

2003 Local Impact Statement Report

Bills Passed in 2003 That Became Law

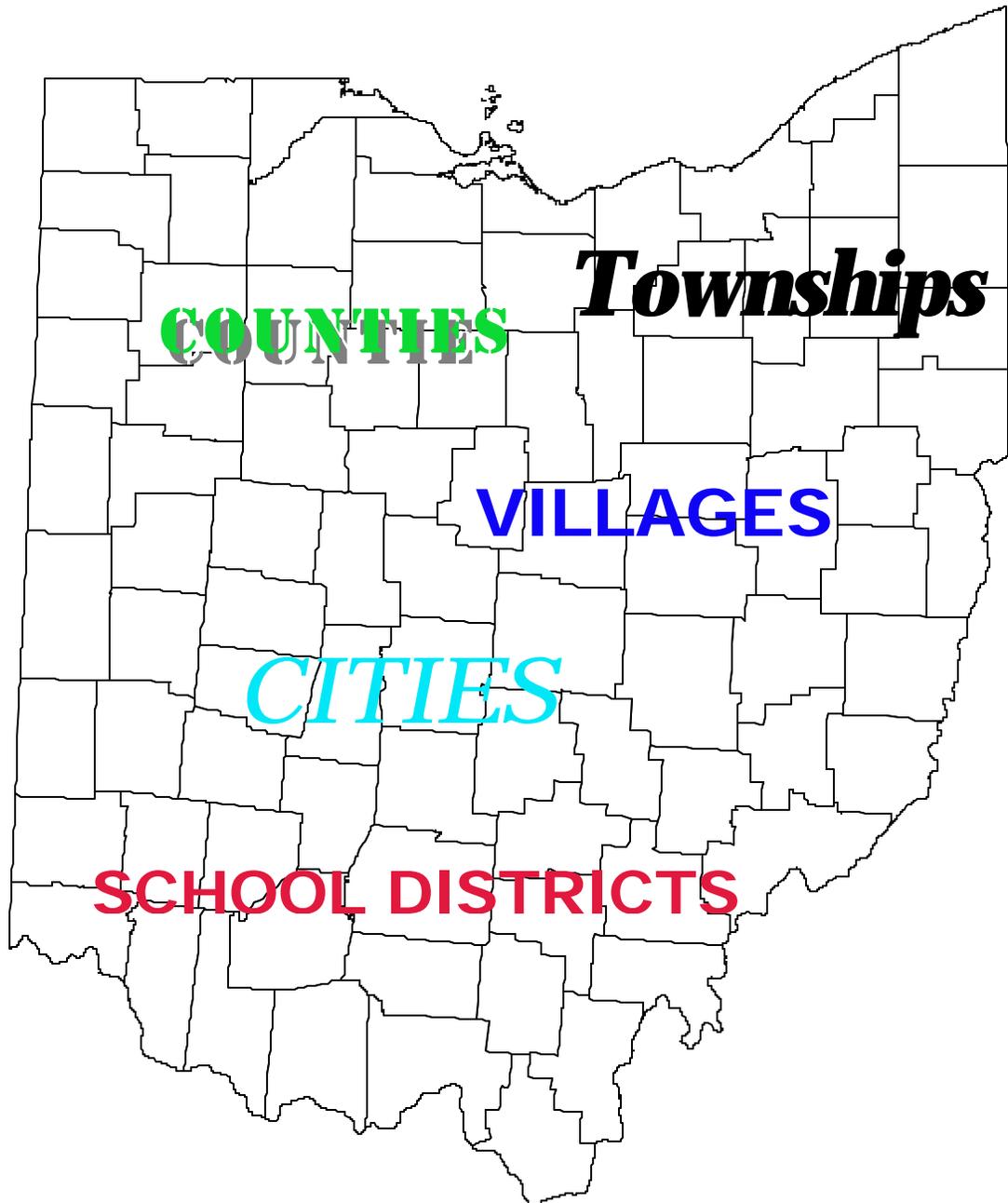


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Introduction

Why is this report being issued?

The Legislative Service Commission publishes the Local Impact Statement Report in accordance with section 103.143 of the Ohio Revised Code. Section 103.143 requires the office to compile the final local impact statements completed for all laws passed by both houses of the General Assembly every calendar year. This report is the eighth in the series of such reports. It covers all legislation that was passed and enacted during calendar year 2002.

As specified in ORC section 103.143, the Local Impact Statement (LIS) Law, this report is a compilation of estimates produced by LSC *during* the legislative process. This report does *not* present the *actual costs* to local governments, since these costs will not occur until after each law is implemented.

What is in this report?

The 2003 report includes summary charts and an overview of bills that were introduced, passed and enacted, and bore provisions that triggered a “Yes” local impact determination. The criteria that LSC uses to evaluate the effect of proposed legislation on local governments are detailed below.

Before its widespread distribution, LSC is required to circulate a draft of this report to the County Commissioners Association of Ohio, the Ohio School Boards Association, the Ohio Municipal League, and the Ohio Township Association for their review.

What process is followed for local impact review?

By law, local impact determinations are based on LSC’s review of bills in their “As Introduced” form. The initial determination stays with the bill even if a bill is amended in such a way as to alter the initial local impact determination. There was one such bill in 2003, which is highlighted in this report. Occasionally an initial determination is wrong. If so, LSC corrects the LIS as soon as possible, and the correct determination is assigned to the bill from that point on.

The “Local Impact” determination is the first stage of LSC’s fiscal analysis of pending legislation. The purpose is to alert legislators to the various fiscal effects that legislation may impose on counties, municipalities, townships, and school districts. The bill sponsor, committee chair, and legislative leaders of the house to which the bill has been introduced all receive notification of LSC local impact determination. Although bills often affect other more specialized units of government, such as park districts, transit authorities and so forth, by law these entities are not included in the initial local impact review. These factors, however, *are* considered in the fiscal notes that accompany bills as they proceed through the legislative process.

What changes have been made to the Local Impact Statement Law?

The Local Impact Statement Law has been modified three times: first, in 1997 by H.B. 215 of the 122nd General Assembly; second, in 1999 by H.B. 283 of the 123rd General Assembly; and third, in 2001 by H.B. 94 of the 124th General Assembly. The combined effect of the first two acts is to exempt the following bills from the local impact determination process:

1. The main biennial operating appropriations bill;
2. The biennial operating appropriations bill for state agencies supported by motor fuel tax revenue;
3. The biennial operating appropriations bill or bills for the bureau of workers' compensation and the industrial commission;
4. Any other bill that makes the principal biennial operating appropriations for one or more state agencies;
5. The bill that primarily contains corrections and supplemental appropriations to the biennial operating appropriations bill;
6. The main biennial capital appropriations bill;
7. The bill that reauthorizes appropriations from previous capital appropriations bills.

In 2003, five enacted bills were exempt from the Local Impact Statement Law pursuant to the reasons stated above. They are Am. Sub. H.B. 95 (the main operating budget bill), Sub. H.B. 87 (the transportation budget bill), Sub. H.B. 91 and Am. H.B. 92 (the Bureau of Workers' Compensation and Industrial Commission budget bills, respectively), and Am. Sub. H.B. 40 (the bill that primarily contains changes to the biennial operating budget bill). Regardless, in accordance with ORC section 103.14, LSC continues to assess the impact that such bills have on local governments in the fiscal notes and analyses that accompany such bills.

What factors are considered in LSC's initial review for local impact?

The Legislative Service Commission uses the following guidelines to determine if a bill may affect local governments in such a way to trigger a "Yes" LIS determination:

1. The estimated aggregate annual cost of the bill is more than \$100,000 for all affected local governments; or
2. The estimated annual cost is more than \$1,000 for any affected village and township with a population of less than 5,000 or for any school district with an average daily membership (ADM) of less than 1,000; or
3. The estimated annual cost is more than \$5,000 for any affected county, municipal corporation, and township with a population of 5,000 or more or for any school district with an ADM of 1,000 or more.

A bill will also be excluded from a “Yes” determination if it is deemed permissive, appears to impose only minimal costs on political subdivisions, or involves federal mandates.

Obtaining copies of this report

Copies are available upon request from the Ohio Legislative Service Commission at a cost of \$12.00 per copy. Call LSC at 614-995-9995 to receive a copy, or download the reports from the LSC website at <http://www.LSC.state.oh.us/>.

**COMMENTS ON 2003
LOCAL IMPACT STATEMENT REPORT**



COUNTY COMMISSIONERS ASSOCIATION OF OHIO

The 2003 Local Impact Statement Report prepared by the Ohio Legislative Service Commission (LSC) shows the impact of unfunded mandates on county government. The Report continues to show that counties are more heavily impacted than are schools, townships, or municipalities by these legislative initiatives. Of the 11 bills that became law during 2003 for which a Local Impact Statement was prepared, 10 impacted counties. At the same time, 7 of the bills impacted municipalities, 4 impacted townships, and 1 affected school districts.

The Local Impact Statement process is a valuable tool that we believe makes members of the General Assembly more aware of how their decisions have financial implications to counties and other local units of government. However, the Report does not give a comprehensive and accurate view of unfunded mandates from the perspective of counties because the General Assembly has exempted budget bills from the LIS process and, thus, this Report.

A reader of this Report would “miss” the extension of the “freeze” in Local Government Funds, a form of state revenue sharing with local governments; the elimination of reimbursement for lost revenue resulting from the state exemption of tangible personal property tax; the acceleration of the phase out of the inventory tax; the continued woefully inadequate funding of indigent defense; or the reductions in funding for child support enforcement or child protective service, responsibilities the state expects the counties to perform. These significant fiscal impacts were incurred by counties as a result of the state budget process. In our review, they are also unfunded mandates and carry a far greater significance than the legislation reviewed in this Report.

Unfunded mandates continue to plague all units of local government. Their impact becomes more severe, however, when coupled with the current economic climate. The demands for county government service, most of which the county delivers on the state’s behalf, continue to increase while revenue sources for county governments have stagnated or declined. Unfunded mandates continue to erode the foundation of a viable state/county partnership-county fiscal security.

We again thank the Legislative Service Commission for the opportunity to comment on this report. The LSC staff is always fair and objective and they provide a true service to local governments in preparing professional Local Impact Statements under what is often challenging circumstances.

We urge the General Assembly to include the fiscal impacts of state budget bills under the LIS process and that these bills will be included in these reports in the future. Only then, will we have a true picture of the impacts of unfunded mandates on local governments.



Ohio Municipal League

Our Cities and Villages ★ Bringing Ohio to Life

OHIO MUNICIPAL LEAGUE

The Ohio Municipal League has reviewed the draft for the 2003 Local Impact Statement Report and would like to make the following comments. These comments will be much the same as last year.

The report has improved with each passing session. The same can be said for the actual fiscal notes and local impact statements.

The report provides helpful information to organizations representing local governments, their respective members and the public: information that would otherwise be difficult to compile. It shows that numerous pieces of legislation have a potential negative impact on local governments whose officials are already faced with declining revenues. It also shows that some state mandated fees may appear to be a revenue windfall but because of state earmarking, they actually may be a burden.

The Ohio Municipal League commends the staff at LSC for the time and effort they put into the individual statements and to this report.



OHIO SCHOOL BOARDS ASSOCIATION

OSBA believes that the 2003 Local Impact Statement Report is a valuable tool provided by the Ohio Legislative Service Commission to the members of the Ohio General Assembly and to all Ohioans. We appreciate the hard work that the LSC staff puts into each year's report and the efforts that they make all year long in producing the local impact statements (LIS).

The issues of unfunded mandates will always be of concern to OSBA and the work done by the LSC to provide fiscal analysis of bills and resolutions helps legislators understand the fiscal impacts as legislative bills are working their way through the process. By law local impact determinations are only made based upon the "As Introduced" form of a bill. However, OSBA believes that local impact statements should be required at each phase of the legislative process. Legislation can change many times before a final version is reached and the potential for negative fiscal impact on local political subdivisions exists by amendments to any piece of legislation.

Another area of concern to OSBA that needs to be addressed in current law is Division (F) of Section 103.143 of the Ohio Revised Code. This section of law exempts the LSC from having to create an impact statement for any biennial budget, capital appropriation or any budget correction bill. OSBA supports the findings by the former State and Local Government commission that urged the General Assembly to amend current law to repeal the exemptions contained in Division (F) of Section 103.143 and to allow the LSC to update impact statements throughout the legislative process. In 2003, five enacted bills were exempt from the local impact statement law and these bills had a major fiscal impact on political subdivisions. _



OHIO TOWNSHIP ASSOCIATION

The Ohio Township Association (OTA) would like to thank the Ohio Legislative Service Commission (LSC) for the opportunity to comment on the proposed 2003 Local Impact Statement Report. The LSC Local Impact Report helps educate our membership and the members of the General Assembly on the effect certain legislation will have on townships budgets and keeps legislators and local officials aware of any unfunded mandates created in legislation.

The fiscal impact legislation may have on townships often is under estimated. Provisions established in legislation such as filing, notification and public hearing requirements could create significant costs for townships. The OTA is pleased that LSC takes such costs into consideration when determining local fiscal impact. Although the actual impact these new laws will have on townships will not be known until the laws are put into practice, the fiscal analyses provide a base for our townships to determine how a new law may affect their budgets.

A bill is determined to have fiscal impact if its estimated annual cost is more than \$1,000 for townships with a population of less than 5,000 or if its estimated annual cost is more than \$5,000 for townships with a population of more than 5,000. Although \$1,000 or \$5,000 may not seem like a great deal of money when compared with the total budget of the township, the loss of such revenue may create a significant impact. According to the 2003 report, there are three bills with a local impact for townships, potentially resulting in a loss of dollars or increased expenditures for township governments.

The Local Impact Statement Report is not as inclusive as we would like it to be. Legislation passed in the last several years eliminates the requirement of a local impact statement (LIS) for the biennial operating budget and the Department of Transportation's budget. Due to this exemption from the LIS process, major pieces of legislation that affect local government revenue are not included in this Report.

Significant fiscal impacts were incurred by townships, and other local governments, as a result of the state's budget process. Financial hardship was experienced due to the Local Government Fund being reduced three percent, the accelerated phase out of the tangible personal property tax, the phase out of the state's reimbursement of the \$10,000 exemption for business personal property, and clerks' salaries being increased in townships with budgets over \$6 million. At the same time, townships were able to save, and even receive, money with increased competitive bidding thresholds, open-ended purchase orders, increased force account limits and by permitting the Amish to donate money to local governments for road maintenance and repair.

The OTA appreciates the opportunity to provide our input and we look forward to working further with the Legislative Service Commission.

Part I

Summary and Analysis

Introduction

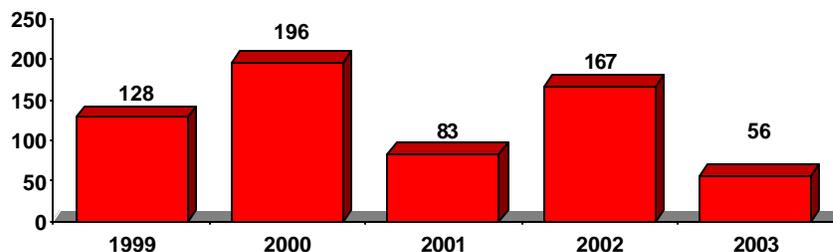
In 1995, the Legislative Budget Office (now the Legislative Service Commission Fiscal Staff) produced the first local impact statement (LIS) as required by S.B. 33 of the 120th General Assembly. The purpose of local impact statements is to provide members of the General Assembly with more thorough and timely information on the potential impacts of proposed legislation on counties, municipalities, townships, and school districts (referred to generically as “local governments” hereafter). The LIS information is designed to allow legislators to make better-informed decisions on bills that could affect local governments.

This section will examine the bills that were enacted in 2003 and during the 125th General Assembly. Comparisons are made with the bills enacted in 2003 and those enacted in previous years.

Bills Becoming Law

In calendar year 2003, the 125th General Assembly passed 36 House bills and 20 Senate bills, for a total of 56, the lowest total in five years. The number of enacted bills has varied from a low of 56 in 2003 to a high of 196 in 2000.

Figure 1. Bills Passed and Becoming Law, 1999 - 2003



Of the 533 bills introduced in 2003, 122 were determined to have a local impact, and 411 bills were determined to have no local impact. Of the 56 bills that became law, 45 were initially determined by LSC to have no local impact. Twelve of the bills were initially determined to meet LSC thresholds for a "yes" local impact determination.¹ Eleven of the bills passed in 2003 had a local impact "As Enacted."

¹ Please see the introduction for an explanation of the criteria LSC uses when making local impact determinations.

Local Impact Determinations for 2003 and Prior Year Comparisons

Of the 533 bills introduced in the General Assembly in 2003, 56 were enacted. However, 2003 was the first year of the 125th General Assembly, and many of the bills introduced in 2003 may be enacted in 2004. Thus, in order to make valid comparisons, this section of the report analyzes bill introduction and enactment rates in 2003 to figures from 2001 and 1999, the first year of the preceding two General Assemblies.

Table 1 below compares the number of enactments during 2003—the first year of the 125th General Assembly—to the first year of the two preceding General Assemblies. Nineteen percent, or 11 of the bills enacted in 2003, were designated with a "Yes" local impact determination. This is slightly higher than in 2001 when 14%, or 12 of the bills enacted in that year triggered LSC's criteria for a "Yes" local impact determination. For 1999, which encompasses the first year of the 123rd General Assembly, the enactment rate for such bills was 17%.

