

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **Sub. H.B. 267** DATE: **December 16, 2008**

STATUS: **As Reported by Senate Health, Human Services, and Aging** SPONSOR: **Rep. Huffman**

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

CONTENTS: **Establishes the Department of Rehabilitation and Correction loan repayment program for recruitment of health professionals, modifies the laws governing the Correctional Institution Inspection Committee, and modifies laws governing mayor's courts**

State Fiscal Highlights

STATE AGENCY	FY 2009 – FUTURE YEARS
Department of Rehabilitation and Correction (GRF and/or Other State Funds)	
Revenues	- 0 -
Expenditures	Potential decrease in certain medical services payroll costs charged to GRF and/or other state funds, annual magnitude function of: (1) applicant demand, and (2) available funding to cover "upfront" expenses
Correctional Institution Inspection Committee (GRF)	
Revenues	- 0 -
Expenditures	Potential, minimal at most, annual savings effect
General Revenue Fund (GRF) and/or Other State Funds of the Attorney General	
Revenues	- 0 -
Expenditures	Potential, minimal at most, annual increase to enjoin certain unauthorized activities

Note: The state fiscal year is July 1 through June 30. For example, FY 2009 is July 1, 2008 – June 30, 2009.

- **Department of Rehabilitation and Correction (DRC).** The bill extends DRC's currently authorized recruitment program for physicians to include nurses, dentists, optometrists, and psychologists. Theoretically, the differential in the payroll costs associated with a nurse or other health professional working as a civil service employee and the amount currently paid to a health professional under a personal services contract with the Department, even after the repayment costs are factored in, reduces DRC's annual payroll-related medical services expenditures. However, based on LSC fiscal staff's research, how viable the program will actually be as a recruitment tool for nurses and other health professionals is difficult to project, which means the magnitude of any potential annual savings is uncertain.
- **Correctional Institution Inspection Committee (CIIC).** The bill's CIIC-related provision will generally improve the efficiency with which inspections are conducted, and create a potential savings effect, the magnitude of which in terms of budgetary dollars and cents is difficult to precisely estimate. That said, the potential savings in CIIC's annual operating expenditures is likely to be minimal at most, if that.

- **Attorney General.** For the purposes of this fiscal analysis, LSC fiscal staff assumes that local authorities will generally comply with state law and the number of occasions in which the Attorney General needs to investigate and initiate legal actions against local authorities allegedly operating a mayor's court that is not in applicable law, statutes, or rules will be relatively infrequent. Assuming this were true suggests to LSC fiscal staff that the magnitude of the Attorney General's operating expenses in relation to exercising this authority would generally be at most minimal in any given year.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2009 – FUTURE YEARS
Certain Municipal Corporations	
Revenues	Factors adding and subtracting revenues, with potential for more than minimal annual loss
Expenditures	Likely annual decrease, potentially in excess of minimal in certain local areas
Certain Municipal and County Courts	
Revenues	Gain in fine and related court revenue, likely to exceed minimal annually in certain local areas
Expenditures	Potential increase in annual operating costs, perhaps in excess of minimal in local areas having territorial jurisdiction over a relatively larger number of misdemeanor offense and traffic cases

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

- **Affected municipal corporations.** The bill's mayor's court provisions will require the following eight municipal corporations to abolish its mayor's court: Alexandria (Licking County), Amesville (Athens County), Brice (Franklin Conty), Linndale (Cuyahoga County), Mifflin (Ashland County), Summitville (Columbiana County), West Elkton (Preble County), and West Millgrove (Wood County).
- **Certain municipal corporations.** LSC fiscal staff is uncertain, in any given situation from the perspective of the municipal corporation required to abolish its mayor's court, whether the net effect of simultaneously losing and gaining various sources of revenue generates more or less revenue in the aggregate than might otherwise have been collected by that municipal corporation, or the annual magnitude of that net revenue gain or loss. The magnitude of the annual savings to a municipal corporation currently operating a mayor's court appears likely to exceed minimal, particularly in an urban jurisdiction with a relatively large mix of misdemeanor offense and traffic cases. There also appears to be a potentially more significant expenditure effect in those municipal corporations where the amount of the annual revenue generated from its mayor's court is large enough to support related or other budgeted municipal operating expenses, for example, law enforcement.
- **Certain law enforcement effects.** It seems fairly clear on the basis of LSC fiscal staff's research and referenced above that, as a consequence of the abolition of its mayor's court, at a minimum, the municipal corporation's law enforcement activities could be negatively affected, but the potential magnitude of the effect is generally rather problematic to quantify. That said, however, in its discussions with various interested parties, LSC fiscal staff discerned that some municipal corporations were anticipating that the following statements would be true: (1) the magnitude of the operating expense reductions necessary to function within a more constrained budget will exceed minimal, and (2) the magnitude of the direct and indirect costs associated with law enforcement's travel to and from another municipal or county court will exceed minimal.

