Ohio Legislative Service Commission

Jean J. Botomogno

Fiscal Note & Local Impact Statement

Bill: H.B. 230 of the 130th G.A. **Date**: May 21, 2014

Status: As Introduced **Sponsor**: Reps. Anielski and Grossman

Local Impact Statement Procedure Required: Yes

Contents: Authorizes an income tax or commercial activity tax credit for businesses that donate "wholesome" food to charitable organizations

State Fiscal Highlights

STATE FUND	FY 2015	FY 2016	FUTURE YEARS
General Revenue Fund			
Revenues	Loss	Loss	Loss
Expenditures	- 0 -	- 0 -	- 0 -
School District Tangible Property Tax Replacement Fund (Fund 7047)			
Revenues	Loss	Loss	Loss
Expenditures	- 0 -	- 0 -	- 0 -
Local Government Tangible Property Tax Replacement Fund (Fund 7081)			
Revenues	Loss	Loss	Loss
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2014 is July 1, 2013 – June 30, 2014.

- The bill authorizes refundable tax credits against the individual income tax and the commercial activity tax (CAT) for businesses that donate food to charitable organizations. Thus, the bill reduces revenue from those taxes. The size of the revenue loss would be dependent on changes to federal law on tax deductions for charitable contribution of food.
- The state GRF, the Local Government Fund (LGF), and the Public Library Fund (PLF) would bear the revenue loss from the income tax credits.
- Half of the receipts from the CAT are deposited in the state GRF, while the School District Tangible Property Tax Replacement Fund (Fund 7047) and the Local Government Tangible Property Tax Replacement Fund (Fund 7081) receive 35% and 15%, respectively. Therefore, the latter two funds would also experience revenue decreases. However, current law requires GRF subsidy if the amounts in the replacement funds are insufficient for required reimbursements to reimburse local governments.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2014	FY 2015	FUTURE YEARS
Counties, municipalities, townships, and public libraries (LGF and PLF)			
Revenues	Loss	Loss	Loss
Expenditures	- 0 -	- 0 -	- 0 -
School District Tangible Property Tax Replacement Fund (Fund 7047)			
Revenues	Loss	Loss	Loss
Expenditures	- 0 -	- 0 -	- 0 -
Local Government Tangible Property Tax Replacement Fund (Fund 7081)			
Revenues	Loss	Loss	Loss
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Under permanent law, a share of GRF tax revenues is distributed to the LGF and PLF. Thus, any reduction to GRF tax receipts would also reduce the amount distributed to the LGF and PLF.
- A reduction in revenue from the CAT would also decrease distributions to the School District Tangible Property Tax Replacement Fund (Fund 7047) and Local Government Tangible Property Tax Replacement Fund (Fund 7081). However, current law requires GRF subsidy if the amounts in the replacement funds are insufficient for required reimbursements to reimburse local governments.

Detailed Fiscal Analysis

The bill creates refundable individual income tax and commercial activity tax (CAT) credits for a business that makes charitable contributions of "apparently wholesome food"[1] from its inventory to an organization that is exempted from federal income taxation under section 501(c)(3) of the Internal Revenue Code. Under federal tax law, a business may also take an "enhanced" deduction for the value of such contributions, up to 10% of the business's net income, for federal income tax purposes as a charitable contribution. The amount of each refundable state credit equals 10% of the amount so deducted by the business for the taxable year. Credit claims may be made on the basis of both normal and enhanced deductions for charitable contribution of food. The CAT credit must be claimed for the tax period that includes the last day of the corresponding taxable year for which the business took the federal deduction. The bill specifies that a business may claim the credit against either the income tax or the

[1] Under federal law, "apparently wholesome food" is food that meets all quality and labeling standards imposed by federal, state, and local laws and regulations even though that food may not be readily marketable because of the food's appearance, age, freshness, grade, size, surplus, or other conditions.

CAT, but not both. Food manufacturers, grocers, and restaurants are likely beneficiaries of the tax credits in H.B. 230.

Fiscal effect

The bill would reduce revenue from the personal income tax and the CAT by an uncertain amount. LSC has not found data on the value of charitable contributions of food or "wholesome food" in Ohio. However, based on data from the U.S. Congress's Joint Committee on Taxation (JCT) on estimates of potential federal tax expenditures for federal fiscal year 2015,[2] the revenue loss from the bill might be up to $4 million annually, depending on the use by taxpayers of the enhanced deduction for charitable contribution of donated food inventory in federal law. Please note that, because the value of Ohio tax credits is linked, in part, to the federal deduction, the revenue loss from H.B. 230 would also necessarily be dependent on changes to federal law.

The estimate above assumes that the federal enhanced charitable deduction for contributions of food inventory continues this year and into 2015.[3] If the federal provision is not extended, then the revenue loss from the bill is likely to be less than the estimate, as the benefits to taxpayers from H.B. 230 would also be reduced.

Based on data from the JCT, and assuming credit claims similar to those against federal taxes, a large majority of tax credit claims may be made against the Ohio individual income tax. However, a number of pass-through entities in Ohio pay the CAT, so the revenue loss attributable to each tax is uncertain. Revenue from the personal income tax is deposited fully into the GRF, so the state GRF will bear the majority of the revenue loss from the bill. Under permanent law, a portion of GRF tax receipts is subsequently transferred to the Local Government Fund (LGF, 1.66%) and the Public Library Fund (PLF, 1.66%). CAT receipts are deposited in part in the GRF (50%), 35% in the School District Tangible Property Tax Replacement Fund (Fund 7047), and 15% in the Local Government Tangible Property Tax Replacement Fund (Fund 7081). Any reduction in CAT revenues would also reduce revenue to the two local replacement funds, though current law requires a GRF subsidy if revenues to the local funds are insufficient for required reimbursements to local governments (for the elimination of the tangible personal property tax on general business).

HB0230IN.docx / lb

---

[2] JCX-32-14: Estimated Revenue Effects of the Chairman's Modification to the "Expiring Provisions Improvement Reform and Efficiency Act of 2014."

[3] Changes to Internal Revenue Code sections 170(e)(3)(A) to (C). Under current federal law, the enhanced charitable deduction expired for contributions made after December 31, 2013. However, legislation is pending in Congress to extend this provision for contributions made through December 31, 2015.