Fiscal Note & Local Impact Statement

123 rd General Assembly of Ohio

BILL:	**S.B. 85**	DATE:	**April 20, 1999**
STATUS:	**As Introduced**	SPONSOR:	**Sen. Mumper**

LOCAL IMPACT STATEMENT REQUIRED: **No — No local cost**

CONTENTS: **Requires the state public defender to provide technical assistance to local public defender offices, requires the inclusion of financial disclosure forms with requests for payments, and requires the state to reimburse counties for costs associated with the defense of certain indigent persons at a rate of 50 percent**

State Fiscal Highlights

STATE FUND	FY 2000	FY 2001	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential $0 - $6.6 million or more increase	Potential $0 - $7.7 million or more increase	Potential $0 - $7.7 million or more increase

Note: The state fiscal year is July 1 through June 30. For example, FY 2000 is July 1, 1999 – June 30, 2000.

- The range of increased expenditures reflects the additional GRF that would need to be appropriated in a given fiscal year or literally taken from the succeeding fiscal year's appropriation to ensure that a reimbursement rate of 50 percent for the defense of certain indigent persons is reached as required by this bill.
- The bill requires the State Public Defender's office to request funding in each biennial budget that is estimated to be sufficient to pay a reimbursement rate of 50 percent for that biennium.
- As the state public defender currently provides technical aid and assistance on matters related to indigent defense, the bill's requirement to do so carries no fiscal effect.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1999	FY 2000	FUTURE YEARS
Counties			
Revenues	Potential $0 - $3.3 million or more gain	Potential $0 - $7.2 million or more gain	Potential $0 - $8.3 million or more gain
Expenditures	- 0 -	- 0 -	- 0 -

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

- Counties could potentially face a significant increase in annual revenues related to the requirement that the state reimburse the county's provision of indigent defense services at a rate of 50 percent.

Detailed Fiscal Analysis

This bill has four main provisions that affect the provision of indigent defense services. First, the bill would require the state public defender to provide technical aid and assistance to both political subdivisions and to courts of record on methods that may be applied to reduce the costs of providing legal representation to indigent persons. Second, a financial disclosure form would be required to accompany the affidavit of indigency when independent counsels provide county approved indigent defense services. Third, the bill requires the State Public Defender's office to request funding in each biennial budget that is estimated to be sufficient to pay a reimbursement rate of 50 percent for that biennium. Finally, the bill dramatically changes the method of reimbursing counties in a manner that temporarily ensures a yearly reimbursement rate of 50 percent within one month after the end of the fiscal year.

Currently, the Office of the State Public Defender provides information and assistance to counties that request help in reducing costs related to indigent defense. Thus, the requiring of this assistance should not pose a significant fiscal burden upon the Ohio Public Defender Commission.

The bill would also require that a financial disclosure form prescribed by the State Public Defender be filled out by an indigent person and submitted with any request for payment when counsel has either been selected by the indigent person or appointed by the court. The form is to be created by the State Public Defender, but the printing and copying costs will be borne by counties. However, this should not be an actual fiscal burden on counties, as this provision of the bill is just codifying an administrative rule already implemented by the State Public Defender. Counties already have to cover the cost of copying this and a similar form, an affidavit of indigency, which accompanies reimbursement requests.

Finally, the bill contains several measures related to the reimbursement of counties for the provision of indigent defense services. The bill states that the total amount of money appropriated by the General Assembly and paid to the counties shall equal 50 percent of the costs to the counties for the operation of indigent defense services. The State Public Defender's office will be required to request funding in each biennial budget that is estimated to be sufficient to pay a reimbursement rate of 50 percent for that biennium. Yet, the bill further states that if the amount appropriated is insufficient to cover the total costs, then the available balance of existing funds shall be proportionately disbursed to each county, a provision that reflects current law and practice. However, the bill ensures the eventual attainment of a 50 percent rate of reimbursement by requiring the State Public Defender to make up any difference in July of the following fiscal year. For example, if the appropriation for indigent defense only provided for a yearly reimbursement rate of 45 percent in the first year of a biennium, then the State Public Defender would reimburse the counties the remaining 5 percent in July of the following fiscal year out of the appropriations from the second year of the biennium.

According to a staff member of the Legislative Service Commission, a provision for an appropriation to establish a reimbursement rate of fifty percent does not have any legal authority if sufficient appropriations are not made by the General Assembly. It is difficult to gauge what amount future General Assemblies will appropriate for reimbursing counties for the provision of indigent defense services. The following table illustrates the amounts estimated in the next biennium for indigent defense costs and the levels necessary to reach certain reimbursement goals.

Fiscal Year	1999	2000	2001
Estimate of Total Indigent Defense Costs	**$65,900,000**	**$70,600,000**	**$81,600,000**
Estimate of amount needed for 50% reimbursement	**$32,950,000**	**$35,300,000**	**$40,800,000**
Estimate of amount funded at the mean reimbursement rate for the past five years 44.9%	**$29,589,100**	**$31,699,400**	**$36,638,400**
Estimated increase needed to reach a reimbursement rate of 50%	**$3,360,900**	**$3,600,600**	**$4,161,600**
Estimate of amount funded at current reimbursement rate of ~ 40.6%	**$26,755,400**	**$28,663,600**	**$33,129,600**
Estimated increase needed to reach a reimbursement rate of 50%	**$6,194,600**	**$6,636,400**	**$7,670,400**

The state fund table on the front page of this fiscal note reflects the amount of additional state GRF that would be needed to reach a reimbursement rate of 50 percent compared to the existing reimbursement rate of around 40.6 percent. Under this bill, the reimbursement rate of 50 percent would be reached in the following July, but then the second year of the biennium would presumably have an appropriation that is insufficient to meet the estimated needs of that fiscal year. The cycle could continue with funds being expended the next July to make-up the probable shortfall. But, that would be a new biennium for which the State Public Defender's office is required to request only enough funding that is estimated to be sufficient to pay a reimbursement rate of 50 percent for **that** biennium. There would be a need to recognize that future reimbursement requests may not include amounts necessary to cover prior year's shortfalls.

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