



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

**Bill:** Am. Sub. S.B. 95 of the 128th G.A.      **Date:** June 3, 2010  
**Status:** As Reported by Senate State & Local Government & Veterans Affairs      **Sponsor:** Sen. Hughes

**Local Impact Statement Procedure Required:** No — Offsetting revenues

**Contents:** Establishes state licensing requirements and standards of care for certain dog breeding kennels, dog intermediaries, and animal rescues for dogs

### State Fiscal Highlights

#### STATE FUND

#### FY 2011 – FUTURE YEARS

##### High Volume Breeder Kennel Control License Fund (New Fund)

Revenues      Potential gain of hundreds of thousands of dollars from license fees

Expenditures      Increase in hundreds of thousands of dollars to operate licensing program

##### General Reimbursement Fund (Fund 1060) – Attorney General

Revenues      Offsetting gain from background check fees

Expenditures      Increase in background check costs, dependent upon the number of background checks performed

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

- **Kennel licensing program.** The bill establishes a state licensing program for specified dog kennel operators under the aegis of the newly created Kennel Control Authority. The operating costs of the Kennel Control Authority are likely to be in the hundreds of thousands of dollars annually.
- **High Volume Breeder Kennel Control License Fund.** Operating expenses will be covered by annual license fee revenue deposited into the High Volume Breeder Kennel Control License Fund created by the bill. Based on the number of kennel operators that will be licensed under the bill, license fee receipts could amount to at least hundreds of thousands of dollars annually.
- **Background checks.** The bill requires the Office of Attorney General's Bureau of Criminal Identification and Investigation (BCII) to perform background checks on license applicants. The fees for doing so would be deposited in the Attorney General's General Reimbursement Fund (Fund 1060).

# Local Fiscal Highlights

LOCAL GOVERNMENT

FY 2010 – FUTURE YEARS

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Counties

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|              |   |
|--------------|---|
| Revenues     | Potential gain from share of dog license fees collected by state and remitted to counties |
| Expenditures | Potential negligible decrease in kennel registration oversight costs                      |

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

- **Dog and kennel fund replacement revenue.** To offset the loss of license revenue collected by county auditors, the bill requires that the greater of \$50 of each high volume breeder license application fee collected by the state, or an amount equal to the county's kennel registration fee, be returned to the county where the state-licensed breeding kennel is located. However, there are a few counties that have kennel registration fees of less than \$50 that will realize a net gain in revenue to their county dog and kennel funds under the bill.
- **County auditor costs.** Most county auditors use a combined staff to perform all dog, kennel, vendor, and cigarette licensing functions. Ceding the kennel licensing function to the state Kennel Control Authority is thus unlikely to yield significant savings.

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## Detailed Fiscal Analysis

### Background

The bill establishes a state licensing program for certain larger dog breeding kennels, dog retailers, and other entities to be overseen by a new state regulatory body named the Kennel Control Authority. The overall effect of the bill is to create a two-tiered approach to licensing and registration in which the state assumes oversight of large breeder kennels, retailers, and other entities, while county auditors retain authority to regulate smaller breeding kennels. In broad terms, the state will incur new regulatory costs, offset by licensing fees specified in the bill. County auditors could realize some small savings from a reduction in their kennel licensing responsibilities, and in some cases could take in more revenue because of a provision in the bill that requires the state to transmit a portion of the state-collected license fees to counties. The fiscal effects of the bill are described in further detail below.

### Kennel Control Authority

#### Operating costs

The bill creates the Kennel Control Authority to regulate dog breeding kennels, boarding kennels, retailers, and other entities. The Director of the Authority would likely be compensated in the range of \$29 to \$39 per hour, based upon current wages listed in the state Pay Range Classification Booklet maintained by the Department of Administrative Services. This means that payroll and fringe benefit costs (assumed to be 30% of pay) for this position will be in the range of \$78,000 to \$105,000 annually. The bill also requires the Authority to employ inspectors to conduct biennial kennel inspections and investigate complaints. The beginning hourly wage for many state inspector positions is in the range of \$16 per hour. Assuming the inspectors were hired around this pay rate, salary and fringe benefit costs for each inspector would likely be around \$43,000 annually.

In addition to payroll, there would also be a number of new overhead costs. Start-up costs for a system to track licensees and applicants, computers, telephones, maintenance, travel, and other office expenses could be in the tens of thousands of dollars. The bill also creates a nine-member Kennel Control Authority Board to oversee the operations of the Kennel Control Authority. Members must serve without compensation, but are to be reimbursed for actual and necessary expenses that they incur as a result of the performance of their official duties. The Board is to meet at least four times per year.

