Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 326 of the 128th G.A.

Date: August 10, 2010

Status: As Introduced

Sponsors: Reps. Hottinger and Grossman

Local Impact Statement Procedure Required: Yes (Corrected after initial review)

Contents: To reduce estate tax rates, to authorize townships and municipal corporations to exempt from the estate tax any estate property located in the township or municipal corporation, and to distribute all estate tax revenue originating in a township or municipal corporation that does not exempt property from the tax to the township or municipal corporation

State Fiscal Highlights

STATE FUND	FY 2011	FY 2012	FUTURE YEARS
General Revenue Fund			
Revenues	Potential loss in the tens of millions	Loss in the tens of millions	Loss in the tens of millions
Expenditures	- 0 -	- 0 -	- 0 -

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

- The bill eliminates the state's share of estate tax receipts, currently 20% for estates with dates of death on or after January 1, 2002. Therefore, the GRF will not receive any estate tax revenue from estates with dates of death on or after January 1, 2010. The revenue loss would be between $50 million and $75 million in most years, based on recent experience.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2010	FY 2011	FUTURE YEARS
Municipal corporations and townships			
Revenues	- 0 -	Potential loss	Loss in the millions
Expenditures	- 0 -	- 0 -	- 0 -
Municipal corporations, counties, townships, and public libraries (LGF and PLF)			
Revenues	- 0 -	Potential loss	Loss in the millions
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.

- The bill authorizes municipal corporations and townships to exempt from the estate tax any estate assets located in the municipal corporation or township. If they chose such exemption, they would not receive any revenue from the estate tax. Any such revenue loss would be permissive.
- The bill increases the existing estate tax credit from $13,900 to $15,575 beginning January 1, 2010 and increases the credit for inflation, as measured by the Consumer Price Index (CPI), annually beginning December 2011. Any increase in the value of the estate tax credit may exempt several estates and reduce the tax liabilities of estates that are not exempt, thus resulting in an estate tax revenue loss. The initial increase in the tax credit is estimated to reduce revenue to local governments statewide (i.e., assuming no local governments exempted estate property from the tax), by about $9.4 million, based on FY 2008 returns. The revenue loss would gradually increase as the tax credit increased with inflation.
- The bill eliminates the state's share of estate tax receipts for estates with dates of death on or after January 1, 2010, thereby reducing revenue to the GRF. That would reduce revenue to the Local Government Fund and the Public Library Fund, which currently receive 3.68% and 1.97%, respectively, of all GRF tax revenue. That would reduce revenue to municipalities, counties, townships, and public libraries by between $2.8 million and $4.4 million in most years after FY 2012, with a smaller loss in FY 2012.

Detailed Fiscal Analysis

The bill makes several changes to the estate tax for estates with dates of death on or after January 1, 2010. The bill reduces estate tax rates by 20%, requires all estate tax revenue to be distributed to the municipal corporations and townships where estate assets are located and levied, adjusts the state estate tax credit, and authorizes townships and municipal corporations to exempt from the estate tax any estate property located in the township or municipality. The magnitude of the fiscal impact would depend on how townships and municipalities act in response to the bill.

Local option estate tax exemption

The bill allows townships and municipal corporations to exempt estate property from the estate tax. Any such exemption would require an ordinance or resolution, passed by the legislative authority of a municipality or by the township trustees, as applicable. If a township or municipality decided to exempt estate property in its township or municipality, it would not receive any estate tax revenue during the exemption period; the bill allows a township or municipality that has exempted estate property to overturn the exemption in the future. Any such revenue loss would be permissive, and the statewide magnitude of the loss would depend on decisions made at the local level.

Estate tax rates and distribution of revenue

The bill reduces estate tax rates by 20% for estates with dates of death on or after January 1, 2010. Thus, it would reduce overall estate tax receipts. The bill also requires all estate tax revenue to be distributed to the municipal corporations and townships where estate assets are located and levied. Currently, the distribution of estate tax revenues for dates of death after January 1, 2002 is 20% to the GRF and 80% to the township or municipality of estate origin. Beginning with dates of death on or after January 1, 2010, the bill allows a municipal corporation or township of origin, except any township or municipal corporation that adopted a resolution or ordinance to exempt estate property from the estate tax, to keep all of the estate tax revenue less any deduction for the cost of administering the tax. The share that goes to the GRF would be reduced from 20% to 0%.

Estate tax credit and exemption threshold

Currently, resident estates with dates of death on or after January 1, 2002 and gross values less than or equal to $338,333 owe no state estate tax and are not required to file an estate tax return. Every estate that does file a return is allowed a nonrefundable tax credit of $13,900. The bill increases the existing nonrefundable estate tax credit to $15,575 and the filing threshold to $366,250 for estates with dates of death on or after January 1, 2010. In December of every year, beginning in 2011, the Tax Commissioner is required to adjust the tax credit and exemption threshold based on the percentage increase in the Consumer Price Index (CPI). Any increase in the value of the estate tax threshold will exempt some estates from the tax, thus resulting in an estate tax revenue loss. Any increase in the value of the estate tax credit will reduce the tax liabilities of estates not exempt from the tax.

Fiscal impact

The GRF would not receive any estate tax revenue from estates with dates of death on or after January 1, 2010. In FY 2009, total estate tax collections were $333.8 million. The GRF received $64.4 million while the remaining $269.4 million was distributed to the townships and municipalities of estates' origin. The GRF share varied between FY 2005 and FY 2009 from a low of $54.1 million (in FY 2006) to a high of $72.1 million (in FY 2007). Based on this experience, the revenue loss to the GRF would be expected to be between $50 million and $75 million in most years. Given the time lags involved in probating estates, the revenue loss would be less than this in FY 2011 and in FY 2012. The Local Government Fund (LGF) receives 3.68% of GRF tax revenue under a statutory formula, while the Public Library Fund (PLF) currently receives 1.97% of GRF tax revenue. The PLF share will increase to 2.22% in FY 2012 in the absence of specific action by the General Assembly. So this provision of the bill would reduce revenue to the LGF and to the PLF by between $2.8 million and $4.4 million in most years following FY 2012.

The 20% decrease in estate tax rates is exactly offset, for municipalities and townships, by the increase in revenue share to 100%. But the increase in tax credit would reduce estate tax collections. The initial estimated revenue loss would be approximately $9.4 million, based on estate tax returns finalized in FY 2008. This amount would vary from year to year depending on estate filings; however, it would gradually rise over time as the amount of the tax credit increased with inflation. The fiscal effect on any individual township or municipality would depend on the gross value of estates in its territory in a particular year.

Any revenue loss from the provision that authorizes local governments to exempt local estates from the tax would depend on decisions made at the local level, and would be permissive.

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