



Ohio Legislative Service Commission

Nick Thomas

Fiscal Note & Local Impact Statement

Bill: Sub. S.B. 131 of the 128th G.A.

Date: February 18, 2010

Status: As Enacted

Sponsor: Sens. Gillmor and Cafaro

Local Impact Statement Procedure Required: No — No local cost

Contents: Requires the Department of Administrative Services to establish a biobased product preference program and extends an alternative fuel tax credit

State Fiscal Highlights

- **State procurement costs.** The bill would require the Department of Administrative Services (DAS) to establish a biobased product preference program requiring state agencies, including institutions of higher education, to purchase biobased products where possible. The overall impact on procurement costs for state agencies and institutions of higher education would depend largely on the price and availability of biobased products.
- **Department of Administrative Services – program oversight.** The General Services Division within DAS could incur some new administrative costs for developing guidelines and overseeing the biobased product preference program. The Division is funded by charges assessed to state agencies that use DAS's centralized purchasing services. These amounts are deposited into the General Services Division Fund (Fund 1170).
- **Extension of alternative fuel tax credit.** The bill extends an existing tax credit for retail dealers that sell alternative fuel for taxable years ending in 2010 and 2011. The tax credit extension would reduce revenue to the GRF, the Local Government Fund (LGF), and the Public Library Fund (PLF) during FY 2010, FY 2011, and FY 2012. The total revenue loss is likely to be less than \$1 million per year.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

Biobased product preference requirements

The bill requires the Department of Administrative Services (DAS) to establish a biobased product preference procurement program covering all purchases made by state agencies and state institutions of higher education. Under the bill, a biobased product is generally an item that the United States Department of Agriculture (USDA) defines as a commercial or industrial product that is composed in whole or large part of biological products or renewable domestic agricultural or forestry materials. In the short run, DAS will incur some new costs for developing guidelines and administering the program statewide. In the longer term, the effect on acquisition costs statewide, including state institutions of higher education, largely depend on the availability and price differences between conventionally produced items and their biobased alternatives.

The bill provides for some exceptions to the biobased product preference. For example, purchases of motor fuel, heating oil, and electricity are exempted. Also, the requirement to buy a biobased product does not apply in cases where the (1) availability of the biobased item is limited, (2) product performance of the biobased product does not meet required standards or performance needs, or (3) cost of the biobased product is determined to be unreasonable. While prior authorization is not needed, the bill requires state agencies or state institutions of higher education to notify DAS and the Board of Regents, where applicable, in cases where buying a biobased product is not feasible.

Department of Administrative Services – implementation costs

It is possible that the bill could lead to some new administrative costs for developing guidelines and implementing the biobased product preference program. Developing guidelines and overseeing the program would be the responsibility of the Office of Procurement Services, housed within DAS's General Services Division. This office assists state agencies with the procurement of supplies and services through competitive selection and negotiated contracts. Implementation of a biobased product preference would entail (1) reviewing contracts to confirm that biobased products are purchased as required and (2) identifying biobased product alternatives. However, DAS may be able to offset a portion of any new costs by adapting catalogs of biobased products and procurement training materials provided by the USDA for federal procurement officers. DAS's Office of Procurement Services is supported by charges assessed to user agencies for centralized purchasing services and deposited into the General Services Fund (Fund 1170). According to DAS's annual report for FY 2008, state agencies spend about \$3.5 billion annually on supplies and services, including those overseen by DAS and those purchased by agencies under their own authority.

Effect on overall statewide procurement costs

Overall, the bill's effect on procurement costs for state agencies and institutions of higher education will depend on the availability and prices of conventionally produced items compared to their biobased equivalents. A USDA official informed LSC that despite the 3,700 products currently available under the federal BioPreferred Program overseen by that federal agency, many purchases are still exempted due to price, availability, and performance. However, as they become more widely available and more competitive in price, biobased products would presumably make up a larger share of purchases than they do now, both on the federal and state level. What effect this would have on overall procurement costs, however, is uncertain.

Reporting requirement

The bill also requires DAS and the Board of Regents to report on the number of biobased items purchased and the overall amount spent on these items to the Governor, the President of the Senate, and the Speaker of the House of Representatives by September 30, 2010 and yearly thereafter. While DAS, state institutions of higher education, and the Board of Regents could incur some new expenses for compiling this information, these costs would presumably be minimal.

Extension of the income tax credit for alternative fuels

The bill extends an existing tax credit for retail dealers that sell alternative fuel for taxable years ending in 2010 and 2011. The credit is currently available for taxable years ending in 2008 and 2009. The tax credit is nonrefundable and is available under the personal income tax. The amount of the credit is 15 cents per gallon of alternative fuel sold by the dealer, except that the credit amount drops to 13 cents per gallon for fuel sold during portions of calendar year 2011 that fall within the dealer's taxable year 2011. Credit amounts are slightly less for biodiesel blends.

The tax credit extension would reduce revenue to the GRF, the Local Government Fund (LGF), and the Public Library Fund (PLF) during FY 2010, FY 2011, and FY 2012. The total revenue loss is likely to be less than \$1 million per year. The GRF would bear 94.35% of the total revenue loss occurring in FY 2010 and FY 2011 (but 94.1% of any loss occurring in FY 2012), the LGF would bear 3.68% (regardless of fiscal year), and the PLF would bear 1.97% (2.22% in FY 2012).