



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: [Am. Sub. H.B. 357 of the 128th G.A.](#) **Date:** June 29, 2010
Status: As Passed by the House **Sponsor:** Rep. Carney

Local Impact Statement Procedure Required: No — Permissive

Contents: Regarding the Intrastate Mutual Aid Compact, the authority of certain emergency medical services personnel to dispense drugs during an emergency, the authority of the Governor to declare the existence of a health exigency

State Fiscal Highlights

- **All state agencies.** If an appointing authority chooses to have an employee leave work, the authority could realize an increase in costs. The increase would only be incurred if the employee who is sent home chooses to take a leave of absence without pay during the health exigency and that employee is out of the office for longer than one pay period. Currently, public employees taking a leave of absence without pay for longer than one pay period would be responsible for their share and their employer's share of any health premiums.
- **Ohio Department of Administrative Services (DAS).** DAS may have minimal costs for rule promulgation related to the mandatory leave provisions.
- **Ohio Department of Health (ODH) and Governor's Office.** The bill requires the Director of Health, on the Governor's declaration of a health exigency to supply each state agency with a web site address where information and guidelines ODH has developed can be found. Additionally, ODH is required, on the Governor's declaration of an emergency, to develop guidelines governing the delivery of drugs during the emergency by certain EMS personnel. As a result, ODH could experience an increase in costs.
- **All state agencies and state building and facilities.** The bill requires state agencies to create a link to ODH's web site to be posted during a health exigency. Since all state agencies currently have a web site, it would appear that this would result in a negligible cost for the agencies. In addition, the person in charge of state buildings or facilities and the person assigned to coordinate health exigencies for each state agency would have to review internal policies to ensure consistency with the information and guidelines posted. Additionally, the person assigned for each state agency would be required to make a reasonable effort to notify employees and also students, in the case of a state institution of higher education, when updates are

posted and when internal policies have been updated. These could result in increases in administrative costs.

- **Environmental Protection Agency.** The exemptions for infectious wastes addressed in this bill will have a negligible fiscal impact on the EPA and may lead to minimal savings for health departments.

Local Fiscal Highlights

- **Courts of common pleas, municipal courts, and county courts.** In theory, the bill will generate some form of operational savings realized in various involved courts resulting from a decrease in judicial dockets and the workload of court personnel stemming from the provision of civil immunity for certain first responders. If the impact on courts is not significant, as some have noted, then arguably the potential magnitude of the ongoing savings effect may be no more than minimal. However, the courts may experience a loss in court cost and filing fees, with that loss likely to be offset by any potential savings effect.
- **County/regional emergency management agencies.** The bill authorizes a political subdivision participating in the Intrastate Mutual Aid Compact that is impacted by a disaster or other emergency that requires additional resources to request mutual assistance or aid from any other participating subdivision. If such a participating subdivision responds in the affirmative, there would likely be additional expenditures for that subdivision to provide the requested aid, but it is difficult to adequately determine what, if any, those additional expenditures could amount to.
- **Court costs.** The bill permits certain emergency medical services (EMS) personnel to dispense drugs during a public health emergency. With the exemptions granted by the bill, there could potentially be a decrease in fine revenues currently collected by the courts related to violations of the prohibition. Any such decrease in fine revenue would be no more than negligible given the paucity of violations occurring under current law.

Detailed Fiscal Analysis

Intrastate Mutual Aid Compact

The bill authorizes a political subdivision participating in the Intrastate Mutual Aid Compact (IMAC) that is impacted by a disaster or other emergency that requires additional resources to request mutual assistance or aid from any other participating subdivision. Any such responding subdivision (typically a county or regional emergency management agency) cannot request reimbursement for either (1) the first eight hours of mutual assistance or aid it provides or (2) any expenses it incurs related to personnel suffering injury or death in the course of assisting the political subdivision who requested the assistance.

Fiscal effect

Under current law, a political subdivision participating in the IMAC is permitted to request assistance from another political subdivision in the event of a disaster or other emergency. This is primarily unchanged by the bill. Potentially, the most significant change in the IMAC is the provision that prohibits a responding agency from requesting reimbursement for the first eight hours of mutual assistance or aid it provides. This provision could result in an increase in expenditures, if the participating subdivision agrees to provide aid, but it is difficult to adequately determine what, if any, those additional expenditures could amount to.

Mandatory leave for public employees during a health exigency

A "health exigency" is defined in the bill as the occurrence or imminent threat of an illness or health condition that, because of its scale, timing, or unpredictability, poses a substantial risk to the health of persons in Ohio, including an epidemic, pandemic, or incident that precipitates the issuance of an order for quarantine or isolation. The bill permits the Governor, after consultation with the Director of Health, to declare a health exigency and issue orders necessary to activate plans to address the health exigency. During the time that the health exigency remains in effect, the bill permits an appointing authority of a state employee to require an employee who exhibits at least one symptom included in the Governor's declaration to leave the workplace.

The bill specifies that the state agency employee may choose the type of leave to be used during this period (sick leave, vacation, personal leave, or compensatory time). In addition, the bill specifies that the employee may take a leave of absence without pay. Donated leave may also be used by the employee. Employees on a leave of absence without pay will continue to accrue leave, longevity, service credit, and retention points as long as the employee returns to work with the appointing authority when authorized to do so. The employee on a leave of absence without pay is responsible for paying the employee's share, and the employer (appointing authority) is

responsible for paying the employer's share, of premiums for all health insurance programs in which the employee is enrolled.

