Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 311 of the 130th G.A. **Date**: November 12, 2013

Status: As Introduced **Sponsor**: Reps. Boose and Retherford

Local Impact Statement Procedure Required: No

Contents: Corrects and modifies recent amendments to tax laws and declares an emergency

State Fiscal Highlights

- **Homestead exemption change**. Allowing the homestead exemption for certain surviving spouses of persons who received this exemption in tax year 2013 (tax year 2014 for manufactured or mobile homes) will increase GRF expenditures, possibly by up to millions of dollars.
- **Real property tax rollback on inside millage**. Allowing the 10% and 2.5% rollbacks for inside millage not levied in tax year 2013 may increase GRF expenditures in future years.
- **Tax on qualifying pass-through entities**. Specification of the tax rate for qualifying pass-through entities will avoid a revenue loss estimated by the executive at $30 million to $35 million in the first year.
- **NOAA and PHS Commissioned Corps retirement pay deduction**. Starting a new tax deduction tax year 2013 rather than 2014, for retirement pay for service in the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA) and the Commissioned Corps of the Public Health Service (PHS), will reduce GRF revenue in FY 2014 by an estimated $235,000.
- **Commercial activity tax exclusion for grain handlers**. Accelerating the start of a commercial activity tax (CAT) exclusion for grain handlers by six months will decrease revenue in FY 2014 by an amount less than the annual cost of the exclusion, estimated at $11 million.

Local Fiscal Highlights

- **Tax levies for zoological parks**. The bill lengthens the maximum term of a levy supporting a county zoo, from ten to any number of years or a continuing period of time.
- **Tax on qualifying pass-through entities**. Net increases in GRF taxes will result in increased transfers from the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065) to counties, municipal corporations, and public libraries.

Detailed Fiscal Analysis

The bill corrects and modifies recent amendments to tax laws.

Tax levies for county zoological parks

The bill lengthens the maximum term of a property tax levy for the provision and maintenance of zoological park services and facilities operated or supported by a county, changing the limit from ten years to any specified number of years or for a continuing period of time. This change will eliminate the need for counties to seek renewed voter approval for such levies every ten years, and so may assure more reliable funding for county zoo operations.

Homestead exemption change

The bill extends the homestead exemption to surviving spouses of persons who received the homestead exemption for tax year 2013 on real property or for tax year 2014 on manufactured or mobile homes. The surviving spouse would also be permitted to receive the homestead exemption if the person who qualified for the homestead exemption in those tax years timely filed a late application that was approved by the county auditor. To qualify, the surviving spouse must be at least 59 years of age.

The cost to the state would be limited since the surviving spouse would qualify for the homestead exemption on his or her own if age 65 in 2013, or if he or she was totally or permanently disabled in that year, or met the income limit set in H.B. 59 and otherwise qualified in 2014 or thereafter. If the surviving spouse ceased to be a homeowner, the state would thereafter incur no cost. Also, no cost to the state would result from the death of a person receiving or qualified to receive the homestead exemption in 2013 who was single or a widow or widower. Many of the persons who would benefit from this change would be age 59 to 64 on the date of death of the deceased spouse. The cost plausibly could range up to millions of dollars; however, given the limitations on those who would benefit, the cost may be less than this. LSC does not have an estimate of the cost of this change.

School districts and other units of local government are reimbursed by the state for tax revenue losses resulting from the homestead exemption, so are held harmless apart from a lag between the timing of receipt of tax revenues and of state reimbursements.

Real property tax rollback on inside millage

The bill amends language in enacted H.B. 59 to provide that a levy within the ten-mill limitation (inside millage) will qualify for the 10% rollback on residential and agricultural real property and for the 2.5% rollback on owner-occupied residences, irrespective of whether the inside millage was levied in tax year 2013. Under current law, if a portion of the ten mills is not levied in 2013, future imposition of that portion of inside millage would not be subject to the rollbacks. LSC does not have an estimate of the savings to property owners from this change or of the cost to the state to reimburse school districts and other units of local government for the resulting loss of tax revenue, or of the timing of any such effects.