- **Certain other local governments.** In some areas of the state, the amount of revenue to be generated by certain municipal and county courts is likely to be relatively small. Conversely, in areas of the state where the number of misdemeanor offense and traffic cases moving from the territorial jurisdiction of one municipal corporation to the territorial jurisdiction of another municipal corporation or that of the county court, the annual magnitude of the additional revenue to be generated and shared with certain other municipal corporations could be quite significant, possibly well in excess of minimal. In some situations, the number of cases that would in effect be transferred from the jurisdiction of an abolished mayor's court to the appropriate municipal or county court may only be in the tens or hundreds. In this situation, one would assume that the costs to that municipal or county court to process a relatively small number of additional cases would not be significant and might arguably generate little if any discernible cost. There are, however, areas of the state in which the number of cases, likely to be highly active urbanized jurisdictions, where the number of cases that would in effect be transferred from the jurisdiction of an abolished mayor's court to the appropriate municipal or county court may be in the thousands. One would think that such a caseload increase will carry some processing costs that, if quantifiable, could easily exceed minimal. What portion of that operating expense increase would be offset in some manner by the additional revenue likely to be generated is uncertain.

Detailed Fiscal Analysis

Overview

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

- Permits the Department of Rehabilitation and Correction (DRC) to establish an educational loan repayment program for the recruitment of health professionals.
- Modifies the laws governing the inspections conducted by the Correctional Institution Inspection Committee (CIIC).
- Limits by size the municipal corporations in which a mayor's court may be established.

Health professional recruitment program

Recruitment program for physicians (current law)

Under current law, DRC has the authority to establish a physician recruitment program pursuant to which the Department enters into a contract with a physician who agrees to work for DRC as a civil service employee for a specified period of time, and, in exchange, the Department agrees to repay all or part of the principal and interest of a government or other educational loan taken by the physician for certain educational expenses.

Theoretically, the differential in the payroll costs associated with a physician working as a civil service employee and the much higher amount currently paid to a physician under a personal services contract with the Department, even after the repayment costs are factored in, reduces DRC's annual medical services expenditures. According to DRC medical personnel, the Department does not operate such a program because the civil service pay scale for physicians is too low to attract applicants even with the repayment provision.

Recruitment program for health professionals (operation of the bill)

Nurses. The bill extends DRC's currently authorized "physician recruitment program" to include nurses and amends it to a "recruitment program" to reflect the broader purpose. (The bill defines "nurse" to include a registered nurse or licensed practical nurse.) The Department has experienced, and continues to experience, difficulty in the recruitment and retention of nurses as civil service employees, and, as a result, has had to rely on contract staff and overtime utilization in order to meet its nursing coverage needs.

Most of the nurses currently under contract with DRC are obtained from any of 20-plus health care staffing agencies that are on State Term Schedule. The average annual cost for a full-time registered nurse (RN) from one of these staffing agencies is approximately \$104,000. If that RN were a civil service employee, the average starting salary, including benefits, would be \$65,062. The difference between those two costs is \$38,938, which represents the potential annual savings to the Department for each nursing position that is filled by a civil service

employee rather than covered by a contractor. This potential savings would then be reduced by the magnitude of the repayment for certain educational expenses incurred by the nurse.

Other health professionals. The bill also expands the program to include the recruitment of additional health professionals, specifically dentists, optometrists, and psychologists. At this time, the fiscal effect would be very different from the incorporation of nurses into this program since the Department does not recruit nurses and these other health professionals in the same manner. For example, due to the differences in workloads at its correctional institutions, there are fewer dentists employed by DRC; these individuals are typically working under personal services contracts and are not civil service employees. Currently, three dentists at DRC's senior management level are civil service employees. Based on the current job market conditions, it does not appear that the recruitment program's expansion will immediately affect DRC's ability to recruit, hire, and retain dentists, optometrists, and psychologists as civil service employees.

Even though DRC currently provides for institutional dental services through personal services contracts, future budget cuts, as well as the settlement process for the *Fussell v. Wilkinson* lawsuit alleging constitutionally improper medical care, which now includes dental services, may compel the Department to consider the recruitment of other health professionals as civil service employees. Should this occur, the Department's perspective is that the bill will give it a viable recruitment tool, and at that point a more tangible level of savings would likely begin to occur, assuming tuition reimbursement is a sufficient incentive to attract newer health professionals.

