



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** [H.B. 176 of the 129th G.A.](#)

**Date:** June 8, 2011

**Status:** As Introduced

**Sponsor:** Rep. Beck

**Local Impact Statement Procedure Required:** Yes

**Contents:** To limit the magnitude of change orders on public improvements required to be competitively bid

### State Fiscal Highlights

- The bill requires public authorities that carry out change orders, including local governments, to report those change orders to the Department of Administrative Services (DAS). Due to the number of capital projects carried out by local governments each year, this could impose an administrative burden on DAS. Presumably, the State Architect's Office (SAO) will coordinate this effort. The Office is supported by fees assessed to state agencies that use its services.
- The bill prohibits orders for embellishments or other "non-essential" change orders from exceeding the lesser of \$50,000 or 2.5% of the total cost of the improvement. This may have an impact on the Department of Transportation, which is currently subject to a higher threshold of \$100,000 or 5% of the total cost of the improvement. The Department has had 13 change orders that breached the current threshold to date in FY 2011.

### Local Fiscal Highlights

- The bill requires that full and complete plans be produced for all projects that are competitively bid. Under current law, local governments must provide these plans only for projects over \$50,000. The competitive bidding threshold for the majority of local governments, however, is \$25,000. The bill could thus potentially increase the number of projects for which local governments must provide full and complete plans as part of the competitive bidding process.

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## Detailed Fiscal Analysis

The bill establishes uniform requirements for all public authorities with respect to change orders for competitively bid public improvement projects. Specifically, the bill prohibits orders for embellishments or other "non-essential" change orders from exceeding the lesser of \$50,000 or 2.5% of the cost of the total improvement. Any change orders that breach this threshold would need to be competitively bid as a separate contract, as is the case under current law. However, certain changes are specifically exempted from this requirement, including (1) an increase in the plan determined during the final measurement of an item of work, (2) federally mandated requirements that did not exist at the time of the original contract award, and (3) issues related to health and safety. The bill also requires that full and complete plans be produced for all projects that are competitively bid. Finally, the bill requires public authorities that carry out change orders to make an annual report of these to the Department of Administrative Services (DAS).

Overall, the bill could increase the cost of public improvements for certain local governments. The bill could also create additional administrative work for DAS, although the cost of this additional workload is unknown. It should also be noted that the Department of Transportation (DOT) could also be affected by the bill. This is because, under current law, DOT is subject to a change order competitive bidding threshold of \$100,000 or 5% of a project's cost. If the bill applies the \$50,000 or 2.5% threshold to DOT projects, it could increase the number of contracts the department would have to competitively bid. The potential fiscal effects of the bill are explained in greater detail below.

### Local governments

The requirement that full and complete plans be produced for all competitively bid projects would likely increase costs for local governments. Currently, for local governments, such plans are required only for projects over \$50,000. The competitive bidding threshold that applies to most local governments is, in general, currently \$25,000. Thus, the bill could potentially increase the number of projects for which local governments will be required to prepare full and accurate project plans and specifications. Certain political subdivisions may be able to absorb this additional contract work with existing staff, but others may be required to hire design firms to fulfill this responsibility under the bill. Any new cost will depend upon the scale and complexity of the project, but could be in the hundreds of dollars per project.<sup>1</sup>

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<sup>1</sup> Note that H.B. 153, the main operating budget bill for the FY 2012-FY2013 biennium, increases the competitive bidding threshold for villages and townships for certain public improvements to \$50,000, matching the current full and accurate plans requirement under the bill.

## **Department of Administrative Services**

The bill requires contracting authorities to make an annual report to DAS of any change orders that they carried out during the previous year, and prescribes what is to be included in this report. DAS is then required to provide a report of this information to the Speaker of the House of Representatives, President of the Senate and the Governor. This reporting requirement means that DAS could potentially receive hundreds of such reports each year. Presumably, the responsibility for collecting this information will fall to the State Architect's Office, which is funded via service charges and fees paid by state agencies. Currently, the SAO has a staff of approximately 40 individuals. Total SAO appropriations for FY 2011 were approximately \$10.3 million.

## **Department of Transportation**

Under current law, DOT is subject to a separate threshold of the lesser of \$100,000 or 5% of a project's cost for change orders. The bill removes this separate threshold and applies the common limit of \$50,000 or 2.5%. This may or may not have an impact on DOT, which, due to the complexity of its projects, carries out a substantial number of change orders each year. During FY 2011, DOT submitted 13 change orders to the Controlling Board that breached the current \$100,000 threshold for waiver of the competitive bidding requirements. Reducing this limit to \$50,000 may substantially increase the number of change orders that DOT could be required to take to the Controlling Board, resulting in a small additional administrative burden for the agency. As under current law, if approval was not granted for the additional change orders, DOT would be forced to competitively bid out contract changes, potentially causing delays and increasing costs.