Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 602 of the 130th G.A.

Date: August 27, 2014

Status: As Introduced

Sponsor: Reps. Beck and J. Adams

Local Impact Statement Procedure Required: Yes

Contents: Authorizes an income tax credit for sales taxes paid by disaster victims on purchases of essentials

State Fiscal Highlights

- A state income tax credit for sales and use taxes paid on essentials by disaster victims within 30 days after the Governor declares an emergency could result in loss of GRF revenue.
- Distributions to the state Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065) could consequently be reduced.
- Losses to the state could range from zero in some years up to millions or tens of millions of dollars in other years, depending on the magnitude of future disasters as well as on the actions of governors in the future in declaring emergencies.

Local Fiscal Highlights

- Units of local government could lose revenues because of reduced state revenue sharing through the LGF and PLF.

Detailed Fiscal Analysis

The bill provides a state personal income tax credit equal to the amount of sales and use tax paid on purchases of essential goods and services by a taxpayer within 30 days after the Governor declares an emergency resulting from a disaster. For a taxpayer to be eligible for this credit, the taxpayer's need for the essential goods and services must result from the disaster. The credit is refundable, so is not limited by the amount of income tax a taxpayer owes before consideration of the credit. Both state and local (county and transit authority) sales taxes are included. The term "essential goods and services" is defined to include "any good or service necessary to preserve, protect, or sustain the life, health, or safety of an individual or the individual's property after a disaster." It includes, but is not limited to, a list of goods and services enumerated in the bill. Only firearms and ammunition are specifically excluded. "Disaster" is defined quite generally, to refer to the "imminent threat or actual occurrence of widespread or severe damage to or loss of property, personal hardship or injury, or loss of life . . . ."

The bill has the potential to result in loss of GRF revenue and hence in reduced distributions to the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065). Quantification of a predicted fiscal effect appears impossible, except possibly in an actuarial sense if enough data were available, since the tax revenue loss would depend on the magnitude of a future disaster or disasters, as well as on current and future governors' decisions to declare or not declare emergencies. The 30-day limit on spending that qualifies for the credit appears to preclude much of the cost of rebuilding following a disaster that results in destruction of real property. Losses in any year could range from zero up to well into the millions of dollars, possibly tens of millions of dollars under plausible scenarios.

The bill provides for the income tax credit for sales taxes on disaster-related spending without regard for whether the outlays by disaster victims are reimbursed. Some costs incurred following a disaster may be covered by insurance policies. Federal assistance might be available. Such reimbursement could in some cases be paid after lengthy delays, beyond the time when a taxpayer might ordinarily file the return including the claim for the disaster-related credit. Taxpayers might in some cases be able to recover these outlays twice: once from the credit provided by the bill, and a second time from payments by their insurers or by disaster relief programs.

Example of fiscal impact of a disaster

Disaster-related spending of $1 million, for example, would result in a gain in state sales tax revenue of up to $57,500 at the state's current 5.75% tax rate, depending on what portion of the purchases is of types of goods and services included in the sales and use tax base and so subject to the tax. State sales tax revenue accrues to the GRF, and the gain would be shared with units of local government through its effects on distributions to the LGF and PLF, which would each receive 1.66% of the hypothetical

GRF revenue gain. The LGF is distributed by the state to counties and municipal corporations, with the counties further distributing part of the money to other units of local government and retaining part. The PLF is distributed mainly to public libraries, with a small portion provided to other local governments in a few counties.

County and transit authority sales and use taxes, on average statewide, were imposed at a 1.31% rate in 2013. Including both the county and transit authority sales and use taxes, rates ranged from 0.75% in four counties to 2.25% in one county. At the average tax rate, the hypothetical $1 million of added spending would result in up to about $13,100 in additional county and transit authority sales tax collections. The amount of local sales tax collections would depend on where the purchases were made as well as on the portion of the purchases subject to sales and use tax.

