

# Fiscal Note & Local Impact Statement

## 123<sup>rd</sup> General Assembly of Ohio

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BILL: **Sub. H.B. 549** DATE: **November 16, 2000**  
STATUS: **As Enacted – Effective March 12, 2001** SPONSOR: **Rep. Terwilleger**  
LOCAL IMPACT STATEMENT REQUIRED: **Yes**  
CONTENTS: **Modifies certain county road improvement, water supply, sewer, and drainage laws**

### State Fiscal Highlights

STATE FUND	FY 2001	FY 2002	FUTURE YEARS
<b>General Revenue Fund</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase	Potential increase	Potential increase

Note: The state fiscal year is July 1 through June 30. For example, FY 2001 is July 1, 2000 - June 30, 2001.

- State agencies could have increased costs to pay additional property assessments and fees charged by a county for water supply, sewer, and drainage facilities. Fees and assessments charged for drainage facilities could result in a significant cost increase, while other fees and assessment cost increases could be minimal.

### Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2001	FY 2002	FUTURE YEARS
<b>Counties</b>			
Revenues	Potential gain	Potential gain	Potential gain
Expenditures	Potential decrease	Potential decrease	Potential decrease
<b>Other Political Subdivisions</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase	Potential increase	Potential increase

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Overall, the bill could reduce costs for counties and result in increased or offsetting revenue for counties.
- Other political subdivisions could have increased costs to pay certain fees charged by a county for water supply, sewer, and drainage services. The largest cost increases could be for drainage facilities and improvements, which could involve substantial charges for certain projects.



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## Detailed Fiscal Analysis

### Bill Provisions

The bill makes changes regarding the procedures for the acquisition, construction, maintenance and operation of various facilities and other improvements and the procedures for financing these various improvements, largely in the following code sections:

- County Road Improvements (CRI) Law (ORC Chapter 5555)
- County Water Supplies System (CWSS) Law (ORC Chapter 6103)
- County Sewer Districts & County Sewers (CSDCS) Law (CS) (ORC Chapter 6117)

The bill also makes related changes in several other bodies of law, including the Uniform Public Securities Law (ORC Chapter 133), County Engineers Law (ORC Chapter 315), and the Regional Water and Sewers Districts Law (ORC Chapter 6119).

The bill also adds language to the effect that provisions in the Ohio Revised Code relating to counties apply to charter counties unless the context of a section or express language forbids it. This language is technical and would not have any practical substantive impact on Summit county, which is the only charter county in Ohio.

### Fiscal Impact

#### *General impact on the state and other local governments*

The bill could result in increased expenditures to the state and local governments, excluding counties, because the bill permits counties to charge public agencies for water, sewer, and drainage services.<sup>1</sup> The legislation also allows counties to charge both persons and public agencies sanitary rates if they are *capable* of being served, directly or indirectly, by such facilities, even if they are not actually served by the sanitary facilities. Although the bill makes this authority explicit, in practice, local and state public agencies typically already pay water and sewer charges. Therefore, there may be little or no actual cost increase in the vast majority of cases for water and sewer.

On the other hand, it is not common for counties to use such charges to pay for drainage infrastructure, so the drainage facility provisions could result in significant costs to public agencies and private individuals. Permitting these charges may also lead to more counties undertaking drainage improvements and charging drainage fees.

The bill also permits counties to levy additional assessments on state lands. Additional assessments are used to pay maintenance costs on water, sewer, and drainage facilities. This provision could lead to increased costs for state agencies. Under current law, local governments cannot levy a special

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<sup>1</sup> Public agency is defined as a state and any agency or subdivision of a state

assessment, revised assessment, or an additional assessment on the state without its consent. However, there could be little to no actual cost increase as the state typically consents to pay local assessments levied on state land.

The bill also specifies that a county may not regulate the utility rates of users of a municipal utility.

### *General impact on counties*

Overall, the bill could result in reduced costs and additional or offsetting revenue for counties by eliminating certain procedural requirements and restrictions on the acquisition, construction, operation, repair and sale of water supply, sewer, and drainage facilities and for road improvements. Although the overall impact is likely financially positive for counties, the effect of specific provisions varies. It is also important to note that many of the provisions only slightly modify state law and/or codify current practice, which should minimize their fiscal impacts on all parties. The drainage provisions and the elimination of procedural requirements for non-assessment improvements could have the biggest impact as they are typically creating totally new authority that is not currently practiced by counties. The provisions with the most significant fiscal impact are described below. In the next sections, specific provisions, not summarized in this section, likely to have some fiscal effect, are described and their likely impact explained:

