Ohio Legislative Service Commission

Jamie L. Doskocil

Fiscal Note & Local Impact Statement

Bill: S.B. 84 of the 129th G.A. **Date**: April 4, 2011

Status: As Reported by Senate Judiciary Civil Justice **Sponsor**: Sen. Oelslager

Local Impact Statement Procedure Required: No

Contents: Truth in Music

State Fiscal Highlights

- The state may lose some civil penalty revenue that would otherwise have been credited to the Consumer Protection Enforcement Fund (Fund 6310), but it will be rare and unpredictable, as there have been no enforcement actions taken against deceptive musical performances or productions to date. There will be little, if any effect on the workload, responsibilities, and annual operating expenses of the Attorney General's Consumer Protection Section, which investigates and enforces violations of the Consumer Sales Practice Act.

Local Fiscal Highlights

- Counties may gain some civil penalty revenue, but it will be rare and unpredictable, as there have been no enforcement actions taken against deceptive musical performances or productions to date.

Detailed Fiscal Analysis

The bill repeals existing enforcement procedures pertaining to live musical performances and productions in Ohio and substitutes a different form of enforcement procedures in cases where a group has performed or been advertised through the use of false, deceptive, or misleading affiliation, connection, or association between a performing group and a recording group.[1] Generally, under the bill the same prohibition applies. However, instead of providing for separate enforcement procedures for the Attorney General to follow, the bill makes this prohibition subject to the Consumer Sales Practice Act and adds provisions specific to the prohibition.

Revenues

The primary fiscal effect of the bill's changes relates to the manner in which civil penalties collected for a violation of the prohibition are distributed in the future. To date, no civil penalty money has been collected, as no enforcement actions have been initiated. As the taking of an enforcement action will in all likelihood continue to be very rare, the collection of civil penalties will also be rare and unpredictable. Under the bill, the state could lose some civil penalty revenue and counties could gain some civil penalty revenue. The dot points below describe the change in the distribution of a civil penalty imposed for a violation of the prohibition.

- Under current law, if the Attorney General finds that a violation has occurred, a civil penalty may be assessed of not less than $5,000 and not more than $15,000 per violation. The entire amount must be deposited into the Consumer Protection Enforcement Fund (Fund 6310).
- Under the bill, a court must find that a violation has occurred. The civil penalty remains the same, but its distribution is changed such that one-fourth is paid to the treasurer of the county in which the action is brought and three-fourths is deposited into Fund 6310.

Expenditures

The bill will have little, if any, effect on the Attorney General's Consumer Protection Section's workload, responsibilities, and annual operating expenses. The Section is funded through a mix of money appropriated from the General Revenue Fund (GRF) and Fund 6310.

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[1] The originating legislation, S.B. 269 of the 127th General Assembly, became effective April 7, 2009.