



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** [S.B. 143 of the 129th G.A.](#)

**Date:** May 11, 2011

**Status:** As Introduced

**Sponsor:** Sens. Hughes and Oelslager

**Local Impact Statement Procedure Required:** No

**Contents:** Qui tam civil actions

### State Fiscal Highlights

- **Office of the Attorney General.** The Office of the Attorney General will likely experience an increase in workload and associated annual operating costs. The magnitude of that increase will largely depend upon the number of investigations initiated by the Office as well as the number of civil cases that are filed.
- **Revenues from damages, civil penalties, and reimbursable expenses.** The state will likely recoup some revenues as a result of successfully litigating fraudulent or false claims against the state. How much money the state might collect annually in the form of damages, civil penalties, and reimbursable expenses from the bringing of civil actions is uncertain.
- **Federal Deficit Reduction Act of 2005.** The bill is expected to bring Ohio into compliance with certain provisions of the federal Deficit Reduction Act of 2005. The federal law provides that states with false claims acts that are at least as strong as the federal false claims act may retain an additional 10% of their recoveries under the act. How much additional revenue Ohio could stand to gain in future years is uncertain.

### Local Fiscal Highlights

- **Courts of common pleas.** Courts of common pleas, which have original jurisdictional authority over all civil cases in which the sum or matter in dispute exceeds \$15,000, may incur a minimal annual increase related to adjudicating additional civil actions filed by the Attorney General or any person. These operating costs may be offset to some degree by the collection of related court cost and filing fees.

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## **Detailed Fiscal Analysis**

The bill prohibits a person from filing specified false or fraudulent claims with the state or defrauding the state in specified manners of money or property. It also: (1) provides authority for the Attorney General to investigate, to recover damages from, and to seek the imposition of civil penalties against, a person for defrauding the state of money or property, and (2) authorizes private persons to bring qui tam civil actions in the name of the state to remedy these alleged frauds.

### **State fiscal effects**

#### **Office of the Attorney General**

The bill requires the Attorney General to investigate suspected violations of the bill's prohibition. If a violation is suspected, the Attorney General may initiate civil enforcement proceedings, including the filing of a civil action in a court of common pleas. The Attorney General may also join and participate in a civil action commenced by a private person. Such an action would be brought in the Franklin County Court of Common Pleas; in the court of common pleas of any county in which the defendant or any one of multiple defendants can be found, resides, or transacts business; or in the court of common pleas of any county in which any of the alleged violations occurred.

This additional investigative and enforcement authority will in all likelihood increase, to some degree, the Office of the Attorney General's workload and associated annual operating costs. The magnitude of that increase will largely depend upon the number of investigations initiated by the Office as well as the number of civil cases that are brought by private persons. Whether such annual operating costs would be borne by the Attorney General's GRF or non-GRF funds or some mix of both will depend on what revenue stream(s) finance the section within the Office of the Attorney General that will investigate and enforce violations of the bill's prohibition.

#### **State treasury**

By allowing state agencies, represented by the Office of the Attorney General, to recoup damages and civil penalties from individuals who have defrauded the state, additional money may be generated for deposit in the state treasury to the credit of various funds.

#### **Federal Deficit Reduction Act of 2005**

The bill will bring Ohio into compliance with certain provisions of the federal Deficit Reduction Act of 2005. The federal law provides that states with false claims acts that are at least as strong as the federal false claims act may retain an additional 10% of their recoveries under the act. The amount of additional money that the state of Ohio could stand to gain in future years is uncertain.

## **Local fiscal effects**

To the degree that the bill has any local fiscal effects, such effects would materialize in the form of increased work and related operating costs for the general division of courts of common pleas, which have original jurisdictional authority over all civil cases in which the sum or matter in dispute exceeds \$15,000. The magnitude of those fiscal effects will be dependent upon the number of new case filings generated by the bill's enactment. While it is uncertain how many cases could be created, the additional workload and costs are likely to be minimal, and could be offset to some degree by the collection of related court costs and fees. Cases could be generated as a result of filings made by the Attorney General, private persons, and persons seeking whistleblower remedies. These additional civil remedies are discussed in more detail below.

### **Civil action brought by the Attorney General**

If the Attorney General identifies a violation and is unable to secure a successful remedy, a civil action may be brought to the court of common pleas either in Franklin County or in the county where the defendant can be found, resides, transacts business, or in which the violation occurred. As a result, these courts of common pleas may experience an increase in their civil dockets, as well as corresponding increases in costs for court time and potential jury trials. It appears likely that most of these civil actions, at least those initiated by the Attorney General, would be filed in the Franklin County Court of Common Pleas.

### **Civil action brought by a private citizen**

Legislative Service Commission (LSC) fiscal staff is uncertain as to the number of civil actions that might be commenced in any given year by persons in any given court of common pleas alleging a violation of the bill's prohibition. That said, LSC fiscal staff has not collected any evidence suggesting that a great number of persons might commence such a civil action in any given court of common pleas. Thus, any additional annual cost for a court of common pleas to adjudicate such matters (including a jury trial) seems unlikely to exceed minimal.

### **Relief for employer's discriminatory acts**

The bill provides what might be termed "whistleblower protection" if an employee is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against by the employee's employer and is entitled to all relief necessary to make the employee whole.

An employee may bring an action for such relief in the appropriate court of common pleas. LSC fiscal staff is uncertain as to the number of civil actions that might be commenced in any given year by individuals claiming whistleblower status in any given court of common pleas. That said, LSC fiscal staff has not collected any evidence suggesting that a great number of persons might commence such a civil action in any given court of common pleas annually.