
Detailed Fiscal Analysis

Overview of the bill

For purposes of this fiscal analysis, the bill most notably:

- Creates the offense of "unlawful property burning," a violation of which is generally a misdemeanor of the second degree, and requires the court to impose on the offender the maximum fine for a misdemeanor of that degree (currently \$750).
- Enhances the penalty for a violation of the offense described in the preceding dot point to a misdemeanor of the first degree if the violation: (1) is located within 20 feet of a residence, vehicle, or other property not belonging to the offender, and/or (2) creates a hazardous or hostile working condition for emergency personnel.
- Requires the court, under the circumstance described in the preceding dot point, to impose a mandatory jail term of at least three days and the maximum fine for a misdemeanor of the first degree (currently \$1,000).

Through contact with various law enforcement and fire prevention agencies, LSC staff has learned that the bill's prohibitions cover conduct that is already criminal and is generally prosecuted under open burning ordinances. Under current law, subject to certain exceptions, a law enforcement officer does not arrest a person for the commission of a minor misdemeanor, but does issue a citation. In lieu of appearing at the time and place stated in the citation, the person may, within seven days after the date of issuance of the citation, sign a guilty plea and a waiver of trial provision of the citation, and pay the total amount of fines and costs. Each court is required to establish a fine schedule that lists the fine for each misdemeanor; the fine may be up to, but cannot exceed, \$150 in the case of a minor misdemeanor.

Case effects generally

The bill effectively creates a penalty enhancement for many situations where existing state law and local ordinances may already apply. Also, it is expected that this offense is not a continually occurring crime, but rather is more likely to occur in given situations and locations based on historical trends (e.g., after highly anticipated football games at large Ohio universities).

Depending on the number of cases within a given locality, the mandatory penalties, and provisions for elevating the offense included in the bill may increase local incarceration costs for some jurisdictions, while they may not alter, to any significant degree, incarceration expenditures for other local jurisdictions.

As of this writing, LSC fiscal staff has been unable to determine the likely number of cases that might be affected annually by the penalty provisions in any given local jurisdiction. That said, LSC fiscal staff has not collected any evidence suggesting that this conduct, in any given local jurisdiction, is an

ongoing and widespread daily problem. More than likely, this conduct occurs occasionally in certain local jurisdictions during certain times of the year. Assuming that were true, then the number of criminal and juvenile cases that might be affected by the bill annually in any given local jurisdiction appears likely to be relatively small.

Local fiscal effects

Local expenditures

The bill essentially enhances the penalty that applies during the commission of open burning and other property-related offenses, a change that could have the following effect on local expenditures in affected criminal and juvenile cases.

First, certain criminal misdemeanor cases and persons committing such acts would be subjected to more serious financial and residential sanctions. As a result, the affected local criminal justice system could, theoretically at least, experience an increase in their annual expenditures related to investigating, adjudicating, prosecuting, defending (if indigent), and sanctioning offenders who commit these offenses. Second, an offender who is young enough to be processed through the juvenile court would also face the possibility of a more serious penalty and sentence. As a result, the annual costs to county juvenile justice systems to resolve these cases and appropriately sanction juveniles may rise.

As previously noted, relative to the frequency of its occurrence, the criminal conduct that is the subject of the bill more than likely occurs occasionally in certain local jurisdictions during certain times of the year. Assuming that were true, then the number of criminal and juvenile cases that might be affected by the bill annually in any given local jurisdiction appears likely to be relatively small. If so, then the fiscal effect on municipal criminal justice and county criminal and juvenile justice systems generally will likely be no more than minimal. For the purposes of this fiscal analysis, minimal means an estimated increase in annual expenditures that is no more than \$5,000 for any affected county or municipality.

Local revenues

As the bill effectively creates a misdemeanor penalty enhancement that could apply during the commission of open burning and other property-related offenses and requires the court to impose the maximum fine associated with the degree of the misdemeanor offense being violated, local jurisdictions could collect additional court cost and fine revenues. If, as assumed, the number of criminal and juvenile cases that might be affected by the bill annually in any given local jurisdiction is relatively small on an ongoing basis, then the fiscal effect on the revenues generated by municipal criminal justice and county criminal and juvenile justice systems generally will likely be no more than minimal. For the purposes of this fiscal analysis, minimal means an estimated gain in revenues that is no more than \$5,000 for any affected county or municipality.

State fiscal effects

The bill has no readily discernible fiscal implications for state revenues and expenditures.

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