Ohio Legislative Service Commission

Jean J. Botomogno

Fiscal Note & Local Impact Statement

Bill: H.B. 327 of the 129th G.A. **Date**: September 21, 2011

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

Local Impact Statement Procedure Required: No

Contents: To include employees working from home for purposes of the job creation and job retention tax credits

State Fiscal Highlights

STATE FUND	FY 2012	FY 2013	FUTURE YEARS
General Revenue Fund			
Revenues	Potential loss	Potential loss	Potential loss
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2012 is July 1, 2011 – June 30, 2012.

- The bill increases the number of employees that are eligible for the job creation tax credit and the job retention tax credit. The tax credits are applied against the commercial activity tax (CAT), the foreign insurance tax, the domestic insurance tax, and the corporate franchise tax. Thus, the bill potentially reduces receipts from those taxes.
- The state GRF would bear the entire revenue loss due to the Local Government Fund (LGF) and the Public Library Fund (PLF) "freeze" in this biennium. Beginning in FY 2014, any reduction to GRF tax receipts would also reduce the amount distributed to the LGF and PLF.
- In FY 2012, 25% of revenue from the CAT is credited to the GRF and in subsequent fiscal years, 50% of CAT receipts will be. The remaining CAT revenue is used to reimburse school districts and other local governments for the reductions and phase-out of local taxes on tangible personal property. If CAT receipts are insufficient to make required reimbursements, the GRF is required to subsidize those reimbursements.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2012	FY 2013	FUTURE YEARS
Counties, municipalities, townships, and school districts			
Revenues	- 0 -	Potential loss	Potential loss
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.

- A share of GRF tax revenues is distributed under permanent law to the LGF and PLF. In this biennium, the state GRF would bear the entire revenue loss due to the LGF and PLF "freeze." Beginning in FY 2014, any reduction to GRF tax receipts would also reduce the amount distributed to the LGF and PLF.
- A portion of revenue from the CAT is distributed to the School District Tangible Property Tax Replacement Fund and a portion to the Local Government Tangible Property Tax Replacement Fund. Thus, the reduction in revenues from the bill reduces distributions to these state funds. Such revenue losses should have no effect on political subdivisions, however, because the GRF is required to make up any shortfall in guaranteed payments to them.

Detailed Fiscal Analysis

H.B. 327

The bill specifies that an employee "employed in the project" for purposes of both the job retention tax credit (JRTC) and the job creation tax credit (JCTC) includes an employee whose services are performed primarily from the employee's Ohio residence so long as they are performed exclusively for the benefit of the project. (Generally, the tax credits are calculated based on increases in payroll and income tax revenues from the qualifying employees.) The bill requires the rate of pay for these "off-site" employees to be at least $9.50 per hour. Under both tax credits, the "project" is generally a business's place of operations, as specified in the tax credit agreement between the firm and the Ohio Tax Credit Authority. Thus, the bill expands the number of workers that may qualify for the tax credits and potentially reduces state revenues from the commercial activity tax (CAT), the domestic insurance tax, the foreign insurance tax, and the corporate franchise tax. The bill requires applicants for the JRTC or the JCTC that have both on-site and home-based employees to submit separate applications for separate tax credit agreements (one for on-site employees and one for home-based employees). These new provisions regarding job creation and job retention tax credits for "off-site" employees will expire six years after the effective date of the bill.

Fiscal analysis

H.B. 327 potentially increases the revenue loss due to the tax credits by expanding the potential number of employees that are counted for the calculation of the tax benefits of a firm applying for a job retention tax credit or a job creation tax credit. LSC is unable to determine the extent of the potential increase in revenue foregone as the actual revenue loss from the bill is dependent on the number and the size of tax credits awarded by the Ohio Tax Credit Authority. However, based on current data on the job creation and the job retention tax credits, H.B. 327 would potentially increase the revenue loss from the tax credits by less than $1.0 million per year.

According to the Tax Expenditure Report for the FY 2012-FY 2013 biennium,[1] the revenue loss in FY 2012 to the General Revenue Fund (GRF) from the JRTC and the JCTC was estimated at $16.5 million and $55.7 million, respectively, for a total of $72.2 million. Estimated revenue loss from the two tax credits for FY 2013 is higher and projected to be $78.3 million. Data from the United States Bureau of Labor Statistics[2] suggest that the share of wage and salaried workers that worked from home is less than

[1] Ohio Department of Taxation.

[2] *Work At Home in 2004*, U.S. Bureau of Labor Statistics. It is possible that the share of home-based employees may be above 0.6% of current nonfarm payroll.

0.6% of the total nonfarm payroll. Applying that percentage to the estimated total state revenue loss in FY 2012 from the tax credits implies H.B. 327 could reduce tax receipts by an additional $433,000 and $469,000 in FYs 2012 and 2013, based on existing tax credit agreements, if tax credit recipients also had some home-based employees.

Distribution of tax revenue

Job retention and job creation tax credits may be claimed against the domestic insurance tax, the foreign insurance tax, the CAT, and the corporate franchise tax. Under permanent law, a portion of GRF tax receipts are subsequently transferred to the LGF and PLF. However, Am. Sub. H.B. 153 of the 129th General Assembly, the operating budget act for FYs 2012 and 2013, temporarily provides for transfers of predetermined amounts to the LGF and PLF.[3] Thus, any decrease in those tax receipts during the biennium will affect the GRF only. Beginning in FY 2014, transfers to the LGF and the PLF will resume based on a fixed percentage, but the applicable percentage is not yet known. The Tax Commissioner will determine, by July 5, 2013, the ratio of FY 2013 transfers to the respective funds to total FY 2013 GRF tax revenues.[4] Subsequent transfers to the LGF and PLF will be based on those respective ratios.

Under current law, the GRF receives 25.0% of CAT revenues in FY 2012 and 50.0% in FY 2013 and thereafter. The remaining CAT receipts are used by the state to reimburse school districts and other local governments for the reductions and phase-out of local taxes on tangible personal property. Reimbursements for such purposes are deposited into the School District Tangible Property Tax Replacement Fund and the Local Government Tangible Property Tax Replacement Fund. Currently, the GRF is required to subsidize the required reimbursements if CAT receipts are insufficient. As a result, the GRF may bear additional revenue loss.

Department of Development

The bill requires the Department of Development to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the effects of agreements authorized by the bill and a description of the projects that received the tax credits. The report is due on or before the first day of January of the seventh calendar year following the year in which the bill became effective. This requirement is expected to have a minimal fiscal effect on the Department.

Recent changes to the job retention tax credits

Am. Sub. H.B. 153 authorized the Ohio Tax Credit Authority to grant a new refundable JRTC to businesses. A qualifying business must have an annual payroll of at least $20 million, invest at least $5 million at a project site in the same local jurisdiction where its principal place of business is located, and meet other existing JRTC program

[3] Section 757.10 of Am. Sub. H.B. 153 of the 129th General Assembly.

[4] R.C. 131.51.

requirements. To qualify, the business must also retain at least 500 full-time employees and maintain an annual payroll of at least $20 million, or maintain an annual payroll of $35 million. This provision was in addition to the previous refundable JRTC established in Sub. H.B. 58 of the 129th General Assembly. The Ohio Tax Credit Authority may authorize up to $25 million of new refundable JRTC between July 1, 2011, and December 31, 2013, and beginning in 2014, an amount of $25 million per year in the ensuing 15-year period.

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