

## ***Bills with Altered Impact***

This section describes bills passed in 1999 that became law and were altered during the legislative process, so that the “As Enacted” impact on local governments was different from the “As Introduced” local impact. The 1999 enacted bills with altered impact are:

- House Bill 35
- House Bill 137
- House Bill 148
- House Bill 162
- House Bill 384
- Senate Bill 64

In 1999, two bills, HB 35 and HB 148, were introduced with a local impact, but the enacted version of the bill did not have a local impact. Four bills, were introduced with no local impact, but “As Enacted” the bills are estimated to have a local impact. These bills were HB 137, HB 162, HB 384, and SB 64.

Overall the number of bills with altered impact was similar to past years’ figures. However, the numbers for 1999 differ from previous years’ in that fewer bills are changed so that they do not have a local impact “As Enacted” than are changed so that they do have a local impact.

Senate Bill 3, the electricity deregulation bill, provides an interesting example of changing local effects. In the end, the effects on local governments probably are neutral. The introduced bill contained a “No” local impact determination. With numerous hearings and changes to the bill, the changes affecting taxes would have resulted in revenue losses to the state-shared local government funds and the newly – created property tax replacement funds, except that specific measures were included in the bill to hold those funds harmless. The actual net effect on local governments will depend on the level of future corporate franchise tax revenues and the outcome of some other more minor provisions. Thus, the end result is a “No” local impact for the enacted bill, but for different reasons than the “No” impact for the introduced bill.

# House Bill 35

<b>Bill Contents:</b>	Eliminates the requirement that a person who maintains a work camp pay to the appropriate local government any expenses caused by contagious or infectious diseases that originate or exist in the camp except in the case of undocumented immigrants
<b>“As Introduced” LIS Determination:</b>	Yes
<b>“As Enacted” local impact:</b>	No, minimal cost
<b>Key changes affecting local impact:</b>	The as introduced version of the bill repealed existing law requiring the work comp operator to compensate the municipality, township, or county for expenses incurred by the government in cases of contagious or infectious diseases. The enacted version, instead of repealing ORC 3707.15, amends 3707.15 to require the work camp owner to compensate the municipality, township, or county only if the contagious or infectious disease is caused by an undocumented immigrant.
<b>Fiscal effects of changes:</b>	Employers of work camps would continue to be responsible for covering the costs of treating undocumented immigrants. This change prevents an increase in expenditures for counties and local health districts.

## *Analysis of Changes with Fiscal Impact*

Under section 3707.15 of the Revised Code, as contained in the bill, employers of undocumented immigrants with contagious or infectious diseases would be required to pay to the municipal corporation, township, or county in which the illegal alien is employed any expense caused by the disease. Alternative sources of funding may be used for costs associated with documented immigrants who meet federal requirements of immigration laws, but alternative sources of funding may not be used for costs associated with undocumented immigrants. As contained in

the bill, operators of work camps would no longer be required to cover expenses incurred by contagious or infectious diseases that originate or exist in the camp, except in the case of undocumented immigrants.

# House Bill 137

**Bill Contents:**

Expands the offenses of disrupting public services and misconduct at an emergency scene to include the behaviors and activities of emergency medical services personnel; increases penalties for misconduct at an emergency scene, obstruction of official business if risk of physical harm is involved, and for disorderly conduct in the presence of certain authorized persons who are performing duties at the scene of an emergency. House Bill 137 specifies that "pattern of conduct" in menacing by stalking includes actions that obstruct a public official's performance of authorized acts, increases penalties, permits the denial of bail for menacing by stalking, and revises who may request, or be protected by, temporary protection orders.

**“As Introduced” LIS Determination:**

No, minimal cost

**“As Enacted” local impact:**

Yes

**Key changes affecting local impact:**

Expands who can request and be covered by domestic violence or anti-stalking protection, thereby potentially increasing the volume of such cases.

**Fiscal effects of changes:**

The bill will place additional burdens on certain components of municipal and county criminal justice systems, most specifically courts, law enforcement, and prosecutors. Additional domestic violence protection and anti-stalking orders will be requested, issued, enforced, and violated. The exact cost to local criminal justice systems annually across the state is highly uncertain at this time, but the bill could potentially increase local costs.

## *Analysis of Changes with Fiscal Impact*

### **Menacing by Stalking**

Bill 137's penalty enhancement provision – a provision that elevates the offense from a fifth-degree felony to a fourth-degree felony – will shift a number of cases out of the misdemeanor jurisdiction of municipal and county courts and into the felony jurisdiction of county common pleas courts. The Department of Rehabilitation and Corrections has estimated that at least 500 menacing by stalking charges are filed annually statewide. At least several hundred cases annually will be elevated from misdemeanor to felony status, and therefore, be transferred up into courts of common pleas.

