



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: [Sub. H.B. 333 of the 130th G.A.](#)
(LSC 130 0968-4)

Date: May 6, 2014

Status: In House Judiciary

Sponsor: Rep. Stinziano

Local Impact Statement Procedure Required: No

Contents: Notice of an alleged accessibility law violation

State and Local Fiscal Highlights

- The bill may create a savings effect for the state and local governments, as it could reduce the frequency and degree to which a governmental entity becomes involved, as either a plaintiff or defendant, in litigating an alleged accessibility law violation.
- The bill may result in a savings effect for courts of common pleas and municipal and county courts, as there may be a decrease in the number of civil actions filed alleging accessibility law violations.

Detailed Fiscal Analysis

The bill permits an alleged aggrieved party to provide a notice of an alleged state or federal accessibility law violation to the owner, agent, or other responsible party of a property where the alleged violation occurred offering an opportunity to remedy the problem prior to filing a civil action. If an alleged aggrieved party does not provide prelitigation notice, the bill prohibits that person from being awarded attorney's fees unless the court finds that attorney's fees are appropriate due to the scale of the violation. The bill also requires an award of attorney's fees to a plaintiff who prevails in an action brought after an owner fails to make improvements or fails to provide a reasonable explanation for failure to do so within the time allowed.

The bill's permitted "notice" and "opportunity to correct violations" provisions may create a savings effect for the state and its political subdivisions from the following two possibilities: (1) a reduction in the filing of civil actions in courts of common pleas and municipal and county courts, and (2) a reduction in the degree to which a state or local governmental entity is party to a civil action alleging an accessibility law violation.

Civil actions filed

The bill provides a mechanism by which alleged accessibility law violations may be remedied thus potentially avoiding the need for such matters to be adjudicated by a court of common pleas, municipal court, or county court. Arguably, for each such matter settled outside of a court, some savings effect occurs that would permit the judge and other court personnel to expend time and effort on other matters. According to the Ohio Civil Rights Commission,¹ there were 58 public accommodation charges filed statewide on the basis of disability in federal fiscal year 2013. It is unclear how many, if any, of those cases were also filed as civil actions with a court, or how many cases were filed only as civil actions.

Governmental entity as a party to a civil action

The bill could affect the state and local governments more broadly to the degree that a governmental entity is involved in accessibility law violations as either a plaintiff or defendant. In a case where the state or a local government is the plaintiff and notice is provided, the bill gives the defendant (a property owner) the opportunity to make improvements that may save costs that the governmental entity might otherwise have incurred to file a civil action and litigate the violations in court.

In a case where the state or a local government is the defendant (a property owner) and notice is received, the bill could result in some savings if that governmental entity remedied the violation after receipt of the bill's prelitigation notice thereby avoiding the costs associated with litigation that might otherwise have been incurred.

Synopsis of Fiscal Effect Changes

The substantive fiscal effect differences between the latest substitute version of the bill (LSC 130 0968-4) and the As Introduced version are detailed below.

Prelitigation notice. The substitute bill (LSC 130 0968-4) permits, rather than requires, a person alleging an accessibility law violation to give prelitigation notice of the violation. To the extent that such a person elects to provide the bill's prelitigation notice and cases are resolved outside of court, there could still be a reduction in the number of civil actions filed alleging an accessibility law violation; however, any resulting savings may be less than if the notice were mandatory as in the "As Introduced" version of the bill.

Attorney's fees. The substitute bill: (1) prohibits a person who does not give prelitigation notice from being awarded attorney's fees unless the court finds such fees are appropriate due to the scale of the violation, and (2) requires an award of attorney's fees to a plaintiff who prevails in an action brought after an owner fails to make

¹ Under current law, anyone who lives or works in Ohio and feels that he or she has been subject to unlawful discrimination may seek resolution by filing a charge with the Ohio Civil Rights Commission, filing a civil action with the appropriate court, or by filing both a charge and a civil action.

improvements or to provide a reasonable explanation for failure to do so within the time allowed. There should be no discernible ongoing costs for the court to make these determinations. The As Introduced version did not contain these two provisions.

Civil action for costs and attorney's fees. The substitute bill removes a provision allowing the owner, agent, or responsible party for a property where an alleged accessibility law violation occurred to file a civil action to recover any costs and attorney's fees incurred if the alleged aggrieved party: (1) failed to provide prelitigation notice or (2) filed a civil action alleging an accessibility law violation after the owner, agent, or responsible party for a property has provided evidence that improvements have been made and that the property is in compliance with the law. The removal of this provision will prevent a property owner from filing a civil action for costs and attorney's fees, thus resulting in some amount of savings as the court will not have to hear or adjudicate such matters.

Emergency clause. The substitute bill removes the emergency clause that was part of the As Introduced version. This means that the earliest that the bill's possible fiscal effects could occur would be on the 91st day after it is filed in the Secretary of State's Office. The emergency clause would have made the bill effective immediately upon the Governor's signature.

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