Table 1. Local Impact Determinations of Enacted Bills

G.A.	Year	# of Yes (%)	# of No (%)	Total (%)
125th	2003	11 (19%)*	45 (81%)	56 (100%)
124th	2001	12 (14%)	71 (86%)	83 (100%)
123rd	1999	22 (17%)	106 (83%)	128 (100%)

*S.B. 4 was passed by the General Assembly, but vetoed by the Governor on December 13, 2003.

The following three tables provide more detailed data for the same period. One general observation is that the volume of bill introductions has declined during the two previous and current General Assemblies, from 761 in 1999, to 668 in 2001, and 533 in 2003. Also, a higher percentage of bills with a "No" local impact determination are enacted than those with a "Yes" determination, although this difference narrowed slightly in 2003.

Table 2 shows that during the first year of the 125th General Assembly, 9% of all bills with an initial "Yes" local impact determination, or 11 of 122 such bills, were enacted. This compares with an enactment rate of 11% (46 of 411) for bills with a "No" local impact determination. Overall, about 11% of all the bills introduced in 2003 were enacted.

Table 2. Bills Passed by the 125th General Assembly in 2003 that Became Law

Initial Review	# of Introduced Bills	# of Enacted Bills	% Becoming Law
Yes	122	11	9%
No	411	46	11%
Total	533	56	11%

Table 3 presents figures for 2001, the first year of the 124th General Assembly. For that year, 8% of enacted bills met LSC's thresholds for an initial "Yes" local impact determination, compared to 14% of those bills determined to bear no local impact. Overall, 12 % of all the bills introduced in that year were enacted.

Table 3. Bills Passed by the 124th General Assembly in 2001 that Became Law

Initial Review	# of Introduced Bills	# of Enacted Bills	% Becoming Law
Yes	145	12	8%
No	522	71	14%
Total	668*	83	12%

*HB 246 was not assigned to a committee. A local impact determination was not completed.

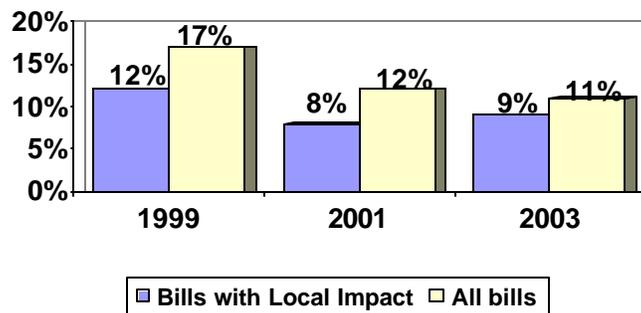
Table 4 shows that 12% of bills with a " Yes" local impact determination in 1999, the first year of the 123rd General Assembly were enacted, compared to 18% for bills with a "No" local impact determination. Overall, 17% of all the bills introduced in 1999 were enacted.

Table 4. Bills Passed by the 123rd General Assembly in 1999 that Became Law

Initial Review	# of Introduced Bills	# of Enacted Bills	% Becoming Law
Yes	178	22	12%
No	583	106	18%
Total	761	128	17%

The chart below presents the data for all three General Assemblies, indicating that a lower percentage of bills with a "Yes" local impact are enacted when compared to the average for all bills. For example, 12% of bills with local impact were enacted in 1999, whereas 17% of all bills were enacted. Thus, bills with local impact tend to be enacted less frequently than bills with no local impact.

Figure 2. Enactment Rates for Bills With and Without Local Impact



Bills with Local Impact “As Introduced” or “As Enacted”

The following chart lists all 12 bills passed in 2003 that became law and were designated with “Yes” local impact determinations in their “As Introduced” form.

Bill	Subject	Political Subdivision Affected ²			
		C	M	T	SD
H.B. 1	Establishes the Research and Development Loan Fund program, creates nonrefundable and transferable tax credits for payments made on loans from the Program, makes changes to laws governing various programs in the Department of Development, and makes appropriations for the Innovation Ohio Loan Fund in FY 2003, and for the Research and Development Loan Fund in FY 2004 and 2005	✓	✓	✓	
H.B. 24	Permits a board of county commissioners to dissolve a village when the Auditor of State makes certain findings	✓		✓	
H.B. 26	Creates one additional judge for the general division of the Warren County Court of Common Pleas to be elected in 2004 for a term to begin January 2, 2005	✓			
H.B. 49	Provides testimonial privilege to persons who provide information to citizens' reward programs, permits a board of county commissioners to enter into an agreement of affiliation with a citizen's reward program, and requires the imposition of one dollar in additional court costs to assist in the funding of affiliated citizens' reward programs	✓	✓		
H.B. 85*	Requires licensure of ambulettes and medical air transport vehicles	✓	✓	✓	
H.B. 86	Creates a domestic relations division for the Henry County Court of Common Pleas and adds a new judge specifically to the new division for that court to be elected initially in 2004 for a term to begin January 1, 2005	✓			
H.B. 127	Permits municipal corporations to acquire tax-delinquent land for redevelopment free from tax liens	✓	✓	✓	✓
S.B. 4**	Implements the recommendations of the MR/DD Victims of Crime Task Force	✓	✓		
S.B. 5	Modifies the Sex Offender Registration and Notification Law by adopting most of the recommendations of the Governor's Sex Offender Registration and Notification Task Force, generally conforms to federal guidelines, provides a penalty for failing to send a notice of intent to reside, clarifies that habitual sex offenders in another jurisdiction are habitual sex offenders under Ohio law, clarifies the Law's community notification provisions as applied to multi-resident buildings, specifies that convictions in courts of foreign nations are sexually oriented offenses under the Law, and makes other changes in that Law	✓	✓		
S.B. 11	Establishes a mechanism for the DNA testing of certain inmates serving a prison term for a felony or under a sentence of death	✓			
S.B. 50	Enhances the penalty for domestic violence for certain repeat offenders, expands the authority for the issuance of a criminal domestic violence temporary protection order, makes other changes regarding criminal domestic violence temporary protection orders, civil domestic violence protection orders or consent agreements, and victim's bill of rights, and enhances the penalty for violating a protection order while committing a felony offense.	✓	✓		

*The local impact for H.B. 85 was altered to remove the fiscal impact on municipalities (see section entitled "Bills with Altered Local Impact" for details).

**This bill was vetoed on December 13, 2003, and thus did not become law.

² C=counties; M=municipalities; T=townships; SD=school districts

Local Impact by Political Subdivision

This section contains summary charts of the fiscal effects identified in the final Local Impact Statements for bills enacted in 2003 that were determined to have a local impact. There are four charts, one each for counties, municipalities, townships, and school districts. Wherever possible, an estimate is included as to the net effect on the political subdivision of each piece of enacted legislation. Ten of the 11 bills impacted counties, 7 affected municipalities, 1 affected school districts, and 4 affected townships.

Counties

Bill	Time Frame	Revenues	Expenditures	Net Effect
H.B. 1	Annual	Potential loss in 2004 and future years	-0-	Negative
H.B. 24	Annual	Potential gain	Potential decrease	Indeterminate
H.B. 26	Annual	-0-	\$223,727 gain in 2005 and future years for Warren County, \$27,000 increase for one-time courthouse renovations in Henry County in 2004, and \$35,063 increase for salaries and fringe benefits in future years	Negative
H.B. 49	Annual	Potential gain in the tens of thousands of dollars for jurisdictions with citizens' reward program affiliations.	Potential increase commensurate with revenue gain plus potential one-time increase in court administrative costs that could exceed minimal in some jurisdictions	Indeterminate
H.B. 86	Annual	-0-	Up to \$3,000 or more decrease in 2005 and future years for Erie County, \$150,000 to \$250,000 in one-time capital improvements and equipment purchases in 2004, Up to \$24,403 increase in salaries, benefits, and additional operating costs in future years for Logan County	Negative
H.B. 127	Annual	Potential gain or loss	Potential increase or decrease	Indeterminate
S.B. 5	Annual	1) Potential gain in court cost, filing fee, and fine revenues, not likely to exceed minimal; 2) Potentially prevents loss of up to roughly \$1.89 million in federal grant moneys 3) Potential one-time gain associated with possible restoration of \$1.89 million in withheld federal grant moneys 4) Potential gain in county	(1) Increase in criminal justice system costs associated with SORN Law changes, likely to exceed minimal in some counties; (2) Potentially prevents decrease of roughly \$1.89 million in federal grant moneys (3) Potentially results in one-time possible gain of	Indeterminate

Bill	Time Frame	Revenues	Expenditures	Net Effect
		sheriff fees, could easily reach \$10,000 to \$20,000 in certain counties	\$1.89 million in restored federal grant moneys	
S.B. 11	Annual	-0-	One-time increase, potentially significant in certain counties	Negative in some counties
S.B. 50	Annual	Gain, not likely to exceed minimal	Increase, likely to exceed minimal in some jurisdictions	Indeterminate

Municipalities

Bill	Time Frame	Revenues	Expenditures	Net Effect
H.B. 1	Annual	Potential loss in FY 2004 and future years	-0-	Negative
H.B. 49	Annual	Potential gain in the tens of thousands of dollars for jurisdictions with citizens' reward program affiliations.	Potential increase commensurate with revenue gain plus potential one-time increase in court administrative costs that could exceed minimal in some jurisdictions	Indeterminate
H.B. 127	Annual	Potential gain or loss	Potential increase or decrease	Indeterminate
S.B. 5	Annual	1) Potential gain in court cost, filing fee, and fine revenues, not likely to exceed minimal; 2) Potentially prevents loss of up to roughly \$1.89 million in federal grant moneys 3) Potential one-time gain associated with possible restoration of \$1.89 million in withheld federal grant moneys 4) Potential gain in county sheriff fees, could easily reach \$10,000 to \$20,000 in certain counties	(1) Increase in criminal justice system costs associated with SORN Law changes, likely to exceed minimal in some counties; (2) Potentially prevents decrease of roughly \$1.89 million in federal grant moneys (3) Potentially results in one-time possible gain of \$1.89 million in restored federal grant moneys	Indeterminate
S.B. 50	Annual	Loss, not likely to exceed minimal	Decrease, not likely to exceed minimal	Indeterminate

School Districts

Bill	Time Frame	Revenues	Expenditures	Net Effect
H.B. 127	Annual	Potential gain or loss	-0-	Indeterminate

Townships

Bill	Time Frame	Revenues	Expenditures	Net Effect
H.B. 1	Annual	Potential loss in FY 2004 and future years	-0-	Negative
H.B. 24	Annual	Potential increase in 2004 and future years	Potential increase in 2004 and future years	Indeterminate
H.B. 127	Annual	Potential gain or loss	Potential increase or decrease	Indeterminate

Bills with Altered Local Impact

This section describes bills passed in 2003 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.

Out of the 56 bills enacted in 2003, only one bill was altered after the initial determination. H.B. 85 was altered from a "yes" local impact in the introduced version to a "no" local impact as enacted. Table 5 demonstrates these results compared to previous years.

Table 5: Local Effects Changing from Introduction to Enactment 2000-2003

	2000	2001	2002	2003	Total
Bills altered so that elements which caused a “Yes” local impact determination were eliminated	5	0	3	1	9
Bills with a “No” local impact determination altered to create a fiscal impact on local governments	6	0	5	0	11

House Bill 85

Bill Contents: Requires licensure of ambulettes and medical air transport vehicles

“As Introduced” LIS Determination: Yes

“As Enacted” local impact: No – No local cost

Key changes affecting local impact: Removes the provision that requires political subdivisions that operate ambulettes for a fee or air ambulances to be licensed by the state and to possibly be subject to the same standards as other ambulette operators.

Fiscal effects of changes: The Ohio Ambulance Licensing Board indicates that no subdivisions operate air ambulances, and few operate ambulette services for a fee. Therefore, any increase in expenditures would likely be minimal. However, an organization operating ambulettes may be required to make expenditures in order to meet the new requirements. Any such expenditure for a political subdivision no longer exists in the "As Enacted" version.

Part II

Local Impact Statements

*Fiscal Notes & Local Impact Statements for Bills Enacted in 2003
(Includes Bills with Altered Local Impact)*

Bill	Local Impact As Introduced	Local Impact As Enacted	Page Number
H.B. 1	Yes	Yes	10
H.B. 24	Yes	Yes	17
H.B. 26	Yes	Yes	20
H.B. 49	Yes	Yes	25
H.B. 85	Yes	No	29
H.B. 86	Yes	Yes	32
H.B. 127	Yes	Yes	41
S.B. 4	Yes	Yes	N/A*
S.B. 5	Yes	Yes	54
S.B. 11	Yes	Yes	73
S.B. 50	Yes	Yes	79

*Veto

Substitute House Bill 1 creates a \$50,000,000 appropriation in FY 2004 and a \$55,000,000 appropriation in FY 2005 for the Research and Development Loan Fund.

- The bill creates the Ohio Research Commercialization Grant Program to provide commercialization grants, awarded by the Third Frontier Commission, to businesses that receive federal research and development funding.
- The bill creates nonrefundable and transferable corporate franchise and income tax credits for qualified payments on loans issued by the Director of Development. The amount of the credit per taxpayer cannot exceed \$150,000 per year.
- The bill will decrease revenues to the General Revenue Fund from the tax credits. The amount of revenue loss will depend upon the amounts of tax credits issued under the program.
- The bill modifies certain technology investment tax credit criteria for investments made in EDGE businesses or in investments in businesses located in distressed areas of the state. (See the section on “The Technology Investment Tax Credit” for a description.)
- The bill potentially limits the corporate franchise tax liability of certain corporations providing telecommunications and billing services to clients through the use of “call-centers.” This provision potentially reduces GRF revenues if a new law is adopted in the future.
- The bill moves the Innovation Ohio Loan Fund into the state treasury and makes an appropriation of \$50 million in FY 2003 for loans and loan guarantees. Approximately \$5.5 million per year for 15 years is needed to pay debt service on these obligations, resulting in a \$5.5 million decrease in liquor profits transferred to the General Revenue Fund. The decrease in liquor profits depends on the amount of the bond sale, the interest rate, and other variables involved in the sale of bonds.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2003	FY 2004	FUTURE YEARS
Counties			
Revenues	- 0 -	Potential loss	Potential loss
Expenditures	- 0 -	- 0 -	- 0 -
Other Local Governments			
Revenues	- 0 -	Potential loss	Potential loss
Expenditures	- 0 -	- 0 -	- 0 -

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

- The bill decreases revenues to various local government funds from the corporate franchise and personal income tax credits. Corporate franchise tax revenues are distributed to the GRF (95.2%), the LGF (4.2%) and the LGRAF (0.6%). Personal income tax revenues are distributed to the GRF (89.5%), the LGF (4.2%), the LGRAF (0.6%), and the LLGSF (5.7%).
- The amount of revenue loss will depend upon the amounts of tax credits issued and claimed under the R&D loan program tax credit, and credits claimed under the expanded technology investment tax credit Program.

Detailed Fiscal Analysis

Research and Development Loan Fund

The bill establishes the Research and Development Loan Fund Program to finance eligible research and development projects. Assistance is available for any research and development project involving the discovery of information that is technological in nature and used to develop new or improved products or processes. Any loan provided through the R&D Loan Fund cannot exceed 75% of the total eligible costs of the project. The Controlling Board must approve assistance provided through this program. Repayment of loans made from the fund will be repaid to the fund. Reimbursements of the Director of Development's expenses that are incurred in administering economic development programs can be paid from moneys in this fund.

The program will be financed through moneys from the proceeds of bond or note sales that are repaid with liquor profits and also loan repayments made by entities that borrow from the R&D Loan Fund Program. The bill creates a special revenue fund in the custody of the Treasurer of State for making withdrawals and deposits for the Program. The fund does not consist of any moneys raised by taxation, nor are tax revenues used to pay the principal or interest due on the obligations. Since this is a non-GRF revenue stream, it should not affect the state's bond rating or the 5% limit on debt service.

Substitute House Bill 1 appropriates \$50,000,000 in FY 2004 and \$55,000,000 in FY 2005 in appropriation item 195-665, Research and Development, (Fund 010) for research and development purposes including loans under Chapter 166 of the Revised Code. The bill designates that the unencumbered balance of the appropriation at the end of FY 2004 be transferred to FY 2005 by the Director of Budget and Management. Substitute House Bill 1 does not contain any appropriations for debt service.¹

The bill requires the Director of Development to determine whether research and development financial assistance conforms with requirements of the programs in the Revised Code and shall submit that determination to both the Controlling Board and the Development Financing Advisory Council. Whenever a project applies for assistance and requests to relocate the project to another county, municipal corporation, or township within the state, the Director of Development must provide written notification to the appropriate local governmental bodies, including the affected boards of county commissioners, legislative authorities of special districts, legislative authorities of municipal corporations or the boards of township trustees, and state officials, including state representatives and state senators of affected districts. This provision creates a minimal cost to the Department of Development.

¹ The proposed budget bill, Am. Sub. H.B. 95 – As Reported by the Conference Committee, contains appropriations for debt service on bonds issued for this program. Contained within the Department of Commerce's operating budget, appropriation item 800-633, Development Assistance Debt Service, pays for the debt service on these obligations with liquor profits. In FY 2004 and FY 2005, \$23.3 million and \$29.0 million, respectively, are appropriated for debt service of all of the programs funded with economic development bonds, including the Facilities Establishment Fund, the Innovation Ohio Loan Fund, and the Research and Development Loan Fund.