Correctional Institution Inspection Committee (CIIC)

The bill makes changes to the operations of CIIC, most specifically by requiring inspections include at least one staff person, while allowing, but no longer requiring, members to participate in inspections. Based on a conversation with the Executive Director of CIIC, LSC fiscal staff has discerned that CIIC staff will be able to more easily perform the statutory charge to conduct certain inspections, as member participation would no longer be required. The impact of this CIIC provision generally will be to improve the efficiency with which inspections are conducted, and create a potential savings effect, the magnitude of which in terms of budgetary dollars and cents is difficult to precisely estimate. That said, the potential savings in CIIC's annual operating expenditures is likely to be minimal at most, if that.

Mayor's courts

For the purposes of this fiscal analysis, and relative to provisions modifying the laws governing mayor's courts, the bill most notably: (1) adds population limits for municipal corporations in which a mayor may establish a mayor's court, and (2) permits or requires in certain circumstances the Attorney General to bring an action in relation to the operation of a mayor's court.

State fiscal effects

Attorney General. The bill: (1) permits the Attorney General to bring an action in the appropriate court of common pleas to enjoin a mayor, municipal corporation, or other person from operating a mayor's court that is not authorized by the Revised Code, and (2) requires the

Attorney General bring such an action when there is cause to believe that a mayor's court is not operating in accordance with Ohio statutes and rules. LSC fiscal staff assumes that such parties will generally comply with state law and the need for the Attorney General to investigate and litigate such matters will be relatively infrequent. Presumably, the threat of formal legal action would cause many, if not all, alleged violators to cease and desist in order to avoid the time and expense of taking the matter to trial. Assuming this were true suggests to LSC fiscal staff that the magnitude of the Attorney General's operating expenses in relation to exercising this authority would generally be at most minimal in any given year.

Local fiscal effects

From the perspective of municipal corporations, the bill most notably: (1) requires, in order to establish a mayor's court, a municipal corporation must have a population of more than 200 (rather than 100 under current law) but less than 45,000 (rather than no limit under current law), and (2) adds Put-in-Bay in Ottawa County as a community in which a mayor's court may be established regardless of population.

Existing law governing mayor's courts. A municipal corporation operating a mayor's court retains generally fines, fees, and costs collected from all proceedings and pays for the court's current operating expenses.

Affected municipal corporations. Under the bill, the eight municipal corporations identified in Table 1 immediately below will be required to abolish their mayor's court. As a result, all of the misdemeanor offense and traffic cases that would otherwise have been heard by that mayor's court will come under the territorial jurisdiction of the appropriate municipal or county court located in the county in which the mayor's court is currently located.

**Table 1
Details of Locations Where Mayor's Courts Abolished**

Mayor's Court Location	County	Municipal Population	Mayor's Court Total Caseload*	Court Likely to Take Jurisdiction of Mayor's Court Cases
Alexandria	Licking	85	225	Licking County Municipal Court
Amesville	Athens	184	46	Athens Municipal Court
Brice	Franklin	70	229	Franklin County Municipal Court
Linndale	Cuyahoga	117	4,752	Parma Municipal Court
Mifflin	Ashland	144	153	Ashland Municipal Court
Summitville	Columbiana	108	123	Columbiana County Municipal Court
West Elkton	Preble	194	30	Eaton Municipal Court
West Millgrove	Wood	78	336	Wood County Court

* Overall caseloads for calendar year 2007.

Revenues. According to research by LSC fiscal staff, municipal corporations with populations under 200 will see a reduction in revenues and court-related operating expenses. Under the bill, such a municipal corporation will not be able to collect any fine revenue that previously would have been received from the mayor's court adjudicating the matter. This

reduction may potentially have a significant fiscal impact on municipal corporations that generated a substantial amount of their revenue from the operation of their mayor's court.

Expenditures. As a result of being required to abolish its mayor's court the annual operating expenses associated with that mayor's court are eliminated. The magnitude of the annual savings to a municipal corporation currently operating a mayor's court appears likely to exceed minimal, particularly in an urban jurisdiction with a relatively large mix of misdemeanor offense and traffic cases. There also appears to be a potentially more significant expenditure effect in those municipal corporations where the amount of the annual revenue generated by its mayor's court is large enough to support related or other budgeted municipal operating expenses, for example, law enforcement. If the revenue distributed back from the municipal or county court does not more or less fully replace the lost revenue, then presumably the municipal corporation will need to cut costs, tap other revenue-generating mechanisms, or undertake some mix of cutting costs and revenue enhancements.