1. The bill would reduce costs for counties by eliminating currently required hearing and notification procedures for undertaking road, sewer, water supply, and drainage projects when an assessment is *not* required for funding. According to a lawyer who handles these matters, meeting the current procedural requirements for approving an improvement can take from a few months to a year, and cost a few thousand to tens of thousands of dollars in legal fees, depending on the size and complexity of the project. Therefore, eliminating these procedural requirements for improvements not requiring assessment could mean a significant savings to counties in both cost and time. However, these savings would often not be realized on large projects, as large projects typically would require the levying of an assessment.
2. The bill also allows counties more flexibility to contract with other public agencies for such projects. Counties might be able to use this flexibility to reduce costs by gaining efficiencies and bidding work to the lowest and best bidder.
3. The bill gives counties more explicit and expanded authority to administer drainage facilities, such as storm water management infrastructure, and expands what is considered a water supply or sewer facility. The bill provides more flexibility and authority to counties in the design, acquisition, construction, operation, and maintenance for road improvements and for water supply and sewer and drainage facilities. In addition, the bill expands the debt issuance options for these facilities. These changes could increase county costs, but also generate offsetting revenue. Excluding the impact of the drainage provisions, the practical impact of many of these changes could be minimal because the bill only modifies current law or explicitly codifies what is current practice for counties. The drainage provisions could have a greater impact, as there is more new authority that is not currently used by counties.

4. The bill expands what activities special assessment revenues can finance.<sup>2</sup> These changes could increase revenues to counties. For example, the bill states that the cost of acquisition and preliminary costs incurred for a road, water, drainage or sewer project can be included in an assessment. The bill also clarifies and expands the definition of costs incident to an improvement that may be paid for with debt proceeds, so that it includes a broad range of activities, not expressly mentioned in current law, and expands the types of debt instruments that can be used by counties for such improvements. These changes could increase the amount of debt a county can issue for these improvements and subsequently increase debt service costs. Again, the impact of these changes could be minimal as they are often only slight modifications to current law and often may be codifying current practice.
5. The legislation permits counties to charge customers, both private and public, drainage fees, establish termination of water, sewer, and drainage service procedures, to charge late payment fees for water, sewer, and drainage, and to require security deposits for these services. These provisions could also result in revenue gains to a county by reducing number of water customers who fail to pay bills, generating late fee revenue, and allowing counties to recover some or all of any payments owed from security deposits that may be required under the bill. Although the bill makes this authority explicit, in practice, many counties already follow these practices for water and sewer services. Therefore, there may be little or no actual cost increase for most counties providing water and sewer service.

### *Other Changes to the County Road Improvements Law*

Detailing of changes to the CRI Law that could have a fiscal impact include:

#### ORC 5555.022

- Expressly authorizes a county to cooperate with another county or township or the state on a joint road project. This could result in a cost savings for certain projects. However, additional costs could be incurred to follow the procedures required under this section.

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<sup>2</sup> The list of activities, which comes from the Uniform Public Securities Law, includes: acquiring, constructing, reconstructing, rehabilitating, installing, remodeling, renovating, enlarging, equipping, furnishing, or otherwise improving permanent improvements; site clearance, imp rovement, and preparation; acquisition of real or personal property; indemnity and surety bonds and premiums on insurance; all related direct administrative expenses and allocable portions of direct costs of the subdivision; engineering, architectural, legal, and other consulting and professional services; designs, plans, specifications, feasibility or rate studies, appraisals, surveys, and estimates of cost; interest or interest equivalent on the securities, whether capitalized or not; financing costs; title work and title commitment, insurance, and guaranties; amounts necessary to establish any required debt service reserve or other reserves; audits; the reimbursement of moneys advanced or applied by or borrowed from any person, whether to or by the subdivision or others, from whatever source provided, for the payment of any item or items of cost of the permanent improvements; certain other necessary or incidental expenses .

#### ORC 5555.46

- Extends the period of time that an assessment may be paid of from 10 to 20 years. This could result in lower annual debt service costs, but an increase in the overall interest costs paid by property owners over the life of the assessment.

