Ohio Legislative Service Commission

Terry Steele

Fiscal Note & Local Impact Statement

Bill: Sub. S.B. 130 of the 129th G.A. **Date**: November 27, 2012

Status: As Enacted **Sponsor**: Sen. Hughes

Local Impact Statement Procedure Required: No

Contents: Establishes state licensing and registration requirements for certain dog breeding kennels, retailers, and rescue operators

State Fiscal Highlights

- **New licensing program**. The bill establishes a state licensing and registration program for high volume breeders, dog retailers, and animal rescue operators to be overseen by the Department of Agriculture.
- **High Volume Breeder Kennel Control License Fund.** The Department of Agriculture's costs for administering the new program are to be covered by license and registration fees to be deposited into the High Volume Breeder Kennel Control License Fund created by the bill. The fund will consist of these fees and civil penalties levied against operators for violations under the bill.
- **Operating budget cap of $2.5 million per biennium.** The bill caps the amount that the Department of Agriculture may expend from the new fund at $2.5 million per biennium, subject to Controlling Board approval.

Local Fiscal Highlights

- **County dog and kennel fund replacement revenue**. In order to offset the loss of kennel registration fees collected by counties, the bill requires that a portion of the high volume breeder application fees collected by the Director of Agriculture be transmitted to counties. The amount transferred must be either $50 or an amount equal to the kennel registration fee currently charged in a particular county, if greater.
- **County auditor costs.** Most county auditors use a combined staff to perform all dog, kennel, vendor, and cigarette licensing functions. Ceding the high volume breeder kennel licensing function to the Department of Agriculture is thus unlikely to yield significant savings for county auditors.

Detailed Fiscal Analysis

Overview

The bill establishes a state licensing program for certain larger dog breeding kennels, dog retailers, and dog rescues to be overseen by the Department of Agriculture, in consultation with a new state regulatory body named the Commercial Dog Breeding Advisory Board. The overall effect of the bill is to create a two-tier approach to licensing in which the state assumes oversight of large breeder kennels, retailers, and other entities, while county auditors retain authority to regulate smaller breeding kennels. In broad terms, the state will incur new regulatory costs, offset by licensing fees specified in the bill. County auditors could realize some small savings from a reduction in their kennel licensing responsibilities.

In order to support the licensing and inspection responsibilities of the Department of Agriculture and oversight functions of the Commercial Dog Breeding Advisory Board, the bill establishes the High Volume Breeder Kennel Control Licensing Fund. Sources of revenue under the bill include (1) license revenues for breeders established under the bill, and (2) civil penalties imposed on persons for various infractions under the bill. The bill limits the amount that the Director may expend from the new fund to no more than $2.5 million per biennium, subject to Controlling Board approval.

Operating costs for the Department of Agriculture

The Department of Agriculture will incur additional costs for establishing this new regulatory program, including contracts for inspectors, plus any potential start-up expenses, and overhead. In total, these costs will be limited to $2.5 million because of the spending cap imposed under the bill. Specifically, the bill requires the Department of Agriculture to submit a two-year spending plan for statewide oversight of the commercial dog breeding industry to the Controlling Board. The primary costs will be for the annual inspections required under the bill, and inspections resulting from complaints. Although the Department of Agriculture could hire additional inspection and enforcement staff, the bill allows for the Department to contract with veterinarians to administer and enforce the new licensing program. Presumably, the more likely case is that the Department will contract with local veterinarians to conduct the required inspections wherever possible.

State license and registration fees

The bill establishes fees for various entities to be regulated by the Department of Agriculture under the bill. Application fee revenue from these fees would be deposited into the High Volume Breeder Kennel Control License Fund created by the bill. The fee schedule for breeding kennels, retailers, and boarding kennels is listed in the table below.