Liquor Profits

The bill increases the ceiling on the aggregate principal amount of obligations that may be issued to fund economic development programs from \$300 million to \$500 million, excluding those financing obligations for which bond service charges are not paid from liquor profits. Under current law, the following amounts are not included in the ceiling calculation: the principal amount of any obligations retired by payment, amounts held or obligations pledged for the payment of the principal of any outstanding obligations, amounts held in special funds as reserves to meet bond service charges and amounts of obligations issued to meet payments from either the Loan Guarantee Fund or the Innovation Ohio Loan Guarantee Fund. If the unpaid principal amount of loan repayments guarantees exceeds the actual amount in the Loan Guarantee Fund by more than 4%, then the amount of the loan repayment guarantees over the 4% cap is subtracted from those amounts not included in the ceiling calculation; Sub. H.B. 1 removes the 4% requirement, thereby effectively raising the ceiling on the aggregate principal amount of obligations that can be issued. The bill also adds the R&D Loan Fund to the list of funds whose obligations are supported by liquor profits; the list of other programs includes the Facilities Establishment Fund, Loan Guarantee Fund, Innovation Ohio Loan Guarantee Fund, and Innovation Ohio Loan Fund. The \$25 million limit for the aggregate amount of liquor profits that may be used to back the obligations issued for economic development is raised to \$45 million by the bill. The bill excludes from the \$45 million limit on the use of liquor profits, those obligations issued to meet loan guarantees that cannot be satisfied by amounts held in the Innovation Ohio Loan Guarantee Fund. Finally, the limit on the aggregate amount of loan guarantees made under the Loan Guarantee Fund and the Innovation Ohio Loan Guarantee Fund and the unpaid principal of loans made from the Facilities Establishment Fund and the Innovation Ohio Loan Fund is raised to \$800 million, up from \$700 million; loans made under the R&D Loan Fund are placed under this ceiling.

Innovation Ohio Loan Program

Originally created in H.B. 675 of the 124th General Assembly, the program was established in the Department of Development to provide financial assistance to eligible innovation projects in the state to maintain and enhance the competitiveness of the Ohio economy and to improve the economic welfare of all the people of the state, to ensure that “high-value” jobs based on research, technology, and innovation are available to the people of the state. Current law dictates that the program is financed through revenues from the proceeds of bond or note sales that are repaid with liquor profits and also loan repayments made by entities that borrow from the Innovation Ohio Loan Program. Approximately \$5.5 million per year for 15 years is needed for debt service on these obligations. This amount may vary depending on the size and interest rate of future obligations and other variables involved in the sale of bonds. The Innovation Ohio Loan Fund does not consist of any moneys raised by taxation, nor are tax revenues used to pay the principal or interest due on the obligations. Since this is a non-GRF revenue stream, it should not affect the state’s bond rating or the 5% limit on debt service. Substitute House Bill 1 moves the Innovation Ohio Loan Fund into the state treasury and makes a \$50 million appropriation in FY 2003 for the program.²

² The proposed budget bill, Am. Sub. H.B. 95 – As Reported by the Conference Committee, contains FY 2004 and FY 2005 appropriations of \$50.0 million and \$55.0 million, respectively, for this program. Debt service for the program is also contained in the proposed budget bill in the Department of Commerce’s appropriation item 800-633, Development Assistance Debt Service, which pays for the debt service on these obligations with liquor profits. In FY 2004 and FY 2005, \$23.3 million and \$29.0 million, respectively, are appropriated for debt service of all of the

Ohio Research Commercialization Grant Program

The bill also creates the Ohio Research Commercialization Grant Program to assist with the commercialization of research projects that have received assistance through the federal Small Business Innovation Research (SBIR) program, the federal Small Business Technology Transfer program, or other similar federal programs designated by the Director as making the applicant eligible for assistance. *State assistance under this program is only available if federal assistance has been awarded.* The state assistance must be specifically used for commercialization of core competency technology, including advanced materials, instruments, controls, electronics, biosciences, power and propulsion, and information technology, or for other business activities related to the commercialization of core competency technology. The bill does not include any appropriations for this program.

Tax Credits

The bill also makes various changes to laws governing technology investment tax credits, and allows the Director of Development to lend money in the R&D Loan Fund to persons for paying the allowable costs of an eligible research and development project.

The R&D Loan Fund Tax Credits

The bill creates a new nonrefundable and transferable credit against the corporation franchise and income taxes for qualified payments made on loans issued by the Director of Development. The amount of the credit cannot exceed \$150,000 per year and per taxpayer. The tax credits could be carried forward until fully utilized. The bill established criteria for transferability of the credits. Borrowers in the R&D Loan Fund Program can assign their tax credits to other persons that may use these credits against a tax different from the one the borrower pays. However, borrowers must notify the Department of Development and the Department of Taxation of the transfer of the credits before such credits are used. Taxpayers who are partners in a partnership or members of a Limited Liability Corporation (LLC) may claim their proportionate share of the tax credits awarded to the partnership or the LLC. The amount of revenue loss from tax credits authorized in the R&D Loan Fund Program will depend upon the total issuance of tax credits by the Department of Development and credits claimed by the various investors in the program or by entities that received credits from those investors.

The Technology Investment Tax Credit

The bill increases the amount of technology investment tax credits that may be issued from \$10 million to \$20 million. The bill also increases the amount of investments by one person, for which a technology tax credit can be claimed from \$150,000 to \$250,000, raising the tax credit per person to \$62,500, up from \$37,500. Also, the maximum amount of investments that an investor can make in one business increases from \$150,000 to \$250,000. The bill expands the eligibility of the technology investment tax credit by increasing the maximum revenue of eligible firms or their net book value to \$2.5 million, up from \$1.0 million. Finally, the bill increases the maximum investments eligible for the technology investment tax credit for

programs funded with economic development bonds, including the Facilities Establishment Fund, the Innovation Ohio Loan Fund, and the Research and Development Loan Fund.

each firm to \$1.5 million up from \$1.0 million, thus increasing the potential maximum credit authorized per eligible firm to \$375,000, up from \$250,000.

The bill modifies the technology investment tax credit as it applies to EDGE businesses³ and to business entities located in a “distressed area”⁴ in several ways: the amount of investments by one person for which a technology tax credit can be claimed is increased to \$300,000 for an EDGE business or for a business located in a distressed area. Also, the maximum amount of investments that an investor can make in one business is increased to \$300,000 if such business is an EDGE business or if the business is located in a distressed area. The tax credit, which is 25% of the amount invested, is increased to 30%. These changes to the technology investment tax credit increase the amount of tax credits per person up to \$90,000 for investments in an EDGE business or investments in a business located in a distressed area. Also, the maximum tax credits that could be authorized for each firm may potentially be up to \$450,000, instead of the maximum tax credits of \$375,000 for other eligible firms under the technology investment tax credit program.

Based on data from the Ohio Department of Development on the current technology investment tax credit, the proposed modifications to this tax credit may decrease state revenues by up to \$2.5 million per year.

The tax credits will decrease revenues to the General Revenue Fund (GRF), the Local Government Fund (LGF), the Local Government Revenue Assistance Fund (LGRAF), and the Library and Local Government Support Fund (LLGSF). Corporate franchise tax revenues are distributed to the GRF (95.2%), the LGF (4.2%) and the LGRAF (0.6%). Personal income tax revenues are distributed to the GRF (89.5%), the LGF (4.2%) the LGRAF (0.6%) and the LLGSF (5.7%). ***The amount of GRF and local government funds revenue loss will depend upon the total issuance of tax credits under the Research and Development Loan Program and credits claimed under the expanded Technology Investment Tax Credit Program.***

The bill also makes changes to the job retention tax credit. Under current law, the Ohio tax credit authority may grant to an eligible firm a nonrefundable corporate franchise or personal income job retention tax credit for a period of up to ten taxable years. The bill lengthens this period to 15 years. This provision has a minimal fiscal effect, if any.

Call-Center Tax liability

The bill limits any additional tax liability for “call-centers” if their tax liability would be increased under the corporate franchise taxation of telecommunications services under H.B. 95

³ The EDGE program is a small business assistance program created by the Ohio Governor in December 2002 that applies to state procurements of supplies and services, information technology services, construction and professional design services. The Ohio Department of Administrative Services and the Ohio Department of Development jointly administer the EDGE program, and certify which businesses would qualify as EDGE businesses.

⁴ A “distressed area” is defined in ORC Section 122.23 as a county with a population of less than 125,000 that meets at least two of the following criteria of economic distress; Its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at least 125% of the average rate of unemployment for the United States for the same period; It has a per capita income equal to or below 80% of the median county per capita income of the United States as determined by the most recently available figures from the United States Census Bureau; or the county has a ratio of transfer payment income to total county income equal to or greater than 25%.

(the proposed budget bill) or any future changes in corporation franchise tax laws regarding modifications to the add-back of inter-company expenses in the calculation of the franchise income tax liability for certain corporations and their related entities. This provision applies to a corporation (including its related members) that develops software applications to provide telecommunications and billing services, with revenue from sales and licensing of software of at least \$600 million per taxable year. Such corporations (and their related members) provide a certain volume of customer and technical support for their clients through call-centers located in Ohio and outside this state.

The bill requires that, in computing the net income of such a corporation and its affiliates for purposes of the treatment of the add-back of inter-company expenses for the corporate franchise income tax, the corporation's franchise tax liability (for such corporation and its related entities) for any taxable year would be the lower of the tax liability calculated applying the corporate franchise law in effect that future year or the corporate franchise income tax liability calculated under current law. This implies that any future change to the treatment of the add-back of inter-company expenses in corporate franchise tax law would not increase the tax liability of certain corporations and affiliates. This provision may result in potential revenue loss. The bill also allows the Ohio tax credit authority to include companies with "call centers" in the job retention tax credit agreements.

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Allison Thomas, Economist*

HB0001EN/b

Detailed Fiscal Analysis

A village may be subject to the process associated with dissolution under the provisions of the bill if the village meets at least two specified conditions for surrendering corporate powers, as determined by the results of an audit by the Auditor of State, and meets the population criteria.

Potential Fiscal Effects

Auditor of State – No Potential Expense Increase. The office of the Auditor of State currently expends money from its budget to carry out its statutory requirement to audit villages. No additional expenses are expected by the State Auditor to make the determination. Under the bill, the Auditor of State would identify the finding based upon the conditions as set forth in the bill.

Townships – Potential Revenue Gain. If a township absorbed a dissolved village, the township could potentially receive unknown revenue gains from additional tax and fee revenue. A township could also potentially experience unknown revenue gains from the sale of village buildings and vehicles once the village offices are closed and personnel are no longer in place.

Townships – Potential Expense Increase. A township could incur increased expenses to provide services to the village residents such as road maintenance, snow removal, and zoning enforcement. No additional debt would be incurred by the township. Existing village debts would still be paid from the taxes received from the village residents until the debt is fully paid.

Defining Provisions of the Bill

Only villages with a population of 150 or less as determined by either the decennial census or a population estimate certified by the Department of Development between decennial censuses and that consist of less than two square miles fall under the population and geographic size provisions of the bill.

The bill eliminates the ability of a municipal corporation with a population of 100 or less to have a mayor's court. The Village of New Rome is the only village of this size that currently has a mayor's court.

Ohio Villages that Meet the Population Requirement Under the Bill

The following 50 Ohio villages have a population of 150 people or less, based on the 2000 Census. Only New Rome currently meets multiple criteria of the bill. Prairie Township in Franklin County would be affected if New Rome were to be dissolved.

	Village	County	2000 Census Population
1.	Miltonsburg	Monroe	29
2.	Rendville	Perry	46
3.	Holiday City	Williams	49
4.	Elgin	Van Wert	50
5.	New Rome	Franklin	60
6.	Jacksonburg	Butler	67
7.	Brice	Franklin	70
8.	New Bavaria	Henry	78
9.	West Millgrove	Wood	78
10.	Fairview	Guernsey	81
11.	Deersville	Harrison	82
12.	Octa	Fayette	83
13.	Alexandria	Licking	85
14.	Otway	Scioto	86
15.	Stafford	Monroe	86
16.	Antioch	Monroe	89
17.	St. Martin	Brown	91
18.	Chilo	Clermont	97
19.	Harbor View	Lucas	99
20.	Yankee Lake	Trumbull	99
21.	Batesville	Noble	100
22.	Ithaca	Darke	102
23.	Summitville	Columbiana	108
24.	Lower Salem	Washington	109
25.	Yorkshire	Darke	110
26.	Graysville	Monroe	113
27.	Norwich	Muskingum	113
28.	Rome	Adams	117
29.	Linndale	Cuyahoga	117
30.	Wilson	Monroe	118
31.	Milledgeville	Fayette	122
32.	Marseilles	Wyandot	124
33.	Adamsville	Muskingum	127
34.	Cherry Fork	Adams	127
35.	Neville	Clairmont	127
36.	Put-in-Bay	Ottawa	128
37.	Castine	Darke	129
38.	Bairdstown	Wood	130
39.	Blakeslee	Williams	130
40.	Kirby	Wyandot	132
41.	Mutual	Champaign	132
42.	West Rushville	Fairfield	132
43.	Centerville	Gallia	134
44.	Nellie	Coshocton	134
45.	New Weston	Darke	135
46.	Miller City	Putnam	136
47.	Patterson	Hardin	138
48.	Hemlock	Perry	142
49.	Gann	Knox	143
50.	Mifflin	Ashland	144

LSC fiscal staff: Carol Robison, Budget Analyst

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Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2003 – FY 2004*	FY 2005	FUTURE YEARS
Warren County			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	\$223,727 increase	\$223,727 annual increase
Henry County			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	\$27,000 increase for one-time courthouse renovations	\$35,063 increase for salaries and fringe benefits	\$35,063 annual increase for salaries and fringe benefits

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

*The new judges will be elected in November 2004 for a term to begin January 2005.

- **Warren County Court of Common Pleas.** The annual salary and benefits for the new judge to be added to the court of common pleas will cost Warren County \$15,897, which is comprised of \$14,000 in annual base salary, plus 13.55%, or \$1,897, in PERS benefits. Additionally, the Warren County Court of Common Pleas expects to hire one bailiff, one courtroom clerk, and one secretary as support staff for the new judge. The salary, benefits, and related operating expenses associated with the three new personnel are currently expected to total \$207,830 annually.

- **Henry County Court of Common Pleas.** The annual salary and benefits for the new judge to be added to the Henry County Court of Common Pleas will cost Henry County \$5,970, which is comprised of \$5,258 in annual base salary, plus 13.55%, or \$712, for PERS benefits. The Henry County Court of Common Pleas also anticipates a secretary for the new judge will need to be hired, with annual salary and benefits expected to total \$29,093. The existing space for the Henry County Court of Common Pleas will also need to be renovated in order to house a new courtroom, judge, and staff, which is expected to total roughly \$27,000 in one-time only expenditures, presumably to take place the year preceding the judge's arrival.

Detailed Fiscal Analysis

Additional judge for the Warren County Court of Common Pleas

Judicial salary

The annual salary of a judge of a court of common pleas consists of a state share and a local share paid by the county as follows:

- The *local share* varies slightly depending on a county's population as determined by the decennial census. The local amount is based on 18 cents per capita in the county, but may not be less than \$3,500 or more than \$14,000.
- The *state share* is equal to the annual salary minus the local share. Substitute House Bill 712 of the 123rd General Assembly provided annual salary increase each year from 2002 through 2008. The annual salaries of the judges and justices of the court will increase by the lesser of 3% or the percentage increase in the Consumer Price Index (CPI) over the 12-month period ending on September 30 of the previous year. In the case of judges for whom a portion of the salary is paid locally, the entire amount of the increase is added to the state share.

The Supreme Court of Ohio estimates that, when the new judge is added to the Warren County Court of Common Pleas for a term to begin January 2, 2005, the annual salary of a judge of a court of common pleas will be \$116,100. Of that amount, based on the 2000 U.S. census, Warren County would be required to pay the \$14,000 maximum annual local share pursuant to current law. The state will cover the remainder of the annual salary, which in FY 2006 (July 1, 2005 through June 30, 2006), the first full state fiscal year of the new common pleas court judgeship, amounts to \$102,100.

PERS

State and local elected officials are exempt from membership in PERS (Public Employees Retirement System), unless they choose to become members. Most do. Therefore, this analysis includes PERS payments, which assumes that the new judge added to the Warren County Court of Common Pleas joins PERS. The state and local PERS contributions would work as follows:

- The state contributes at the rate of 13.31% of its supplemental salary amount, while the county pays 13.55% on its base share amount.
- Under that PERS contribution formula, Warren County will pay \$1,897 annually, while the state will contribute \$13,590 in FY 2006, the first full state fiscal year of the new common pleas court judgeship.

Other state contributions

In addition to PERS, the state also makes contributions for other purposes, totaling approximately 8.69%, which includes 1.45% of gross salary for Medicare for all employees hired after April 1986, 0.67% for workers' compensation, 0.28% for the administration of the Central Accounting System, and approximately 6.29% in health insurance contributions. It should be noted that the state's share in health insurance contributions has been increasing and is expected to continue increasing in the future. These miscellaneous annual contributions will cost the state \$8,872 (\$102,100 x 8.69%) in FY 2006, the first full state fiscal year of the new common pleas court judgeship.

