Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 472 of the 129th G.A.

Date: December 12, 2012

Status: As Reported by Senate Ways & Means & Economic Development

Sponsor: Rep. Beck

Local Impact Statement Procedure Required: No

Contents: Incorporates changes to the Internal Revenue Code into Ohio law, expands the definition of qualified distribution centers for purposes of the commercial activity tax, makes certain changes to H.B. 360 of the 129th General Assembly regarding the wireless 9-1-1 charge as well as the administration and disbursement of those receipts, and declares an emergency

State Fiscal Highlights

STATE FUND	FY 2013	FY 2014	FUTURE YEARS
General Revenue Fund			
Revenues	Potential loss from expanded CAT exclusion	Potential loss from expanded CAT exclusion	Potential loss from expanded CAT exclusion
Expenditures	$1.2 million increase for appropriation item 110321 in the Department of Taxation	- 0 -	- 0 -
Public Utilities Commission – Wireless 9-1-1 Administrative Fund (Fund 5BP0)			
Revenues	Gain up to $290,000	Gain up to $290,000	- 0 -
Expenditures	Increase up to revenue gain	Increase up to revenue gain	- 0 -
Department of Taxation – Wireless 9-1-1 Administrative Fund (Fund 5BP0)			
Revenues	Loss up to $116,000	Loss up to $145,000	- 0 -
Expenditures	Decrease commensurate with revenue loss	Decrease commensurate with revenue loss	- 0 -
Department of Public Safety – Wireless 9-1-1 Public Safety Administrative Fund (New Fund)			
Revenues	Loss up to $116,000	Loss up to $145,000	- 0 -
Expenditures	Decrease commensurate with revenue loss	Decrease commensurate with revenue loss	- 0 -

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

- Includes precious metal refining facilities in the definition of qualified distribution center (QDC) for purposes of the commercial activity tax (CAT). Current law exempts sales to QDCs. Therefore, the bill expands the CAT exclusion for sales to QDCs, thus potentially reducing CAT receipts. Under current law, 50% of CAT receipts are distributed to the GRF, 35% to the School District Tangible Property Tax Replacement Fund (Fund 7047) and 15% to the Local Government Tangible Property

Tax Replacement Fund (Fund 7081). Current law also requires a GRF subsidy to the two local funds if CAT receipts are insufficient for the two replacement funds.

- Delays changes concerning the wireless 9-1-1 charge and the Wireless 9-1-1 Administrative Fund made by Sub. H.B. 360 of the 129th General Assembly until January 1, 2014; in general, related provisions to the wireless 9-1-1 charge revert to law as it existed before H.B. 360, which results in a revenue and expenditure gain for the Public Utilities Commission (PUCO) at the expense of the Department of Taxation (TAX) and Department of Public Safety (DPS).
- Increases Department of Taxation GRF appropriation 110321, Operating Expenses, by $1.2 million in FY 2013.
- Extends the wireless 9-1-1 charge on prepaid wireless calling services without interruption, which increases FY 2013 revenues by $2.9 million. The provision modifies an H.B. 360 provision that discontinued the charge for the period beginning on the effective date of that bill and ending on June 30, 2013.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2013	FY 2014	FUTURE YEARS
Counties, School Districts, Libraries, Townships, and other local governments			
Revenues	Gain up to $2.8 million in disbursements to counties from the Wireless 9-1-1 Government Assistance Fund	Potential loss for reduction in GRF tax receipts from the expanded CAT exclusion	Potential loss for reduction in GRF tax receipts from the expanded CAT exclusion
Expenditures	Increase commensurate with revenue gain	- 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.

- The expansion of the definition of QDCs may reduce revenues to Fund 7047 and Fund 7081. However, current law requires a GRF subsidy to the two replacement funds if CAT receipts are insufficient.
- A portion of GRF tax receipts are subsequently transferred to the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065). A reduction in GRF tax receipts also reduces distributions to these two funds. Amounts deposited in Fund 7065 are distributed to libraries. Amounts in Fund 7069 are distributed to counties, municipalities, townships, and other local governments.
- Tax exemption for certain property owned by a municipal corporation but not now tax exempt will result in loss of tax revenue to school districts and other units of local government.
- Extending the wireless 9-1-1 charge on prepaid wireless calling services without interruption will increase state revenues in FY 2013 by $2.9 million, of which 98%, $2.8 million, will be disbursed to counties from the Wireless 9-1-1 Government Assistance Fund.