New License and Registration Fees	
License Type	**Annual Fee**
High Volume Breeder (9-15 litters)	$150
High Volume Breeder (16-25 litters)	$250
High Volume Breeder (26-35 litters)	$350
High Volume Breeder (36-45 litters)	$500
High Volume Breeder (46+ litters)	$750
Dog Retailers	$500
Animal Rescues	No fee

There are approximately 10,000 kennels currently registered by county auditors according to the latest data available to LSC. Under the bill, a substantial number of these kennels will be classified as high volume breeders and licensed by the Department of Agriculture. According to information supplied to LSC by county auditors, the average number of dog tags requested with each kennel registration does not generally exceed 10 to 15, meaning that many state-licensed kennels would pay the lowest license fee of $150. Currently, county kennel registrations include five free tags. More tags may be obtained for an additional fee. Depending on the number of regulated high volume breeder kennels and how many dogs they contain, license fees deposited into the High Volume Breeder Kennel Control License Fund could be in the hundreds of thousands of dollars or more. For instance, if just 2,000 of the 10,000 kennels statewide house nine or more adult breeding dogs and are thus subject to state licensure, this would generate $300,000 annually if all kennels paid the lowest license fee of $150 per year.

Transfers to county dog and kennel funds

In order to replace the kennel registration fees foregone by counties under the proposed statewide licensing system, the bill requires the Treasurer of State to transfer a portion of the fees collected by the Department of Agriculture to the counties. Specifically, the bill requires that the Treasurer transfer either $50 of each application fee, or the actual kennel registration fee charged in a particular county if greater, for deposit into the county's dog and kennel fund. As noted above, there are approximately 10,000 kennels registered statewide. According to the results of a 2010 survey provided to LSC by the County Auditors Association of Ohio, the average kennel registration fee is approximately $57.

Enforcement

Under the bill, the Director of Agriculture is responsible for adopting rules relating to standards of care for dogs. The Director is required to consider a variety of factors specified in the bill, as well as the standards established by the U.S. Department of Agriculture under the Federal Animal Welfare Act. However, the bill also establishes the Commercial Dog Breeding Advisory Board that is responsible for reviewing new

and existing rules relating to statewide oversight of the commercial dog breeding industry. Specifically, the bill authorizes the Department of Agriculture to impound a dog if there is probable cause to believe that a high volume breeder or dog retailer is materially violating established standards and requirements, or if the dog's health or safety appears to be in imminent danger. Any expense the state incurs for impounding dogs seized from a high volume dealer would be covered by insurance or surety that the breeder is required to maintain under the bill. An adjudication hearing is to occur not later than five business days after the dog is taken to determine if the dog should be permanently relinquished to the custody of the Board, including groups contracted by the Board to house the impounded dogs. Those appealing such a determination must file with the Environmental Division of the Franklin County Municipal Court.

The bill permits the Director of Agriculture to assess a civil penalty against a person violating the bill's provisions or rules that are subsequently adopted by the Board. The civil penalty amounts are determined by the Director of Agriculture. Additionally, persons violating any other provision or the standards of care and requirements established by the bill must pay $25, with each day a violation persists constituting a separate violation. The bill also allows the Attorney General, upon the request of the Director of Agriculture, to seek injunctions against violators. The Attorney General could thus incur some additional costs to pursue these actions. It is uncertain how many civil penalties might be imposed against violators, but as noted previously, the proceeds would be deposited into the High Volume Breeder Kennel Control License Fund to support state oversight of dog breeders and dog retailers.

County courts

As mentioned previously, the bill allows the Attorney General, upon the request of the Director of Agriculture, to seek injunctions against operators that violate the requirements under the bill. Such actions would be filed in the appropriate county court. Appeals of any administrative actions taken by the Authority or Attorney General, however, must be filed with the Environmental Division of the Franklin County Municipal Court. According to the Franklin County Municipal Court Annual Report for 2011, the Environmental Division handled 4,358 cases overall in that year. While it is uncertain how many additional cases the courts may handle as a result of the bill, any increase in expenses will be offset to a degree by court cost and filing fee revenue collected by the courts.

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