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: **S.B. 103** DATE: **May 8, 2007**

STATUS: **As Introduced** SPONSOR: **Sen. Mumper**

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

CONTENTS: **Adverse possession**

State Fiscal Highlights

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

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2007	FY 2008	FUTURE YEARS
Counties, Municipalities, Townships, School Districts, and Other Local Taxing Authorities			
Revenues	Potential, at most minimal, increase for certain local taxing authorities	Potential, at most minimal, increase for certain local taxing authorities	Potential, at most minimal, increase for certain local taxing authorities
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.

- ***Local revenues.*** If paid, outstanding property taxes or special assessment moneys would be distributed by the county treasurer to all of the local entities entitled to receive a legal share of the taxes and special assessments on that piece of property. The potential recipients of those moneys in any given local jurisdiction could include, but is not necessarily limited to, county taxing authorities (general fund, children's services, alcohol, drug and mental health services, mental retardation and developmental disabilities, parks, zoos, and seniors), cities, villages, townships, school districts, and library systems. While it is difficult to predict the magnitude and distribution patterns for such tax revenues, it seems reasonable to assert that the potential benefit to any single local entity would not likely exceed minimal on an ongoing basis because the transfer of property through the legal mechanism of adverse possession is not a common occurrence in Ohio.

Detailed Fiscal Analysis

Adverse possession

Under the common law doctrine of adverse possession, title to real property is acquired by a trespasser and correspondingly lost to the owner of the property after certain judicially established requirements have been satisfied over a period of at least 21 years. To acquire title by adverse possession, the party claiming title must prove by clear and convincing evidence "exclusive possession and open, notorious, continuous, and adverse use" of the real property for a period of 21 years. The bill provides that, in addition to all of the requirements under current law, the trespasser or person seeking title to the property cannot take possession unless they have paid all taxes and special assessments due on the property while it was in their possession.

Local fiscal effects

As the transfer of property through adverse possession is part of current law, the bill specifically affects the payment of property taxes and any special assessments levied on such property. The benefit to certain political subdivisions of the state would presumably be gaining revenues from the payment of any outstanding property tax liabilities and special assessments that might not otherwise have been collected.

If paid, these outstanding property taxes or special assessment moneys would then be distributed by the county treasurer to all of the local entities entitled to receive a legal share of the taxes and special assessments on that piece of property. The potential recipients of those moneys in any given local jurisdiction could include, but is not necessarily limited to, county taxing authorities (general fund, children's services, alcohol, drug and mental health services, mental retardation and developmental disabilities, parks, zoos, and seniors), cities, villages, townships, school districts, and library systems.

While it is difficult to predict the magnitude and distribution patterns for such tax revenues, it seems reasonable to assert that the potential benefit to any single local entity would not likely exceed minimal on an ongoing basis because the transfer of property through the legal mechanism of adverse possession is not a common occurrence in Ohio.

State fiscal effects

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

LSC fiscal staff: Joseph Rogers, Senior Budget Analyst

SB0103IN.doc/lb