



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 5 of the 128th G.A. **Date:** June 3, 2010
Status: As Recommended by Conference Committee **Sponsor:** Reps. Okey and Dodd

Local Impact Statement Procedure Required: No — Minimal cost

Contents: Regulates transition accounts, makes specified provisions for certain special elections, and declares an emergency

State Fiscal Highlights

- The Elections Division within the Secretary of State's Office and the Ohio Elections Commission could incur some new costs to oversee transition accounts under the bill. However, there are likely to be few such accounts established each election cycle.
- Any new cost the Secretary of State incurs will be paid from the GRF, although funding for the Elections Division is supplemented by the Corporate and Uniform Commercial Code Filing Fund (Fund 5990).
- Under current law, the Ohio Elections Commission is permitted to levy fines for various violations of election laws. Under the bill, this fining authority would extend to violations concerning the use of transition accounts. The proceeds of fines assessed by the Elections Commission are deposited into the Elections Commission Fund (Fund 4P20), which is used to supplement GRF support for the Commission's operations.
- The bill permits county boards of elections conducting special elections on or before August 4, 2010 for the office of congressional representative to operate a limited number of polling places. In effect, this applies to special elections in the 3rd and 9th congressional districts. The costs of these elections are initially paid by the county boards of elections but are subsequently reimbursed by the Secretary of State's Office.

Local Fiscal Highlights

- The bill permits county boards of elections to operate a limited number of polling places for the 3rd and 9th congressional districts special elections, thereby lowering the cost of these elections. The costs of these elections are initially paid by the county boards of elections, but are subsequently reimbursed by the Secretary of State's Office.
 - For complaints heard in county courts, there could be some small amount of additional costs and some amount of fine revenue from cases involving transition accounts.
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Detailed Fiscal Analysis

Overview of provisions with fiscal effect

The bill permits a person who has been or who may have been elected or appointed to any elective office to establish a transition fund to receive donations and to pay only those costs incurred for transition activities and inaugural celebrations. The bill limits the permissible duration of transition funds to 120 days, and limits the amount that may be donated to these funds to \$10,000 for the joint offices of Governor and Lieutenant Governor, and \$2,500 for all other elected office holders. Please consult the LSC bill analysis for further details on these and related provisions. Overall, under the transition account structure and oversight provided in the bill, the Secretary of State could incur some minimal new costs for regulating transition accounts and the Ohio Elections Commission might incur additional expenses for conducting hearings concerning transition account complaints. On the local level, there might be some minimal costs associated for prosecuting cases, as well as the possibility of fine revenue. The cost of conducting special elections in two congressional districts will also be reduced.

Secretary of State

Under the bill, the Secretary of State will regulate transition funds in a manner similar to the way in which it regulates the Campaign Finance Law. Ultimately, the Secretary of State's costs will depend on the number of elected officials who opt to create transition funds. Presumably, statewide office holders would be more likely to maintain such funds, whereas locally elected officials would be less likely to maintain them. The Campaign Finance section of the Secretary of State's Elections Division is responsible for handling all campaign finance filings and would most likely handle all filings related to transition funds. The Elections Division is funded through the Secretary of State's GRF appropriation item 050321, Operating Expenses and is supplemented by funding from the Corporate and Uniform Commercial Code Filing Fund (Fund 5990).

Ohio Elections Commission

Just as with campaign finance complaints forwarded by the Secretary of State, the bill gives the Ohio Elections Commission the authority to hear and rule on complaints involving transition accounts. In determining whether to give a complaint an expedited hearing, the Commission may consider whether the complaint relates to the late filing of a donation and disbursement statement, unreported donation and disbursement information, or an incomplete statement. Under current law, the Ohio Elections Commission is permitted to levy fines for violations of various election laws. This authority would presumably apply to transition accounts.

Any fines assessed by the Ohio Elections Commission are deposited into the Elections Commission Fund (Fund 4P20). Any additional costs as a result of the bill – probably minimal because there would be few transition fund complaints – would be paid for from Fund 4P20 and could potentially be offset by any fine revenues collected. Fund 4P20 generally collects \$400,000 in filing fees and penalties over the course of the biennium. Any serious violations of the provisions of the bill would be remitted to the appropriate county prosecutor.

Under the bill, a campaign committee or person who makes a donation in excess of the applicable limit must be fined three times the amount donated that exceeds the limit. Similarly, an officeholder or treasurer of a transition fund that accepts a donation in excess of the applicable limit must be fined an amount equal to three times the amount accepted that exceeds the limit. If such a case cannot be resolved by the Elections Commission, the violation would be sent to the county prosecutor. In this case, such a violation is considered a first degree misdemeanor, which generally carries a penalty of up to six months in jail and a fine of up to \$1,000. However, campaign finance law sets specific penalties for different violations of the law.

Any cases that the Ohio Elections Commission forwards for prosecution will be heard in common pleas court. As a result, counties might incur some new costs. However, as indicated above, the number of transition fund complaints forwarded for prosecution is likely to be small. Any new costs and any fine revenue resulting from successful prosecution are thus likely to be minimal.

Special elections to fill congressional ballot vacancy

The bill permits boards of elections conducting a special election on or before August 4, 2010, for the purpose of nominating candidates for congressional representative to conduct that election using only four polling places. This provision deals specifically with special elections to nominate candidates for the 3rd and 9th congressional districts. The special elections are needed because the original primary winners dropped out. There was a special election in the 3rd congressional district in 2006, the cost of which was approximately \$600,000, using all polling places.

Any such special election requires that all polling places in that congressional district be open. By limiting the number of polling places open for this election, the bill

reduces the cost the county board of elections incurs in conducting the special election. Presumably there will be fewer voting machines used, which will also lower costs. However, the greatest savings will be from the smaller number of poll workers required to operate polling places in the counties within these districts. When such a special election occurs, counties pay the initial costs for the election, and then certify those costs to the Secretary of State's Office for reimbursement. The Secretary of State pays for these reimbursements through the Boards of Elections Reimbursement Fund (Fund 5FG0), which is funded through GRF transfers authorized by the Controlling Board.

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