Ohio Legislative Service Commission

Sara D. Anderson

Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 338 of the 128th G.A. **Date**: June 3, 2010

Status: As Passed by the Senate **Sponsor**: Reps. Book and Uecker

Local Impact Statement Procedure Required: No — Permissive

Contents: Court jurisdiction regarding driver's licenses, Putnam County judgeships, and other sentencing changes

State Fiscal Highlights

STATE GOVERNMENT	FY 2011*	FY 2012 – FUTURE YEARS
General Revenue Fund (GRF)		
Revenues	- 0 -	- 0 -
Expenditures	Estimated $4,666 decrease related to Putnam County judgeship changes	Estimated $9,333 annual decrease related to Putnam County judgeship changes

Note: The state fiscal year is July 1 through June 30. For example, FY 2011 is July 1, 2010 – June 30, 2011.

* Effective January 1, 2011, two part-time judgeships in Putnam County are abolished and replaced by one full-time judgeship.

- **Putnam County judgeships.** As a result of replacing two part-time judgeships with one full-time judgeship in Putnam County, the amount that the Supreme Court of Ohio disburses in related GRF payroll expenditures will decrease by an estimated $9,333 annually. As this change actually begins roughly halfway through the state's FY 2011 (January 2011), the decrease in that fiscal year will be a portion of that estimated annual amount, or approximately $4,666.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2010	FY 2011 – FUTURE YEARS
Courts (driver's license matters)		
Revenues	- 0 -	- 0 -
Expenditures	Potential decrease of uncertain magnitude	Potential annual decrease of uncertain magnitude
Putnam County (judgeship)		
Revenues	- 0 -	- 0 -
Expenditures	- 0 -	Estimated $10,958 annual decrease related to judgeship changes
Counties (jail operations)		
Revenues	- 0 -	- 0 -
Expenditures	Potential decrease of uncertain magnitude	Potential annual decrease of uncertain magnitude

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

- **Single court litigation.** The bill confers on any court whose jurisdiction is invoked regarding a driver's license matter concurrent jurisdiction to adjudicate issues and appeals regarding that driver's license matter. This would reduce caseload processing expenditures in certain courts, the precise magnitude of which is difficult to discern. Any potential savings for a court would manifest itself in terms of improved efficiency in processing cases on the court's docket.
- **Putnam County judgeships.** Starting in January 2011, the annual salary and related payroll expenses for changing the judgeships of Putnam County from two part-time county court judges to one full-time municipal court judge will save the county an estimated $10,958 per year.
- **Sentencing for traffic offenses.** The bill enhances the penalty for operating a motor vehicle without a license, if there are prior convictions for the same offense, from an unclassified misdemeanor to a first degree misdemeanor. This could potentially increase local sanctioning costs by introducing the possibility of jail time or community residential sanctions for these offenders.
- **Judicial release for misdemeanor offenders.** The bill allows judges to modify sentences and release certain misdemeanor offenders early, which should result in a reduction of expenditures for the counties of uncertain magnitude.

Detailed Fiscal Analysis

Overview

For purposes of this fiscal analysis, the bill most notably:

- Allows, in certain circumstances, all issues concerning a person's driver's license to be litigated in a single court;
- Eliminates the Putnam County County Court and replaces it with the Putnam County Municipal Court, eliminates the two part-time judgeships in the Putnam County County Court, and creates one full-time judgeship in the Putnam County Municipal Court;
- Changes the timing of the release of funds to a wrongfully imprisoned individual;
- Makes changes to the penalty for operating a motor vehicle without a valid license and clarifies the sentencing for traffic offenses that are unclassified misdemeanors; and
- Creates a judicial release mechanism for misdemeanor offenders serving jail sentences.

Single court litigation

The bill allows, in certain circumstances, all issues concerning a person's driver's license to be litigated in a single court. In some cases, an individual's appeal of a driver's license suspension may require actions to be filed concurrently in more than a single court plus the state's Bureau of Motor Vehicles (BMV). The bill will allow that individual to challenge driver's license-related issues in a single jurisdiction which would allow for a more streamlined and cost-effective process of adjudicating these driver's license-related issues.

State fiscal effects

This provision will have no significant effect on state revenues or expenditures generally. It could, however, reduce the number of BMV hearings, which could trigger what BMV staff refers to as a negligible annual savings effect.