The fiscal effect of this shift or transfer will be that certain municipalities will shed some criminal justice system costs and lose some related revenue. The statewide fiscal effect on municipalities will largely be a function of local charging practices and whether a municipal- or county-operated court currently has jurisdiction over these misdemeanor stalking cases.

Under House Bill 137, counties will experience annual increases in criminal justice expenditures and gains in revenue. The magnitude or size of those expenditures and revenue changes will depend on whether an existing misdemeanor menacing by stalking offense is moving out of a county- or municipal-operated court and local charging practices. For example, if a given case is moving from a municipal-operated court where offenders are charged under a local ordinance, then the county could be picking up a variety of costs for that case – costs that include law enforcement, prosecution, indigent defense, adjudication, and sanctioning. In a case such as this, the county also gains any court cost and collects fine revenue. Or, if a given case is moving from a county-operated court where offenders are currently being charged under state law, then a county picks up the largest volume of expenses associated with processing this violation of law, which is a felony, and also gains revenue. As a result of H.B. 137 the annual fiscal effect on counties statewide will be at least a minimal increase in criminal justice expenditures and a minimal gain in revenue from court costs and fines.

The enacted version H.B. 137 also permits prosecutors to seek denial of bail for menacing by stalking offenders, a practice that would increase the time spent by courts, prosecutors, and defense counsel on some of these cases. A predictable increase in bails denied would result in an increase in jail stays and increases in the costs associated with incarceration.

### **Anti-Stalking and Domestic Violence Protection Orders.**

According to the Supreme Court's 1997 Ohio Courts Summary, there were 6,337 domestic violence protection orders issued in 1997. Based on discussions with domestic violence experts, LBO believes the number of anti-stalking protection orders issued on an annual basis to be much smaller than the number of domestic violence protection orders. National Institute of Justice survey data indicates that, in stalking cases, a party other than the victim reported the offense to the police 17.7 percent of the time.

The provisions of H.B. 137 will increase the burdens on certain components of municipal and county criminal justice systems, specifically courts, law enforcement, and prosecutors.

Additional domestic violence protection and anti-stalking orders will be requested, issued, enforced, and violated. The potential cost to local criminal justice systems annually statewide is highly uncertain at this time.

# House Bill 148

<b>Bill Contents:</b>	The bill requires the posting of an additional sign/notice that asserts the applicable fine for violation of the handicapped parking privilege whenever a new or replacement sign is posted identifying such a special parking location.
<b>“As Introduced” LIS Determination:</b>	Yes
<b>“As Enacted” local impact:</b>	No, minimal cost
<b>Key changes affecting local impact:</b>	Removes the requirement to post fines for illegal parking at all handicapped parking spaces.
<b>Fiscal effects of changes:</b>	Changing the bill - to require the posting of fines at new parking spaces or with handicapped parking signs that are being replaced only - will lessen the potential increase in expenditures to purchase and erect the placards.

## *Analysis of Changes with Fiscal Impact*

The bill requires the posting of an additional sign/notice that states the applicable fine for parking illegally in a handicapped parking space. In the enacted version, the posting of the additional sign/notice is to take place whenever a new or replacement handicapped parking sign is erected, whereas the introduced bill required the posting at all handicapped parking spaces. The approximate cost to manufacture a sign/notice is between \$10 - \$32 per square foot. Costs are dependent on factors such as size, wording, color, and, material. The exact number of handicapped parking spaces maintained by all political subdivisions is unknown.

# House Bill 162

<b>Bill Contents:</b>	Enhances penalties under the offense of child endangerment when death or serious physical harm occurs to the victim; creates the offense of permitting child abuse
<b>“As Introduced” LIS Determination:</b>	No, minimal cost
<b>“As Enacted” local impact:</b>	Yes
<b>Key changes affecting local impact:</b>	Changes child endangerment cases resulting in serious physical harm from a third-degree felony to a second-degree felony.
<b>Fiscal effects of changes:</b>	Existing criminal cases may become more problematic to resolve and adjudication, prosecution, and indigent defense costs may increase for counties.

## *Analysis of Changes with Fiscal Impact*

By enhancing child endangerment cases resulting in serious physical harm from a third-degree felony to a second-degree felony, existing criminal cases may become more problematic to resolve. No new cases are expected to result from this penalty enhancement, but LBO expects that this penalty enhancement will potentially affect a relatively large pool of child endangerment cases. Adjudication, prosecution, and indigent defense costs may increase for counties as the stakes of the trial are elevated.

Since the number of cases affected by the provisions of the bill addressing permitting child abuse may also be relatively large, there may be additional increases in expenditures to counties. These would result from adjudication, prosecution, indigent defense, and offender sanctioning costs of new cases in which a parent or guardian permits serious harm to befall a child.