- Maintains that all future disbursements to counties from the Wireless 9-1-1 Government Assistance Fund be in the same manner as the 2012 disbursements, and retains the provision that undisbursed amounts be transferred to the Next Generation 9-1-1 Fund. Maintains existing law regarding disbursements to counties from the Next Generation 9-1-1 Fund.

Detailed Fiscal Analysis

Incorporation of IRC changes to Ohio income tax law

The bill incorporates changes to the Internal Revenue Code (IRC) since March 7, 2011 into Ohio income tax law. Ohio tax law incorporates by reference parts of the IRC and other federal laws. Periodic amendments to federal law do not become part of Ohio law unless they are incorporated by an act of the General Assembly. Though several changes have been made to the IRC since the last time Ohio conformed to federal income tax law (Sub. H.B. 58 of the 129th General Assembly), none of the changes are estimated to have materially changed Federal Adjusted Gross Income (FAGI). Ohio income tax returns start with FAGI. Thus, this provision of the bill has minimal state fiscal effect, if any.

Commercial activity tax exclusion for precious metals refineries

The bill expands the definition of the existing commercial activity tax (CAT) exemption for "qualified distribution centers" to include precious metal refineries in the Appalachian region that ship refined metals outside Ohio. Thus, the bill exempts from taxable gross receipts sales of inputs to such refineries, and thereby excludes those sales from taxation. Assuming existing CAT collections for sales of such inputs and assuming suppliers of Ohio precious metals refineries have "nexus" for CAT purposes,[1] this provision may reduce CAT revenues, though the amount of revenue loss is uncertain and would fluctuate with prices of unrefined metals[2] sold to firms in Ohio.

A share of CAT receipts is distributed to the GRF, and the remaining portion of receipts is earmarked for school districts and other local governments. Under current law, 50% of CAT receipts are distributed to the GRF, 35% to the School District Tangible Property Tax Replacement Fund (Fund 7047) and 15% to the Local Government Tangible Property Tax Replacement Fund (Fund 7081). CAT receipts that are deposited into Fund 7047 and Fund 7081 are used to reimburse school districts and other units of local government for lost revenues from the phase-out and reductions in tangible

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[1] A person has "nexus" or bright-line presence if any one of the following applies at any time during the calendar year: property in this state is at least $50,000; payroll in this state is at least $50,000; taxable gross receipts sitused to Ohio are at least $500,000; or 25% of total property or total payroll or total gross receipts is within this state; or the person is domiciled in this state.

[2] Gross receipts would vary based on prices of gold, silver, platinum, palladium and other commodities.

personal property taxes. The revenue loss from this provision of the bill may reduce revenue to the three funds. If CAT receipts are insufficient for the reimbursements, current law requires a GRF subsidy to the two replacement funds.

Under permanent law, a portion of GRF tax receipts are subsequently transferred to the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065). Am. Sub. H.B. 153 (the operating budget act for fiscal years 2012 and 2013) fixed the LGF and PLF transfer amounts at predetermined levels so that any change in tax receipts from the proposed bill during the biennium will affect the GRF only.[3] For FY 2014 and subsequent years, transfers to the LGF and 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. Subsequent transfers to the LGF and PLF will be based on those respective ratios.[4]

Property tax abatement

The bill provides for tax exemption for certain qualifying property and for abatement of all unpaid taxes, penalties, and interest for every year that the property met the qualifications for exemption. To qualify for this tax exemption, the real property must be owned by a municipal corporation and must satisfy the qualifications for tax exemption under R.C. 5709.08, pertaining to property belonging to the state or United States used exclusively for a public purpose, and to public property used exclusively for a public purpose. The failure to obtain the tax exemption must have resulted from a failure to comply with R.C. Chapter 5713. or section 5715.27, pertaining to application for exemption or other requirements. To obtain the abatement, the current owner of the property, or the prior owner requesting exemption from prior taxes, must file an application with the Tax Commissioner, who must approve the application.

