



Ohio Legislative Service Commission

Jamie L. Doskocil

Fiscal Note & Local Impact Statement

Bill: Sub. S.B. 115 of the 130th G.A.

Date: May 22, 2013

Status: As Enacted

Sponsor: Sen. Faber

Local Impact Statement Procedure Required: No

Contents: Moratorium on new sweepstakes establishments; declares an emergency

State Fiscal Highlights

STATE FUND

FYs 2013 – 2014

General Reimbursement Fund (Fund 1060)

Revenues

Potential gain in civil penalties

Expenditures

Potential enforcement cost increase

Other State Funds of the Attorney General

Revenues

- 0 -

Expenditures

Likely enforcement cost increase

Indigent Defense Support Fund (Fund 5DY0)

Revenues

Potential minimal annual gain in locally collected state court costs

Expenditures

- 0 -

Victims of Crime/Reparations Fund (Fund 4020)

Revenues

Potential minimal annual gain in locally collected state court costs

Expenditures

- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2014 is July 1, 2013 – June 30, 2014.

- **Attorney General.** It is uncertain as to whether the Attorney General's existing staffing levels will be sufficient to enforce all of the bill's provisions (process affidavits, enforce moratorium compliance, collect civil penalties, file criminal falsification charges, etc.), or if additional GRF and/or non-GRF money will need to be appropriated for these enforcement purposes.
- **Court cost revenues.** The state may gain a minimal amount of revenue in the form of state court costs imposed on individuals found to have criminally falsified information on the new affidavit. These court costs would be divided between two existing state funds: the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

Local Fiscal Highlights

- **Local justice systems generally.** Violations of the bill's moratorium, civil penalty, and criminal falsification provisions may create a slight increase in the caseloads of certain common pleas, municipal, and county courts. County prosecutors and law enforcement may become involved in the investigation and prosecution of additional moratorium violations. Some costs may be incurred to sanction individuals convicted of criminal falsification, with such convictions also generating locally retained revenue in the form of court costs and fines imposed on those individuals by the sentencing court. All of these potential local effects would largely be confined to the period from the effective date of the bill to the end of the moratorium (June 30, 2014).
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Detailed Fiscal Analysis

Sweepstakes moratorium. The bill provides that the current moratorium on new establishments conducting sweepstakes by sweepstakes terminal devices be extended until June 30, 2014.¹ The bill similarly extends existing authority permitting the Attorney General or the appropriate county prosecutor to bring an injunction action and a contempt action against anyone violating the moratorium.

New affidavit. The bill also requires these establishments to file a new affidavit with the Attorney General. One notable change from the existing moratorium is that these new affidavits will be subject to a criminal action for falsification (R.C. 2921.13), a violation of which is generally a misdemeanor of the first degree and punishable by a maximum fine of \$1,000, a jail stay of not more than six months, or both.

Civil penalty. The bill allows the Attorney General to impose a civil penalty of not more than \$1,000 for each day a person violates the requirement to file a new affidavit, and requires the Attorney General file a civil action to collect any unpaid civil penalty. All civil penalty money is to be deposited into the existing Attorney General Reimbursement Fund (Fund 1060) and used solely by the Attorney General to enforce the bill's provisions.

Attorney General

As a result of the bill's provisions, the Attorney General will experience an increase in workload in order to process the new affidavits, investigate potential moratorium violations, pursue civil actions to collect civil penalties, and initiate criminal falsification actions. It is unclear as to whether the Attorney General's existing

¹ The original moratorium was first established in Am. Sub. H.B. 386 of the 129th General Assembly (effective June 11, 2012) and is due to expire on June 30, 2013. That bill required that, within 30 days of its effective date, such establishments file an affidavit with the Attorney General certifying that the establishment was in existence and operating before that date.

staffing levels will be sufficient to handle these additional civil and criminal matters. Any additional funding needs would likely be drawn from a mix of GRF and non-GRF revenue streams available to the Attorney General, including any civil penalty money deposited in Fund 1060.

Local governments

The bill's provisions noted below may generate additional work and associated operating costs for certain local government components. These potential workload and cost effects would occur between the latter half of calendar year 2013 and the middle of calendar year 2014.

Moratorium violations. The extension of the moratorium may affect local governments in two ways. First, county prosecutors, with assistance from law enforcement, may pursue injunction and contempt actions, or assist the Attorney General in such matters. Second, courts, most likely courts of common pleas, may experience a slight increase in their civil caseload as a result of having to adjudicate any such actions brought by the Attorney General or county prosecutor.

Civil penalty collection actions. The requirement that the Attorney General pursue, in a court of competent jurisdiction, the collection of any unpaid civil penalty means that certain local courts may experience a slight increase in their civil caseload to adjudicate such matters. Whether these collection actions will fall under the subject matter jurisdiction of common pleas, municipal, and county courts will depend upon the monetary amount to be collected and the Attorney General's preferred venue for pursuing such matters.

Criminal falsification actions. Municipal and county courts may experience a slight increase in their criminal caseload as a result of having to adjudicate a relatively small number of falsification actions filed by the Attorney General against individuals who are alleged to have provided false information on the required new affidavit. Those jurisdictions may also incur some costs to sanction those convicted, most likely probation, and may collect revenue in the form of courts costs and fines that a court generally imposes on those convicted of a criminal offense.

State court costs

With each additional criminal conviction, the state might gain revenue in the form of locally collected state court costs that are forwarded for deposit in the state treasury to the credit of the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). The amount that might be generated is likely to be minimal at most. In the case of a misdemeanor, the court is generally required to impose state court costs totaling \$29, divided as follows: \$20 to Fund 5DY0 and \$9 to Fund 4020.