Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 140 of the 130th G.A. (LSC 130 0989-3) **Date**: December 16, 2014

Status: In House Commerce, Labor, and Technology **Sponsor**: Rep. Patmon

Local Impact Statement Procedure Required: No

Contents: Requires the registration of home improvement contractors under the Department of Commerce

State Fiscal Highlights

- The bill requires home improvement contractors to annually register with the newly created Home Improvement Section within the Ohio Construction Industry Licensing Board (OCILB), itself housed under the Department of Commerce (COM). The bill sets the registration requirement to take hold starting one year after the effective date of the bill.
- COM would incur costs in administering the Home Improvement Contractor Law, principally for hiring additional office and investigative staff and paying per diems to the five additional OCILB members serving under the Home Improvement Section. These costs would depend chiefly on the number of registrants and the rules adopted by OCILB to enforce the bill's provisions.
- OCILB is to establish the registration and renewal fees by rule. Presumably the new fee revenue would offset the operating costs of overseeing these registrations. The Industrial Compliance Operating Fund (Fund 5560) would receive the revenue and pay for the expenses, presumably not beginning until FY 2017 since there would be a one-year delay until home improvement contractors are required to register under the bill.
- The bill appropriates $1.0 million in FY 2015 from the GRF for COM to implement a statewide publicity campaign to inform consumers that home improvement contractors are required to register with the state. The campaign is to use print, television public service announcements, and post information on the COM website.

Local Fiscal Highlights

- The number of civil cases filed in county and municipal courts may increase as a result of the bill's provisions. If so, this would increase administrative costs for these courts, although these expenses would be offset by the court costs and filing fees collected from the additional cases.

Detailed Fiscal Analysis

Background

Currently in Ohio, local governments oversee residential building contractors, while the state regulates commercial contractors through the Ohio Construction Industry Licensing Board (OCILB). Many states require residential contractors to be licensed or registered under varying eligibility requirements and specifications, including Michigan, Tennessee, Virginia, California, and Florida, among others. Other states are like Ohio and do not currently require state licensure or registration, including Indiana, Illinois, Missouri, Pennsylvania, among others.[1]

Ohio Construction Industry Licensing Board

Currently, OCILB, housed within the Department of Commerce, oversees the licensing of specialty contractors in various construction-related professions who perform commercial work in Ohio, as divided into three sections: (1) the Plumbing and Hydronics Section, (2) the Electrical Section, and (3) the Heating, Ventilating and Air Conditioning (HVAC), and Refrigeration Section. At the end of FY 2014, OCILB oversaw approximately 19,000 active licenses. OCILB currently employs two investigators and seven other office employees. The Board is supported by license fees and related income that is deposited into the Industrial Compliance Operating Fund (Fund 5560). The Board collected $1.3 million in revenue in FY 2014, while expenditures amounted to around $865,000. For FY 2015, the Board has an operating budget of approximately $1.2 million.

Changes under the bill

The bill requires all home improvement contractors to be registered by the state. The bill creates a new section under OCILB – the Home Improvement Section – to administer and enforce these registration requirements. This will bring the total number of OCILB members from 17 currently up to 22 in all. A home improvement contractor is defined under the bill as any person who undertakes, offers to undertake, or agrees to perform the following actions for a home owner: repair, replacement, remodeling, alteration, conversion, modernization, improvement, rehabilitation, or sandblasting of, or the addition to, any residential building. The bill makes three exemptions for residential work involving: (1) the construction of new residential buildings, (2) the sale of various appliances that are designed for installation and are easily removable, and (3) jobs performed without compensation. Moreover, the bill allows for one individual to register on behalf of a business so that all home improvement work done by that business falls under the single registration. Finally, under the bill the state registration

[1] All information on residential contractor licensing and registration in states is according to the National Association of Home Builders.

requirements would not replace or supersede local regulation under the Residential Code of Ohio.

Registration revenue and expenditures

Under the bill, OCILB may set the home improvement contractor registration fee and the fee for annual renewal. The fee revenue would be deposited into Fund 5560. LSC does not currently have estimates of the number of registrants that would be regulated under the Home Improvement Contractor Law. This makes it difficult to either estimate potential annual expenses that OCILB might incur for overseeing home improvement contractor registration or forecast operating revenues from the annual registrations and other sources. The actual costs for OCILB would depend on the number of registrants and the enforcement of duties required under the bill, but would likely be higher in the first two to three years of the Home Improvement Section's creation because of various start-up related costs, then decline to consistent expenditure levels once the operations and oversight procedures are more firmly established. The home improvement registration requirement takes effect one year after the effective date of the bill, meaning that no registration revenue would be collected until FY 2017, if the bill was enacted at the end of calendar year 2015. Presumably, the new fees that OCILB establishes would offset some or all of the costs incurred for overseeing the registration of home improvement contractors.

Penalties for noncompliance

Like the current penalties that apply to OCILB-regulated industries, the bill allows the Board to impose a civil fine of up to $1,000 per violation per day for residential contractors that are out of compliance. In addition, the bill allows the Attorney General's Office to bring a civil action against a person operating as an unregistered home improvement contractor, including a temporary restraining order or permanent injunction. However, it is likely that violations will usually be resolved through settlement agreements with OCILB in lieu of formal disciplinary action.

A failure to register as a home improvement contractor may also be classified as a criminal penalty, specifically a misdemeanor of the first degree that carries a maximum fine of $180 per day and a maximum jail stay of six months. In spite of these penalties, local jurisdictions generally have considerable discretion in the arrest, prosecution, and sanctioning of offenders. As a result, many of the penalties imposed in these cases will vary from the maximums under state law. In addition, court cost and fine revenue would offset some of any additional expense created for local criminal courts to adjudicate these matters. Finally, for any new misdemeanor cases, the state receives court costs totaling $29. Of that amount, $20 is deposited into the Indigent Defense Support Fund (Fund 5DY0) and $9 is deposited into the Victims of Crime/Reparations Fund (Fund 4020).

GRF appropriation for statewide public awareness campaign

The bill appropriates $1.0 million in FY 2015 to a new GRF line item (800XXX, Home Improvement Public Awareness Campaign) to fund a statewide public awareness campaign to inform consumers that home improvement contractors are required to be registered by the state. The campaign is to utilize print and television public service announcements, and post information on the Department of Commerce website. This appropriation may assist both consumers and home improvement industry professionals in recognizing the new need for state registration.

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