Additional local costs

The Warren County Court of Common Pleas anticipates hiring one bailiff, one courtroom clerk, and one secretary as support staff for the additional judge. Since an existing courtroom is already available, no construction or remodeling costs are anticipated at this time. According to the Warren County Board of Commissioners, the annual operating expenses associated with the three new personnel (salary and fringe benefits, maintenance, and equipment costs detailed in the table below) will total \$207,830.

Annual Court Staff Operating Costs	
Personnel	\$ 108,067
PERS	\$ 14,644
Medicare	\$ 1,567
Health insurance	\$ 33,168
Life insurance	\$ 384
Office supplies/equipment	\$ 50,000
TOTAL	\$ 207,830

Additional judge for the Henry County Court of Common Pleas

Judicial salary

The annual salary of a judge of a court of common pleas consists of a state share and a local share paid by the county as follows:

- The *local share* varies slightly depending on a county's population as determined by the decennial census. The local amount is based on 18 cents per capita in the county, but may not be less than \$3,500 or more than \$14,000.
- The *state share* is equal to the annual salary minus the local share. Substitute House Bill 712 of the 123rd General Assembly provided annual salary increases each year from 2002 through 2008. The annual salaries of the judges and justices of the court will increase by the lesser of 3% or the percentage increase in the Consumer Price Index (CPI) over the 12-month period ending on September 30 of the previous year. In the case of judges for whom a portion of the salary is paid locally, the entire amount of the increase is added to the state share.

The Supreme Court of Ohio estimates that, when the new judge is added to the Henry County Court of Common Pleas for a term to begin January 1, 2005, the annual salary of a judge

of a court of common pleas will be \$116,100. Of that amount, based on the 2000 U.S. census, Henry County would be required to pay \$5,258, or 18 cents per capita, pursuant to current law. The state will cover the remainder of the annual salary, which in FY 2006 (July 1, 2005 through June 30, 2006), the first full state fiscal year of the new common pleas court judgeship, amounts to \$110,842.

PERS

State and local elected officials are exempt from membership in PERS (Public Employees Retirement System), unless they choose to become members. Most do. Therefore, this analysis includes PERS payments, which assumes that the new judge added to the Henry County Court of Common Pleas joins PERS. The state and local PERS contributions would work as follows:

- The state contributes at the rate of 13.31% of its supplemental salary amount, while the county pays 13.55% on its base share amount.
- Under that PERS contribution formula, Henry County will pay \$712 annually, while the state will contribute \$14,753 in FY 2006, the first full state fiscal year of the new common pleas court judgeship.

Other state contributions

In addition to PERS, the state also makes contributions for other purposes, totaling approximately 8.69%, which includes 1.45% of gross salary for Medicare for all employees hired after April 1986, 0.67% for workers' compensation, 0.28% for the administration of the Central Accounting System, and approximately 6.29% in health insurance contributions. It should be noted that the state's share in health insurance contributions has been increasing and is expected to continue increasing in the future. These miscellaneous annual contributions will cost the state \$9,632 ($\$110,842 \times 8.69\%$) in FY 2006, the first full state fiscal year of the new common pleas court judgeship.

Additional local costs

In addition to the new judge's annual salary and fringe benefits, two additional costs are expected to occur as a result of the bill:

- (1) A secretary for the judge will need to be hired, with annual salary and benefits expected to total \$29,093.
- (2) The existing space for the Henry County Court of Common Pleas will need to be renovated in order to house a new courtroom, judge, and staff. According to the Henry County Board of Commissioners, these renovations will cost a total of roughly \$27,000 in one-time only expenditures, presumably to take place the year preceding the judge's arrival.

*LSC fiscal staff: Jamie L. Slotten, Budget Analyst
HB0026EN*

these funds would be transmitted monthly by clerks of courts to the citizens' reward program that is affiliated with a given county.

- **County and municipal expenditures.** The one-time local computer reprogramming and ongoing administrative costs for counties and municipalities appear unlikely to exceed minimal, which means an estimated cost of no more than \$5,000 for any affected political subdivision. It should be noted that, in the case of municipalities, these local costs would be imposed as the direct result of an action taken by the board of county commissioners exercising its permissive authority under the bill and not as a direct result of an action taken by the municipality itself.

Detailed Fiscal Analysis

Provisions of the bill

The bill principally: (1) permits a board of county commissioners to enter into an agreement of affiliation with a citizens' reward program, and (2) requires the imposition of \$1 in additional court costs to assist in the funding of affiliated citizens' reward programs.

Local fiscal effects

Local revenues

Court costs. If a board of county commissioners approves an agreement of affiliation with a citizens' reward program, the bill requires that \$1 be added to the court costs paid by offenders that plead guilty to or are convicted of any offense other than a traffic offense. This additional \$1 would be collected only by the county, municipal, and common pleas courts in those counties that have entered into a formal agreement of affiliation with a citizens' reward program. In those counties where such an affiliation is entered into, the clerk of the court would transmit the revenues collected monthly to the citizens' reward program to be used exclusively for the payment of rewards. No part of these funds may be used to pay for the administrative expenses or any other expenses associated with the citizens' reward program.

Predicting the size of this potential revenue stream is very difficult because the bill does not require every county to enter into an agreement of affiliation with a citizens' reward program, it simply permits a board of county commissioners to enter into such an agreement. That said, in counties in which the board of county commissioners opts to affiliate with a citizens' reward program, it seems reasonable to assume that the amount of revenue that will be collected by that county and its municipalities would be in tens of thousands of dollars.

Currently, about 16 or so citizens' reward programs in Ohio have affiliations with local governments, as identified in Table 1 below. It should also be noted that, since the revenues that would be collected under the terms of the bill can only be used for the payment of rewards and not for any administrative expenses or other costs, there would not appear to be any financial incentive created that would encourage the rapid growth of new affiliations between boards of county commissioners and citizens' reward programs.

Table 1
Location of Ohio Crime Stoppers Programs

Allen County (Lima)	Findlay/Hancock County
Athens County	Henry County
Central Ohio	Licking County
Greater Cincinnati	Montgomery County
Cuyahoga County	Scioto County
Defiance County	Shelby County
Darke County	Van Wert County
Fayette County	Greater Youngstown

Local expenditures

One-time cost: computer reprogramming. Conversations between LSC fiscal staff and various interested parties have indicated that the software utilized by municipal, county, and common pleas courts will have to be modified in order for each court to separately track the collection of the additional \$1 so that the appropriate amount of revenue is transmitted monthly to the county’s affiliated citizens’ reward program. More specifically, it appears that the physical record structure in the computer systems of these courts would need to be changed to add a new data column so that the additional \$1 can be tracked and accounted for separately.

The software firm of Henschen and Associates, located in Bowling Green, Ohio, does the programming for about 56 municipal and county courts around the state of Ohio. Henschen and Associates is the largest vendor for these services. According to Henschen and Associates, such a reprogramming task, involving the redesign of the record and reporting function, would require on-site visits to every court that handles traffic and other criminal cases. While the estimated cost is about \$1,000 per court, the total statewide, one-time local expenditure for the reprogramming services of Henschen and Associates would be very difficult to estimate given that one does not know how many counties will enter into affiliated agreements as described by the bill.

Legislative Service Commission fiscal staff also contacted other similar computer programming vendors contracting with a large number of courts in Ohio. These other computer programming vendors indicated that the programming changes in question could be performed over modems at a substantially lower cost. Still the basic estimation problem exists in that one does not know how many of Ohio’s 88 counties will affiliate with a citizens’ reward program.

That said, it appears that the one-time cost associated with the modification of any given municipal, county, or common pleas court’s software appears unlikely to exceed minimal, which means an estimated cost of no more than \$5,000 for any affected political subdivision.

Ongoing local administrative burden. One would think that, once the structure for collecting and transmitting the additional \$1 has been established, the expense associated with its ongoing administration would constitute no more than a minimal annual expense for local clerks of courts.

Local cost summary. The one-time local computer reprogramming and ongoing administrative costs for counties and municipalities appear unlikely to exceed minimal. It should

be noted that, in the case of municipalities, these local costs would be imposed as the direct result of an action taken by the board of county commissioners exercising its permissive authority under the bill and not as a direct result of an action taken by the municipality itself.

State fiscal effects

The bill does not appear to carry any direct fiscal effect for state revenues and expenditures.

LSC fiscal staff: Joseph Rogers, Budget Analyst

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Detailed Fiscal Analysis

Ambulette Licensing - Effect on State Government

The bill requires the licensure of ambulettes, rotorcraft air ambulances, and fixed wing air ambulances. Ambulettes are vehicles used to transport individuals to receive health care services in non-emergency situations. The Ohio Ambulance Licensing Board (renamed the Ohio Medical Transportation Board by the bill) estimates that there are approximately 500 to 800 organizations operating 5,000 ambulettes in Ohio.

The bill requires each organization to pay an annual licensing fee of not more than \$100. This would lead to an approximate gain in revenue to the Ambulance Licensing Trust Fund of between \$50,000 and \$80,000 annually. Additionally, the bill requires an annual permit for each vehicle. The permit fee is set at \$25 in the first year that would raise approximately \$125,000 in revenue. In the second year and thereafter, this fee would be set by the Board, not to exceed \$50. Therefore, annual revenue gains could total \$250,000.

Operators of rotorcraft air ambulances and fixed wing air ambulances are also required to be licensed under the bill. The same \$100 maximum licensure fee would apply to the organization as with ambulettes. The permit fee, however, is not to exceed \$100. The Board indicates that there are fewer than 20 such vehicles in the state operated by no more than five organizations. Therefore, revenue gains from this proposal would be approximately \$2,500 annually.

Increased Board Membership

The bill increases the membership of the Ambulance Licensing Board by four from five voting members to nine voting members. (The number of nonvoting members remains the same at one.) The Board indicates that this change could lead to an increase in expenditures of up to \$2,000 annually.

Inspection of Ambulances by State Highway Patrol

The bill removes the requirement that the State Highway Patrol inspects and certifies ambulances for safety. In fiscal year 2002, the Patrol inspected 1,187 ambulances at a fee of \$10 each, for total annual revenue of \$11,870 or approximately \$12,000. While the Patrol would lose this revenue under the bill, the cost of the inspections outweighs the fees received according to a representative of the Highway Patrol, and the time could be used on other duties that will offset overtime commitments, thereby producing savings.

Medicaid Trusts

The county department of job and family services (CDJFS) of the county in which an individual resides is responsible for determining the individual's eligibility for medical assistance reimbursed by Medicaid. In making an eligibility determination, a CDJFS must decide which of the individual's assets and income is a "countable resource," "countable income," both countable income and a countable resource, or not countable as income or a resource. "Countable income"

includes the Medicaid applicant's income from any source, regardless of whether it is taxable or nontaxable. A "countable resource" is cash or anything of value that is capable of being converted to cash that an applicant could use to pay for support and maintenance.

Currently, whether, and to what extent, a CDJFS must count a trust as income, a countable resource, or both income and a countable resource is governed by administrative rule. The administrative rule provides that a trust falls into one of five categories:

- (1) self-settled trusts established before August 11, 1993 (also referred to as "Medicaid qualifying trusts"),
- (2) self-settled trusts established on or after August 11, 1993,
- (3) exempt trusts,
- (4) trusts established by someone else for the benefit of a Medicaid applicant or recipient, and
- (5) trusts established by will for the benefit of a surviving spouse.

The bill codifies those portions of the administrative rule dealing with types (2), (3), and (4) above. The bill does not address types (1) or (5). This provision of the bill has no fiscal impact on the state Medicaid program as it simply codifies some existing Ohio Administrative Code sections regarding Medicaid trusts.

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Fiscal Note & Local Impact Statement

125th General Assembly of Ohio

Ohio Legislative Service Commission
77 South High Street, 9th Floor, Columbus, OH 43215-6136 ✧ Phone: (614) 466-3615
✧ Internet Web Site: <http://www.lsc.state.oh.us/>

BILL: **Am. Sub. H.B. 86** DATE: **October 15, 2003**

STATUS: **As Enacted – Effective November 13, 2003** SPONSOR: **Rep. Hoops**
(Sections 3 and 4 effective January 1, 2004)

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

CONTENTS: **Adds one judge to the Erie County Court of Common Pleas for a term to begin on January 2, 2005, reallocates jurisdictional responsibilities of current judges of the Erie County Court of Common Pleas, creates the Domestic Relations-Juvenile-Probate Division of the Logan County Court of Common Pleas, adds a judge to be the judge of that Division of the Logan County Court of Common Pleas for a term to begin on January 2, 2005, specifies that a board of elections may not invalidate a petition on the ground that its form does not satisfy statutory requirements, if the board originally distributed the petition form and, at the time of distribution, it did not satisfy statutory requirements, and declares an emergency**

State Fiscal Highlights

STATE FUND	FY 2004*	FY 2005	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Up to \$90,550 or more increase	Up to \$181,101 or more increase in FY 2006, followed by annual increases of no more than 3% through FY 2009

Note: The state fiscal year is July 1 through June 30. For example, FY 2004 is July 1, 2003 – June 30, 2004.

*The two new judges will be elected in November 2004 for terms to begin on January 2, 2005.

- **Erie County Court of Common Pleas judgeship.** Starting with FY 2006, the annual amount in GRF funding that the Supreme Court of Ohio will disburse in the form of state support for the new judge added to the Erie County Court of Common Pleas is estimated at \$124,562, which consists of: (1) \$102,100 in salary, (2) \$13,590 in PERS contributions, and (3) \$8,872 in miscellaneous other contributions. As the term of the new judge does not begin until halfway through the state's FY 2005, the amount of state financial support that will be disbursed in that fiscal year is estimated at half the annual estimated annual cost, or \$62,281. Currently, the state has statutorily prescribed annual pay increases in the state share of the salary of common pleas court judges through calendar year (CY) 2008.
- **State cost savings for visiting judges in Erie County.** Currently, the state assumes 86.4% of a visiting judge's salary, which, in FY 2003, translated into a total of approximately \$75,000 for the state share of visiting judges' salaries in Erie County. Based on LSC fiscal staff's research, it appears that Erie County's need for visiting judges will greatly diminish once the new court of common pleas judge takes office in

January 2005. Thus, the state's annual costs associated with supporting the new common pleas court judgeship in Erie County (estimated at an annual total of \$124,562 starting with FY 2006) will be somewhat offset by an estimated annual savings of up to \$75,000 in visiting judge costs for Erie County that would presumably no longer be incurred.

- **Logan County Court of Common Pleas judgeship.** Starting with FY 2006, the annual amount in GRF funding that the Supreme Court of Ohio will disburse in the form of state support for the new judge added to the Logan County Court of Common Pleas is estimated at \$131,539, which consists of: (1) \$107,819 in salary, (2) \$14,351 in PERS contributions, and (3) \$9,369 in miscellaneous other contributions. As the term of the new judge does not begin until halfway through the state's FY 2005, the amount of state financial support that will be disbursed in that fiscal year is expected to be half the estimated annual cost, or \$65,770. Currently, the state has statutorily prescribed annual pay increases in the state share of the salary of common pleas court judges through CY 2008.
- **Petitions filed with a board of elections.** The provision of the bill prohibiting a board of elections from invalidating a petition under certain circumstances appears to have no direct fiscal effect on the state.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2004*	FY 2005	FUTURE YEARS
Erie County			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Up to \$3,000 or more decrease	Up to \$3,000 or more decrease annually
Logan County			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	\$150,000 to \$250,000 in one-time capital improvements and equipment purchases	Up to \$24,403 increase in salaries, benefits, and additional operating costs	Up to \$24,403 increase annually in salaries, benefits, and additional operating costs

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

*The new judges in each of Erie County and Logan County will be elected in November 2004 for terms to begin on January 2, 2005.

- **Erie County Court of Common Pleas judgeship.** Starting with FY 2005, the annual salary and benefits for the new judge to be added to the court of common pleas will cost Erie County \$15,897, which is comprised of \$14,000 in annual base salary, plus 13.55%, or \$1,897, for PERS benefits. These costs will likely be more than offset by the savings created from the discontinued reliance on visiting judges, as detailed in the bullet immediately below.
- **Erie County cost savings for visiting judges.** Currently, the county portion of a visiting judge's salary is 13.6%. During CY 2002, Erie County expended \$11,396 for visiting judges' salaries and \$7,642 in travel expenses, for a total annual expenditure of \$19,038 in support of visiting judges. Thus, the annual county costs associated with supporting the new common pleas court judgeship in Erie County (estimated at an annual total of \$15,897 starting with FY 2005) would be more than offset by an estimated annual savings of around \$19,000 in county expenses (based on CY 2002 expenditures) related to visiting judges' salaries for Erie County that would presumably no longer be incurred. Assuming that were true, Erie County could realize a cost savings of up to \$3,000 or so annually.

- **Reallocation of jurisdictional responsibilities in Erie County.** With regard to the reallocation of jurisdictional responsibilities, it appears, based on LSC fiscal staff's research, that: (1) the annual operating expenditures of the Erie County Court of Common Pleas will not increase, and (2) Erie County may actually realize some minimal cost savings in relation to the annual expenditures of its court of common pleas due to possible efficiencies created by the restructuring of existing caseloads.
- **Other Erie County costs.** As a result of a restructuring of court operations planned to occur within the next few years, it appears that Erie County does not anticipate the need to hire any additional staff in order to support the new common pleas court judgeship. In addition, the county's existing courthouse will be undergoing renovations as part of a long-standing expansion plan. With minor modifications, additional courtroom space will be refitted at little or no additional cost to Erie County.
- **Logan County Court of Common Pleas judgeship.** Starting with FY 2005, the annual salary and benefits for the new judge to be added to the Logan County Court of Common Pleas will cost Logan County \$9,403, which is comprised of \$8,281 in annual base salary, plus 13.55%, or \$1,122, for PERS benefits.
- **Other Logan County costs.** According to the Logan County Board of Commissioners, other costs associated with the bill include: (1) an increase in the annual operating expenses associated with the court of common pleas in the range of \$10,000 to \$15,000, and (2) one-time capital improvements and equipment purchases totaling in the range of \$150,000 to \$250,000. These one-time costs would presumably be incurred in FY 2004, the year preceding the effective date of the new judgeship.
- **Petitions filed with a board of elections.** The provision of the bill prohibiting a board of elections from invalidating a petition under certain circumstances appears to have no direct fiscal effect on political subdivisions of the state.

