Fiscal Note & Local Impact Statement

127 th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **Sub. H.B. 525** DATE: **December 15, 2008**

STATUS: **As Passed by the Senate** SPONSOR: **Rep. Combs**

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

CONTENTS: **To establish standard format requirements for recorded documents, adjust mileage reimbursement rates for witnesses, and provide for a link to career information on the Board of Regents web site**

State Fiscal Highlights

STATE FUND	FY 2009 – FUTURE YEARS
General Revenue Fund (GRF) and Other State Funds	
Revenues	-0-
Expenditures	Likely increase for certain witness reimbursement expenses, annual magnitude minimal
Ohio Housing Trust Fund (Fund 6460) – Department of Development	
Revenues	Potential annual gain from increased recordation fee proceeds
Expenditures	- 0 -

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

- ***Recordation fees.*** If the bill results in additional county recorder fees, the Department of Development's Ohio Housing Trust Fund (Fund 6460) could gain new revenue from the share of fees that county recorders must remit to this fund.

- ***Mileage reimbursement.*** The bill appears likely to increase the amount of money that certain state governmental entities expend annually on mileage reimbursement for witnesses in certain actions, proceedings, or hearings from what that total amount might otherwise have been under current law and practice. LSC fiscal staff's preliminary research suggests that the total additional annual state cost will be at most minimal, which means less than $100,000 per year.

- ***Board of Regents career information link.*** The bill permits the Chancellor of the Ohio Board of Regents to enter into an agreement with private entities to provide log-in access or an Internet link to free career information for students via the web site maintained by the Chancellor. There may be some minimal administrative costs for establishing this link.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2009 – FUTURE YEARS
Counties	
Revenues	Potential minimal gain
Expenditures	Potential increase of reimbursement of witness expenses in criminal actions or proceedings, annual magnitude uncertain
Certain Municipalities (those operating a municipal court)	
Revenues	- 0 -
Expenditures	Increase of reimbursement of witness expenses in criminal actions or proceedings, annual magnitude uncertain

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

- ***Mileage reimbursements.*** LSC fiscal staff is unable to precisely estimate the potential expenditure increase for any given county treasury nor the likely expenditure increase for certain municipal funding authorities, assuming a rate increase per mile from 10¢ to 50.5¢. Thus, whether the additional annual cost for any affected county or municipal treasury to reimburse witnesses for mileage in criminal actions or proceedings will exceed minimal is uncertain, with our threshold for minimal meaning an estimated cost of no more than $5,000 for any affected county or municipality per year.

- ***Recordation fees.*** County recordation fees are based on the number of pages in the document to be recorded. If the new formatting requirements in the bill lengthen some recorded documents, there could be a gain in county recordation fee revenue, most likely minimal.

Detailed Fiscal Analysis

Summary of the bill

The bill (1) increases mileage reimbursements that may be made to witnesses in civil actions or proceedings, (2) requires a standardized format for certain documents submitted to a county recorder's office for recordation, and (3) permits the Chancellor of the Board of Regents to enter into an agreement with private entities to provide log-in access or an Internet link to free career information for students via the web site maintained by the Chancellor. Overall, the increase in mileage reimbursement rate would appear to have the most fiscal impact on both state and local governments.

1. Provisions concerning mileage reimbursement for witnesses

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

- Increases the general 10¢ per mile reimbursement rate under current law for a witness in any civil action or proceeding and establishes a general mileage reimbursement rate of 50.5¢ per mile except where the board of county commissioners has set a lower rate as authorized under the bill for county courts, county-operated municipal courts, the common pleas court, and any division of the common pleas court.
- Provides that a witness in any criminal action or proceeding in any division of the common pleas court, a county court, and a county-operated municipal court receive the same mileage reimbursement rate as allowed in civil actions or proceedings.
- Establishes a mileage reimbursement rate of 50.5¢ per mile for each witness in any civil or criminal action or proceeding in a noncounty-operated municipal court.
- Establishes a mileage reimbursement rate of 50.5¢ per mile for each witness in a state administrative proceeding.
- Standardizes the format of some documents submitted to a county recorder's office for recordation.

State fiscal effects

The bill establishes a mileage reimbursement rate of 50.5¢ per mile for state administrative proceedings (both investigative and adjudicative). In an effort to ascertain what, if any, effect the proposed mileage rate might have on reimbursement payments for the state as a whole, LSC fiscal staff spoke with staff of the Civil Rights Commission, the Respiratory Care Board, and the State Board of Pharmacy. Assuming those three entities are reasonably reflective of the state as a whole leads LSC fiscal staff to two conclusions. First, the bill is likely to lead to an increase in the total amount of money that the state might otherwise have expended on mileage reimbursement annually under current law and practice. Second, the state does not currently expend a significant amount of money annually on mileage reimbursement for witnesses, suggesting that the total additional state cost resulting from the bill would be minimal at most, or less than $100,000 per year.

There is some difficulty in precisely stating the fiscal impact on the state because it appears that some boards and commissions, such as the Civil Rights Commission, may currently reimburse at a rate of 50.5¢ per mile, which means the bill is essentially codifying current practice, thus resulting in no net change in expenditures. However, the Respiratory Care Board currently reimburses witnesses at a rate of 10¢ per mile; theoretically, then, the bill would result in an increase in expenditures, though staff indicated that the net impact would be insignificant as it is usually just the respondent that appears at a hearing. Similarly, the State Board of Pharmacy indicated to LSC fiscal staff that it does not receive a high volume of witnesses at hearings and so the 50.5¢ mileage reimbursement rate would not have a significant effect on expenditures.

