Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 5 of the 128th G.A. **Date**: December 17, 2009

Status: As Passed by the Senate **Sponsor**: Reps. Okey and Dodd

Local Impact Statement Procedure Required: No — Minimal cost

Contents: Permits individuals elected or appointed to office to establish transition funds

State Fiscal Highlights

STATE FUND	FY 2010 – FUTURE YEARS
Secretary of State – GRF	
Revenues	- 0 -
Expenditures	Potential minimal increase
Elections Commission – Fund (Fund 4P20)	
Revenues	Potential minimal gain in fines
Expenditures	Potential minimal increase

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- There may be some costs to the Secretary of State's Office and the Ohio Elections Commission to oversee transition accounts. However, as these accounts would only be created in a few cases, any new costs stemming from the bill are likely to be minimal. Any new cost borne by the Secretary of State would be paid from GRF appropriation item 050321, Operating Expenses.
- Under current law, the Ohio Elections Commission is permitted to levy fines for various violations of election laws. Under the bill, this authority would presumably apply to transition accounts. These fines are deposited into the Elections Commission Fund (Fund 4P20), which is used to supplement GRF support the Commission's operations.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2009 – FUTURE YEARS
County Courts of Common Pleas	
Revenues	Potential minimal gain in fine revenues
Expenditures	Potential minimal increase in court costs

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

- For complaints forwarded to and cases adjudicated in county courts, there could be minimal new costs and some accompanying fine revenue resulting from successful prosecutions. Presumably, there would be few such cases, meaning that new costs or new revenues would be minimal.

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.

Secretary of State

The Secretary of State would 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 would 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.

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 would 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.

State agency advertisement and candidate advertisement violations

The bill prohibits a state agency, board, or commission from using the name, official position, likeness, image, or voice of a candidate for nomination or election to a state office in any advertising during the calendar year in which the candidate is seeking nomination or election. The bill allows an individual to seek a writ of mandamus or prohibition from the Ohio Supreme Court for violation of this provision. Presumably, the number of such cases arising from this provision would be minimal. Therefore, any additional costs to the Ohio Supreme Court for hearing any such writs would likely be negligible.

Current law stipulates that any candidate that violates any provisions related to advertising restrictions must be fined an amount that is equal to three times the cost of the advertisement that violated the provision. This fine revenue is deposited into the General Revenue Fund (GRF). The bill removes this provision.

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