Detailed Fiscal Analysis

Overview

For the purposes of this fiscal analysis, the four key components of the bill include:

- (I) Adding one judge to the Erie County Court of Common Pleas for a term to begin on January 2, 2005 and reallocating jurisdictional responsibilities of current judges of the Erie County Court of Common Pleas.
- (II) Creating the Domestic Relations-Juvenile-Probate Division of the Logan County Court of Common Pleas and adding a judge to be the judge of that Division of the Logan County Court of Common Pleas for a term to begin on January 2, 2005.
- (III) Prohibiting a board of elections from invalidating a petition form filed with the board that does not satisfy the requirements of law on the date the board distributes it.
- (IV) Declaring an emergency.

(I) Additional judge and reallocation of jurisdictional responsibilities for the Erie County Court of Common Pleas

Judicial compensation costs

Base salary

The annual salary of a judge of a court of common pleas consists of a state-paid share and a local share paid by the county as follows:

- The ***local share*** varies slightly depending on a county's population as determined by the decennial census. The local amount is based on 18 cents per capita in the county, but may not be less than \$3,500 or more than \$14,000.
- The ***state share*** is equal to the annual salary minus the local share. Substitute House Bill 712 of the 123rd General Assembly provided annual salary increases each year from 2002 through 2008. The annual salaries of the judges and justices of the court will increase by the lesser of 3% or the percentage increase in the Consumer Price Index (CPI) over the 12-month period ending on September 30 of the previous year. In the case of judges for whom a portion of the salary is paid locally, the entire amount of the increase is added to the state share.

The Supreme Court of Ohio estimates that, when the new judge is added to the Erie County Court of Common Pleas for a term to begin January 2, 2005, the annual salary of a judge of a court of common pleas will be \$116,100. Of that amount, based on the 2000 Census, Erie County will have to pay the \$14,000 maximum annual local share required under current law. The state will cover the remainder of the annual salary, which in FY 2006 (July 1, 2005 through June 30, 2006), the first full state fiscal year of the new common pleas court judgeship, amounts to \$102,100.

Retirement

State and local elected officials are exempt from membership in PERS (Public Employees Retirement System), unless they choose to become members. Most do. Therefore, this analysis includes PERS payments, which assumes that the new judge added to the Erie County Court of Common Pleas joins PERS. The state and local PERS contributions would work as follows:

- The state contributes at the rate of 13.31% of its supplemental salary amount, while the county pays 13.55% on its base share amount.
- Under that PERS contribution formula, Erie County will pay \$1,897 annually, while the state will contribute \$13,590 in FY 2006, the first full state fiscal year of the new common pleas court judgeship.

Other state costs

In addition to PERS, the state also makes contributions for other purposes, totaling approximately 8.69%, which includes 1.45% of gross salary for Medicare for all employees hired after April 1986, 0.67% for workers' compensation, 0.28% for the administration of the Central Accounting System, and approximately 6.29% in health insurance contributions. It should be noted that the state's share in health insurance contributions has been increasing and is expected to continue increasing in the future. These miscellaneous annual contributions will cost the state \$8,872 ($\$102,100 \times 8.69\%$) in FY 2006, the first full state fiscal year of the new common pleas court judgeship.

Other Erie County costs

As a result of a restructuring of court operations planned to occur within the next few years, it appears that Erie County does not anticipate the need to hire any additional staff in order to support the new common pleas court judgeship. In addition, the county's existing courthouse will be undergoing renovations as part of a long-standing expansion plan. The current law library will be located elsewhere and the clerk of courts will be relocating to another area within the existing building. With minor modifications, additional courtroom space will be refitted at little or no additional cost to Erie County.

State and Erie County cost savings for visiting judges

State cost savings

Currently, the state assumes 86.4% of a visiting judge's salary, which, in FY 2003, translated into a total of approximately \$75,000 for the state share of visiting judges' salaries in Erie County. Based on LSC fiscal staff's research, it appears that Erie County's need for visiting judges will greatly diminish once the new court of common pleas judge takes office in January 2005. Thus, the state's annual costs associated with supporting the new common pleas court judgeship in Erie County (estimated at an annual total of \$124,562 starting with FY 2006) will be somewhat offset by an estimated annual savings of up to \$75,000 in visiting judges' salaries for Erie County that would presumably no longer be incurred.

Erie County savings

Currently, the county portion of a visiting judge's salary is 13.6%. During CY 2002, Erie County expended \$11,396 for visiting judges' salaries and \$7,642 in travel expenses, for a total annual expenditure of \$19,038 in support of visiting judges. Thus, the annual county costs associated with supporting the new common pleas court judgeship in Erie County (estimated at an annual total of \$15,897 starting with FY 2005) would be more than offset by an estimated annual savings of around \$19,000 in county expenses (based on CY 2002 expenditures) related to visiting judges for Erie County that would presumably no longer be incurred. Assuming that were true, Erie County could realize a cost savings of up to \$3,000 or so annually.

Reallocation of jurisdictional responsibilities of the Erie County Court of Common Pleas

Currently, the Erie County Court of Common Pleas has three judges, one for each of its three divisions: (1) Probate, (2) General, and (3) Domestic Relations. As noted, the bill will: (1) add a new judge to the General Division, and (2) reallocate the jurisdictional responsibilities of the current judges.

As a result of these changes, outlined in Table 1 attached, the Erie County Court of Common Pleas will have four judges (one judge of the Juvenile Division and three judges of the General Division), the Domestic Relations Division will be converted into the Juvenile Division, and the judge of the Probate Division will become a judge of the General Division. Judges of the General Division will hear cases involving criminal and civil matters, as well as domestic relations and probate cases.

With regard to the reallocation of jurisdictional responsibilities, it appears, based on LSC fiscal staff's research, that:

- The current caseload in Erie County does not require a specialized division created by statute to decide cases involving probate matters. These cases will be divided amongst the three judges of the General Division.
- The annual operating expenditures of the Erie County Court of Common Pleas will not increase.
- It is possible that Erie County may actually realize some minimal cost savings in relation to the annual expenditures of its court of common pleas due to possible efficiencies created by the restructuring of existing caseloads.

(II) Additional judge and division for the Logan County Court of Common Pleas

Judicial compensation costs

Base salary

The annual salary of a judge of a court of common pleas consists of a state-paid share and a local share paid by the county as follows:

- The *local share* varies slightly depending on a county's population as determined by the decennial census. The local amount is based on 18 cents per capita in the county, but may not be less than \$3,500 or more than \$14,000.

- The *state share* is equal to the annual salary minus the local share. Substitute House Bill 712 of the 123rd General Assembly provided annual salary increases each year from 2002 through 2008. The annual salaries of the judges and justices of the court will increase by the lesser of 3% or the percentage increase in the Consumer Price Index (CPI) over the 12-month period ending on September 30 of the previous year. In the case of judges for whom a portion of the salary is paid locally, the entire amount of the increase is added to the state share.

The Supreme Court of Ohio estimates that, when the new judge is added to the Logan County Court of Common Pleas for a term to begin January 2, 2005, the annual salary of a judge of a court of common pleas will be \$116,100. Of that amount, based on the 2000 Census, Logan County will have to pay \$8,281 (2000 county population of 46,005 x 18 cents per capita) as required under current law. The state will cover the remainder of the annual salary, which in FY 2006 (July 1, 2005 through June 30, 2006), the first full state fiscal year of the new common pleas court judgeship, amounts to \$107,819.

Retirement

State and local elected officials are exempt from membership in PERS (Public Employees Retirement System), unless they choose to become members. Most do. Therefore, this analysis includes PERS payments, which assumes that the new judge added to the Logan County Court of Common Pleas joins PERS. The state and local PERS contributions would work as follows:

- The state contributes at the rate of 13.31% of its supplemental salary amount, while the county pays 13.55% on its base share amount.
- Under that PERS contribution formula, Logan County will pay \$1,122 annually, while the state will contribute \$14,351 in FY 2006, the first full state fiscal year of the new common pleas court judgeship.

Other state costs

In addition to PERS, the state also makes contributions for other purposes, totaling approximately 8.69%, which includes 1.45% of gross salary for Medicare for all employees hired after April 1986, 0.67% for workers' compensation, 0.28% for the administration of the Central Accounting System, and approximately 6.29% in health insurance contributions. It should be noted that the state's share in health insurance contributions has been increasing and is expected to continue increasing in the future. These miscellaneous annual contributions will cost the state \$9,369 ($\$107,819 \times 8.69\%$) in FY 2006, the first full state fiscal year of the new common pleas court judgeship.

Other Logan County costs

In addition to the new judge's annual salary and fringe benefits, two additional costs are expected as a result of the bill. According to the Logan County Board of Commissioners, those costs are as follows:

- (1) Annual operating expenses associated with the court of common pleas will increase in the range of \$10,000 to \$15,000.
- (2) One-time capital improvements and equipment purchases will be required totaling in the range of \$150,000 to \$250,000. These one-time costs would presumably be incurred in FY 2004, the year preceding the effective date of the new judgeship.

(III) Petitions filed with a board of elections

The bill prohibits a board of elections from invalidating a petition form filed with the board under certain circumstances. The prohibition appears to have no direct fiscal effect on the state or its political subdivision.

*LSC fiscal staff: Jamie L. Duskocil, Budget Analyst
Terry Steele, Budget Analyst*

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Table 1
**Reallocation of Jurisdictional Responsibilities of the
 Erie County Court of Common Pleas**

<i>Division Judge</i>	<i>Current Responsibilities</i>	<i>Proposed Responsibilities</i>	<i>Effective Date</i>
Domestic Relations ¹	Domestic Relations and Juvenile	<ul style="list-style-type: none"> • Cases involving persons under 18 years of age • Cases dealing with unruly, abused, dependent, and neglected children • Jurisdiction in certain adult cases, e.g., paternity, nonsupport, and contributing to the delinquency of minors 	January 2, 2007
General Division ²	Civil and Criminal	<ul style="list-style-type: none"> • Divorce, dissolution of marriage, legal separation, and annulment • Probate • Civil and criminal cases 	January 1, 2005
Probate ³	Probate	<ul style="list-style-type: none"> • Divorce, dissolution of marriage, legal separation, and annulment • Probate • Civil and criminal cases 	February 9, 2009
General Division ⁴	Not applicable; Judgeship does not yet exist	<ul style="list-style-type: none"> • Divorce, dissolution of marriage, legal separation, and annulment • Probate • Civil and criminal cases 	January 2, 2005

1. Successors to the judge whose term expires on January 1, 2007.
2. Successors to the judge whose term expires on December 31, 2004.
3. Successors to the judge whose term expires on February 8, 2009.
4. Judge whose term begins on January 2, 2005 and successors thereof.

Fiscal Note & Local Impact Statement

125th General Assembly of Ohio

Ohio Legislative Service Commission
77 South High Street, 9th Floor, Columbus, OH 43215-6136 ✧ Phone: (614) 466-3615
✧ Internet Web Site: <http://www.lsc.state.oh.us/>

BILL: **Sub. H.B. 127** DATE: **November 13, 2003**

STATUS: **As Enacted – Effective March 11, 2004** SPONSOR: **Rep. Jolivette**
(certain provisions effective December 11, 2003, and January 1, 2005)

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

CONTENTS: **Permits municipal corporations and townships to acquire tax-delinquent land for redevelopment free from tax liens, exempts from municipal taxation certain S corporation income, and makes numerous other changes**

State Fiscal Highlights

STATE FUND	FY 2004	FY 2005	FUTURE YEARS
General Revenue Fund			
Revenues	Potential gain or loss	Potential gain or loss	Potential loss
Expenditures	Potential increase	Potential increase	Potential increase
Other State Funds			
Revenues	Small loss	Small loss	Small loss
Expenditures	- 0 -	- 0 -	- 0 -

- Permits municipal corporations and townships to acquire tax-delinquent real estate before the foreclosure proceeding begins without necessarily assuming the entire tax debt. This could increase the number of local governments acquiring such properties, thus increasing the number and total value of property that is exempt from taxation.
- The state General Revenue Fund (GRF), which finances the 10% and 2.5% rollbacks on real property taxes and the state base cost funding for Ohio schools, would be affected by these exemptions. By reducing the amount of property taxes due, the amount of the rollbacks provided by the state is also reduced. However, in most cases the exemptions also increase the base cost funding payments made to school districts where these properties are located. The base cost increase is the larger of the two effects.
- Revision of the method of computing the sales factor and situsing property under the corporate franchise tax law may increase or decrease that tax, which goes mainly to the GRF (95.2%).
- Clarification that the sales tax does not apply to public transit buses that seat ten or fewer persons may result in a small loss of state revenues.
- Permitting persons operating buses that seat ten or fewer persons to apply for motor fuel tax refunds may result in a small loss of revenues to state highway funds.

- Extending the tax credit on the purchase of new manufacturing machinery and equipment will result in an estimated yearly loss beginning in FY 2006 of \$16.7 million to the GRF and \$0.8 million to local government funds.
- Permitting excess General Revenue Funds to be used to support economic development projects may increase outlays by the Department of Development by up to \$5 million, contingent on availability of moneys.
- Crediting interest earned on the School District Income Tax Fund to that fund would decrease GRF revenue.
- Changing the tax on trusts is expected to result in a small loss to the GRF.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2004	FY 2005	FUTURE YEARS
School Districts			
Revenues	Potential gain or loss	Potential gain or loss	Potential gain or loss
Expenditures	- 0 -	- 0 -	- 0 -
Counties and Other Local Governments			
Revenues	Potential gain or loss	Potential gain or loss	Potential gain or loss
Expenditures	Potential increase or decrease	Potential increase or decrease	Potential increase or decrease

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

- The bill permits municipal corporations and townships to acquire tax-delinquent real estate before foreclosure proceedings begin without necessarily assuming the entire tax debt. This may result in a savings to county governments.
- Under the bill, tax debt on such tax-delinquent real estate is forgiven to the extent other taxing districts waive their claims to delinquent taxes on the properties. Any waiver of delinquent taxes would reduce potential revenue for taxing districts. If a taxing district declines to waive its claim to the delinquent taxes, the liens for such taxes and costs would continue.
- Exempts acquired property from further taxation for as long as it is owned by the municipal corporation. This exemption reduces potential future tax revenue for local taxing districts. Statewide, school districts receive 65% of property tax revenue. The remaining 35% of property tax revenue benefits counties, municipalities, and other local taxing districts.
- As a result of the property tax exemptions, most school districts could see an increase in base cost funding, which is funded by the state. This is because the exemption would lower the taxable property valuation. School districts that are “on the guarantee” would not see an immediate increase in funding.
- Exempts from municipal income tax an S-corporation shareholder’s distributive share of the S-corporation’s net profits, except any income from Ohio-based activities that represents wages. Municipal income tax revenues from Ohio-based activities that do not represent wages and from any non-Ohio-based activities that represent wages would be reduced. The bill does not alter municipal income taxation of S-corporation income at the business entity level, which is probably the principal method of taxing S-corporation net income.

- Rounds homestead exemption tax reduction amounts for the low-income elderly and disabled to the nearest \$10 rather than \$100 when indexed for inflation, if rounding to the nearest \$100 does not increase the dollar amount of reduction in taxable value. In the aggregate, the fiscal effect of this change is expected to be small, but effects on individuals will vary with some gaining and others losing.
- Revising the method of computing the sales factor and situsing property under the corporate franchise tax may affect amounts collected under that tax, by an indeterminate amount. Local government funds receive 4.8% of revenues from this tax.
- Clarifying that the sales tax does not apply to public transit buses that seat ten or fewer persons may reduce sales taxes by a small amount to counties and transit authorities. Costs to transit authorities are reduced by the amount of sales taxes foregone by both the state and local governments.
- Permitting persons operating buses that seat ten or fewer persons to apply for motor fuel tax refunds may reduce revenues by a small amount. Part of these funds are distributed to counties, municipal corporations, and townships.
- Extending the tax credit on the purchase of new manufacturing machinery and equipment from 2005 to 2015 will reduce corporate franchise tax collections, and so reduce the portion of that tax going to local government funds by an estimated \$0.8 million per year.
- Crediting interest earned on the School District Income Tax Fund to that fund will increase revenues to local school districts, which levy an income tax.
- Changes to the law regarding prepayment of real property or manufactured or mobile home taxes appear likely to reduce expenses for counties.
- Authorizing Tax Incentive Review Councils to request information from owners of tax exempted property may help to identify properties no longer qualified for tax exemption, so may increase property tax revenues.