Offsetting these tax revenue increases, the unexpected additional costs and the associated disruptions to consumers' usual activities could lead them to defer temporarily or indefinitely purchases that they would otherwise have made, in the absence of the disaster, hence the increase in tax collections on the essential goods and services could be partly or perhaps wholly offset by loss of other tax revenue. If the disaster disrupted work schedules, some people would lose pay, reducing income tax revenue. In response to the income loss, these persons might cut back on spending on goods and services, lowering sales tax revenue. Other individuals such as disaster relief personnel might gain pay and spend additional amounts, adding to income and sales tax collections. The effects noted in these three paragraphs are independent of the bill.

Fiscal impact of the bill – two examples

The bill would result, in the hypothetical example with $1 million of disaster-related spending, in a loss of state income tax revenue of up to the amount of the gain in state and local sales tax revenue noted above, totaling $70,628. State personal income tax revenue accrues to the GRF, and the loss would be shared with units of local government through the LGF and PLF, which would each lose up to $1,172 in this example.

For the statewide loss to units of local government from reduced LGF distributions to rise to $100,000, the total of state, county, and transit authority sales and use taxes on the purchases of essentials would need to total about $6 million ($100,000 divided by 1.66%). The $100,000 threshold is significant because a bill resulting in statewide annual losses to counties, municipalities, townships, and school districts totaling less than this amount is regarded by LSC as having minimal cost, implying a "NO" local impact determination unless the cost to individual government units exceeds other thresholds. Almost all LGF money is distributed to the first three of these types of government entities. (Almost all PLF money goes to libraries, for which a local impact statement is not required.) At the statewide combined average sales tax rate of 7.06% in 2013, this would be consistent with purchases of around $85 million of such essential taxable goods and services during the 30-day period, or during multiple 30-day periods for more than one disaster.

Gubernatorial emergency declarations

A search of the current Governor's website identified five declarations of emergency. Most notable was a declaration of a statewide emergency in June 2012 after severe storms knocked out power across wide areas of the state. Earlier that year, a state of emergency was declared in Clermont County following tornado damage. In 2014, three declarations of emergency have been issued by the Governor. A statewide emergency declaration was issued in January to expedite shipments of propane and ease shortages resulting from unusually cold weather. A state of emergency was declared in June in Columbiana County for debris removal following severe storm damage. In August, a state of emergency was declared for Lucas, Wood, and Fulton counties because of algae contamination in Toledo's public water system.

Whether all of these occurrences would have been deemed disasters under the bill, and what spending would have been considered to be for essential goods and services required as a result of each disaster, is not clear. Potentially, declarations of statewide emergency could result in widespread claims by millions of taxpayers, if the bill becomes law.

Data provided by the Department of Public Safety (DPS) documents declarations of emergency by Ohio governors since 1996. At least 35 separate instances of emergency declarations are listed, based on records of the Ohio Emergency Management Agency, within the Department. In three years during this period, no emergencies are shown in the DPS list as having been declared. Many of the emergencies listed involved flooding or storms. Tornadoes, hurricanes, other high winds, and snow were also listed as causes of incidents. In some instances the gubernatorial declaration encompassed numerous counties, in other cases only a few counties, and in still other cases no counties were specified. In a few instances, the declaration of emergency was part of the process of directing the Ohio National Guard to provide assistance out of state. The list does not include dollar costs of the emergencies.

Probability of loss

The probability of smaller losses in any given year, under the bill, would plausibly be higher than the probability of larger losses. In some years, as noted above, no losses of state or local revenue would be sustained as a result of the bill if it becomes law. Potentially, large tax revenue losses might infrequently be sustained.

If, for example, a disaster or multiple disasters in a year resulted in affected Ohio households incurring daily disaster-related expenses (such as temporary food and lodging) of $200 each, for a week on average, and 70,000 Ohio households (between 1% and 2% of all households in the state) were so affected, the potential outlay of nearly $100 million might result in state tax revenue losses of close to $7 million. The (subjective) probability of such an event affecting twice as many households, or three times as many, would undoubtedly be lower, but not beyond the realm of possibility.