



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 1, 2012

Status: As Reported by Senate Agriculture,
Environment & Natural Resources

Sponsor: Sens. Hughes and Cates

Local Impact Statement Procedure Required: No

Contents: Establishes licensing requirements for certain dog breeding kennels, dog intermediaries, and animal rescues for dogs

State Fiscal Highlights

- **Kennel licensing program.** The bill establishes a state licensing program for specified dog kennel operators under the control of the Director of Agriculture. The operating costs of the Commercial Dog Breeding Oversight Board are to be covered by the High Volume Breeder Kennel Control License Fund created by the bill.
- **High Volume Breeder Kennel Control License Fund revenues and expenses.** The bill specifies that the source of operating revenues for the new fund is cash transfers approved by the Controlling Board. The bill caps both the amount of the transfers into the fund and the amount that the Commercial Dog Breeding Oversight Board may expend from the fund at \$2.5 million per biennium.
- **Background checks.** The bill requires the Attorney General's Bureau of Criminal Identification and Investigation (BCII) to perform background checks on license applicants. The fees for doing so would be deposited in the Attorney General's General Reimbursement Fund (Fund 1060).

Local Fiscal Highlights

- **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 kennel licensing function to the state Commercial Dog Breeding Oversight Board is thus unlikely to yield significant savings for county auditors.

Detailed Fiscal Analysis

Background

The bill establishes a state licensing program for certain larger dog breeding kennels, dog retailers, and other entities to be overseen by a new state regulatory body named the Commercial Dog Breeding Oversight Board. The Board is also responsible for adopting standards of care to be followed by all registrants. The overall effect of the bill is to create a two-tier approach to licensing and registration 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. County auditors would lose some kennel licensing revenue, but could also realize some small savings from a reduction in their kennel licensing responsibilities. Some of the license revenues foregone by counties, however, will be offset to some extent by a reimbursement formula established by the Director of Agriculture. The fiscal effects of the bill are described in further detail below.

Commercial Dog Breeding Oversight Board

Operating costs

The bill creates the Commercial Dog Breeding Oversight Board to regulate dog breeding kennels, boarding kennels, retailers, and other entities. Members must serve without compensation, but are to be reimbursed for actual and necessary expenses that they incur as a result of the performance of their official duties. The Board is to meet at least four times per year. The bill also requires the Board to employ inspectors to conduct biennial kennel inspections and investigate complaints. Agriculture Enforcement Agents, within the Department of Agriculture, appear to be the current state employment position which most closely aligns with the duties of the inspectors under the bill. The hourly wage for Agriculture Enforcement Agents is in the range of \$19.88 to 26.28 per hour. Assuming the inspectors were hired under this job title, salary and fringe benefit costs (assumed to be 30% of wages) for each inspector would likely be in the range of \$54,000 to \$71,000 annually.

In addition to payroll, there would also be a number of new overhead costs. Start-up costs for a system to track licensees and applicants, computers, telephones, maintenance, travel, and other office expenses could be in the tens of thousands of dollars.

Licenses

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. More tags may be obtained for an additional fee. Finally, as a condition of state licensure, the bill requires that an applicant for a high volume breeder license undergo background investigations performed by the Attorney General's Bureau of Criminal Identification and Investigation (BCII). Presumably, the applicant would be required to pay the background investigation fees, which are deposited in the Attorney General's General Reimbursement Fund (Fund 1060).

Enforcement

Under the bill, the Commercial Dog Breeding Oversight Board 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. 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. Those appealing such a determination must file with the Environmental Division of the Franklin County Municipal Court. The bill also allows the Director of the Board to enter into contracts with various groups to keep impounded dogs.

The bill permits the Director of the Board 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 vary from two times the amount of the appropriate license fee for operating without a license to a maximum \$15,000 for certain offenses. 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. It is uncertain how many such civil penalties will be levied, but the High Volume Breeder Kennel Control License Fund may experience a gain in revenue from these civil penalties. 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.

Impact on county dog and kennel funds

Portion of Controlling Board transfers to counties

In order to replace the kennel licensing fees foregone by counties under the proposed statewide licensing system, the bill creates a mechanism requiring the Director of Agriculture to develop a formula to compensate county dog and kennel funds for revenue losses. As noted previously, 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.

Dog tags

Under current law, a county dog kennel registration comes with five tags. If additional tags are necessary, there is usually a small fee charged for each extra tag. 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. This additional tag fee is between \$6 and \$20 per dog, depending on the county. This is in addition to the portion the state is required to transmit to the counties under the formula mentioned above.

County municipal courts

As noted above, the bill also allows the Attorney General, upon the request of the Director of the Commercial Dog Breeding Oversight Board, to seek injunctions against violators. 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 of the Court handled an overall caseload of 4,834 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.

Other local criminal justice effects

Finally, the bill establishes a first degree misdemeanor (M1) penalty that applies to various violations specified in the bill. An M1 violation carries a maximum sentence of six months and a maximum fine of \$1,000. Court cost and fine revenue may help offset the cost that county prosecutors or courts incur for any new cases stemming from the bill. The state would also collect a portion of the court costs resulting from these new cases.