Detailed Fiscal Analysis

Overview

The bill would make the changes enumerated below. Discussion following is numbered to correspond to this outline: (1) permit counties, municipal corporations, and townships to acquire tax-delinquent land for redevelopment free from liens for the unpaid taxes, (2) revise municipal taxation of S-corporation income, (3) change the inflation adjustment rounding for homestead exemption tax reductions, (4) revise the method of computing the sales factor and situsing property to this state under the corporation franchise tax law, (5) clarify that the sales tax does not apply to public transit buses that seat ten or fewer persons, (6) permit persons operating such buses with that seating capacity to apply for motor fuel tax refunds, (7) extend from 2005 to 2015 the tax credit on the purchase of new manufacturing machinery and equipment, (8) revise the land reutilization program, (9) update enterprise zone city and population eligibility criteria, (10) limit the Tax Commissioner's authority to enforce certain components of enterprise zone agreements, (11) revise the information that is required to be in an enterprise zone agreement, (12) revise the requirements for redeeming delinquent land after a foreclosure proceeding has been instituted, (13) permit excess General Revenue Fund moneys to be used to support economic development projects, (14) require that interest earned on the School District Income Tax Fund be credited to the fund, (15) make changes to the law regarding the prepayment of real property or manufactured or mobile home taxes, (16) authorize tax incentive review councils to request information from owners of property exempted under urban renewal and community urban redevelopment projects, community reinvestment area programs, enterprise zone agreements, or tax increment financing ordinances or resolutions, (17) delay the effective date of new sales tax situsing provisions, (18) change the tax on trusts, (19) change Air Force Institute of Technology appropriation language, and (20) change local tax levy usage for police buildings.

(1) Acquisition of Tax-Delinquent Real Property

The bill authorizes counties, municipal corporations, and townships to acquire tax-delinquent real property without necessarily incurring the entire tax debt, and before substantial costs are undertaken by the county in proceeding with the foreclosure. The tax debt is discharged to the extent that overlapping taxing units (school districts, etc.) release their claims on the delinquent taxes. Under current law, local government units generally may acquire tax-delinquent property on relatively favorable terms only after the property has been offered for sale at public auction, and only after most of the costs of the foreclosure proceedings have been assumed; even then, the tax debt remains with the property, to be discharged, at least in part, from the eventual sale of the property by the local government.

The fiscal impact of this portion of the bill is difficult to determine. Legislative Service Commission believes there could be significant savings to counties by forgoing the foreclosure process. However, the provision may entice local governments to acquire more real properties than they would under current law. If this is the case, not only will taxing districts have the ability to forgo tax liens on the properties, but the number of properties no longer subject to taxation will also increase.

The 10% rollback on real property taxes and the state base cost funding for Ohio schools are both financed by the GRF. By increasing the number of properties exempt from taxation, thus reducing the amount of property taxes due, the amount of the rollback would also be

reduced. On the other hand, the exemption would lead to a lower property tax valuation in the corresponding school district, and this could cause the state's base cost funding payments to the school district to increase. The base cost funding increase is by far the larger of the two effects.

The cost of the provision will depend upon the assessed value of properties acquired by local government units, the tax rates in the corresponding taxing districts, and the likelihood that taxes would have been collected had the local government unit not acquired the property.

(2) Municipal Taxation of S-Corporation Income

The bill expands the scope of the exemptions from municipal income tax for net profits flowing through S-corporations to a shareholder. Under current law, such S-corporation income attributable to the corporation's business activities in Ohio is subject to the tax, and that attributable to activities outside Ohio is exempt from municipal income taxation, unless the income represents wages for services performed by the shareholder for the corporation, or the municipality taxed such income as of December 6, 2002, and voters approved continuing such taxation at the 2003 general election. The bill would exempt all S-corporation net profits flowing to a shareholder from municipal income tax, except any that represent wages, with two exceptions. Municipalities which on December 6, 2002, taxed shareholders' distributive shares of S-corporation income attributable to activities outside Ohio and whose electors voted to continue to tax such income at the November 4, 2003, election may continue to do so. Municipalities which on December 6, 2002, taxed shareholders' distributive shares of S-corporation income attributable to activities within Ohio may continue to impose the tax only until December 31, 2004, unless voters choose at the election to be held November 2, 2004, to continue the tax after that date. Removing this income from the municipal income tax base represents a loss of revenues to municipal corporations. However, some municipalities may not tax this source of revenue while a few others may not have any current payments from this source. The impact would vary widely among municipalities. The bill does not alter municipal income taxation of S-corporation income at the business entity level, which is probably the principal method of taxing S-corporation net income.

Only limited information on municipal income tax is available. We have no data on S-corporation income's share of Ohio municipal income tax collections. Neither municipalities for which we have information nor the Ohio Department of Taxation's data provide any breakout of the portion attributable to S-corporations as a share of total business income subject to tax or as a share of distributions to individuals. We do not have data breaking out municipal income tax collections on S-corporation shareholder distributive shares of S-corporation net profits from Ohio-based activities that do not represent wages, the category of taxable income that could no longer be taxed, with the exception noted above, by municipalities under the provisions of the bill.

Table 1 Current Law

Current municipal income taxation of S corporation net profits

Alternative bases - municipal corporation may choose one

- 1) Business entity net profits
 - 2) Shareholder distributive shares of net profits
-

Business entity tax

- 1) Entity/business activity wholly within municipal corporation
 - Net profits taxable
 - 2) Entity/business activity partly within municipal corporation
 - % of profits allocable to municipal corporation under factor formula is taxable
 - 3) Entity located outside municipal corporation
 - Profits generally not taxable, unless % of profits is allocable to municipal corporation under factor formula (example: sales to regular customers)
-

Shareholder tax

- 1) Shareholder owes tax on distributive share of S corporation net profit
- 2) Shareholder receives credit for taxes paid on distributive share at business entity level

The chief fiscal effect of H.B. 127 would be to exempt from municipal taxation the part of S-corporation income distributions attributable to its business activities in Ohio, except any which represent wages. The magnitude of this wage exception probably is small. Businesses deduct expenses, including wages, from revenues in calculating net income, thus their net income excludes wages. Municipal income tax law, in referencing the S-corporation shareholders' distributive share of net profits that represents wages as defined in the Internal Revenue Code, was aimed at abuses under which compensation for personal services the shareholder performs for the S-corporation was classified as net income rather than wages.

Table 2

Effect of Sub. H.B. 127 on municipal income taxation
of distributive shares of S corporation net profits:

	Apportioned to Ohio	Not Apportioned to Ohio
Represents wages (IRS definition)	Taxable	Taxable
Non-wage distributive shares	Taxable, becomes non-taxable (with exception)	Non-taxable (with exception)

Data on federal tax collections, which do separately break out data on S-corporations, but include both Ohio and non-Ohio based income, provide an indication of the share of S-corporation income in total taxable income. This approach is not fully satisfactory as a measure of the magnitude of S-corporation income in Ohio municipal income tax collections both because the share of S-corporation income in total income in Ohio may differ substantially from that nationwide and because Ohio municipalities may use different definitions of taxable income than the federal definitions. Also, the federal data are based on distributed shares whereas most of the Ohio tax is at the entity level. While these two methods should give approximately the same result at the national level, the two bases would lead to substantial differences at the municipal tax level.

In tax year 2000, federal tax statistics for the United States show individual adjusted gross income (AGI) for federal tax purposes totaling \$6.37 trillion. S-corporation net income in 2000 was \$199 billion, or about 3% of individual AGI. These figures suggest that S-corporation income may be a significant component of the income tax base of Ohio municipalities, but it could be a larger or smaller share than nationwide.

Current Ohio law pertaining to municipal income taxation of S-corporation income was shaped in recent years by three bills and a court case. H.B. 477 of the 123rd General Assembly, which became law in 2000, defines an S-corporation as a pass-through entity. It required that from January 1, 2003, any municipal corporation that taxes income from a pass-through entity credit a taxpayer domiciled in the municipal corporation for taxes paid to another municipal corporation by a pass-through entity that does not conduct business in the municipal corporation. It permitted a municipal corporation, also effective January 1, 2003, to tax S-corporation income either at the entity or the individual level, not both. (See Table 1.)

In 2001, the Ohio Supreme Court, in *Tetlak v. Bratenahl*, ruled that distributive shares of S-corporation earnings are taxable by Ohio municipal corporations, unless the income was intangible when received by the S-corporation. Tetlak's contention had been that his distributive share of net profits from an S-corporation in tax years 1990, 1991, and 1992 was intangible income, which was and is currently not taxable by Ohio municipalities.

S.B. 180 of the 124th General Assembly, effective April 9, 2003, precluded Ohio municipal corporations from taxing an S-corporation shareholder's distributive share of the S-corporation's net profits that are attributable to non-Ohio activities and that do not represent wages as defined by the Internal Revenue Service. It carved out an exception, however, for municipal corporations which taxed such income on December 6, 2002, and whose electors vote on November 4, 2003, in favor of continuing to tax such income. The Legislative Service Commission thinks few municipalities benefit from this exception.

S.B. 180 also deleted S-corporations from the definition of a pass-through entity for municipal income tax purposes, and so eliminated the requirement, put in place by H.B. 477, that a credit be given an S-corporation shareholder for taxes paid by the S-corporation to another municipality. The requirement that such a credit be given remained in place, however, for those municipalities subject to the exception noted above. H.B. 95 of the current biennium restored the credit for income tax paid to another municipality on distributive shares of S-corporation net profit. Those municipalities taxing at the individual level would have an incentive to shift to tax at the entity level.

In CY 2001, Ohio municipal income tax collections totaled \$3,353.9 million. On average 90% was collected from individuals and 10% from businesses, statewide.⁶ If approximately 3% (from the national figures above) of the roughly \$3 billion of municipal income tax collected from individuals was taxes on S-corporation income, about \$90 million of Ohio income taxes might be derived from taxation of S-corporations, assuming all municipalities tax S-corporation income and that taxing at the entity level in many instances and the individual level in others produce a similar result to the national figure. The loss of municipal income tax collections from passage of S.B. 127 could be much smaller than this. S-corporation net profits would still be taxable at the business entity level by Ohio municipal corporations. If, contrary to the provisions of H.B. 127, shareholder non-wage distributive shares of S-corporation net profits from Ohio activities remained taxable but those taxes were offset by credits as required under current law, taxes collected net of these credits on those distributive shares might be small.

However, S-corporation net profits apportioned to areas of the state not subject to the municipal income tax, taxed at a lower rate than in the municipality of residence of the S-corporation shareholder, or apportioned to another state would escape in whole or in part municipal income taxation. This would be more favorable treatment than is accorded to other types of pass-through entities, such as partnerships and limited liability companies, whose owners benefit from the requirement that credit be given for municipal income taxes paid at the business entity level but whose distributive shares are taxable at the individual level if not offset by such a credit. According to one official, this disparity could prompt some businesses organized as other types of pass-through entities to reorganize as S-corporations, although there would be many factors to consider.

⁶ According to Ohio Manufacturing Association publication.

3) Rounding of Tax Reduction Amounts for Low-Income or Disabled Property Owners

Under current law, low-income elderly or disabled property owners may reduce their property taxes. In tax year 2003, those with total incomes of \$12,800 or less may reduce their property's taxable value by the lesser of \$5,200 or 75%; those with total income of \$12,801 to \$18,700 may reduce their property's taxable value by the lesser of \$3,200 or 60%; and those with total incomes of \$18,701 to \$24,700 may reduce their property's taxable value by the lesser of \$1,000 or 25%. These income and tax reduction brackets are indexed to inflation, and under current law the results of the calculation are rounded to the nearest \$100. The bill would change this rounding. If rounding to the nearest \$100 does not increase the dollar amount by which taxable value is reduced, rounding is instead to the nearest \$10.

In the aggregate, the effects of this change are likely to be small, but rounding in such a way as to provide a tax reduction ensures that no individuals would lose. For example, a 1.3% inflation adjustment (about the recent annual rate of increase in the gross domestic product implicit price deflator, the inflation index required by this law) would increase the \$5,200 reduction in taxable value to \$5,300 but leave the other reductions unchanged, under current law with rounding to the nearest \$100. If rounding is instead as provided in the bill, the reduction in taxable value for those in the lowest income bracket would still be \$5,300, so those in the lowest income bracket would not be disadvantaged by the change. For the higher income brackets, rounding to the nearest \$10 would result in larger reductions in taxable value. The \$3,200 reduction would rise \$40 to \$3,240 and the \$1,000 reduction would rise \$10 to \$1,010. Individuals in these income brackets would benefit. Overall, however, effects of this change will be small. In general, the difference in tax reduction would be roughly 8% of the valuation difference so that a \$30 valuation difference might mean about a \$2 tax difference.

(4) Revise the Method of Computing the Sales Factor and Siting Property Under the Corporation Franchise Tax Law

The bill revises and clarifies the computation of the sales factor to conform to the changes made in H.B. 95 (the budget act) in corporate franchise tax law regarding the new method of determining multi-state corporation business and nonbusiness income for allocation and apportionment purposes.⁷ The bill also clarifies the siting of rents and royalties from real and tangible personal property, and sale of electricity and related services. These technical changes to corporate franchise tax law have minimal fiscal effects, if any.

⁷ Am. Sub. H.B. 95 adopted the distinction between "business" and "nonbusiness" income used by many other states in the Uniform Division of Income for Tax Purposes Act (UDITPA). UDITPA defines "business income" as income, including gains or loss, arising from transactions and activities in the regular course of the taxpayer's trade or business, and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts for the taxpayer's regular trade or business operations. "Nonbusiness income" means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible property, capital gains, interest, dividends and distributions, patent and copyright royalties, and lottery winnings, prizes and awards. Generally, business income will be apportioned to Ohio according to the same three-factor formula, and nonbusiness income will be entirely allocated either to Ohio or to another state. As a general rule under this new method, all income is presumed to be business income. The budget act also changed how the property and sales factors are computed, and how certain sources of nonbusiness income are allocated. For example, any property a corporation rents or leases will be included in the calculation of the property factor if the net income from these operations is "business" income. If the income were "nonbusiness" income, the property would be excluded from the property factor and thus would be allocated to Ohio or elsewhere.

(5) Clarify That The Sales Tax Does Not Apply To Public Transit Buses That Seat Ten Or Fewer Persons

This section of the bill changes the definition of “transit bus” to include vehicles having seating capacity for ten or fewer passengers. The intent of this section is to clarify that the sales tax does not apply to public transit buses that seat ten or fewer person. The dollar amount of buses purchased in this category is thought to be small. To the extent that public transit systems are paying sales and use tax on their purchases, this provision will result in a loss of a small amount of sales tax revenue to the state and to local governments, and will save transit systems a similar amount of expenses.

(6) Permit Persons Operating Buses That Seat Ten or Fewer Persons to Apply for Motor Fuel Tax Refunds

Based on the same change of definition as (5) above, this section will result in loss of a minimal amount of motor fuel tax revenue to the state.

(7) Extend from 2005 to 2015 the Tax Credit on the Purchase of New Manufacturing Machinery and Equipment

Under Revised Code section 5733.33, a nonrefundable credit is allowed against the corporate franchise tax for a portion of the purchase cost of new manufacturing machinery and equipment, if certain criteria are met. The bill extends the period for which this credit can be claimed from 2005 to 2015. Extension of the period for claiming this credit will cost the state an estimated \$17.5 million per year. This loss would be shared between the GRF (95.2%) and local government funds (4.8%).

(8) Revise the Land Reutilization Program

Changes to Revised Code sections 5722.01 and 5722.02 under this part of the bill appear to be technical in nature and have no fiscal impact.

(9) Update Enterprise Zone City and Population Eligibility Criteria

Revised Code section 5709.61 sets several criteria, at least two of which must be met in order for an area to qualify to be designated an enterprise zone. The bill changes the reference to the decennial census in Revised Code section 5709.61, for calculations of population changes, from the 1990 census to the 2000 census. This change may make some areas eligible to be enterprise zones that would not otherwise be, and may make others not eligible that would be, but the fiscal effect on local governments, if any, is indeterminate. There would be no fiscal impact on the state.

(10) Limit the Tax Commissioner's Authority to Enforce Certain Components of Enterprise Zone Agreements

The limitation of the Tax Commissioner's authority in determining the accuracy of any tax exemption granted under an enterprise zone agreement, specified by these changes to Revised Code sections 5709.62 and 5709.63, does not appear to have fiscal effects. Local officials would still be responsible for determining whether an agreement was in compliance with the provisions of these code sections not within the purview of the Tax Commissioner's authority.

(11) Revise the Information Required in an Enterprise Zone Agreement

Changes to Revised Code section 5709.631 in this portion of the bill specify language that must be included in an enterprise zone agreement, but do not appear to have any fiscal effect.

(12) Revise the Requirements for Redeeming Delinquent Land After a Foreclosure Proceeding Has Been Instituted

The changes to Revised Code sections 323.25 and 5721.25 allow a person entitled to redeem land on which a foreclosure proceeding has been commenced, but before filing of an entry of confirmation of sale, to redeem the land by paying back taxes and any additional charges owed including penalties and interest, and by showing that the property complies with zoning and other requirements. Permitting such redemption of property might help preserve the value of the property. It would appear to involve neither any substantial gain nor loss to local government units. There would be no fiscal impact on the state.

(13) Permit Excess General Revenue Fund Moneys To Be Used To Support Economic Development Projects

This provision, in temporary law, would allow use of unspent and unobligated GRF cash balances, if sufficient, to be used to support economic development projects in an amount up to \$5 million during the fiscal 2003-2005 biennium. The Director of Budget and Management is to increase the Department of Development's appropriation if unspent and unobligated funds are sufficient. The bill appropriates these increases. This provision may increase state expenditures, depending on availability of cash balances. There would be no fiscal impact on local governments.

