Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 329 of the 128th G.A.

Date: December 1, 2009

Status: As Introduced

Sponsor: Rep. S. Williams

Local Impact Statement Procedure Required: No

Contents: To include employees working from home for purposes of the job creation and job retention tax credits

State Fiscal Highlights

STATE FUND	FY 2010	FY 2011	FUTURE YEARS
General Revenue Fund			
Revenues	Potential loss	Potential loss	Potential loss
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 increases the number of employees that are eligible for the job creation tax credit and the job retention tax credit. The tax credits are applied against the commercial activity tax (CAT), the foreign insurance tax, and the domestic insurance tax. Thus, the bill potentially reduces receipts from those taxes. Total tax revenues are distributed to the General Revenue Fund (GRF, at 94.1% under permanent law, and 94.35% in the current biennium).

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2010	FY 2011	FUTURE YEARS
Counties, municipalities, and school districts			
Revenues	Potential loss	Potential loss	Potential loss
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.

- Total tax revenues are distributed under permanent law to the Local Government Fund (LGF, 3.68%), and the Public Library Fund (PLF, 2.22%). (In the current biennium, distributions to the PLF are reduced to 1.97% of total tax revenues.) Revenue from the CAT is distributed to the School District Tangible Property Tax Replacement Fund (70%) and to the Local Government Tangible Property Tax Replacement Fund (varying percentages). Thus, the reduction in revenues from the bill reduces distributions to all these funds.

Detailed Fiscal Analysis

The bill specifies that an employee "employed in the project" for purposes of both the job retention tax credit and the job creation tax credit includes an employee whose services are performed primarily from the employee's Ohio residence so long as they are performed exclusively for the benefit of the project. Under both tax credits, the "project" is generally a business's place of operations, as specified in the tax credit agreement between the firm and the Ohio Tax Credit Authority. Thus, the bill expands the number of workers that may qualify for the tax credits and potentially reduces state revenues from the commercial activity tax (CAT), the domestic insurance tax, and the foreign insurance tax.

Based on current data on the job creation and the job retention tax credits, H.B. 329 would potentially increase the revenue loss from the tax credits by less than $1.0 million per year. According to the Tax Expenditure Report for the FY 2010-FY 2011 biennium,[1] the revenue loss in FY 2011 to the General Revenue Fund (GRF) from the job retention tax credit and the job creation tax credit (prior to changes made by H.B. 1), was estimated at $9.3 million and $101.5 million, respectively, for a total of $110.8 million. The combined revenue loss to the Local Government Fund and the Public Library Fund was estimated at $6.9 million, for a total state revenue loss of $117.7 million in FY 2011. Data from the United States Bureau of Labor Statistics[2] suggest that the share of wage and salaried workers that worked at home is less than 0.6% of the total nonfarm payroll. Applying that percentage to the estimated total state revenue loss in FY 2011 from the tax credits implies H.B. 329 could reduce tax receipts by an additional $680,000, based on existing tax credit agreements, if credit recipients had full-time home-based employees. The additional revenue loss would be shared by the GRF ($640,000) and the two local government funds ($40,000).

H.B. 1, the current biennial operating budget act, eased the requirements to qualify for both the refundable job creation tax credit and for the job retention tax credit. Prior to H.B. 1, the tax credits were based on income tax withholdings from full-time employment. H.B. 1 authorized job tax credits based on annual aggregate payroll withholdings (which include both full-time <u>and</u> part-time employees) and payroll growth. Current law prescribes that the credits are to be based on the increase in tax withholdings from all employees employed at a project. Explicit job creation or retention conditions for the agreements were eliminated and H.B. 1 substituted a requirement that the Ohio Tax Credit Authority determines whether a project will increase payroll and income tax revenue. This change potentially increased the fiscal

[1] Ohio Department of Taxation.

[2] *Work At Home in 2004*, U.S. Bureau of Labor Statistics.

impact of the job retention and job creation tax credits compared to prior law. No data are available on the fiscal impact of this recent change in the structure of the tax credits.

H.B. 329 also potentially increases the cost of the tax credits by expanding the potential number of both full-time and part-time home-based employees that may be counted for the calculation of the tax benefits of a firm applying for a job retention tax credit or a job creation tax credit. LSC is unable to determine the extent of the potential increase in revenue foregone as the actual revenue loss from the bill is dependent on the number and the size of tax credits awarded by the Ohio Tax Credit Authority.

Revenues from the domestic and foreign insurance taxes are distributed to the General Revenue Fund (GRF, at 94.1%), the Local Government Fund (LGF, 3.68%), and the Public Library Fund (PLF, 2.22%). For FYs 2010-2011, distributions of tax revenues to the GRF are increased to 94.35% and those to the PLF are reduced to 1.97%. Through FY 2011, revenues from the CAT are not deposited into the GRF as they are earmarked for reimbursing school districts and other local governments for the reductions and phase-out of local taxes on most tangible personal property (TPP). CAT receipts are distributed to the School District Tangible Property Tax Replacement Fund (70%) and to the Local Government Tangible Property Tax Replacement Fund (30%). In FY 2012 and future years, the share of CAT receipts distributed to schools remains at 70%. Through FY 2018, the share of CAT receipts distributed to the GRF increases and the share distributed to the Local Government Tangible Property Tax Replacement Fund decreases each year. Current law prescribes that after FY 2018 CAT receipts are no longer distributed to the Local Government Tangible Property Tax Replacement Fund, and the GRF receives 30% of the receipts. Any GRF receipts from the CAT would be distributed between the GRF, the LGF, and the PLF as described above for the insurance taxes. While the CAT does not directly contribute revenue to the GRF in FYs 2010-2011, the GRF is responsible for covering shortfalls to the School District Tangible Property Tax Replacement Fund and to the Local Government Tangible Property Tax Replacement Fund. Therefore, a reduction in CAT receipts from the bill affects the GRF and the two local government funds.

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