The bill permits the Chancellor of the Ohio Board of Regents to enter into an agreement with private entities to provide log-in access or an Internet link to free career information for students via the web site maintained by the Chancellor. There may be some minimal administrative costs for the establishment of this link.

Mileage Reimbursement

Under current law, the general mileage reimbursement rate for a witness in a civil or criminal action or proceeding is 10¢ per mile. The bill essentially permits the board of county commissioners in each county to raise the mileage reimbursement rate for witnesses in a civil action or proceeding in any division of the common pleas court, a county court, and a county-operated municipal court at a rate not to exceed 50.5¢ per mile and confers an equivalent rate for each witness in a criminal action or proceeding in any division of the common pleas court, a county court, and a county-operated municipal court. And in the matter of a witness in a civil or criminal action or proceeding in a municipal court that is not county-operated, the bill establishes a general mileage reimbursement rate of 50.5¢ per mile.

In analyzing the local fiscal effect of this provision, LSC fiscal staff spoke with individuals affiliated with the County Commissioners Association of Ohio, the Judicial Conference of Ohio, and the Ohio Association for Court Administration, as well as several clerks of courts and common pleas court judges.

Civil actions or proceedings

In terms of mileage reimbursements for witnesses in civil cases, these officials collectively confirmed that, as a result of the bill, neither county treasuries nor municipal funding authorities would incur a significant increase in expenditures. This is because, by and large, witness reimbursements in civil cases are paid by the parties involved. For example, in Cuyahoga County, it appears that many of the mileage reimbursement payments are prepaid by a participating attorney. In the event there is no prepayment, the case docket is apparently marked to account for the mileage reimbursement costs, and payment is then required of the parties at the conclusion of the case.

Criminal actions or proceedings

Counties. Unlike civil actions or proceedings where the reimbursement of witnesses for mileage is the responsibility of the parties to the action or proceeding, a criminal action or proceeding generates costs that are generally absorbed by the county that operates the court. Based on its conversations with various state and local officials, LSC fiscal staff can assert with reasonable confidence that, at this time, the mileage reimbursement payments made to witnesses in criminal cases, by and large, are incurred as expenses charged to the county treasury.

If, for example, a defendant in a criminal case is convicted, any mileage reimbursements are likely taxed to the defendant as a court cost. LSC fiscal staff's research suggests that, practically speaking, most defendants do not have the ability to pay. As such, the county essentially absorbs any mileage reimbursement costs. When a defendant is found not guilty, any related mileage reimbursement payments to witnesses become the responsibility of the county. In Cuyahoga County, for example, witnesses appearing in a criminal case receive a voucher for their mileage reimbursements. This voucher is then taken to the Cuyahoga County Auditor and presented in exchange for a check drawn from funds in the county treasury.

Certain municipalities

The bill sets the witness mileage reimbursement rate for a criminal action or proceeding in a noncounty-operated municipal court at 50.5¢ per mile. What this means is that municipalities operating a noncounty-operated municipal court are likely to see an increase in the total amount of money expended annually for mileage reimbursement of witnesses in criminal matters.

Local expenditure effects. LSC fiscal staff is unable to precisely estimate the potential expenditure increase for any given county treasury nor the likely expenditure increase for certain municipal funding authorities, assuming a rate increase per mile from 10¢ to 50.5¢. None of the individuals contacted by LSC fiscal staff could provide exact mileage reimbursement figures for witnesses in civil or criminal actions or proceedings. Thus, whether the additional annual cost for any affected county or municipal treasury to reimburse witnesses for mileage in criminal actions or proceedings will exceed minimal is uncertain, with our threshold for minimal meaning an estimated cost of no more than $5,000 for any affected county or municipality per year.

2. Standardization of certain recorded documents

The bill standardizes the format of certain documents submitted to a county recorder's office for recordation. The fee for recorded documents is based on the number of pages they contain. The fee for a one or two page document is $28.00. Any additional pages require an additional fee of $8.00 per page. By having the new margin requirement set forth in the bill, a document may extend beyond the first two pages and require the additional $8.00 fee. Of this amount, $4.00 is to be remitted to the Department of Development's Ohio Housing Trust Fund (Fund 6460) to support low and moderate-income housing construction and related programs.

The formatting standards in the bill would apply primarily to the filing of deeds and mortgages. Most deed filings do not extend beyond one page, and most mortgages are filed on Fannie Mae or Freddie Mac forms in standardized format of fewer than two pages. As a result of the new formatting requirements in the bill, most of these forms would still not extend beyond two pages. The bill also permits separate instruments that convey or affect an interest in crude oil or natural gas, such as a lease, assignment, easement, lien, or right-of-way, to be combined into a single instrument. Additionally, the bill states that county recorders cannot limit the number of assignments, releases, partial releases, satisfactions, cancellations, or waivers on these instruments. This would likely reduce the number of documents filed. Overall, any additional filing fees collected by county recorders and deposited in the Housing Trust Fund would be minimal.

3. Board of Regents career information log-in access

The bill permits the Chancellor of the Board of Regents to enter into an agreement with private entities to provide log-in access or an Internet link to free career information for students via the web site maintained by the Chancellor. The bill specifies that such a log-in access or link is not an advertisement, endorsement, or sponsorship, which is prohibited on state-controlled web sites by a policy of the Office of Information Technology (ITP-F.35). This provision has no direct fiscal effect on the state or political subdivisions.

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