Ohio Legislative Service Commission

Phil Cummins

Fiscal Note & Local Impact Statement

Bill: H.B. 134 of the 129th G.A. **Date**: March 21, 2011

Status: As Introduced **Sponsor**: Rep. Schuring

Local Impact Statement Procedure Required: Yes

Contents: Reduces income tax rate on capital gains reinvested in Ohio-based investments

State Fiscal Highlights

STATE FUND	FY 2011	FY 2012	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	Losses possibly ranging to tens of millions of dollars or more	
Expenditures	- 0 -	- 0 -	- 0 -
Local Government Fund (Fund 7069), Public Library Fund (Fund 7065)			
Revenues	- 0 -	Losses possibly ranging to millions of dollars	
Expenditures	- 0 -	Decreases equal to revenue losses	

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

- The bill would permit qualifying net capital gains to be subject to a 2.5% personal income tax rate.
- Potential revenue losses range to tens of millions of dollars, possibly more, but are quite uncertain.
- The GRF would bear 94.1% of the loss and local government funds 5.9%.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2011	FY 2012	FUTURE YEARS
Counties and Other Local Governments			
Revenues	- 0 -	Losses possibly ranging to millions of dollars	
Expenditures	- 0 -	- 0 -	- 0 -
Public Libraries			
Revenues	- 0 -	Losses possibly ranging to millions of dollars	
Expenditures	- 0 -	- 0 -	- 0 -

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

- Reductions in revenue to the local government funds would reduce distributions from the state to counties and other units of local government and to public libraries.

Detailed Fiscal Analysis

The bill would reduce state personal income tax revenues by permitting qualifying capital gains income to be taxed at a 2.5% rate rather than at the rates at which other income is taxed. Income is currently taxed at rates ranging up to 5.925% for taxable income in the top bracket. A reduction in state personal income tax revenue would, under current law, not part of the bill, reduce distributions to the local government funds.

Capital gains that qualify to be taxed at the 2.5% rate are those gains, net of losses, that are realized from the sale or other disposition of non-Ohio-based investments and that are reinvested in Ohio-based investments. Ohio-based investments are defined as including publicly traded shares of companies incorporated under Ohio law and headquartered in Ohio, pass-through entities (S corporations and partnerships) with a majority of the equity ownership interest owned by persons subject to the Ohio personal income tax, public obligations of Ohio or its subdivisions, business tangible personal property in Ohio, and real property located in Ohio. All other investments are non-Ohio-based investments. Tax savings from qualifying Ohio-based reinvestments are subject to recapture, with interest and a 10% penalty, if the Ohio-based reinvestment is sold or otherwise disposed of within three years of the reinvestment. Additional details on the bill's provisions are in LSC's bill analysis.

Taxpayers with net capital gains that qualify for the 2.5% tax rate but who are in lower tax brackets and would pay more tax at the 2.5% rate may opt instead to calculate their tax obligations under current law. Most capital gains are realized by higher income taxpayers.

LSC is not aware of data which could serve as a basis for a precise evaluation of revenue losses under the bill. The U.S. Internal Revenue Service publishes summary information on the sources of income of Ohio taxpayers, but no details are available on whether capital gains were realized on non-Ohio-based investments, on whether the gains were reinvested, or on whether any reinvestment was in Ohio-based investments. Tax savings in 2011 under the bill could range up to 5.925% minus 2.5%, or 3.425 percentage points, times the amount of qualifying net capital gains. In 2008, the latest year published on the IRS web site as of March 17, 2011, Ohio taxpayers reported $6.9 billion in net capital gains. Potentially, if a large portion of these gains were from sale of non-Ohio-based investments, and were reinvested in Ohio-based investments, tax revenue losses could range to more than $200 million. In the previous year, net capital gains realized by Ohio taxpayers totaled $16.2 billion. Potential tax revenue losses under the tax treatment in the bill could range to more than $500 million. More likely, however, some and perhaps most of the net capital gains would not qualify for the lower tax rate treatment in the bill, either because they were realized from disposition of Ohio-based investments, or were reinvested in non-Ohio-based investments, or were not reinvested. An estimate that the bill might reduce state personal income tax revenues by tens of millions of dollars or possibly more appears reasonable but is necessarily very rough.

A reduction in state personal income tax revenues of tens of millions of dollars would lower distributions to the state's two local government funds, the Local Government Fund (Fund 7069) and the Public Library Fund (Fund 7065), by 5.9% of the total reduction in revenue. The loss to the Local Government Fund would be 3.68% of the total revenue loss, and the loss to the Public Library Fund would be 2.22%, under current law. The balance of the loss would be borne by the GRF.

The provisions of the bill would apply to tax years starting in 2011. Assuming an effective date for the bill no sooner than about mid-year, these changes could reduce revenues to the state and to local school districts in FY 2012. Although lower estimated tax payments in September 2011 might begin to affect other units of local government in their FY 2011, more likely significant revenue losses would start for these political subdivisions in FY 2012.

HB0134IN.docx / sle