County court and municipal court revenues. As noted, it appears that certain municipal and county courts will gain revenues in the form of fines, fees, and court costs collected in misdemeanor offense and traffic cases that under current law would have been collected and generally retained by the municipal corporation that had established a mayor's court. In some areas of the state, the amount of revenue to be generated appears likely to be relatively small. Conversely, in areas of the state where the number of misdemeanor offense and traffic cases moving from the territorial jurisdiction of one municipal corporation to the territorial jurisdiction of another municipal corporation or that of the county court, the annual magnitude of the additional revenue to be generated and shared with certain other municipal corporations could be quite significant, possibly well in excess of minimal.

County court and municipal court expenditures. The bill will cause certain offenses and traffic cases that would otherwise have been handled by a mayor's court to most likely be shifted into the territorial jurisdiction of an existing municipal or county court located within the county in which the mayor's court is currently located. In some situations, the number of cases that would in effect be transferred from the jurisdiction of an abolished mayor's court to the appropriate municipal or county court may only be in the tens or hundreds. In this situation, one would assume that the costs to that municipal or county court to process a relatively small number of additional cases would not be significant and might arguably generate little if any discernible costs.

There are, however, areas of the state, likely to be highly active urbanized jurisdictions, in which the number of cases that would in effect be transferred from the jurisdiction of an abolished mayor's court to the appropriate municipal or county court may be in the thousands. One would think that such a caseload increase will carry some processing costs that, if quantifiable could exceed easily minimal. What portion of that operating expense increase would be offset in some manner by the additional revenue likely to be generated is uncertain.

Potential law enforcement effects. It seems fairly clear on the basis of LSC fiscal staff's research that, as a consequence of the abolition of its mayor's court, at a minimum, the municipal corporation's law enforcement activities could be negatively affected. We have identified at least two ways in which this potential negative fiscal effect may manifest itself.

First, the additional revenue municipal corporations are able to collect through the operation of a mayor's court may support a larger law enforcement department than arguably might typically otherwise exist. This suggests that, in order to operate within a more constrained budgetary environment, some municipal corporations could be forced to reduce their law enforcement expenditures, including cutting payroll costs.

Second, a mayor's court appears to typically be situated in or near a community center. This location makes travel to and from the courthouse easy for both citizens and law enforcement personnel. If the municipal or county court that would be handling that municipal corporation's cases is located at some distance from the community currently being served by the mayor's court, then potential costs, for example, transportation expenses, are incurred in relation to law enforcement personnel that would be required to attend and possibly testify in contested cases. Travel expenses include increasing mileage on vehicles, fuel costs, and an officer's salary while in transit and then waiting to testify.

Quantifying the potential fiscal impact of these factors on a municipal corporation's law enforcement expenses is rather problematic. That said, however, in its discussions with various interested parties, LSC fiscal staff discerned that some municipal corporations were anticipating that the following statements would be true: (1) the magnitude of the operating expense reductions necessary to function within a more constrained budget will exceed minimal, and (2) the magnitude of the direct and indirect costs associated with law enforcement's travel to and from another municipal or county court will exceed minimal.

General revenue distribution and operating expense rules. While recognizing that the rules applicable in Ohio's courts can be subject to exceptions and special provisions, this fiscal analysis builds from the following general assumptions relative to the handling of revenues collected by, and expenditures incurred by municipal, county, and mayor's courts:

- Fines collected for violations of municipal ordinances generally must be paid into the treasury of the city or village whose ordinance was violated.
- Fines collected for violations of the Revised Code generally must be paid into the treasury of the county in which the trial court is located.
- Forty-five percent of the fines collected from citations issued by the Ohio State Highway Patrol must be paid into the state treasury, with the balance being divided between the county in which the violation occurred and the governmental entity responsible for funding the court in which the case was filed.
- Fines collected for the violation of municipal ordinances in certain courts, for example, the Hamilton, Ottawa, and Lawrence county municipal courts, are divided evenly between the county treasury and the municipal corporation that filed the case.
- Costs and fees collected by courts generally are retained by the court or local jurisdiction in which the court is located.
- Current operating expenses of a municipal court are generally paid by the municipal corporation or county in which the court is located and under certain circumstances are apportioned among all of the municipal corporations that are within the territory of the court.

- The county within which the court is located pays current operating expenses of a county operated municipal court.

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