(14) Interest Earned on the School District Income Tax Fund To Be Credited to the Fund

This change to Revised Code section 5747.03 would increase revenues to local school districts with income taxes. Currently interest earnings from the fund are deposited in the GRF. GRF revenue for interest earnings would be reduced and interest earnings would be deposited in the fund.

(15) Make Changes to the Law Regarding the Prepayment of Real Property or Manufactured or Mobile Home Taxes

The changes to Revised Code section 321.45 allow county treasurers to take account of expenses incurred to process prepayments in determining discounts to be credited to taxpayers prepaying their property taxes, and to maintain either a separate record for each parcel or a single record for all parcels included in a prepayment agreement covering multiple parcels (or manufactured or mobile homes). These provisions appear to reduce expenses for counties.

(16) Authorize Tax Incentive Review Councils to Request Information from Owners of Tax Exempted Property

Under this change to Revised Code section 5709.85, a Tax Incentive Review Council may request information from a recipient of a tax exemption under urban renewal and community urban redevelopment projects, community reinvestment area programs, enterprise zone agreements, or tax increment financing ordinances or resolutions. The request may cover any information reasonably needed by the Council for it to determine whether the owner has complied with the terms of the agreement. The owner has ten days following receipt of the request in which to respond. To the extent that this provision facilitates identifying properties no longer eligible for tax exemption, it may increase property tax revenues to local governments. The amount of any such gain is undetermined.

(17) Delay the Effective Date of The Sourcing of Sales for Sales and Use Tax Purposes

This temporary law amendment of Sec. 3.18 of Am. Sub. H.B. 95 of the 125th General Assembly delays the effective date of a change in the sourcing location of a sale, determining the rate at which sales tax is to be charged, from January 1, 2004, to January 1, 2005. This delay will benefit some local governments and adversely affect others, but the overall effect is indeterminate. The effect on state sales and use tax collections is also indeterminate. However, LSC believes that the overall net fiscal effect, both for state and county sales and use tax purposes, is likely to be minimal.

(18) Change Tax on Trusts

The bill changes the calculation of apportionment factors for the tax on trusts, which may lower the income tax liability for certain trusts. Any decrease is expected to have a small negative effect on the GRF with no fiscal impact on the three local government funds supported by the personal income tax.

(19) Change Air Force Institute of Technology Appropriation Language

The bill amends Am. Sub. H.B. 95 of the 125th General Assembly to alter an earmark to line item 235-508, Air Force Institute of Technology, in the budget of the Board of Regents. H.B. 95 earmarked \$477,237 in FY 2004 and \$476,786 in FY 2005 from this line item to support the Wright Brothers Institute. The bill leaves the amount of the earmark unchanged, but specifies that the funds earmarked should be disbursed through the Miami Valley Economic Development Research Corporation.

(20) Change Local Tax Levy Usage for Police Buildings

The bill amends current law to permit funds generated by the passage of a tax levy in a political subdivision to be used for providing and maintaining buildings and building sites for police departments of that political subdivision. This provision adds these permitted uses to the current list of permitted uses for police departments, which permits the use of the funds for providing and maintaining motor vehicles, communications, and other equipment used by the police department.

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STATE FUND	FY 2004	FY 2005	FUTURE YEARS
Victims of Crime/Reparations (Fund 402)			
Revenues	Potential gain, minimal at most	Potential gain, minimal at most	Potential annual gain, minimal at most
Expenditures	Potential increase, up to \$1.5 million or more	Potential increase, up to \$1.5 million or more	Potential annual increase, up to \$1.5 million or more

Note: The state fiscal year is July 1 through June 30. For example, FY 2004 is July 1, 2003 – June 30, 2004.

- **Office of the Attorney General.** Based on a conversation with the Office of the Attorney General in relation to the database duties assigned to its Bureau of Criminal Identification and Investigation (BCII) under the bill, it appears that the associated annual operating expenses (staff, maintenance, and equipment) will exceed minimal, which means more than \$100,000 annually. How the Office of the Attorney General might cover those ongoing annual costs is, as of this writing, uncertain. Presumably, the Office of the Attorney General could draw on moneys from any number of its funding streams, including the General Revenue Fund (GRF), the General Services Fund Group, the Federal Special Revenue Fund Group, and the State Special Revenue Fund Group.
- **Incarceration and custody costs.** As a result of the bill's penalty revisions, it is possible that additional offenders may be sentenced to prison or that some offenders will be sentenced to prison for a longer stay than would have occurred under current law. It is also possible that additional juveniles may be committed to the care and custody of the Department of Youth Services or that some juveniles will be committed to the care and custody of the Department of Youth Services for a longer period of time than would have occurred under current law. As of this writing, however, LSC fiscal staff is unable to estimate the potential number of affected adults and juveniles or the possible related increase in DRC's annual GRF-funded incarceration costs or DYS's annual GRF-funded care and custody costs. Based largely on media reports, the failure to comply rate for Ohio's sex offenders in any given county appears to be anywhere from 10% to 30%.
- **Federal funds.** As Ohio has failed to comply with certain federal Sex Offender Registration and Notification (SORN) Law requirements, the federal government has started to withhold 10% of certain federal grant moneys, which, at this point in time, amounts to around \$1.89 million annually. Most of the moneys associated with these federal funds are distributed to local governments. According to the Office of Criminal Justice Services, the withholding of these federal moneys has caused the loss or reduction of funding for some programs on both the state and local level, especially if those affected state and local agencies could not find alternate sources of funding. It also appears that, should Ohio's SORN Law be brought into compliance with these federal requirements, then the state may regain the federal grant moneys that have been withheld to date.
- **Court cost revenues.** The state may gain some locally collected state court cost revenue for the GRF and the Victims of Crime/Reparations Fund (Fund 402) as additional sex offenders may be convicted of felony failure to comply with SORN Law requirements. As of this writing, even though the number of potentially affected adults and juveniles is uncertain, each of those state funds appears unlikely to gain more than a minimal amount of court cost revenues annually.

- **Victims of Crime/Reparations Fund (Fund 402) expenditures.** The bill allows the Office of the Attorney General to use the moneys deposited to the credit of Fund 402 to pay actual costs associated with programs for the apprehension, prosecution, and accountability of offenders, and the enhancing of services to crime victims, and caps the amount that may be used for those purposes at 5% of the balance of the fund at the close of the immediately previous fiscal year. In recent years, the fund’s ending, unencumbered cash balance has been around \$30 million. Assuming that were true in the future, then the maximum amount that could be available for these purposes would be around \$1.5 million annually.
- **County sheriff fees.** Permitting a sheriff to charge registered sex offenders certain fees should have no direct fiscal effect on state revenues and expenditures.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2003	FY 2004	FUTURE YEARS
Counties			
Revenues	(1) Potential gain in court cost, filing fee, and fine revenues, not likely to exceed minimal; (2) Potentially prevents loss of up to roughly \$1.89 million in federal grant moneys distributed by the state between various political subdivisions; (3) Potential one-time gain associated with possible restoration of \$1.89 million in withheld federal grant moneys that would be distributed by the state between various political subdivisions; (4) Potential gain in county sheriff fees, could easily reach \$10,000 to \$20,000 in certain counties	(1) Potential gain in court cost, filing fee, and fine revenues, not likely to exceed minimal; (2) Potentially prevents loss of up to roughly \$1.89 million in federal grant moneys distributed by the state between various political subdivisions; (3) Potential gain in county sheriff fees, could easily reach \$10,000 to \$20,000 in certain counties	(1) Potential gain in annual court cost, filing fee, and fine revenues, not likely to exceed minimal; (2) Potentially prevents annual loss of up to roughly \$1.89 million in federal grant moneys distributed by the state between various political subdivisions; (3) Potential gain in county sheriff fees, could easily reach \$10,000 to \$20,000 annually in certain counties
Expenditures	(1) Increase in criminal justice system costs associated with SORN Law changes, likely to exceed minimal in some counties; (2) Potentially prevents decrease of roughly \$1.89 million in federal grant moneys distributed by the state between various political subdivisions; (3) Potentially results in one-time possible gain of \$1.89 million in restored federal grant moneys that would be distributed by the state between various	(1) Increase in criminal justice system costs associated with SORN Law changes, likely to exceed minimal in some counties; (2) Potentially prevents decrease of roughly \$1.89 million in federal grant moneys distributed by the state between various political subdivisions	(1) Increase in annual criminal justice system costs associated with SORN Law changes, likely to exceed minimal in some counties; (2) Potentially prevents annual decrease of roughly \$1.89 million in federal grant moneys distributed by the state between various political subdivisions

LOCAL GOVERNMENT		FY 2003	FY 2004	FUTURE YEARS
		political subdivisions		
Municipalities				
Revenues	(1) Potential gain in court cost, fling fee, and fine revenues, not likely to exceed minimal; (2) Potentially prevents loss of up to roughly \$1.89 million in federal grant moneys distributed annually by the state between various political subdivisions; (3) Potential one-time gain associated with possible restoration of \$1.89 million in withheld federal grant moneys that would be distributed by the state between various political subdivisions	(1) Potential gain in court cost, filing fee, and fine revenues, not likely to exceed minimal; (2) Potentially prevents loss of up to roughly \$1.89 million in federal grant moneys distributed annually by the state between various political subdivisions	(1) Potential gain in annual court cost, filing fee, and fine revenues, not likely to exceed minimal; (2) Potentially prevents annual loss of up to roughly \$1.89 million in federal grant moneys distributed annually by the state between various political subdivisions	
Expenditures	(1) Increase in criminal justice system costs associated with SORN Law changes, possibly exceeding minimal in some municipalities; (2) Potentially prevents decrease of roughly \$1.89 million in federal grant moneys distributed by the state between various political subdivisions; (3) Potentially results in one-time possible gain of \$1.89 million in restored federal grant moneys that would be distributed by the state between various political subdivisions	(1) Increase in criminal justice system costs associated with SORN Law changes, possibly exceeding minimal in some municipalities; (2) Potentially prevents decrease of roughly \$1.89 million in federal grant moneys distributed by the state between various political subdivisions	(1) Increase in criminal justice system costs associated with SORN Law changes, possibly exceeding minimal in some municipalities; (2) Potentially prevents decrease of roughly \$1.89 million in federal grant moneys distributed by the state between various political subdivisions	

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

- **Federal funds.** As Ohio has failed to comply with federal SORN Law requirements, 10% of certain federal grant moneys are being withheld by the federal government, which means the state is losing around \$1.89 million annually. Most of the moneys associated with these federal funds are distributed to local governments. According to the Office of Criminal Justice Services, the withholding of these federal moneys has caused the loss or reduction of funding for some programs on the local level, especially if those affected local agencies could not find alternate sources of funding. The bill: (1) potentially results in the restoration of up to \$1.89 million in federal funds that have already been withheld, and (2) potentially prevents the future of loss of up to \$1.89 million in federal funds annually. Presumably, most of these federal moneys would be distributed by the state to various counties and municipalities to establish local criminal justice projects and programs.
- **County sheriffs.** The bill makes numerous changes to the duties and responsibilities of county sheriffs under the SORN Law, with the most fiscally notable components relating to: (1) aggravated sexually

oriented offenders, (2) victim and community notification duties, (3) address verification options, (4) transportation of offenders to court, (5) information collected from registrants, specifically their school or employment information, (6) additional out-of-county offenders, and (7) requirements of habitual sex offenders. The magnitude of the resulting fiscal effect on certain county sheriffs appears likely to exceed minimal annually, which means more than \$5,000.

- **County criminal justice expenditures.** The bill makes numerous changes to the SORN Law that will affect to varying degrees the operations of common pleas and county courts (and related prosecution, indigent defense, and sanctioning costs), with the most fiscally notable components related to: (1) requiring courts of common pleas to hold a hearing for certain sex offenders incarcerated in a state prison, (2) modifying the definition of sexually oriented offense, (3) creating a category of “presumptive registration-exempt sexually oriented offenses,” (4) revising the penalties associated with the failure to comply with the SORN Law, (5) eliminating the authority of the court to remove or terminate the compliance requirements imposed on certain sex offenders, (6) permitting landlords to evict an offender who is subject to the Law from residential premises within 1,000 feet of any school premises, and (7) removing certain language from the offense of “importuning.” The magnitude of the resulting fiscal effect on certain components of the criminal justice systems in certain counties (adjudication, prosecution, indigent defense, and sanctioning costs) appears likely to exceed minimal annually, which means more than \$5,000.
- **Municipal criminal justice expenditures.** Several provisions of the bill, e.g., criminalizing the failure of an adult sex offender or juvenile sex registrant to send an intent to reside to a county sheriff, will likely increase the number of sex offenders who fail to comply with the requirements of the SORN Law and could then face prosecution and subsequent sanctioning for a misdemeanor failure to comply. If there was an increase in the number of noncompliant persons and additional adults are charged with a misdemeanor failure to comply, then municipal criminal justice expenditures (adjudication, prosecution, indigent defense, and sanctioning costs) would likely increase. The magnitude of that potential increase for any given municipal criminal justice system is difficult to estimate, but two likely important determinants of those annual costs would be: (1) how the municipal criminal justice responds to various failures to comply, and (2) the number of, and frequency with which, sex offenders fail to comply. It is possible that the fiscal effect on some municipal criminal justice systems could exceed minimal annually, which means more than \$5,000.
- **Forcible entry and detainer actions/injunctive relief.** Legislative Service Commission fiscal staff has not gathered any information in the process of researching the bill’s fiscal effects suggesting that its forcible entry and detainer action and injunctive relief provisions would produce a significant burden for local courts and law enforcement. Thus, it would appear that the number of new evictions and injunctive relief actions that may require the involvement of local courts and law enforcement is likely to be relatively small in most, if not all, counties and municipalities with jurisdiction over such matters. Assuming that were true, then the annual cost for counties and municipalities to resolve these eviction and injunctive relief matters would be at most minimal, and it is also likely that counties and municipalities can recover some of those costs through the assessment and collection of service charges, filing fees, and judgments for costs.
- **Civil liability protection.** Presumably, the bill’s liability protection provision relative to the actions of a landlord will prevent the potential filing of such civil actions and thus save adjudication-related expenditures that local courts might otherwise have incurred. It also means that any related filing fee and court cost revenues that might have to an extent offset those adjudication expenditures would not be collected either. Those potential savings and revenue effects appear unlikely to exceed minimal in any given local jurisdiction annually.

- **Court cost and fine revenues.** The amount of local revenues that any given county or municipality could gain annually from the charging and successful prosecution of adult offenders and juvenile sex registrants who fail to comply with the provisions of the bill appears unlikely to exceed minimal on an ongoing basis, as it is very likely that many such persons will be indigent.
- **County sheriff fees.** Based on the number and types of sex offenders registered statewide as of February 2003, and the maximum amounts that a county sheriff would be permitted to collect from registered sex offenders, up to at least \$313,125 or more could be collected annually by county sheriffs statewide and deposited in each county's respective general fund. It is likely that urban counties have higher concentrations of registered sex offenders, which would mean that the county sheriff in one of those jurisdictions could annually collect relatively larger amounts from these sex offender fees than would the county sheriff located in one of the state's more rural counties. The collection of these fees will most likely defray some, but not all, of the annual operating expenses that a county sheriff incurs in handling the sheriff's sex offender registration and notification duties. Presumably, a county sheriff generally would not pursue the collection of these fees if the administrative costs associated with their collection exceeded the revenue that could be gained.
- **Civil actions.** Unpaid fees could be recovered in a civil action. Presumably, this would involve a county prosecutor filing a claim, including the payment of filing fees and court costs, with the small claims division of the municipal or county court having territorial jurisdiction over the matter. A county prosecutor could then recover not only the unpaid fees that were the subject of the claim, but also the filing fee and related court costs as well. At this writing, it does not appear that a large number of claims will be filed in the small claims divisions of municipal and county courts around the state in pursuit of unpaid fees. Thus, the resulting burden on the small claims divisions of municipal and county courts to resolve these matters would not be very costly. The small claims divisions of municipal and county courts would also be collecting additional revenues in the form of filing fees and court costs. The associated costs to municipal and county courts and related revenue gains would certainly not exceed minimal annually. It also seems unlikely that a county sheriff and prosecutor would generally pursue such civil actions if the cost of doing so significantly outweighed the potential benefits (revenues gained).

