



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** [Sub. H.B. 10 of the 130th G.A.](#)

**Date:** June 4, 2014

**Status:** As Reported by House State and Local Government

**Sponsor:** Rep. C. Hagan

**Local Impact Statement Procedure Required:** Yes

**Contents:** Creates alternative removal from office procedures for local fiscal officers and makes other changes

### State Fiscal Highlights

- The Auditor of State and Attorney General could incur additional GRF costs to process affidavits and evidence or to prosecute cases under the alternative procedures regarding the removal of local government fiscal officers.
- The Auditor of State could incur new costs to develop and conduct local fiscal officer education programs required by the bill. These costs could be at least partially offset by registration fees paid by participants. These receipts would be deposited into the Auditor of State Training Program Fund (Fund 5840).
- The Auditor of State would incur minimal new administrative costs covered by the GRF to provide written notifications to community schools, STEM schools, and college preparatory schools that are declared unauditible and to the Department of Education.

### Local Fiscal Highlights

- Counties, townships, and municipal corporations would be required to pay the cost to defend a county auditor, county treasurer, or local fiscal officer subject to alternative removal procedures established by the bill. If convicted, the official would be required to reimburse the applicable entity for reasonable costs as determined by the court.
- Townships, cities, and villages would incur costs to reimburse fiscal officers for the costs of participating in the education and continuing education programs required under the bill.
- The bill allows a board of county commissioners to appoint an acting officer to perform the duties of a suspended county elected official during the time between the beginning of the suspension and the time that an interim replacement official can be appointed by the county central committee that nominated the suspended officer.

Under the bill acting officers are entitled to the same rate of pay as the suspended official.

- Community schools, STEM schools, and college-preparatory schools could incur administrative costs to prepare responses to the Auditor of State if their financial records are declared unauditible. Additionally, STEM and college-preparatory schools could be subjected to withholding of state funding from the Department of Education if they fail to correct the unauditible condition in a timely manner.
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## **Detailed Fiscal Analysis**

### **Overview of alternative removal procedures**

The bill establishes procedures for removing county auditors, county treasurers, and other local fiscal officers from office as an alternative to the removal procedures provided under current law. Other local fiscal officers include: (1) township fiscal officers, (2) village fiscal officers, (3) village clerk-treasurers, (4) village clerks, (5) city auditor, (6) city treasurer, or (7) in the case of a municipal corporation having a charter that designates an officer who, by virtue of the charter, has duties similar to those of the other officer previously mentioned.

These alternative removal procedures, if employed, could have fiscal implications for the Auditor of State, the Attorney General, political subdivisions, and county courts of common pleas. However, it is unclear how frequently these alternative procedures would come into play. Under these alternative removal proceedings, the most significant costs incurred by counties or other political subdivisions would be legal expenses to defend the accused officials. If a judgment is rendered against the county auditor, county treasurer, or other fiscal officer, the bill requires the court to order the defendant to reimburse the applicable political subdivision for those expenses, up to a reasonable amount as determined by the court.

The Auditor of State could incur new costs to review submitted affidavits and evidence alleging that local officials have committed wrongdoing. Specifically, the Auditor of State would be required to determine if clear and convincing evidence exists to support the allegations, and to provide written notifications to specific parties based on these findings. Any such costs incurred by the Auditor of State would be paid from GRF appropriation item 070321, Operating Expenses. In turn, the Attorney General could incur new costs to investigate and prosecute cases forwarded by the Auditor of State. The costs that the Attorney General incurs would likely be paid from GRF appropriation item 055321, Operating Expenses.