#### *Other Changes to the County Water Supplies System Law*

Detailing of changes to the CWSS Law that could have a fiscal impact include:

#### ORC 6103.02

- Permits a county to contract with any public agency to operate, construct, or repair water supply facilities. Currently, a county is only permitted to contract with a municipality. Counties could reduce contracting costs if this provision was used to bid out such contracts to the lowest and best bidder. Counties choosing to do this would also incur bidding costs.
- Requires county sanitary engineer employees to be permitted on to private or public property to perform water supply work if written notice and identification are provided. These provisions could mean a minimal decrease in time and costs, such as legal costs, for counties to perform sanitary work on private property. However, a notification requirement could result in a minimal cost increase. (Similar authority is given in ORC 6117.01 for sewer district work.)
- The legislation permits counties to charge connection fees for connecting to the water system and to charge public agencies for sewer service connections (ORC 6117.02). This could mean revenue gains for counties and cost increase for other political subdivisions.
- Permits counties to periodically issue estimated water service bills. This could reduce costs to counties by reducing the time and personnel needed to perform actual meter readings.

#### ORC 6103.081

- Permits counties to choose to notify landowners about consideration of an assessment for water supply or sewer by mail or via newspaper publication. Current law requires newspaper publication. In certain cases, the provision could reduce costs to a county. However, this option could mean a cost increase for notification if a county chose to use both methods or chose mail notification when newspaper would be less expensive.

ORC 6103.29

- Prohibits public agencies from tampering with a county water supply system or polluting a county water supply and requires public agencies to permit access to county lines for the sanitary engineer to perform inspections. Current law only lists individuals and private entities in this section. In certain instances these provisions could enable a county to collect additional fine revenue for damage done to a supply system by a public agency or reduce the time and cost of performing inspections. (ORC 6117.45 has similar language for sewer and drainage facilities).

ORC 6103.31

- Requires that if a county seeks to sell its water supply facilities it must send a mail notification to any affected public agency. Current law only requires that such notification be sent to affected municipalities. This would create a minimal increase in notification costs.
- Eliminates the right of affected persons to appeal in court the decision of the county to sell its water supply facilities. This provision could reduce the legal costs incurred by a county for any such sale or disposal of water supply facilities.

*Other Changes to the County Sewer Districts & County Sewers Laws*

Detailing of changes to the CSDCS Law that could have a fiscal impact include:

ORC 6117.01

- Requires a county board of commissioners to submit plans for drainage facilities to the county engineer. The county engineer then has 30 days to provide a report to the Board on the impact the plan will have existing roads, bridges, and culverts. This could mean a minimal cost increase to the county engineer to make this assessment and provide a written document to the Board.

ORC 6117.02

- Permits a county to put unpaid drainage facility charges on the tax duplicate as a lien. This provision could mean a revenue increase to counties by making it more likely that unpaid late charges will eventually be paid, particularly in the case of renters by putting the lien on the landlord's property. The lien must be immediately removed upon payment of charges owed.
- Requires a Drainage Fund be established to accept all drainage related payments and specifies how the Fund can be used.

## **ORC 6117.06**

- Requires notification by first class or certified mail to municipalities that will be assessed for a sanitary or drainage improvement. Current, law only requires “mail” notification. This could mean a minimal cost increase.

## ORC 6117.251

- Expands a county’s options in regard to notifying the public about plans to adopt a resolution for a sewerage improvement or to adopting a resolution to levy an assessment for such improvements. This change could minimally reduce a county’s notification costs.
- Permits counties to levy a preliminary assessment for a general plan of drainage and a revised plan of sewerage or drainage. This could mean increased revenues to counties that would offset planning costs.
- Permits a county to levy a preliminary assessment for developing a revised plan of general sewerage or drainage. Current law already permits such levies for a general plan of sewerage. This provision could result in a revenue gain that would likely equal the cost of completing the revised plan permitted by the bill.

## ORC 6117.28

- Eliminates requirements that a county must do a sewerage or drainage improvement, paid for by assessment of those property owners, if petitioned by the affected property owners. This language is made permissive and could mean reduced costs to a county. However, the assessment revenue collected would offset most of the costs that would have to be incurred under current law.
- Eliminates the right of public agencies to appeal in court the decisions made by a county in regard to how to proceed on a sewerage or drainage improvement petitioned for by property owners. Only a decision not to proceed could be challenged. This provision could reduce the legal costs incurred by a county for any such project.

## ORC 6117.49

- Permits counties to sell or otherwise dispose of sanitary and drainage facilities by resolution. This could mean a revenue gain from the sale and a decrease in expenses. However, the county must hold hearings to listen to any objections to the proposed sale. The county must publish information about the hearing for at least two weeks prior and must notify any affected public agency. The county must use a bidding process to dispose of any facilities. These provisions would require a county to incur additional costs.

## *Other Notable Change*

### ORC 5571.15 and 5573.07

- Permits townships to approve, by majority vote, a township road improvement for the primary purpose of improving drainage. Current law requires a unanimous vote. This provision could make it easier for townships to increase road improvement expenditures from general or other funds that can be legally used for road improvements.

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