Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Am. Sub. H.B. 494 of the 130th G.A. (Section 8 vetoed)

Date: December 19, 2014

Status: As Enacted

Sponsor: Rep. Schuring

Local Impact Statement Procedure Required: No

Contents: Authorizes the use of county regional transportation improvement projects (RTIPs), makes various changes affecting taxes and tax credits, and makes an appropriation

State Fiscal Highlights

Regional Transportation Improvement Projects (RTIPs)

- The bill allows the creation of RTIPs. The Ohio Department of Transportation (ODOT) could incur minimal new administrative costs to evaluate proposed RTIPs and approve or deny such proposals.
- ODOT could incur costs to provide assistance to an RTIP if requested to do so by the RTIP governing board. These costs may be repaid by the RTIP governing board or, in whole or in part, paid for by ODOT, at the discretion of ODOT.
- If additional permissive county motor vehicle license taxes are approved, the Bureau of Motor Vehicles within the Department of Public Safety would incur a minimal increase in administrative costs in distributing the tax revenue to the affected local governments.

Tax provisions

- The bill allows taxpayers to use the research and development loan tax credit against the personal income tax (PIT). This would reduce revenue from that tax by an uncertain amount. Under permanent law, the GRF receives 96.68% of the revenue from the PIT, while 1.66% of the receipts are transferred each to the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065) for distribution to counties, municipalities, townships, and libraries.
- A change in rules for determining whether a person is a state resident for income tax purposes would likely result in a loss of GRF revenue. The revenue loss would plausibly be roughly $1.4 million to $1.7 million annually.

Federal-Military Jobs Commission

- The bill appropriates $700,000 in FY 2015 to Fund 5JC0 appropriation item 235693, Federal-Military Jobs Commission, in the Board of Regents budget. Cash in Fund 5JC0 is from casino license fees.

Local Fiscal Highlights

Regional Transportation Improvement Projects (RTIPs)

- RTIP governing boards would be authorized to raise revenue from the issuance of securities, a county motor vehicle license tax, or certain other pledged revenues.
- The amount of any gain in revenues from a motor vehicle license tax, should a county participating in an RTIP choose to levy one, is dependent on the amount of the increase, as well as the number of registered vehicles impacted by the increase.
- A county motor vehicle license tax for the purpose of supporting an RTIP must be approved by voters in order to be levied. County boards of elections could incur costs for ballot advertising and other activities related to such levy requests.
- Counties could incur certain administrative costs if they choose to form an RTIP. Counties would also be responsible for any ongoing maintenance or administrative costs associated with a transportation improvement project created by an RTIP upon the dissolution of an RTIP when the project is completed.

Community entertainment districts

- The bill would allow a joint economic development district (JEDD) to create a community entertainment district, within which D-5j liquor permits may be issued. This may facilitate economic development in JEDDs that elect to create community entertainment districts, and this may in turn increase liquor permit applications and issuances, as well as local tax revenues.

Tax provisions

- The expected loss of GRF revenue from a change in rules for determining whether a person is a state resident for income tax purposes could be expected to result in reduced distributions to units of local government through the Local Government Fund (Fund 7069). The revenue loss to Fund 7069 would be very roughly $23,000 to $28,000 annually.

Detailed Fiscal Analysis

Regional Transportation Improvement Projects

The bill authorizes boards of county commissioners of two or more counties to enter into a cooperative agreement to create a regional transportation improvement project (RTIP) for the purpose of carrying out transportation improvements within the territory of the participating counties. Such improvements may include construction, repair, maintenance, or expansion of streets, highways, parking facilities, railroads and related rail facilities, bridges, tunnels, overpasses and underpasses, interchanges, approaches, culverts, and other means of transportation. An RTIP would be overseen by a governing board consisting of one county commissioner and the county engineer from each participating county.

RTIP funding

The bill provides for the raising of revenue to fund transportation projects included in an RTIP via several permissible means. First, a governing board issues securities backed by certain pledged revenues. The governing board may solicit and receive pledges of revenue for the purpose of backing these securities or for paying the costs of transportation improvements. The bill prohibits the use of these pledged or allocated revenues for an RTIP's administrative costs without the prior approval of the Ohio Department of Transportation (ODOT). The state, participating counties, and political subdivisions or taxing units within those counties may pledge revenue to the governing board for allowable purposes. Permissible sources of such funding include:

1. The state General Revenue Fund;
2. Payments in lieu of taxes derived from tax increment financing (TIF);
3. Income tax revenue generated from a joint economic development district (JEDD) or joint economic development zone (JEDZ);
4. Revenue derived from special assessments levied in a special improvement district (SID); and
5. Revenue derived from an income source of a new community district.