The bill allows the requirement for mandatory leave during a health exigency to prevail over collective bargaining agreements entered into before, on, or after the bill's effective date.

Fiscal effect

The Ohio Department of Health (ODH) and the Governor's Office could realize an increase in costs if a health exigency is declared. However, it appears likely that any of the activities undertaken would be activities ODH and the Governor's Office would currently be involved in during certain situations anyway. Additionally, the Department of Administrative Services could experience a minimal increase in costs for any rule promulgation associated with the bill.

If a state appointing authority chooses to have a public employee exhibiting a symptom leave the workplace, the authority could realize an increase in costs. The increase would only be incurred if the employee who is sent home chooses to take a leave of absence without pay during the health exigency and if the employee is out of the office for longer than one pay period. Currently, state public employees taking a leave of absence without pay for longer than one pay period would be responsible for their share and their employer's share of any health premiums. The increase would depend on whether or not a health exigency would be declared, how often an exigency was declared, how many employees would choose a leave of absence without pay after being sent home, and how long the employees are out of the office. It is expected that a health exigency would not be declared often.

Department of Health's web site

The bill requires the Director of Health, on the Governor's declaration of a health exigency to supply each state agency with a web site address where information and guidelines ODH has developed can be found. Each state agency must create a link to the agency's web site to be posted on the main page as soon as practicable. In addition, the bill requires the person in charge of each building or facility where state agency employees regularly work and the person assigned to coordinate health exigencies for each state agency to promptly review the information and guidelines and update the building's or facility's internal policies to ensure that the policies are consistent with the information and guidelines. The person assigned to coordinate health exigencies for each agency is required to make a reasonable effort to notify the agency's employees when information has been posted and when internal policies have been updated. In the case of a state institution of higher education, the person is required to also make a reasonable effort to notify the students enrolled in the institution.

Fiscal effect

As a result of the bill, ODH could experience an increase in costs. However, the requirements in the bill are likely things that ODH would currently be involved with, so

any increase would be minimal in nature. The increases in costs would be for developing and posting information on ODH's web site during a health exigency and supplying each state agency with the current web address for this information. Additionally, state agencies would have to post a link on their main pages to ODH's web site. Since all state agencies currently have a web site, it would appear that this would result in a negligible administrative cost for the agencies.

The person in charge of state buildings or facilities would have to review internal policies. This could result in increases in costs. However, it appears likely that internal policies would currently be reviewed during certain situations. Additionally, the notification of information and updates to internal policies by the person assigned to coordinate health exigencies for each agency could result in an increase in administrative costs. It is assumed that agencies and state institutions of higher education could provide this notification through e-mail. If this is the case, then any increase is expected to be negligible.

Dispensing drugs during a public health emergency

The bill requires the Director of Health, on the Governor's declaration of an emergency that affects the public health, to develop guidelines governing the delivery of drugs during the emergency by certain EMS personnel. Additionally, the bill permits certain EMS personnel to dispense drugs during a public health emergency. Thus, EMS personnel are exempted from the prohibition in current law that states only pharmacists and pharmacy interns are permitted to dispense drugs. The exemption extends to first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, and paramedics.

Fiscal effect

ODH could experience an increase in costs relating to developing guidelines governing the delivery of drugs during an emergency. Under current law, a violation of the prohibition mentioned in the previous paragraph is a misdemeanor of the third degree. If the offender has previously been convicted of, or pleaded guilty to, a violation of the law governing pharmacists, the violation is a misdemeanor of the second degree. The exemptions granted by the bill would likely create a decrease in fine revenues collected by the courts related to violations of the prohibition, but it is unlikely that such a decrease would be more than negligible, as there appears to be very few violations of this prohibition.

Qualified civil immunity

The bill grants qualified civil immunity to first responders, EMTs-basic, EMTs-intermediate, and EMTs-paramedic who perform services that are pursuant to a research study approved by the State Board of Emergency Medical Services.

Fiscal effect

It is unlikely that the bill's effect on courts of common pleas, municipal courts, or county courts, if any, will be significant. From LSC fiscal staff's perspective, a possible consequence of the bill might be to reduce the filing of civil actions alleging damages incurred in the provision of emergency professional care, or, if filed, such civil actions might be more promptly adjudicated than might otherwise have been the case under current law and practice. Either outcome, in theory, generates some form of operational savings realized in various involved courts resulting from a decrease in judicial dockets and in the related workload of other court personnel.

If the number of civil actions filed were reduced or curtailed, then the courts may experience a loss in court cost and filing fees. However, the savings realized by those courts in terms of their personnel and related administrative costs associated with the processing of cases would likely offset any possible loss of court cost and filing fee revenues.

Environmental Protection Agency

The bill authorizes the Director of the Environmental Protection Agency (EPA) to exempt any person generating, collecting, storing, treating, disposing of, or transporting infectious wastes under certain circumstances from the requirement to (1) obtain a registration certificate, permit, or license, or (2) comply with the manifest system or other requirements of the law governing solid and hazardous wastes.

Fiscal effect

The bill will have a negligible fiscal impact on the EPA and will result in savings for local health departments under certain conditions. The bill addresses situations involving small health departments who were administering H1N1 vaccine wastes. Current law required these departments to register as a waste generator, pay fees, and handle waste according to specific procedures. The bill will give the EPA more flexibility when certain types of emergency situations arise.