## Licenses

The bill establishes license fees for various entities to be regulated under the bill. Application fee revenue from these fees would be deposited into the High Volume Breeder Kennel Control License Fund created by the bill. The fee schedule for breeding kennels, retailers, and boarding kennels is listed in the table below.

| License and Registration Fees       |            |
|-------------------------------------|------------|
| License Type                        | Annual Fee |
| High Volume Breeder (9-15 litters)  | \$150      |
| High Volume Breeder (16-25 litters) | \$250      |
| High Volume Breeder (26-35 litters) | \$350      |
| High Volume Breeder (36-45 litters) | \$500      |
| High Volume Breeder (46+ litters)   | \$750      |
| Dog Retailers                       | \$500      |
| Boarding Kennel                     | \$50       |

There are approximately 11,000 kennels currently registered by county auditors. Under the bill, a substantial number of these kennels will be classified as high volume breeders and will instead be licensed by the Kennel Control Authority. According to information supplied to LSC by county auditors, the average number of dog tags requested with each kennel registration does not generally exceed 10 to 15, meaning that many state-licensed kennels would pay the lowest license fee of \$150. Currently, county kennel registrations include five free tags. More tags may be obtained for an additional fee.

Depending on the number of regulated high volume breeder kennels and how many dogs they contain, license fees deposited into the High Volume Breeder Kennel Control License Fund could be in the hundreds of thousands of dollars or more. For instance, if just 2,000 of the 11,000 kennels statewide house nine or more adult breeding dogs and are thus subject to state licensure, this would generate \$300,000 annually if all kennels paid the lowest license fee of \$150 per year.

The bill requires that an applicant for a high volume breeder license undergo background investigations performed by the Attorney General's Bureau of Criminal Identification and Investigation (BCII). The fees for these background checks are \$15 for a review of state records and \$24 for a review of national records. Presumably, the applicant would be required to pay the background investigation fees, which are deposited in the Attorney General's General Reimbursement Fund (Fund 1060).

## Enforcement

Under the bill, the Kennel Control Authority may impound a dog if there is probable cause to believe that a high volume breeder or dog retailer is materially violating the standards and requirements of the bill or if the dog's health or safety appears to be in imminent danger. An adjudication hearing is to occur not later than five business days after the dog is taken to determine if the dog should be permanently

relinquished to the custody of the Authority. Those appealing such a determination must file with the Environmental Division of the Franklin County Municipal Court. The bill allows the Director of the Authority to enter into contracts with various groups to keep impounded dogs.

The bill permits the Director of the Authority to assess a civil penalty against a person violating the bill's provisions or the rules adopted under it under certain circumstances. The civil penalty amounts vary from two times the amount of the appropriate license fee for operating without a license to a maximum \$15,000 for a high volume breeding kennel or acting as a dog retailer after having been convicted of various offenses relating to domestic animals. Additionally, persons violating any other provision or the standards of care and requirements established by the bill must pay \$25, with each day a violation persists constituting a separate violation.

It is uncertain how many such civil penalties will be levied, but the High Volume Breeder Kennel Control License Fund may experience a gain in revenue from these civil penalties. The bill also allows the Attorney General, upon the request of the Director of Agriculture, to bring an action for injunction against violators of the bill's provisions. This may increase expenses for the Office of the Attorney General to carry out these and other related actions.

## **Impact on county dog and kennel funds**

### **Portion of state license returned to counties**

In order to replace the kennel licensing fees foregone by counties, the bill creates a mechanism requiring the state to return a portion of the state-collected kennel license revenue to county dog and kennel funds. This amount is either \$50 of each application fee for a high volume breeder license or an amount equal to the fee charged by the county for kennel registration, whichever is greater. In the counties where the kennel license fee is less than \$50, this will result in a net gain in county dog and kennel fund receipts. As noted above, there are approximately 11,000 kennels registered statewide. According to the results of a 2008 survey provided to LSC by the County Auditors Association of Ohio, the average kennel registration fee is approximately \$57.

### **Dog tags**

Under current law, a county dog kennel registration comes with five tags. If additional tags are necessary, there is usually a small fee charged for each extra tag. There appears to be no similar provision for the state to issue tags under the state kennel licensing program in the bill. If this is so, owners of state-licensed kennels would also be required to register each adult breeding dog with the county auditor. This additional tag fee is between \$6 and \$20 per dog, depending on the county. This is in addition to the \$50 or more portion of a state kennel license applicant's application fee that the state is required to transmit to the county auditor.

## **County municipal courts**

As noted above, the bill also allows the Attorney General, upon the request of the Director of the Kennel Control Authority, to seek injunctions against violators. Such actions would be filed in the appropriate county court. Appeals of any administrative actions taken by the Authority or Attorney General, however, must be filed with the Environmental Division of the Franklin County Municipal Court. According to the Franklin County Municipal Court Annual Report for 2009, the Environmental Division of the Court handled 5,474 cases in that year. While it is uncertain how many additional cases the courts may handle as a result of the bill, any increase in expenses would be offset to a degree by court cost and filing fee revenue.

## **Other local criminal justice effects**

Finally, the bill establishes a first degree misdemeanor (M1) penalty that applies to various violations specified in the bill. Given the new penalty, local prosecutors and courts could incur some additional expenses. Criminal justice expenditures could occur if additional persons are prosecuted and sanctioned. An M1 violation carries a maximum sentence of six months and a maximum fine of \$1,000. Court cost and fine revenue may help offset any such increase. The state would also collect a portion of the court costs.