Ohio Legislative Service Commission

Jeffrey R. Kasler

Fiscal Note & Local Impact Statement

Bill: Sub. S.B. 106 of the 128th G.A. **Date**: December 7, 2009

Status: As Reported by House Civil & Commercial Law **Sponsor**: Sen. Buehrer

Local Impact Statement Procedure Required: No — Minimal cost

Contents: Savings statute

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2010 – FUTURE YEARS
Counties (probate division of courts of common pleas)	
Revenues	Potential, likely no more than minimal, annual loss in filing fees
Expenditures	Potential, likely no more than minimal, operating cost savings effect

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 may impact the number of case filings in a probate court, specifically pertaining to certain guardianship cases and estate and trust proceedings. Fewer case filings may result in a decreased caseload for the probate court and thus a potential operating cost savings. Conversely, fewer case filings may also result in diminished filing fees collected by the court, resulting in a potential loss of revenue. These potential operating cost and revenue effects appear likely to be minimal at most, as the number of affected cases in any given probate court will likely be relatively small. Minimal herein means an expenditure savings and related revenue loss estimated at no more than $5,000 per year for any affected county and affiliated probate division of the court of common pleas.

Detailed Fiscal Analysis

Overview

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

- Excludes from the application of the savings statute certain specified estate and trust proceedings that have limitation periods.
- Increases from $10,000 to $25,000 the amount of an estate of a ward that the court may consider in certain guardianship cases.
- Provides that the termination of a marriage revokes any trust provision that confers a beneficial interest on the former spouse.

Local fiscal effects

To the degree that the bill affects local governments, it will most likely be counties, in particular the operating expenses, and related revenue collections, of the probate division of the courts of common pleas.

Probate courts

While conducting its research on the fiscal ramifications of the bill, LSC fiscal staff spoke with representatives of the Judicial Conference of Ohio, the Ohio State Bar Association, and private practitioners of probate law. Based on those discussions, it appears that the bill largely clarifies and updates certain existing probate law provisions, as discussed in more detail below.

Savings statute. When an individual is injured, there is a statute of limitations applied to the potential filing of a related law suit. The savings statute effectively operates as an informal extension of the statue of limitations. For example, given a statute of limitations of one year post-injury, a plaintiff or plaintiff's representative could theoretically make a case filing one day before the statute of limitations expires with the intent to re-file the case upon its dismissal. The savings statute would grant that plaintiff an additional year to re-file. The bill limits the application of this statute as it relates to certain probate actions, effectively eliminating this informal one year extension of the statute of limitations.

It is possible that exclusion of the application of the savings statute on specified estate and trust proceedings provided for in the bill may result in less case filings for a probate court. The net impact of this is two-fold: (1) the court's workload is theoretically decreased, resulting in a potential cost savings effect, and (2) the court receives less in related filing fees, resulting in a potential loss of revenue. Both of these potential scenarios are unlikely to result in a more than minimal annual fiscal impact on any affected probate court.

Guardianship related cases. As a result of its discussions with probate law practitioners, LSC fiscal staff discerned that the increase from $10,000 to $25,000 in the

amount that can trigger certain actions in certain guardianship matters appears to be an update to account for inflation, as the last update to the amount was made nearly 30 years ago (from $3,000 to the current $10,000). By most accounts, the number of guardianship matters that could be affected by the bill for any given probate court will not be large.

That said, it is possible that probate courts could experience both a potential cost savings and loss of revenue as a result of this provision, with a two-fold net impact: (1) the court's workload is theoretically decreased, resulting in a potential cost savings effect, and (2) the court receives less in related filing fees, resulting in a potential loss of revenue. Both of these potential scenarios are, again, unlikely to result in a fiscal impact beyond minimal annually for any given probate court.

Revocation of trusts in a divorce. The provision of the bill pertaining to revocation of a trust in the termination of a marriage appears to be clarifying language. In its conversations with probate law practitioners, LSC fiscal staff did not encounter any suggestion that this provision would have any discernible impact on the annual operating expenses, and related revenue collections, of any given probate court.

State fiscal effects

The bill will have no discernible effect on state revenues and expenditures.

SB0106HR.docx / sle