

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1999	FY 2000	FUTURE YEARS
Counties			
Revenues	Negligible gain	Negligible gain	Negligible gain
Expenditures	Negligible increase	Negligible increase	Negligible increase
Municipalities			
Revenues	Negligible loss	Negligible loss	Negligible loss
Expenditures	Negligible decrease	Negligible decrease	Negligible decrease

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

- Overall, case processing costs for counties (law enforcement, adjudication, prosecution, indigent defense, and offender sanctioning) will increase negligibly as the bill shifts a small number of criminal matters from municipal and county courts to common please courts, which typically have higher case processing costs.. Conversely, depending upon local charging practices, certain municipalities will shed case processing costs, which will create a negligible decrease in their annual expenditures.
- Similarly, county and municipal court cost and fine revenue will be subjected to factors that will cause revenues to be gained in one instance and lost in another. The annual fiscal effect of those varying influences will be that counties will gain a negligible amount of court cost and fine revenue, while municipalities will lose a negligible amount of court cost and fine revenue.

Detailed Fiscal Analysis

Provisions of the Bill

The bill proposes two sets of changes. With regard to section 2913.61 of the Revised Code concerning theft, the bill modifies language created by Am. Sub. H.B. 565 passed by the 122nd General Assembly and clarifies that multiple theft offenses may be tried as a single offense, and the value of the stolen property aggregated, when the offenses “involve a common course of conduct to defraud multiple victims.” The bill also revises the theft law to permit single prosecution and aggregation of the value of stolen property in cases involving solicitation fraud.

A second set of changes will affect the criminal prohibitions regarding charitable solicitations. First, the bill changes the prohibition against unfair or deceptive act or practice by deleting the reference to unfair and by including a definition of “deceptive act or practice.” Second, the bill also creates a new prohibition against misleading any person as to any material fact concerning charitable solicitations. These violations are the only violations of Chapter 1716. that retain the title “solicitation fraud” under the bill. In addition, the bill enhances the penalty for solicitation fraud according to the value of the contribution(s) made in the violation, ranging from a first-degree misdemeanor (M1) to a third-degree felony (F3). The bill also specifically permits the aggregation of the value of all contributions involved in all offenses when an offender commits a series of offenses as part of a common scheme or plan to defraud multiple victims. Lastly, the bill enhances the penalties for solicitation fraud in cases involving exploitation of an elderly or disabled adult by one charge level, according to the value of the contribution(s) made in the violation, with the resulting penalties ranging from a fifth-degree felony (F5) to a second-degree felony (F2), as outlined in Table 1 under “Charitable Solicitations” below.

Fiscal Effects of the Bill

Aggregating Theft Charges. Amended Substitute House Bill 565 enacted by the 122nd General Assembly in December 1998 provided for: (1) aggregation of the value of goods and services involved in multiple thefts; and (2) prosecution as a single offense in cases when an offender committed a series of offenses. Specifically, under current law, aggregating is permitted in two situations: 1) when an offender commits a series of offenses in the offender’s same employment, capacity, or relationship to another; or 2) if an offender commits a series of offenses against more than one victim pursuant to a scheme or course of conduct.

The bill clarifies the language concerning when certain theft offenses may be aggregated. Under the bill, aggregation and single prosecution are permitted if the offender commits a series of offenses involving a common course of conduct to defraud multiple victims, rather than when the offender commits a series of offenses against more than one victim pursuant to a scheme or course of conduct. This proposed change only affects multiple theft offenses involving attempts to deprive multiple victims of property or services by defrauding them. According to the Attorney General’s Office, the bill clarifies existing language, but does not measurably alter the circumstances under which prosecutors may

aggregate offenses and pursue single prosecution. LBO believes this clarification should have no practical effect on county and municipal case processing costs or on court cost and fine revenue.

Charitable Solicitations. The proposed changes in the bill concerning charitable solicitations would increase the number of cases successfully prosecuted at the felony level. According to the Attorney General’s Office (AGO), the bill will affect 12 to 24 cases involving charitable contributions annually in Ohio. The addition of a new prohibition against misleading any person as to any material fact concerning charitable solicitations will improve the ability of prosecutors to prosecute successfully those who solicit contributions under names similar to reputable charities and in other ways misrepresent their organizations. These violations would retain the title of “solicitation fraud.”

The penalty enhancement provisions of the charitable solicitation section of the bill mirror the four-tier penalty structure currently in theft law, with the exception that the tiers are slightly different for the penalty enhancements in cases involving exploitation of an elderly or disabled adult. The penalty tiers are outlined in Table 1 below.

Table 1: Solicitation Fraud Penalty Structure					
Solicitation Fraud			Solicitation Fraud Against Elderly or Disabled Adult		
Tier	Charge Level*	Sentence/Max. Fine	Tier	Charge Level	Sentence/Max. Fine
Under \$500	M1	Not more than 6 months in jail /\$1,000	Under \$500	F5	Definite term of 6 – 12 months in prison/\$2,500
\$500 - \$5,000	F5	Definite term of 6 – 12 months in prison/\$2,500	\$500 - \$5,000	F4	Definite term of 6 – 18 months in prison/\$5,000
\$5,000 - \$100,000	F4	Definite term of 6 – 18 months in prison/\$5,000	\$5,000 - \$25,000	F3	Definite term of 1 – 5 years in prison/\$10,000
\$100,000 or more	F3	Definite term of 1 – 5 years in prison/\$10,000	\$25,000 or more	F2	Definite term of 2 – 8 years/\$15,000

*Charge level is elevated one level if violation is second or subsequent offense.

As a result of the bill’s penalty enhancement provision, and its provision permitting aggregation of the value of all contributions involved in a series of offenses, the bill will likely elevate some number of cases from misdemeanors to felonies.

The changes in charitable solicitations will push some criminal matters up-and-out of municipal and county courts and into common pleas courts. The practical effect of this will be to save municipalities some case processing costs (law enforcement, adjudication, prosecution, indigent, and offender sanctioning). Municipalities will lose court cost revenue and possibly some fine revenue as well. Conversely, county case processing costs will increase and court cost and fine revenue will be generated.

The Department of Rehabilitation and Correction’s (DRC) annual intake, incarceration, and post-release control costs may increase as some felony offenders will be sentenced to prison who might not have been otherwise and those that are sentenced may be sentenced for longer prison terms. LBO believes, however, that not more than a handful of offenders may be so affected, thus the annual increase in DRC’s GRF operating expenses would be virtually imperceptible.

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