# House Bill 384

**Bill Contents:**

Makes changes to the Mine Examining Board, establishes requirements for onsite first aid providers at surface mines, and repeals certain provisions of the Revised Code involving the weights and measurements of explosives at coal mines. Increases the coal usage tax credit from \$1 per ton to \$3 per ton, and allows some additional usage to qualify for the credit.

**“As Introduced” LIS Determination:**

No, minimal cost

**“As Enacted” local impact:**

Yes

**Key changes affecting local impact:**

The enacted version expands the coal tax credit and as a result, reduces the public utility excise tax and the corporate franchise tax.

**Fiscal effects of changes:**

The expansion of the coal tax credit will result in a revenue loss to local governments. The state Local Government Fund (LGF) and the state Local Government Revenue Assistance Fund (LGRAF) receive 4.2% and 0.6%, respectively, of both public utility excise tax and corporate franchise tax collections. The combined LGF and LGRAF revenue losses are estimated to be \$0.6 million in FY 2001, \$3.0 million in FY 2002, and \$1.8 million in FY 2003 through FY 2005.

## *Analysis of Changes with Fiscal Impact*

H.B. 384 proposes to make four significant changes to the coal credit, starting with coal used in electricity generation on or after January 1, 2000, which is the starting date for the tougher emissions standards under Phase II of the federal Clean Air Act amendments of 1990.

1. Increase the credit from \$1 per ton to \$3 per ton;
2. Eliminate the requirement that 80% or 90% of the coal used at the facility be Ohio-mined coal;
3. Eliminate the cap on the cumulative credit, which is currently 20% of pollution-control device cost.
4. Eliminate the requirement that the credit be passed along to consumers in the form of rate reductions.

The expanded credit would be available for five fiscal years (FY 2001 – 2005) after which it would sunset (although the carry forward means that the credit could be claimed through FY 2008; see below).

Current law specifies that the credit is allowed only for electric companies that have installed qualified pollution control devices. These qualified pollution control devices do not have to be scrubbers. The bill provides the expanded credit only for units with qualified pollution control devices.

LBO has estimated the cost of the proposal based upon qualifying facilities, including both out-of-state units owned by Ohio electric companies and units owned by non-Ohio electric companies but with customers in Ohio.

Table 1 shows the revenue loss from the coal credit under the gross receipts tax, for tax years 1996 – 1998 (tax year 1996 was the first year that the credit was claimed).

	Tax Year 1996	Tax Year 1997	Tax Year 1998	Average
Pre-Credit Liability	\$445,822,881	\$452,303,905	\$448,811,509	\$448,979,432
Coal Usage Credit	\$15,358,035	\$16,862,165	\$16,219,082	\$16,146,427
Post-Credit Liability	\$430,464,846	\$435,441,740	\$432,592,427	\$432,833,004

The average amount of the coal credit, per year, has been \$16.1 million. Apparently, if the credit was simply increased to \$3/ton without removing the 20% cap on credit amount claimed, AEP might quickly run into a situation where it could not claim the entire credit.

Based on the data available to LBO, this increase in the coal credit would reduce total tax revenues by at least \$12.3 million in FY 2001, \$61.4 million in FY 2002, and \$36.8 million in FY 2003.



# Senate Bill 64

<b>Bill Contents:</b>	Requires each person that offers new and unused personal property for sale to the general public at a flea market or other location to maintain a record of the person's purchases of the property; specifies conditions for the offense of receiving stolen property
<b>“As Introduced” LIS Determination:</b>	No, minimal cost
<b>“As Enacted” local impact:</b>	Yes
<b>Key changes affecting local impact:</b>	Establishes a penalty of incarceration of persons convicted of first-degree misdemeanors of receiving stolen property.
<b>Fiscal effects of changes:</b>	Counties could realize an increase in incarceration costs.

## *Analysis of Changes with Fiscal Impact*

The bill specifies that it is not a defense to a charge of receiving stolen property that the property was obtained by means other than through the commission of a theft offense if the property was explicitly represented to the accused person as being stolen. This change could increase the number of persons charged and/or convicted of receiving stolen property. Counties and municipalities could have additional court costs and could gain court fee revenue to prosecute and adjudicate alleged violators of this expansion of the definition of receiving stolen property. Depending on the type of property and its value, an individual could be charged with a misdemeanor of the first degree up to a felony of the third degree.

Counties and the state could have increased costs for incarcerating persons that were found guilty under the new provision and sentenced to jail. Counties could also gain revenue from any fines paid by individuals found guilty.

A person convicted of a first-degree misdemeanor can be imprisoned for up to 6 months and fined up to \$1,000 and would likely be sent to a county jail. Someone convicted of a third degree

felony can be imprisoned for one to five years and fined up to \$10,000. Individuals convicted of felonies under this provision would likely serve their sentence in a state facility.