Local fiscal effects

This provision would create cost savings through efficiencies by allowing the courts to streamline the administration of driver's license issues which would, in turn, potentially decrease expenditures for certain courts. The bill confers on any court whose jurisdiction is invoked regarding a driver's license matter concurrent jurisdiction to adjudicate all issues and appeals regarding that driver's license matter. According to the Judicial Conference of Ohio, as well as the Ohio State Bar Association, the bill would likely reduce caseload processing expenditures in certain courts by bringing various

driver's license related appeals into a single court. The bill also specifies the procedure for the holder of the driver's license to invoke the particular court's jurisdiction.

Given the permissive nature of the bill, it is difficult to estimate the exact number of driver's license related cases that would be affected. This greatly complicates any effort to calculate the precise magnitude of any reduced expenditures in certain courts. Typically, such savings would be realized in terms of a reduction in caseload and improved efficiency in the processing of cases on the court's docket.

Putnam County judgeships

Effective January 1, 2011, the bill abolishes the Putnam County County Court and its two part-time judgeships and creates the Putnam County Municipal Court with one full-time judgeship.

Payroll-related costs

The payroll-related costs associated with municipal and county court judgeships can be viewed as having the following three distinct components:

(1) A base salary consisting of a local and state share that is determined by statute, with the state share equal to the annual salary minus the local share;

(2) Membership in the Public Employees Retirement System (PERS), with the state and Putnam County contributing at the rate of 14.0% of their respective shares; and

(3) Other administrative costs, including, but not limited to, Medicare and workers' compensation.

As detailed in the table below, the abolition of the two existing part-time Putnam County County Court judgeships and the creation of one full-time judgeship in the Putnam County Municipal Court will produce a net annual decrease in payroll-related expenditures for both the state and Putnam County. The total annual decrease is estimated at $9,333 for the state and $10,958 for Putnam County.

Comparison of State and Local Payroll Cost Components for Putnam County Judgeship Changes

Payroll Cost Components	State			Putnam County		
	Full-time*	Part-time*	Difference	Full-time*	Part-time*	Difference
Salary	$52,350	$60,300	-$7,950	$61,750	$71,000	-$9,250
PERS	$7,329	$8,442	-$1,113	$8,645	$9,940	-$1,295
Other	$1,771	$2,041	-$270	$2,747	$3,160	-$413
Totals	**$61,450**	**$70,783**	**-$9,333**	**$73,142**	**$84,100**	**-$10,958**

***** Cost comparison is between one full-time municipal court judgeship being created and two part-time county court judgeships being abolished.

Other costs

Based on conversations with local officials familiar with this issue, it appears that Putnam County may incur a minimal one-time cost to replace its existing county court with a municipal court.

Wrongful imprisonment

The bill provides that within 60 days after the date of the entry of a court of common pleas' determination that a person has been wrongfully imprisoned, the clerk of the court of claims is required to forward a preliminary judgment to the president of the Controlling Board requesting the payment of 50% of either $40,330 or an adjusted amount determined by the state auditor for each year of imprisonment to the wrongfully imprisoned individual. The payment is required to be paid from the Board's GRF line item 911401, Emergency Purposes/Contingencies.

State fiscal effects

This provision of the bill only affects the timing of payments; it does not affect the amount of the payments themselves. As a result, there could be a potential increase in expenditures for increased workload and administrative tasks for the court of claims and the Attorney General's Office. Any potential increase in expenditures as a result of the wrongful imprisonment provision of the bill is unlikely to exceed minimal.

Penalties and sentencing for traffic offenses

The bill makes the following changes to the provisions related to traffic offenses that are already unclassified misdemeanors: (1) the bill clarifies that, when a citation is issued for a traffic offense identified in the bill (primarily for operating a motor vehicle without a license, operating a motor vehicle under suspension, etc.), there would be no jail time or community residential sanctions and (2) the bill enhances the penalty for driving without a license, if there are prior convictions for the same offense, from an unclassified misdemeanor to a first degree misdemeanor. This could potentially increase local sanctioning costs by introducing the possibility of jail time or community residential sanctions for these offenders. The magnitude of any such expenditure increase in a given county is uncertain.

Judicial release

The bill creates a judicial release mechanism, which enables the courts to modify the jail sentences of misdemeanor offenders, unless the offender is serving a mandatory term. By allowing judges to shorten sentences and release certain misdemeanor offenders early, this provision of the bill should, in theory, result in a reduction of expenditures for the counties. It is difficult to precisely calculate the level of any such spending reductions due to the heavy demand for jail beds in most counties. When offenders are released as a result of this provision of the bill, the empty beds are very likely to be quickly refilled with new offenders sentenced to jail time by the courts. To the extent that this occurs, the net spending reductions to the counties will stem from the increased efficiency of turning beds over at a faster rate, reducing backlogs, and potentially alleviating overcrowded conditions.