Fiscal Note & Local Impact Statement

127 th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **Am. Sub. S.B. 271** DATE: **May 28, 2008**

STATUS: **As Enacted – Effective June 12, 2008** SPONSOR: **Sen. Mumper**

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

CONTENTS: **To make changes to the laws governing watercraft**

State Fiscal Highlights

STATE FUND	FY 2009	FY 2010	FUTURE YEARS
Waterways Safety Fund (Fund 7086) – Department of Natural Resources			
Revenues	Potential gain from the portion of outboard motor title fees remitted from county clerks	Potential gain from the portion of outboard motor title fees remitted from county clerks	Potential gain from the portion of outboard motor title fees remitted from county clerks
Expenditures	Potential increase for updating safety signage and/or publications	Potential increase for updating safety signage and/or publications	Potential increase for updating safety signage and/or publications
Automated Title Processing Fund (Fund 8490) – Department of Public Safety			
Revenues	Potential gain from the portion of outboard motor title fees remitted from county clerks	Potential gain from the portion of outboard motor title fees remitted from county clerks	Potential gain from the portion of outboard motor title fees remitted from county clerks
Expenditures	- 0 -	- 0 -	- 0 -
General Revenue Fund			
Revenues	Potential negligible gain	Potential negligible gain	Potential negligible gain
Expenditures	- 0 -	- 0 -	- 0 -
Victims of Crime/Reparations Fund (Fund 4020) – Attorney General			
Revenues	Potential negligible gain	Potential negligible gain	Potential negligible gain
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.

- The Waterways Safety Fund (Fund 7086) in the Department of Natural Resources (DNR) would experience a gain in revenues from the portion of outboard motor title fees remitted by county clerks of courts and retained by the Division of Watercraft, as well as an increase in expenditures for the Division to update its public notices of watercraft safety requirements, including signage and publications.

- The Automated Title Processing Fund (Fund 8490) in the Department of Public Safety (DHS) would experience a gain in revenues from the portion of outboard motor title fees remitted by county clerks of courts.

- The GRF and the Victims of Crime/Reparations Fund (Fund 4020) under the Attorney General's Office may experience negligible gains from the portion of local court costs remitted to the state from criminal cases resulting from watercraft law violations under the bill.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
Counties			
Revenues	Potential gain from fees paid to court clerks and criminal fines	Potential gain from fees paid to court clerks and criminal fines	Potential gain from fees paid to court clerks and criminal fines
Expenditures	Potential minimal increase in administrative costs; potential increase for soil & water conservation projects	Potential minimal increase in administrative costs; potential increase for soil & water conservation projects	Potential minimal increase in administrative costs; potential increase for soil & water conservation projects
Municipalities			
Revenues	Potential minimal gain from criminal fines	Potential minimal gain from criminal fines	Potential minimal gain from criminal fines
Expenditures	Potential minimal increase in criminal justice costs	Potential minimal increase in criminal justice costs	Potential minimal increase in criminal justice costs

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

- Counties may gain revenues from outboard motor title fees collected by common pleas court clerks. Counties may also experience an increase in administrative expenditures related to titling outboard motors.

- Counties and municipalities may experience minimal gains in revenue from criminal fines resulting from violations of the watercraft law changes in the bill. Additional criminal justice costs may result, but may also be offset by fine revenue.

- A county conducting a referendum against a soil and water conservation project that crosses county lines may experience a decrease in expenditures for the project if the referendum passes. Other counties participating in the project may incur increased costs to make up for the amount foregone by the county opting out of the assessment.

Detailed Fiscal Analysis

The bill makes additions and changes to Ohio's watercraft law and imposes various new safety requirements upon watercraft operators in Ohio waters. The bill also adds outboard motors to Ohio's watercraft title law and subjects outboard motors to the same titling requirements as other watercraft. Concerning watercraft safety regulations, the bill:

- Prohibits the operation of a vessel without maintaining sufficient control to avoid property damage, physical injury, and/or loss of life;
- Prohibits the operation of a vessel at a speed that creates a wake within 100 feet of a stationary law enforcement vessel or certain other designated public service vessels;
- Adds Coast Guard-approved Type V personal flotation devices to the list of permitted flotation devices for children under ten years of age;
- Revises and creates exceptions to requirements governing areas used for water skiing, barefoot skiing, or similar activities; and
- Establishes criminal penalties for violations of certain of these provisions.

The effects of these and other changes proposed in the bill are described below.

