the GRF, and all others would have gone into Food, Dairies, Drugs.

Registration instead of license
Persons claiming exemption from licensure because of their religion can register as a producer, processor, milk dealer, raw milk retailer, weigher, sampler, tester or milk hauler. Registrations will be subject to the same rules, regulations and fees as licenses. The department is anticipating approximately 1200 new registrations due to provisions provided in the bill. These registrations are included in the new manufacturing milk licenses mentioned above. There may be a very small amount of other new registrations (Grade A milk type) due to this language, but the department is anticipating that it will be minimal.

Violations
According to a spokesperson for the Department of Agriculture, violations rarely get to the criminal stage. There hasn't been an instance of a violation getting to the criminal stage in at least the last ten years. Violators are given 3 separate opportunities to correct the violations before receiving a letter from the director proposing to suspend the license and offering a hearing. Once the violator receives the letter, a hearing is held according to Ch. 119. The majority of violations are corrected by the hearing stage. If, after the hearing, the license is suspended, the violator can apply for re-instatement of the license and department officials would again inspect the facility. If all violations have been corrected, the license would be restored. If the violations have not been corrected, at this point, the department may consider moving to the criminal stage.

Not less than 50% of court imposed fines go to Dairy Fund
The bill redefines the distribution of court imposed fines. According to current law (Sec. 917.23 ORC), fifty percent of fines collected for violations of non-Grade A dairy related regulations will go to the Food, Dairies, and Drugs fund. The remaining fifty percent of all other fines are to be paid into the general fund of the political subdivisions in which the same were assessed. The bill changes that language so that ***not less than*** fifty percent be deposited in the Dairy Fund and the remainder of the fine be disbursed to the county treasurer. The implication of the change in language is that the court could decide to award more than fifty percent to the state and thereby award less than fifty percent to the county. Since there have been no violations (at least in the last ten years) that have reached the criminal stage, only potential future court awards would affect counties.

Restructuring Licensing for ice cream freezers
The bill changes the fee structure for freezers. The fee structure moves from an amount per gallon and other conditions to a flat fee of $25 per freezer. According to a department spokesperson, the approximate increase per vendor under the new fee structure will be $10.50. There are currently a total of 1245 vendors averaging 1.88 freezers per vendor. The department is projecting an increase of $13,000 in freezer license revenues. Total revenue for last year was approximately $55,000 ($45,500 in retail frozen dessert license fees and $9,500 in frozen dessert mix licenses). These revenues will continue to be split between the Food Safety Fund for retail frozen dessert licenses and the Dairy Industry Fund for frozen dessert mix licenses. The $13,000 increase in revenues will occur within the retail frozen dessert licenses (i.e. Food Safety). The department is projecting a minimal decrease in the administration of these licenses since, under the new flat fee structure, it will not be necessary to send out correspondence trying to collect the correct fees.

Food Service Operation – no ice cream freezer license
The bill codifies current practice whereby food service operations are not required to obtain freezer licenses.

Restructuring Line Items

The following table lists the changes to dairy-related line items within the Department of Agriculture:

Line Item	Change	Description	Comments
GRF 700-403 Milk Lab Program	No change	Operating costs for dairy program (fund is misnamed, doesn't really have anything to do with the lab). 37% of expenses for Milk Sanitation Board are paid from here.	According to Sec. 917.031 in the bill and current law, administration costs for the dairy division will not exceed 37% of total operating costs on the GRF side. (Industry fees pay for 63% of operating costs. See Dairy Industry Fund below.)
GRF 700-406 Consumer Analytical Lab	No change	Operating costs for CAL.	No change to the funds.
GRF 700-407 Foods, Dairies, and Drugs	Renamed Restructured	New name is Food Safety.	No change to the funds.
4P7 700-610 Food Safety	Restructured	This fund currently receives revenues from bakery fees and fines, cannery license and renewal fees, soft drink fees, cold storage license/fines/penalties, food locker plant license fees, weigher/sampler/tester/dealer fees, frozen dessert fees, producer coop assoc. fines, and 50% of all dairy related fines. The bill adds ice cream freezer fees to this fund.	Dairy related fees, i.e. weigher/sampler/tester/dealer fees and frozen dessert fees will be moved to new Dairy Industry Fund. 50% of all dairy related fines and producer coop association fines will be moved to the Dairy Fund. (There are no monies in this fund related to these fines now, therefore no monies will be moved.)
SSR Dairy Industry	NEW	Will get license and inspection fees that formerly went into 4V0 700-602 Grade A License Fees, 4R2 700-637 Dairy Inspection Fund, the new manufactured milk product license fees, and weigher/sampler/tester/dealer fees and frozen dessert fees from 4P7 700-610 Food Safety. 67% of Milk Sanitation Board expenses will be paid from here.	Will need to transfer balances from old funds into the new one. Fees prescribed by the Milk Sanitation Board will not exceed 63% of estimated operating costs for the Dairy Division.
SSR Dairy	NEW	Will get fines for violations of dairy laws. Formerly, if fines had been imposed – Grade A fines would have gone into GRF and all others would have gone into Food, Dairies, Drugs.	No revenue projected, since violations rarely get to criminal stage.
4R2 700-637 Dairy Inspection Fund	Abolished	Monies will need to be transferred into new Dairy Industry Fund.	Appropriation levels FY1998/FY1999 in HB 215 are $2,318,652 and $2,379,199
4V0 700-602 Grade A License Fees	Abolished	Monies will need to be transferred into new Dairy Industry Fund.	Appropriation levels FY1998/FY1999 in HB 215 are $32,413 and $32,413
SSR Consumer Analytical Laboratory	NEW	The bill creates a new SSR CAL line item, but actually the intention is to use the existing 652 700-634 Laboratory Services line item.	Expected revenue is less than $10,000 in the next year or two. Charges for lab services other than Weights&Measures or Animal Industry will be deposited here.

SSR Weights and Measures Lab	NEW	Charges for services related to Weights and Measures will be deposited here.	Expected revenue is less than $10,000 in the next year or two.

Summary of SB 87			
Description of Change	**ORC**	**Revenues**	**Expenditures**
Charging a fee for some lab services	901.43	Offsetting	Offsetting
Inspection and accreditation of labs	901.43	Offsetting	Offsetting
New lab funds – CAL and Weights&Measures	901.43	Offsetting	Offsetting
Regulation of sheep and other animals	917.01	Negligible gain	Negligible increase
New Definitions/Regulation of Manufactured Milk	917.01	$22,500 gain for new manuf. dairy licenses (includes new registrations)	Increase for additional inspections, testing and lab oversight.
Milk Sanitation Board	917.03	-0-	$4,320-$6,600 increase
Creation of Dairy Industry Fund and Dairy Fund	917.07	Funds will be transferred from existing funds	
Abolish Dairy Inspection Fund	917.07	Balance will be transferred to new Dairy Industry Fund	
Violations	917.99(A), (B), (C), (D)	Potential negligible gain	
Not less than 50% of court imposed fines go to Dairy Fund	917.99(F)	Potential negligible gain	
Restructuring Licensing for ice cream freezers	3715.21	$13,000 increase	Minimal decrease in administration costs

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