



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: S.B. 70 of the 129th G.A.

Date: March 20, 2012

Status: As Introduced

Sponsor: Sen. Schaffer

Local Impact Statement Procedure Required: No

Contents: Arson registry

State Fiscal Highlights

STATE FUND

FY 2013 – FUTURE YEARS

General Revenue Fund (GRF)

Revenues - 0 -

Expenditures (1) Minimal one-time increase in costs for the Attorney General to set up arson registry and design notification forms, (2) Potential increase in annual incarceration costs associated with failure to register convictions

General Reimbursement Fund (Fund 1060)

Revenues Potential gain of up to \$142,500 in first-time registration fees in first full year of the registry's operation, with these revenues increasing each year as arson offenders reregister annually for life

Expenditures Negligible increase to maintain arson registry, likely to be offset by registration fees

Note: The state fiscal year is July 1 through June 30. For example, FY 2013 is July 1, 2012 – June 30, 2013.

- **Attorney General.** The Office of the Attorney General will experience some minimal initial one-time costs to design and build the arson registry and design the forms that will be used by local entities to inform arson offenders of their registration duties. Ongoing maintenance costs of the registry will be negligible. The Attorney General will also experience a gain in revenue associated with annual registration and reregistration fees, potentially reaching \$142,500 during the first year, \$213,750 the second year, and a similar increasing amount each year thereafter.
- **Incarceration expenditures.** There will likely be some number of violations annually of the registration requirements prescribed in the bill (an F5 offense). Of that number, some will likely be sentenced to prison. Relative to the total number of new incarcerations that occur annually however, any increase to the Department of Rehabilitation and Correction's overall prison population, and resultant expenses, is expected to be minimal.
- **Court cost revenues.** The state might gain revenue in the form of locally collected court costs that are forwarded for deposit in the state treasury to the credit of the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

Local Fiscal Highlights

- The judge of the court that convicted the individual or the facility in which the offender is confined will be required to notify arson offenders of their duty to register annually with the Attorney General. These responsibilities will create negligible administrative costs for these local entities.
- As a result of violations of the failure to register criminal prohibition, there could be an increase in the number of cases filed annually for courts of common pleas to adjudicate, thus creating increased costs for county criminal justice systems, including county prosecutors, public defenders, and local detention facilities as well as the courts. Convictions may also generate additional revenue in the form of court costs and fees imposed on offenders by the sentencing court.

Detailed Fiscal Analysis

The bill requires the Office of the Attorney General's Bureau of Criminal Identification and Investigation to establish and maintain an arson registry. Any individual convicted of, or pleading guilty to, arson or aggravated arson after the bill's enactment is required to register annually for life in person with the Attorney General or his or her designee. The bill provides for limited exceptions to this requirement. The initial registration fee is \$50 and thereafter \$25 annually (unless the registrant is deemed indigent). The fee is to be used by the Attorney General for the maintenance of the registry.

State fiscal effects

Attorney General

The Office of the Attorney General will experience some initial one-time costs to design and build the registry and design the forms that will be used by local entities to inform arson offenders of their registration duties. However, these costs are expected to be minimal. The registry will become part of the Ohio Law Enforcement Gateway (OHLEG) and annual maintenance costs will be negligible.

As stated earlier, the bill requires that convicted arson offenders register annually for life with the Attorney General or a designee and remit an initial fee of \$50 and a \$25 reregistration fee each year thereafter. The annual amount of revenue that could be generated from the fees will depend on the number of arson and aggravated arson convictions that occur annually. Since lifetime registration is required, these receipts will likely increase annually, as these individuals remit their reregistration fee (\$25) each year thereafter.

In calendar year 2010, the FBI reported that there were 2,850 arson incidents reported in the state of Ohio (this number represents data covering approximately 90% of the state's population). This number does not represent convictions and a statewide conviction rate for arson is unknown. Using the FBI incident data, the maximum amount of revenue that could be generated during the first year of the registry's operation is up \$142,500 (2,850 registrants x \$50 initial fee). During the second year, assuming the same number of incidents occur, the total could reach \$213,750 (\$142,500 from first-time registrants + \$71,250 from annual reregistrants (2,850 x \$25)). These annual revenues would likely increase at a similar rate each year. The revenue generated by these fees will be deposited in the state treasury to the credit of the General Reimbursement Fund (Fund 1060).

However, it should be noted that the above estimates are the maximum amounts that could be generated and is solely based on the number of incidents that have been reported to the FBI. Since the number of successful prosecutions is likely to be lower than the number of incidents, the potential annual revenue that could be generated will

be less than the amounts estimated above. Further affecting this estimate is the possibility that certain offenders could be deemed indigent, resulting in a waived fee.

Department of Rehabilitation and Correction

The bill creates a felony of the fifth degree for failing to register. The bill may also result in the prosecution of a parent, guardian, or custodian if the offender is under 18. A conviction or guilty plea could result in a definite prison term of 6, 7, 8, 9, 10, 11, or 12 months and a fine of not more than \$2,500.

Since this is a new offense, predicting the annual number of violations of failing to register is problematic. There will likely be some number of violations annually and of that number, some may be sentenced to prison. Relative to the size of prison population (close to 50,000) and the number of offenders sentenced to prison (around 22,000 per year) however, the number sentenced to prison for a failure to register violation will be relatively small and the associated incarceration costs minimal. The average annual cost for the Department of Rehabilitation and Correction to incarcerate an offender in an Ohio prison is currently around \$25,225, with the marginal cost of adding an offender estimated at between \$4,000 and \$5,000.

Court cost revenues

The state might gain revenue in the form of locally collected court costs that are forwarded for deposit in the state treasury to the credit of the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). In the case of a felony, the court is generally required to impose state court costs totaling \$60 for a felony, divided as follows: \$30 to Fund 5DY0 and \$30 to Fund 4020.

Local fiscal effects

Notification requirements

Various local entities will be required to notify arson offenders of their duty to register annually with the Attorney General. These entities include the judge of the court that convicted the individual or the facility in which the offender is confined. If the offender is a juvenile, the juvenile's parent, guardian, or custodian must also be informed. These responsibilities will create negligible administrative costs for these local entities.

Failure to register violations

As a result of violations of the failure to register prohibition, there could be an increase in the number of criminal cases filed annually with courts of common pleas, thus creating increased costs for these local criminal justice systems, including county prosecutors, public defenders, and local detention facilities as well as the courts. Related court costs and fees could be generated as well.