Fiscal Note & Local Impact Statement

127 th General Assembly of Ohio

Ohio Legislative Service Commission
77 South High Street, 9th Floor, Columbus, OH 43215-6136 ✧ Phone: (614) 466-3615
✧ *Internet Web Site:* http://www.lsc.state.oh.us/

BILL: **Sub. H.B. 285** DATE: **May 28, 2008**

STATUS: **As Enacted – Effective September 16, 2008** SPONSOR: **Rep. R. McGregor**

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

CONTENTS: **Waives fines or penalties for paperwork violations that are first-time offenses committed by small businesses**

State Fiscal Highlights

STATE FUND	FY 2009	FY 2010	FUTURE YEARS
Various Agency Funds			
Revenues	Potential loss in fees and fines	Potential loss in fees and fines	Potential loss in fees and fines
Expenditures	- 0 -	- 0 -	- 0 -

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

- Waiving administrative fines or civil penalties on small businesses for first-time "paperwork" violations could result in potential revenue losses for state agencies and regulatory agencies charged with regulating these businesses. The waiver could apply to an array of state business filings, including those processed by the Department of Taxation, the Environmental Protection Agency, the Department of Natural Resources, and a range of other state agencies.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

Paperwork provisions

The bill generally provides that, for any small business that is found to have made a first-time paperwork violation, the state agency or regulatory authority that regulates the field of operation in which the business operates must waive any and all administrative fines or civil penalties on the small business for the violation. The exemption would not apply in situations where the violation:

- has the potential to cause serious harm to the public interest, as determined by a state agency or regulatory authority;
- involves a small business knowingly or willfully engaging in conduct that may result in a felony conviction;
- if not cited, would impede or interfere with the detection of criminal activity;
- is of a law concerning the assessment or collection of any tax, debt, revenue, or receipt;
- presents a direct danger to the public health or safety, results in a financial loss to an employee, or presents the risk of severe environmental harm, as determined by the head of the agency or regulatory authority;
- is a failure to comply with a federal requirement for a program that has been delegated from the federal government to a state agency or regulatory authority, and where the federal requirement includes a fine.

The bill would result in some revenue losses to state agencies. The extent of the foregone revenue, however, would appear to hinge on how agencies interpret violations in the context of these exceptions listed above.

Small business paperwork requirements

Small businesses are defined based upon size standards created by the United States Small Business Association (SBA). These definitions are found in Section 121.201 of the Code of Federal Regulations, and are generally based on the number of employees or on annual revenues. For example, most crop production businesses are small businesses if their annual revenue is $750,000 or less, whereas many food manufacturing businesses are determined to be small businesses if they have 500 or fewer employees.

The Ohio Department of Development's Small Business Development Center (SBDC) indicates that there are approximately 900,000 small businesses in Ohio. The office has produced a list of the different paperwork requirements that all small businesses in Ohio must file, regardless of the type of business. SBDC's web site also contains a list of 250 small business categories. Each category contains a list of the state agencies that the small business would need to contact in order to determine what business specific paperwork is necessary.

The overall statewide fiscal effect would depend on the (1) applicable number of small business filing violations that would be exempted under the bill, and (2) amount of fines that would be waived. In addition to this, agencies and regulatory authorities would have to determine on a case-by-case basis situations where the exemption for first-time violations would not apply. Given these variables, the magnitude of revenue loss for each agency as a result of the bill is unknown.

LSC fiscal staff: Terry Steele, Budget Analyst

HB0285EN.doc/lb