Permissive motor vehicle license tax

The bill also authorizes RTIP governing boards to request the county commissioners of one or more of the participating counties to levy, with voter approval, a motor vehicle license tax. This tax may be used to pay the cost of transportation improvements, pay debt service on RTIP securities, and to fund supplemental transportation improvements not described in the RTIP cooperative agreement. The rate

of the tax must be between $5 and $25, in $5 increments, for all vehicles.[1] If a board of county commissioners chooses to place a motor vehicle license tax before the voters, county boards of elections could incur costs for certain activities, such as ballot advertising and other expenses associated with placing such an issue on the ballot. These costs would likely be minimal. If counties propose the additional permissive motor vehicle license tax, and voters approve the tax, any gain in revenue to the counties is dependent on the amount of the tax levied, as well as the number of motor vehicles registered in the affected counties.

However, the bill prohibits these taxes from being levied on commercial trailers and semitrailers. In addition, if the tax would apply to trucks, the bill requires the county commissioners to create a Transportation Advisory Council (TAC) to review the tax. If the TAC does not approve the proposed tax, the county may still put the tax up for voter approval, but the tax does not apply to trucks.

If an RTIP governing board intends to use any license tax revenue for supplemental transportation improvements, the board must allocate the revenue among both the primary improvements contained within the RTIP cooperative agreement and the supplemental improvements. Not more than $5 per vehicle may be used for supplemental improvements.

Costs of creating and administering an RTIP

Under the bill, any costs incurred by an RTIP governing board for its official functions would be borne by one or more of the revenue sources described above, or in the case of administrative costs not approved by the Director of Transportation, some other source. These could include:

1. Employing persons or acquiring property necessary to carry out its functions;
2. Entering into contracts for goods and services (any contracts with a cost greater than $50,000 are subject to the same competitive bidding procedures that apply to boards of county commissioners);
3. Performing administrative duties through the county auditor and county prosecutor offices within the most populous counties covered by an RTIP agreement, who would serve as the fiscal and legal officers, respectively, of an RTIP governing board (though it is unclear if RTIP governing boards would reimburse county auditors and prosecutors for these costs, or if these offices would bear the costs).

[1] Under continuing law, existing local permissive motor vehicle license taxes are generally capped at $20 and taxed in $5 increments. The permissive levy authorized by the bill would allow for counties to tax above this amount.

Additionally, there would likely be some start-up costs that counties would incur if they choose to create an RTIP. Such counties could incur certain new administrative costs, including the cost of hiring consultants, to draft and enter into cooperative agreements. Boards of county commissioners are also required to conduct public hearings on proposed RTIP cooperative agreements and provide public notice of such hearings; it is likely that county commissioners would incorporate these requirements into their regular public proceedings and would not incur any substantial additional costs for these activities. The bill authorizes boards of county commissioners participating in an RTIP to make appropriations from county funds to pay costs incurred by the RTIP governing board in exercising its functions.

Dissolution of an RTIP

Under the bill, once a transportation improvement project is completed, all contractual duties have been fulfilled, and all bonds are repaid, an RTIP and its governing board are to dissolve. When this occurs, the boards of county commissioners that created the RTIP will assume title to all real and personal property of the RTIP, which is to be divided in accordance with the cooperative agreement that formed the RTIP. All pledges of revenue from the state or a political subdivision to the RTIP are also to terminate upon the RTIP's dissolution, unless otherwise provided by contract. This dissolution process would, in effect, transfer ownership and responsibility for all transportation improvements undertaken by an RTIP to the participating counties. The responsibility for ongoing maintenance and administrative costs related to the improvements after that point would be borne by the counties, presumably out of the counties' own funds.

Role of state government entities

Under the bill, an RTIP governing board must submit its cooperative agreement to ODOT for evaluation as to whether the proposed transportation improvements are in the best interest of the state's transportation facilities. ODOT may incur minimal new administrative costs in reviewing the RTIP agreement and send notice of the determination to each county that is a party to an RTIP.

The bill authorizes an RTIP governing board to request assistance from ODOT in completing transportation improvements prescribed by the RTIP cooperative agreement. If it receives such a request, ODOT may require the RTIP to submit documentation to substantiate that it has sufficient resources to fund its share of the project. If ODOT determines that there are sufficient resources, it is permitted to make available any ODOT resources necessary to fulfill the request. The bill allows ODOT to cover all or a portion of their costs, at the discretion of ODOT. Ultimately, the amount of state costs that the RTIP governing board might bear for such assistance would therefore likely depend on either a contract with ODOT or a reimbursement by the RTIP governing board for state expenses.

Finally, if additional permissive county motor vehicle license taxes are approved, the Bureau of Motor Vehicles within the Department of Public Safety would incur a minimal increase in administrative costs in distributing the tax revenue to the affected local governments.

