



Ohio Legislative Service Commission

Maggie Wolniewicz

Fiscal Note & Local Impact Statement

Bill: [H.B. 333 of the 130th G.A.](#)

Date: January 14, 2014

Status: As Introduced

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 requires 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 the bill's required notice prior to filing a civil action, or files a civil action alleging an accessibility law violation after the owner, agent, or other responsible party of the property has provided evidence that improvements have been made and that the property is in compliance with the law, the bill specifies that the owner, agent, or other responsible party of the property may file a civil action to recover any costs and attorney fees incurred.

As discussed below, the bill's required "notice" and "opportunity to correction 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

Opportunity to correct violations

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.

Civil action by property owner

It is also possible that a civil action could be filed by a property owner to recover costs and attorney's fees if an alleged aggrieved party does not provide the required notice, or files a civil action after improvements were made to bring the property into compliance. This type of filing is likely to be relatively rare for two reasons. First, legal counsel for plaintiffs will be aware of and comply with the notice requirement. Second, plaintiffs will be unlikely to file a civil action subsequent to a property owner making improvements unless there is a high likelihood they will prevail. To do otherwise would clearly expose the plaintiff to a civil action that is likely to be filed by the property owner.

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, 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 these cases, it is expected that the governmental entity will comply with the related notification requirement, because to do otherwise means exposure to a civil action filed by the property owner to recover costs and attorney's fees.

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

HB0333IN.docx/th

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.