The tax exemption will result in loss of tax revenue to school districts and other units of local government. LSC does not have an estimate of the amount of the revenue loss.

Modifications to wireless 9-1-1 charges and administration of duties

These provisions in the bill are contingent on the enactment of H.B. 360 of the 129th General Assembly, which made permanent the 9-1-1 charge for all wireless subscribers beginning in 2013, and changed, beginning July 1, 2013, the method of collection and the amount of the wireless 9-1-1 charge for prepaid wireless calling services.

H.B. 472 delays until January 1, 2014 the point-of-sale collection method applicable to prepaid wireless 9-1-1 charges; the existing collection method will remain

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[3] Section 757.10 of H.B. 153.

[4] Revised Code 131.51.

at 25 cents per month. The bill also extends the wireless 9-1-1 charge on prepaid wireless calling services without interruption, which increases FY 2013 revenues by $2.9 million. The provision effectively nullifies the H.B. 360 provision that discontinued the charge for the period beginning on that effective date of the bill and ending on June 30, 2013. The Public Utilities Commission (PUCO) may retain up to 2% of the additional wireless 9-1-1 receipts, $58,000, for administration.

The bill delays the transfer of collection authority pertaining to wireless 9-1-1 charges from PUCO to the Tax Commissioner until January 1, 2014. The bill also delays the transfer of authority concerning Wireless 9-1-1 Government Assistance Fund disbursements from the Ohio 9-1-1 Coordinator to the Tax Commissioner until January 1, 2014. In doing so, the Department of Taxation (TAX) and Department of Public Safety (DPS) cannot receive a portion of wireless 9-1-1 charge receipts until that date, which represents a $116,000 loss for each agency in FY 2013 and a $145,000 loss for each agency in FY 2014. Because PUCO will retain administrative authority over the wireless 9-1-1 charge and the Wireless 9-1-1 Administrative Fund (Fund 5BP0), it will gain an additional $232,000 in FY 2013 and $290,000 in FY 2014 as a result of its administration fee, which can be up to 2% of receipts.

Beginning January 1, 2014, the wireless 9-1-1 charge receipts will not be deposited into Fund 5BP0. Instead, 98% of the revenue will be deposited into the Wireless 9-1-1 Government Assistance Fund (a custodial fund), 1% will be deposited to the Wireless 9-1-1 Administrative Fund, for use by TAX, and 1% will be deposited to the newly created Wireless 9-1-1 Public Safety Administrative Fund, for use by DPS.

H.B. 472 requires that the position of Ohio 9-1-1 Coordinator and the 9-1-1 service program remain in PUCO rather than be transferred to DPS. Moreover, it requires that DPS monitor compliance with standards set by rule of the statewide Emergency Services Internet Protocol Network Steering Committee. Beginning in 2014, DPS must notify the Tax Commissioner to suspend disbursements to a countywide 9-1-1 system that fails to meet the standards.

The bill increases GRF appropriation item 110321 in the Department of Taxation by $1.2 million in FY 2013 without specifying a purpose for the increase. A Department official testified during committee[5] that the money will be used to implement the information technology modifications necessary to begin collecting in 2014 the reconfigured wireless 9-1-1 charge applicable to prepaid wireless calling services.

Local impact of wireless 9-1-1 charge provisions

By extending the wireless 9-1-1 charge on prepaid wireless calling services without interruption, H.B. 472 will increase state revenues in FY 2013 by $2.9 million, of which 98%, $2.8 million will be disbursed to counties from the Wireless 9-1-1 Government Assistance Fund.

[5] Senate Ways and Means, December 11, 2012.

H.B. 472 requires that all future disbursements to counties from the Wireless 9-1-1 Government Assistance Fund be done in the same manner as the 2012 disbursements. The bill retains the H.B. 360 provision that undisbursed amounts be transferred to the Next Generation 9-1-1 Fund, and it also retains the provision regarding disbursements to counties from the Next Generation 9-1-1 Fund.

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