Qualified research and development loan tax credit

Existing law requires that any qualified research and development (R&D) loan program credit not fully utilized by the taxable year beginning in 2007 be carried forward and applied against the commercial activity tax (CAT). All such credits are now applied against the CAT. The bill, however, permits retroactive claims against the personal income tax (PIT), and allows a taxpayer who qualified for the R&D loan program tax credit to apply, under certain conditions, for a refund. The bill also specifies that the aggregate credit against the CAT and the PIT by a borrower as a result of the loan payments attributable during a calendar year to any one loan should not exceed $150,000; and no credit under the PIT is to be allowed if the credit was available and claimed against the CAT.

This provision will reduce revenues from the PIT by an uncertain amount. Under permanent law, the GRF receives 96.68% of the revenue from the PIT, while 1.66% of the receipts are transferred each to the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065) for distribution to counties, municipalities, townships, and libraries.

Community entertainment district creation by JEDD contract

The bill would allow a joint economic development district (JEDD) to create a community entertainment district. Under current law, unchanged by the bill, a community entertainment district is a bounded area that includes entertainment, retail, educational, sporting social, cultural or arts establishments located near hotels, restaurants, theaters, and similar facilities.[2] Ohio liquor permit law allows for issuance of a type of permit, the D-5j permit, only within a community entertainment district. A JEDD is an arrangement generally between a municipal corporation and a township, under which the parties enter into a contract to facilitate economic development in the area included in the district. Under a JEDD, an income tax may be levied on income earned in the portion of the township included in the JEDD. Townships generally cannot tax income, except by entering into a JEDD contract. The bill would let a JEDD designate property as a community entertainment district, as part of the contract creating the JEDD. An existing contract establishing a JEDD may be amended to create a community entertainment district. Property owners in the community entertainment district must consent in writing to inclusion of the property in the district.

[2] A fuller definition is in R.C. 4301.80.

This change may facilitate economic development in JEDDs that elect to create community entertainment districts. The economic development may in turn contribute to increases in local tax revenues. The amount of any such increases in revenue appears uncertain. If additional community entertainment districts are created, this would likely result in additional D-5j liquor permit applications and issuances. Revenue from the permit applications and issuances fund the Division of Liquor Control's regulatory responsibilities and the local taxing district's enforcement costs.

Ohio income tax residency

The bill would increase the number of "contact periods" allowed before a person is considered an Ohio resident for state income tax purposes from 182 to 212. Under current law, unchanged by the bill, an individual has one contact period in Ohio if the individual is away overnight from his or her abode outside the state and while away is in Ohio for part of two consecutive days. The change from 182 to 212 contact periods would, for example, allow a person whose abode is elsewhere to remain in Ohio for up to about seven months, increased from about six months, without being considered an Ohio resident for income tax purposes.

A similar change was enacted in 2007 by H.B. 73 of the 126th General Assembly That legislation increased the number of contact periods allowed before being considered a resident to the current 182 from 120 with an additional 30 for medical hardship. At that time the Department of Taxation estimated that the residency provision of H.B. 73 would reduce income tax revenues by $25 million to $30 million per year. Related research on migration patterns was published in 2007 in *Population Research and Policy Review*, 26:4, 437-454, entitled "Temporary Migration: a Case Study of Florida." The researchers found that 78.4% of temporary Florida residents stay for six months or less, but only 6.0% of temporary residents stay for seven to nine months. This suggests that a further increase beyond six months in the number of contact periods allowed before being considered a resident might increase the revenue loss relatively little. Florida does not have an income tax. For states with income taxes, the duration of temporary stays would be altered by some persons in response to changes in rules pertaining to tax residency.

If the Department of Taxation estimate proved accurate, and taking account of lower tax rates today, extending the allowable contact periods by an additional 30 days could reduce state revenues up to $1.4 million to $1.7 million annually. These estimates are necessarily rough. LSC cannot evaluate the accuracy of the 2007 estimate because it requires access to confidential taxpayer information. Those that benefit from this proposal may have less nonwage income than those that benefitted from H.B. 73, based on the characteristics of longer-term temporary residents, as described by the researchers mentioned above.

Counties, municipal corporations, and townships receive 1.66% of total GRF revenue that is distributed through the Local Government Fund (LGF, Fund 7069). A loss of GRF revenue to the state of roughly $1.4 million to $1.7 million per year would reduce distributions from the LGF to these units of local government by roughly $23,000 to $28,000 annually.

Federal-Military Jobs Commission

The bill appropriates $700,000 in FY 2015 to Fund 5JC0 appropriation item 235693, Federal-Military Jobs Commission, in the Board of Regents budget. The cash in Fund 5JC0 is from casino license fees. The bill requires the appropriation be used by the Federal-Military Jobs Commission to prepare a statewide strategy in relation to federal-military jobs in the state and fulfill its other statutory duties. The Commission was created by H.B. 483 of the 130th General Assembly to develop and maintain a strategy for the retention and growth of federal-military agencies and missions and associated private sector jobs in the state.

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