Watercraft safety

The bill's changes and additions to the watercraft safety law do not place any specific requirements on any state agency. However, it is likely that the Department of Natural Resources (DNR), through the Division of Watercraft, would have to update any public signage or publications with the changes in safety regulations. Signs containing watercraft safety notices may be located at public docks and launch areas, bait shops, or other locations. According to listings on the Division's web site, there are 252 public boating areas larger than 50 acres in the state of Ohio, which would probably be affected by these changes. Division publications such as the Ohio Boat Operator's Guide and the Division's web site would also likely have to be revised. The costs of these revisions to public notices would most likely be paid through the Division of Watercraft's primary operating line item, 739401, Division of Watercraft, located in the Waterways Safety Fund (Fund 7086).

Criminal penalties

The bill subjects certain additional provisions in the bill to existing criminal penalties under the watercraft law as follows:

- A person found operating or permitting to be operated a vessel without maintaining sufficient control to avoid an incident resulting in property damage, physical injury, and/or loss of life is guilty of a minor misdemeanor and subject to a fine of up to $150.
- A person found operating a vessel at a speed that creates a wake within 100 feet of a stationary law enforcement vessel or a vessel that is being used to provide a public

service, and who does not cause injury or property damage is guilty of a fourth-degree misdemeanor (M4) and subject to a fine of up to $250 and a possible jail term of up to 30 days; if a person does cause injury or property damage, the person is guilty of a third-degree misdemeanor (M3) and is subject to a fine of up to $500 and a possible jail term of up to 60 days.

The counties and municipalities likely to be affected most by the bill are those that have a significant recreational boating presence, including those along the Lake Erie shore and those with a large number of lakes used by personal and recreational watercraft. These provisions may impose additional criminal justice costs on such counties and municipalities; however, these are likely to be minimal. Local entities may experience gains in court cost and fine revenue from any convictions that may result, thus offsetting the costs of handling such cases. The state may also gain a negligible amount of state court cost revenue that is deposited into the GRF and the Victims of Crime/Reparations Fund (Fund 4020).

Outboard motor titles

The bill permits registered watercraft dealers to buy outboard motors for which physical certificates of title have not been issued, provides for the transfer of ownership of the motor via an assignment of ownership form that must be filed with a common pleas court clerk, and authorizes an electronic watercraft dealer who buys or sells an outboard motor for which an electronic certificate of title has been issued to notify clerks electronically of the assignment of ownership. In addition, the bill requires a person who is not an electronic watercraft dealer to obtain a physical certificate of title if that person wishes to sell an outboard motor without a physical certificate to a person who is not a registered watercraft dealer.

Under the bill, common pleas court clerks must collect a fee of $5 for each outboard motor assignment and distribute the fees in accordance with the Watercraft Certificates of Title Law. The fee is the same as that collected for watercraft titles under current law, which requires the clerk to retain $2 of the fee and forward the remainder to the Division of Watercraft, which, in turn, must deposit $1 of the amount received for each certificate of title into the Automated Title Processing Fund (Fund 8490) under the Department of Public Safety. The portion of the fees retained by the Division of Watercraft would be deposited into the Waterways Safety Fund (Fund 7086). In FY 2007, the Division of Watercraft retained $143,923 in watercraft titling revenue.

Soil and water conservation project referendums

Under current law, for the purposes of a soil and water conservation project that crosses county lines, the members of the boards of county commissioners of multiple counties must join to form a joint board of county commissioners, and resolutions adopted by the joint board are also considered to have been adopted by each individual county's board of commissioners. Current law permits an individual county to conduct a referendum against a resolution adopted by the joint board. The bill specifies that referendums conducted against such a resolution are effective only in the county in which the referendum was passed. Effectively, a county that passes such a referendum would not be subject to any costs associated with the soil and water conservation project that it would have otherwise incurred.

Any decrease in costs to the county conducting the referendum would depend on whether or not the county had expended any funds for the project before the referendum was held. In the event of a referendum passing, the county conducting the referendum presumably would no longer assume its portion of the costs of the project. Such costs would be limited only to those counties participating in the project but that did not hold a referendum against it. Current law specifies that the joint board of county commissioners may apportion certain costs of the project among the participating counties. Presumably, the joint board would perform such an apportionment among the counties that did not pass a referendum. Depending on the outcome of such a referendum, and the joint board's apportionment, the remaining counties could each incur an additional share of the project costs.

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