Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. S.B. 302 of the 129th G.A. **Date**: May 1, 2012

Status: As Passed by the Senate **Sponsor**: Sen. Manning

Local Impact Statement Procedure Required: No

Contents: Criminal background investigations related to solid, hazardous, and infectious waste law

State Fiscal Highlights

STATE FUND	FY 2013 – FUTURE YEARS
Solid and Hazardous Waste Background Investigations Fund (Fund 6590)	
Revenues	Loss of approximately two-thirds of annual revenue generated from maintenance fees related to disclosure filings, could be approximately $243,000 per year
Expenditures	Potential decrease, commensurate with annual revenue loss
General Reimbursement Fund (Fund 1060)	
Revenues	Gain in RAPBACK registration fees ($5 per registration)
Expenditures	Likely increase to process criminal background investigations (including FBI reimbursement) and RAPBACK registrations, to be offset in part by collection of related fees

Note: The state fiscal year is July 1 through June 30. For example, FY 2013 is July 1, 2012 – June 30, 2013.

- As a result of changing the requirement to file disclosure statements from annually to every three years, the annual revenue generated for the Solid and Hazardous Waste Background Investigations Fund (Fund 6590) will be reduced by two-thirds. Based on revenues generated in FY 2011, the annual loss could be approximately $243,000. However, this amount could vary from year to year depending on the number of disclosure statements filed and the amount of the fee that is charged to each facility. The fund's expenditures could decrease to mirror the revenue loss.
- The Attorney General will likely experience an increase in the number of required FBI criminal background investigations. For each investigation, $22 will be forwarded to the FBI from the General Reimbursement Fund (Fund 1060) as reimbursement for the FBI's costs.
- The Attorney General will likely experience an increase in the number of Retained Applicant Fingerprint Database (RAPBACK) registrations, the costs of which will be offset by the initial and annual fees charged ($5 for each).

Local Fiscal Highlights

No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

Disclosure filings

The bill changes the procedures for updating information concerning background and ownership information submitted via a disclosure statement by permit applicants, permittees, and prospective owners under the Solid, Hazardous, and Infectious Wastes Law. One of these changes includes the frequency with which these disclosure statements are filed. Under current law, such disclosure statements must be filed annually with the Attorney General (or when there is a change in ownership). After the initial filing, annual filings are accompanied by a maintenance fee.[1] The bill mandates that these statements are to be filed every three years, instead of annually.

As a result of this change, the annual revenue generated for the Solid and Hazardous Waste Background Investigations Fund (Fund 6590) will be reduced by two-thirds. Based on revenues generated in FY 2011, the annual loss could be approximately $243,000. However, this amount could vary from year to year depending on the number of disclosure statements filed and the amount of the fee that is charged to each facility. The amount expended from the fund may decrease from the amount that might otherwise have been expended in any given year to reflect the loss in disclosure statement revenues.

Background investigations

The bill requires the Attorney General via the Federal Bureau of Investigation (FBI) to perform a criminal background investigation every three years on every officer, director, partner, or key employee of an applicant, permittee, or prospective owner of an interest that is regulated under the Solid, Hazardous, and Infectious Wastes Law. These background checks would presumably coincide with the filing of updated disclosure statements which are to take place every three years as well.

Once the FBI background check is complete, this information is to then be forwarded to the Director of the Ohio Environmental Protection Agency. The number of additional investigations that may occur once the bill is enacted is unknown. However, any increase in costs will be offset by the disclosure statement fees charged by the Attorney General. For each FBI background check performed, the Attorney General forwards $22 to the FBI. This money is disbursed from the General Reimbursement Fund (Fund 1060), which is used for various expenses of the Attorney General.

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[1] The fee schedule is established by rule by the Attorney General and can be found in OAC Chapter 109:6. Currently, initial fees range from $1,000 to $50,000. Annual maintenance fees range from $1,500 to $5,000. The amount of the fee charged is generally related to the type of facility and the amount of waste received annually.

Retained Applicant Fingerprint Database

The bill requires the Attorney General to enter certain background information into the Retained Applicant Fingerprint Database (RAPBACK), including the name and fingerprints of each officer, director, partner, or key employee of an applicant, permittee, or prospective owner of an interest that is regulated under the Solid, Hazardous, and Infectious Wastes Law. RAPBACK provides real time information about an individual's arrest record and reports that information to the licensing entity if an arrest is made. In this case, if a report is generated through RAPBACK indicating that an individual has been arrested for a disqualifying offense, the Attorney General is to forward this information to the Director of the Ohio Environmental Protection Agency.

RAPBACK is administered by the Bureau of Criminal Identification and Investigation (BCII) and carries an initial fee and an ongoing annual fee, both of which are $5. The fees, which are in addition to the disclosure statement filing fee, are to be paid by the individual who is subject to the requirement and are deposited into the General Reimbursement Fund (Fund 1060). These fees will offset any costs incurred by BCII to administer and maintain the RAPBACK system.

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