



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. S.B. 130 of the 129th G.A.

Date: February 3, 2012

Status: As Passed by the Senate

Sponsor: Sens. Hughes and Cates

Local Impact Statement Procedure Required: No

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

State Fiscal Highlights

- **New licensing program.** The bill establishes a state licensing program for high volume breeders, dog retailers, and animal rescue operators to be overseen by the new Commercial Dog Breeding Oversight Board within the Department of Agriculture. The bill specifies that there be no fee for licenses issued by the Department.
- **High Volume Breeder Kennel Control License Fund.** The Department of Agriculture's costs for administering the new program are to be covered by the High Volume Breeder Kennel Control License Fund created by the bill. The bill contains intent language providing that the General Assembly will appropriate funding for the program. The other source of operating revenue will be 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 fund at \$2.5 million per biennium, subject to Controlling Board approval. This includes operating expenses for licensing, as well as reimbursements to county dog and kennel funds developed under rule by the Director of Agriculture.

Local Fiscal Highlights

- **County dog and kennel fund replacement revenue.** The bill requires the Director of Agriculture to establish a formula-based mechanism to reimburse counties for the loss of kennel license revenue they would incur under the statewide licensing system under the bill.
- **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 state Commercial Dog Breeding Oversight Board 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 a new state regulatory body named the Commercial Dog Breeding Oversight Board within the Department of Agriculture. 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. As a result of these changes, the state will incur new regulatory costs for overseeing the high volume breeder program, and county auditors will lose some kennel licensing revenue. Under the bill, these losses will be offset to some extent by a reimbursement mechanism established by the Director of Agriculture.

In order to support the licensing and inspection responsibilities of the Department of Agriculture and oversight functions of the Commercial Dog Breeding Oversight Board, the bill establishes the High Volume Breeder Kennel Licensing Fund. Sources of revenue under the bill include (1) civil penalties for various infractions under the bill, and (2) appropriations made by the General Assembly. The bill specifically prohibits the Board from assessing fees for any licenses that it issues. The bill also limits the amount that the Board may spend to no more than \$2.5 million per biennium, subject to Controlling Board approval. This includes the amount used for regulatory oversight as well as the amount to be reimbursed to county dog and kennel funds as required under the bill.

Operating costs for the Department of Agriculture

The Department of Agriculture will incur new costs for establishing this new regulatory program, including payroll for inspectors, 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. The primary costs will be for the biennial inspections required under the bill. The current state wage scale for an agriculture enforcement agent, the position classification that most closely aligns with the duties of inspectors under the bill, is in the range of \$19.88 to \$26.28 per hour. Thus, salary and fringe benefit costs (assumed to be 30% of wages) for each position would be in the range of \$54,000 to \$71,000 per year. However, as an alternative, the bill also allows for the Department to contract with political subdivisions to administer and enforce the new licensing program. In addition to payroll and fringe benefit costs, the Department of Agriculture will incur new costs for developing a system to track licensees. Presumably, there will also be some costs for computers, telephones, maintenance, travel, and other office expenses.

Enforcement

Under the bill, the Department of Agriculture may 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 Dog and Kennel Funds

There are approximately 11,000 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 Commercial Dog Breeding Oversight Board. 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. Currently, county kennel registrations include five free tags. The additional tag fee is currently between \$6 and \$20 per dog, depending on the county. There appears to be no similar provision for the state to issue tags under the state kennel licensing program in the bill. If this is so, owners of state-licensed kennels would also be required to register each adult breeding dog with the county auditor.

In order to replace the kennel licensing fees foregone by counties under the proposed statewide licensing system, the bill requires the Director of Agriculture to develop a formula to compensate county dog and kennel funds for license fees that they would no longer be able to collect under the bill. As noted above, there are approximately 11,000 kennels registered statewide. According to the results of a 2009 survey provided to LSC by the County Auditors Association of Ohio, the average

kennel registration fee is approximately \$57. Ultimately, the effect on county dog and kennel funds hinges on the formula devised by the Department of Agriculture.

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 2010, the Environmental Division handled 4,834 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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