Additionally, county courts of common pleas could incur new costs stemming from the additional caseload. For each of these entities, the costs will depend on the frequency in which the alternative removal procedures are employed and the nature of the individual cases. Finally, an unlikely but noteworthy scenario could occur under the

bill's provision concerning false statements in a sworn affidavit that is used as evidence during an alternative removal proceeding. Under the bill, a person who makes a false statement in a sworn affidavit is guilty of a felony of the third degree. Third degree felonies are punishable by a fine of up to \$10,000 and possible prison terms of between one and five years. Depending on the number of cases and convictions under this provision, there could be increased costs for courts of common pleas stemming from additional caseloads. Additionally, the Department of Rehabilitation and Correction and county sheriffs could incur new costs to incarcerate additional individuals if they are found guilty of the charges brought against them.

### **Procedure for appointing replacements for suspended county elected officials**

Under current law, in the event that a county elected officer is suspended from performing the duties of office, the central committee of the political party that nominated the suspended public official is required to appoint an interim replacement official for the duration of the suspension. The bill establishes a timeframe for this appointment and allows a board of county commissioners to appoint an acting official during the time between the beginning of the suspension and the appointment of the interim replacement. Under the bill, an acting officer is entitled to the same rate of pay as the suspended public official. As a result, counties that appoint an acting officer will incur payroll costs that they otherwise would not have during the period between suspension of a public officer and the appointment of the officer's interim replacement.

### **Continuing education requirements for public fiscal officers**

The bill establishes education and continuing education requirements for public fiscal officers including: (1) township fiscal officers, (2) the auditor or treasurer of a municipal corporation, (3) village fiscal officers, clerk-treasurers, or clerks, and (4) the appointed head of a municipal corporation finance department. Specifically, the bill requires the Auditor of State to provide courses and establish rules for completion and verification of education programs that meet criteria specified by the bill. The bill also requires the Auditor of State to issue certificates of completion to each fiscal officer who completes the education programs and failure to complete notices to those who fail to do so. In addition to the above offices, the Auditor of State would also be required to issue certificates of completion to county auditors that have completed all of their education requirements established in current law.

As a result of these changes, the Auditor of State could incur new costs to adopt rules, provide required courses, and issue certificates. However, these costs could be at least partially offset by registration fees charged to participants in the education programs. These continuing education programs would be funded by registration fees and other conference proceeds deposited into the Auditor of State Training Program Fund (Fund 5840). The bill requires the legislative authority of an education program participant to reimburse the participant for any registration fees along with other reasonable travel, lodging, and meal expenses incurred while participating.

## **Community schools, STEM schools, and college-preparatory boarding schools**

The bill modifies current law requiring the governing authority of a community school to suspend the community school fiscal officer of an unauditible community school until the Auditor of State is able to complete an audit. If the school's fiscal officer is suspended, the bill requires the governing authority to appoint a person to assume the duties of the fiscal officer during the suspension. If that person is not licensed as a treasurer, the bill requires the Superintendent of Public Instruction to approve the replacement. The bill also grants the State Board of Education authority to suspend, revoke, or limit the license of a fiscal officer who has been suspended. Additionally, the bill creates new law requiring the governing authority of a community school to post a surety bond or cash in the amount of \$50,000 with the Auditor of State. In the event that the school closes, this surety would be used to cover any unpaid costs due to the Auditor of State for performing an audit.

For STEM schools and college-preparatory boarding schools declared unauditible, the bill contains similar provisions regarding notifications and responses required by the Auditor and school districts that have been declared unauditible. Specifically, the bill requires the Auditor of State to provide the operator with a written notification. In turn, the operator must respond with a plan detailing the process for correcting the unauditible condition. The Auditor of State and operator of a STEM school or college-preparatory boarding school would incur minor costs to prepare these notices and responses. State funding from the Department of Education could also be withheld from STEM schools and college-preparatory schools if they remain unauditible. In addition, the bill requires the suspension of the fiscal officer responsible for the finances of the STEM school or college-preparatory boarding school. Finally, the bill requires that the fiscal officer of a college-preparatory school obtain a surety bond in an amount approved by the school's board of trustees to be filed with the county auditor. As a result, STEM schools, college-preparatory boarding schools, and county auditors may incur some minimal costs to process the surety bonds.