Tax on qualifying pass-through entities

The bill corrects an unintended result of H.B. 510 of the 129th General Assembly. Ohio pass-through entities are required to withhold tax on behalf of their investors. However, H.B. 510 rendered the tax rate at which this is done ineffective beginning with taxable year 2013. The executive estimates that this may result in an estimated $30 million to $35 million revenue loss in the first year. The bill fixes this problem by specifying the rate, 8.5%, at which such entities are subject to tax. Increased revenue will accrue to the GRF (about $29 million to $34 million) and the local government funds (about $0.5 million to $0.6 million each). The local government funds each receive 1.66% of GRF tax revenues. They are the Local Government Fund (Fund 7069) and the Public Library Fund (Fund 7065).

Delay in transfers to the Income Tax Reduction Fund

H.B. 59, in R.C. 5741.03, provides that a portion of voluntary Ohio use tax collections by out-of-state sellers, other than "remote small sellers" with $1 million or less in annual sales, are to be deposited in the Income Tax Reduction Fund (ITRF, Fund 4R80). However, that bill also, in section 512.70, prohibits cash transfers to the ITRF prior to July 1, 2015. H.B. 72 reconciles these requirements by delaying the transfers of any voluntary Ohio use tax collections by out-of-state sellers to the ITRF until that date.

Inflation adjustment of personal income tax brackets and exemptions

The bill amends language in enacted H.B. 59 pertaining to freezing personal income tax bracket amounts and the personal exemption amount in tax years 2013, 2014, and 2015, and resuming indexing thereafter. The amended language appears consistent with the anticipated operation of these sections of the act at the time of enactment, so appears to have no fiscal effect.

NOAA and PHS Commissioned Corps retirement pay deduction

The bill amends H.B. 59 to authorize an income tax deduction in tax year 2013 for retirement pay related to service in the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA) and the Commissioned Corps of the Public Health Service (PHS). H.B. 59 authorizes this deduction starting in tax year 2014. The change will result in a GRF revenue loss in FY 2014 only, estimated at $235,000.

Commercial activity tax exclusion for grain handlers

The bill amends language enacted in H.B. 59, excluding from the taxable gross receipts base of the commercial activity tax (CAT) receipts of licensed agricultural commodity handlers from the sale of agricultural commodities, to first apply the exclusion to tax periods beginning on or after January 1, 2014, rather than July 1. On an annual basis, the exclusion decreases CAT revenue by up to $11 million, so accelerating the change by six months is expected to decrease CAT revenue in FY 2014 by some lesser amount, dependent on the seasonality of the taxable gross receipts.

CAT revenues are distributed to the GRF (50%), the School District Tangible Property Tax Replacement Fund (Fund 7047, 35%), and the Local Government Tangible Property Tax Replacement Fund (Fund 7081, 15%).

Penalties for improperly excluded qualifying distribution center receipts

The bill also changes the effective date of amendments by H.B. 59 affecting qualifying distribution center (QDC), receipts in R.C. 5751.01(F)(2)(z), making them effective for tax periods beginning on or after January 1, 2014, instead of for original returns filed on or after that date. Under current law, unchanged by the bill, taxpayers with taxable gross receipts greater than $1 million must file by the tenth day of the second month after the end of each calendar quarter, and taxpayers with taxable gross receipts less than this amount may file annual returns, due by May 10. Thus the change appears to delay the effective date of these amendments by three months for calendar quarter taxpayers.

The amendments affecting QDC receipts change penalties for improperly excluded QDC receipts. These changes may result in revenue gains or losses to the GRF, the School District Tangible Property Tax Replacement Fund (Fund 7047), and the Local Government Tangible Property Tax Replacement Fund (Fund 7081). The magnitude of any such revenue changes is dependent on the incidence of improperly excluded QDC receipts.

Historic preservation tax credits

The bill would let certain companies claim refundable historic preservation tax credits that were previously certified, but which the companies were unable to claim when the corporate franchise tax was eliminated. This provision would allow credits issued on or before December 31, 2012, to be claimed for a limited period of time, prior to December 31, 2013. In testimony, Tax Commissioner Testa stated that a few companies were prevented from using these certified credits. The provision provides a means for these entities to receive credits to which they are entitled.

Emergency clause

The bill declares an emergency, hence would go into effect immediately upon passage and Governor's action.

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