Detailed Fiscal Analysis

Summary of apparent fiscally notable provisions

The bill makes numerous changes to the existing Sex Offender Registration and Notification (SORN) Law, with the most fiscally notable appearing to be as follows:

- Modifies the definition of aggravated sexually oriented offense to include any rape involving the use or threat of force.
- Renames as a “child-victim oriented offense” certain crimes against children not committed with a sexual motivation that currently subject offenders and delinquent children to the SORN Law. (Hereinafter references to sex offenders and offenses generally refer to sex offenders and offenses and child-victim oriented offenders and offenses.)
- Modifies SORN Law violations to include failure to provide a notice of intent to reside.
- Increases penalties for SORN Law violations.
- Prohibits generally the court from removing or terminating the duty of a sexual predator, habitual offender, or aggravated sexually oriented offender to comply with the SORN Law’s requirements imposed at the time that such an offender was so classified.
- Modifies requirements placed on county sheriffs regarding the time frame in which community notification must occur and clarifies the community notification provisions as applied to multi-unit buildings.
- Modifies the required information that a sex offender must provide and where a sex offender must register, such that a sex offender will need to be registered in the county where that individual works or attends school if that location is different than their county of residence.
- Requires the Office of the Attorney General’s Bureau of Criminal Identification and Investigation (BCII), not later than January 1, 2004, to: (1) establish a searchable, public Internet database of all registered sex offenders in Ohio; and (2) establish and operate an Internet database enabling local law enforcement to remotely search by electronic means certain information maintained by BCII, including the State Registry of Sex Offenders and Child-Victim Offenders.
- Modifies the situations under which a court must conduct a hearing for certain offenders committed to the custody of the Department of Rehabilitation and Correction since the enactment of the SORN Law.
- Prohibits a sexually oriented adult offender from residing within 1,000 feet of any school premises, but establishes no criminal penalty for violating the prohibition.
- Permits a landlord to terminate a rental agreement entered into on or after the bill’s effective date that involves a person who is found to be on the State Registry of Sex Offenders and Child-Victim Offenders in violation of the prohibition and commence a forcible entry and detainer action.

- Provides that a landlord is not civilly liable in damages for injury, death, or loss to person or property that allegedly result from the decision not to terminate a rental agreement.
- Provides that certain owners or lessees of real property have a cause of action for injunctive relief against a person who violates the prohibition.
- Permits the Office of the Attorney General, subject to certain limitations, to use moneys deposited to the credit of the Victims of Crime/Reparations Fund (Fund 402) for the apprehension, prosecution, and accountability of offenders, and the enhancing of services to crime victims.
- Declares an emergency.

With regard to charging registered sex offenders certain fees, the bill most notably:

- Permits a county sheriff to charge a fee to register, register a change of residence, or verify a residence address of an adult offender who is required to register under the SORN Law.
- Establishes a limit of \$100 per registration year on the total amount in fees that a county sheriff may collect from an adult offender who is a sexual predator or an aggravated sexually oriented offender.
- Establishes a limit of \$50 per registration year on the total amount in fees that a county sheriff may collect from an adult habitual sex offender subject to community notification.
- Establishes a limit of \$25 per registration year on the total amount in fees that a county sheriff may collect from all other sexually oriented offenders.
- Requires a county sheriff to determine whether the offender is able to pay the fee.
- Requires a county sheriff to waive payment of the fee if the offender's income is less than 125% of the federal poverty level.
- Allows a county sheriff to permit an offender to pay the fee in accordance with a payment schedule established on the offender's ability to pay if the sheriff determines the offender's income is equal to or greater than 125% of the federal poverty level.
- Prohibits a county sheriff from requiring the payment of any fee from a delinquent child until the delinquent child reaches the age of majority.
- Permits unpaid fees to be recovered in a civil action.

Selective summary of current adult SORN Law

Table 1 below provides a selective summary of some of the registration and verification duties placed on adult sex offenders under the current SORN Law.

Table 1 - Selective Summary of Adult SORN Law		
SORN Designation	Current SORN Law	Number of Registrants*
Sexual Predator	Lifetime duty; Verification every 90 days; Judicial status change permitted	1,085 (12%)
Aggravated Sexually Oriented Offender	Lifetime duty; Verification every 90 days; Permanent classification	Not Available
Habitual Sex Offender	20 year duty; Verification annually; Judicial status change permitted	135 (1%)** 233 (3%)***
Sexually Oriented Offender	10 year duty; Verification annually; Judicial status change permitted	7,682 (84%)
Total Number Adult Sex Offender Registrants		9,135

* As of February 2003.

** With community notification requirement.

*** Without community notification requirement.

State fiscal effects

From the state's perspective, it appears that any of the fiscal effects generated by the bill will largely fall on the following four state agencies: (1) the Office of the Attorney General and its Victims of Crime/Reparations Fund, (2) the Office of the Attorney General's Bureau of Criminal Identification and Investigation (BCII), (3) the Department of Rehabilitation and Correction (DRC) and (4) the Department of Youth Services (DYS).

Office of the Attorney General (Victims of Crime/Reparations Fund)

The bill expands the purposes for which moneys deposited to the credit of the Victims of Crime/Reparations Fund (Fund 402) can be used. The primary purpose for the use of this fund's moneys is to provide payments to certain crime victims for certain losses associated with their victimization. In recent years, there have been minor expansions for the allowable uses of the moneys deposited to the credit of the fund. This expansion allows the Office of the Attorney General to use moneys in the fund to pay actual costs associated with the apprehension, prosecution, and accountability of offenders, and the enhancing of services to crime victims, and caps the amount that may be used for those purposes at 5% of the balance of the fund at the close of the immediately previous fiscal year. In recent years, the fund's ending, unencumbered cash balance has been around \$30 million. Assuming that were true in the future, then the maximum amount that could be available for these purposes would be around \$1.5 million annually.

BCII costs

Sex offender databases. The bill requires BCII to: (1) establish a searchable, public Internet database of all registered sex offenders in Ohio, (2) provide technical assistance to county sheriffs in establishing their own Internet sex offender database, (3) modify its database to include additional information such as an offender's work and/or school address, and (4) establish and operate an Internet database enabling local law enforcement to remotely search by electronic means certain information maintained by BCII, including the State Registry of Sex Offenders and Child-Victim Offenders. The two Internet databases that BCII must establish pursuant to the bill are required to be operational not later than January 1, 2004.

Public Internet database. Based on a conversation with the Office of the Attorney General on the matter of establishing a public Internet database of all registered sex offenders in Ohio, it appears that the annual operating expenses (staff, maintenance, and equipment costs) associated with these duties will be at least \$100,000 annually. How the Office of the Attorney General might cover those ongoing annual costs is, as of this writing, uncertain. Presumably, the Office of the Attorney General could draw on moneys from any number of its funding streams, including the General Revenue Fund (GRF), the General Services Fund Group, the Federal Special Revenue Fund Group, and the State Special Revenue Fund Group.

Law enforcement Internet database. The requirement that BCII establish and operate an Internet database enabling local law enforcement to remotely search by electronic means certain information maintained by BCII, including the State Registry of Sex Offenders and Child-Victim Offenders was added to the bill subsequent to its introduction. As of this writing, the Office of the Attorney General is still studying the cost implications of this local law enforcement database duty.

Child-victim oriented offender classification. The bill renames as "child-victim oriented offenses" certain crimes against children not committed with a sexual motivation. An offender committing such a crime is currently subject to the SORN Law. As a result of the new "child-victim" terms, BCII will have to modify: (1) its existing sex offender registry, and (2) prescribed forms that are made available to judges, officials, and sheriffs. As of this writing, the Office of the Attorney General is uncertain as to what the magnitude of these essentially one-time costs might be.

Information sharing. The bill expands the list of persons who may inspect the materials in the possession of BCII to also include the Registrar of Motor Vehicles, or an employee of the Registrar, for the purpose of verifying and updating any of the information so provided, upon the request of BCII. This provision essentially permits the two state agencies to share certain information and appears likely to generate little, if any, costs for BCII or the Registrar of Motor Vehicles.

DRC offender evaluation costs

The bill requires DRC to evaluate all offenders in its custody who were convicted, plead, or sentenced before January 1, 1997⁸ of a qualifying offense. In January 2003, as a result of the recommendations of the Governor's Sex Offender Registration and Notification Task Force, DRC conducted an in-house evaluation of 7,899 offenders. That being the case, then one would

⁸January 1, 1997 is the effective date of Ohio's Sex Offender Registration and Notification Law.

assume that DRC should not experience any fiscal effect from this provision of the bill. The bill also requires that the Department forward any risk assessment to a county prosecutor prior to an offender's determination hearing. The Department reports that it does not believe this will be a costly task, as the Department will only forward such a risk assessment if one has already been conducted. In their opinion, the bill does not require the Department to conduct a risk assessment if one has not already been conducted.

DRC incarceration and DYS care and custody costs

The bill revises the penalties associated with the failure of a sex offender to comply with their SORN Law requirements. Under the bill, the penalty associated with a violation would generally be the same as the level of seriousness as the underlying sexually oriented offense, up to a felony of the third degree, which is the maximum level of seriousness for a violation. For a repeat offender, a violation would generally be one degree higher than the level of seriousness as the underlying sexually oriented offense, up to a felony of the third degree, which is the maximum level of seriousness for a violation.

As a result of these penalty revisions, it is possible that additional offenders may be sentenced to prison or that some offenders will be sentenced to prison for a longer stay than would have occurred under current law. It is also possible that additional juveniles may be committed to the care and custody of the Department of Youth Services or that some juveniles will be committed to the care and custody of the Department of Youth Services for a longer period of time than would have occurred under current law. As of this writing, however, LSC fiscal staff is unable to estimate the potential number of affected adults and juveniles or the possible related increase in DRC's annual GRF-funded incarceration costs or DYS's annual GRF-funded care and custody costs. Based largely on media reports, the failure to comply rate for Ohio's sex offenders in any given county appears to be anywhere from 10% to 30%.

State revenues

The state may gain some locally collected state court cost revenue for the GRF and the Victims of Crime/Reparations Fund (Fund 402) as additional sex offenders may be convicted of felony failure to comply with SORN Law requirements. As of this writing, even though the number of potentially affected adults and juveniles is uncertain, each of those state funds appears unlikely to gain more than a minimal amount of court cost revenues annually.

Local fiscal effects

Based on LSC fiscal staff's review of the bill, any of the local fiscal effects generated by the bill will fall largely on the following entities: (1) county sheriffs, and (2) common pleas, municipal, and county courts (and related local prosecutorial, indigent defense, and sanctioning systems).

County sheriffs

The bill makes numerous changes to the duties and responsibilities of county sheriffs under the SORN Law, with the most fiscally notable components relating to: (1) aggravated sexually oriented offenders, (2) victim and community notification duties, (3) address verification options, (4) transportation of offenders to court, (5) information collected from registrants, specifically their school or employment information, (6) additional out-of-county offenders, and (7) requirements of habitual sex offenders.

(1) Aggravated sexually oriented offenders. The bill modifies the definition of aggravated sexually oriented offender to include an offender convicted of rape under force or the threat of force. Under current law, an aggravated sexually oriented offender is required to comply with virtually the same requirements as sexual predators, i.e., lifetime registration, community notification, permanent classification, and address verification every 90 days.

Information obtained from BCII indicates that a sizeable portion of offenders who are currently registered as sexually oriented offenders were convicted of a rape offense. That data, summarized in Table 2 below, appears to suggest that this provision could result in an increase of as many as 2,300 or so more sex offenders who would be subject to community notification (sexually oriented offenders plus habitual sex offenders without community notification). It is unclear as to how many of these sex offenders were convicted of a rape involving force or the threat of force.

An increase in the number of offenders classified as aggravated sexually oriented offenders will add to the ongoing SORN Law duties and associated annual administrative costs for a county sheriff. As of this writing, it is difficult to estimate the associated annual administrative costs. What appears more certain, however, is those costs will likely rise over time, as the number of offenders registering as aggravated sexually oriented offenders grows.

Sexual Predator	1,425
Habitual Sex Offender (with community notification)	42
Habitual Sex Offender (without community notification)	122
Sexually Oriented Offender	2,209
Total Number of Registered Sex Offenders Sentenced for Rape	3,798
Total Number Registered Sex Offenders (any sexually oriented offense conviction)	8,873

*Numbers were extracted in November 2002.

(2) Victim and community notification duties. The bill eases some of the duties related to the requirement that a county sheriff notify the community and victims of the whereabouts of specified sex offenders and juvenile sex registrants. Currently, a county sheriff must notify not later than 72 hours (3 days); the bill expands that deadline to not later than 5 days. This likely should somewhat ease the burden on a county sheriff to ensure timely notice, including perhaps overtime costs. The Buckeye State Sheriffs' Association has indicated that this provision will enable a county sheriff to use the postal service to deliver the necessary notification, as the longer period of time should be sufficient to ensure timely notice.

(3) Address verification. The bill allows a county sheriff to request certain persons verify that a sex offender or juvenile sex registrant is residing at an address. According to the Buckeye State Sheriffs' Association, when a sex offender registers a county sheriff generally does not question the accuracy of the information provided by that offender, and that, although this provision is permissive, a county sheriff may feel compelled to seek such verifications where applicable. The bill further compels the person from whom the address verification is requested to cooperate with the county sheriff's request. This provision may help a county sheriff to more easily verify the addresses of sex offenders who are living in multi-resident units, e.g., homeless shelters or apartment buildings.

(4) Transporting DRC prisoners. Upon enactment, the bill requires the sentencing court of common pleas to conduct a hearing for any offender incarcerated in a state prison who is convicted of an offense that qualifies as a sexually oriented offense. As of this writing, it appears that as many as 7,000 incarcerated offenders will have to be transported from their resident prison to the common pleas court that sentenced that offender, and, following their scheduled hearing to determine their status under SORN Law, transported back to their resident prison. Based on conversations with DRC and the Buckeye State Sheriffs' Association, it also appears the transportation duty and the associated costs will be borne by county sheriffs.

(5) Collecting additional information. As a result of a conversation with the Buckeye State Sheriffs' Association, it appears that, in most local jurisdictions, a county sheriff already collects registration and periodic address verification information from sexually oriented offenders in relation to their attendance at school or an institution of higher education or their place of employment. Thus, in most counties, the provision of the bill related the collection of this additional information largely codifies existing practice, and, as a result, is not likely to create any costly ongoing registration and verification burdens for most county sheriffs.

(6) Additional registrants. Under the bill, (1) certain offenders attending school or working in Ohio or in a different county than their county of residence, and (2) certain offenders as a result of expanding the definition of sexually oriented offense will be required to register. These provisions will increase county sheriff registration lists, but, at this point, LSC fiscal staff has found no information that might suggest what the magnitude of that increase could be for any given county sheriff.

(7) Habitual sex offenders. The bill will require some habitual sex offenders to register and periodically verify their residence with a county sheriff for as long as that offender is living. Under current law, the required registration and address verification duty is imposed for a period of 20 years. Thus, as a result of this provision, county sheriff registration and verification systems will be somewhat larger in the future than otherwise might have been the case under current law.

Local courts and related systems

The bill makes numerous changes to the SORN Law that will affect to varying degrees the operations of common pleas, municipal, and county courts (and related prosecution, indigent defense, and sanctioning costs), with the most fiscally notable components related to: (1) requiring courts of common pleas to hold a hearing for certain sex offenders incarcerated in a state prison, (2) modifying the definition of a sexually oriented offense, (3) creating a category of "presumptive registration-exempt sexually oriented offenses," (4) revising the penalties

associated with the failure to comply with the SORN Law, (5) eliminating the authority of the court to remove or terminate the compliance requirements imposed on certain sex offenders, (6) permitting landlords to evict an offender who is subject to the Law from residential premises within 1,000 feet of any school premises, and (7) removing certain language from the offense of “importuning.”

(1) Imprisoned offenders. The bill requires that courts of common pleas conduct a hearing for certain offenders who were convicted, plead, or sentenced for certain offenses before the SORN Law became effective on January 1, 1997 and are imprisoned upon the enactment of S.B. 5 for the purpose of determining the status of those offenders under the SORN Law.

There are three situations under which a court of common pleas will be required to conduct such a hearing as follows.

- (1) If an offender committed certain non-sexual offenses as defined by the bill, the court is required to hold a hearing to determine if the offense was committed to gratify the sexual desires of the offender.
- (2) If an offender is deemed by DRC to be a sexual predator, the court is required to hold a hearing to determine if it concurs.
- (3) If an offender is not deemed to be a sexual predator by DRC, the court is required to hold a hearing to determine if the offender is a habitual sex offender.

According to DRC, it currently houses approximately 7,000 incarcerated offenders for whom these hearing requirements could apply. Based on this estimate, it appears that the one-time adjudication, prosecution, and indigent defense costs associated with these hearings for a given county might easily exceed minimal, which means in excess of \$5,000.

(2) Sexually oriented offense. The bill modifies the list of offenses that are included under the definition of sexually oriented offense to include importuning. A first-time offender would likely be: (1) classified as a sexually oriented offender, and (2) required to register for 10 years. No community notification would be required.

(3) Presumptive registration-exempt sexually oriented offense. The bill creates a category of presumptive registration-exempt sexually oriented offenses that includes sexual imposition, voyeurism, and menacing by stalking with a sexual motivation. These offenses do not require automatic registration of first time offenders whose victims are over the age of 18. The bill, however, provides that a judge may remove the exemption and require the offender to register, if the judge deems that it is in the interest of public safety and justice. If such an offender committed a sexually oriented offense or presumptive registration-exempt sexually oriented offense in the future, the offender would automatically be eligible for categorization as at least a habitual sex offender. This new category of presumptive registration-exempt sexually oriented offenders will in all likelihood increase the size of county sheriff registration lists, but the magnitude of such increase for any given county sheriff is uncertain at this time.

(4) Failure to comply with SORN Law. Several provisions of the bill, e.g., criminalizing the failure of a sex offender or juvenile sex registrant to send an intent to reside to a county sheriff, will likely increase the number of sex offenders and juvenile sex registrants who fail to comply with the requirements of the SORN Law and could then face prosecution and subsequent sanctioning that might involve a jail or prison stay. If there were an increase in the number of

non-compliant persons and additional adults and juveniles are charged with the failure to comply, then county and municipal criminal justice expenditures (adjudication, prosecution, indigent defense, and sanctioning costs) would likely increase. The magnitude of that potential increase for any given local criminal justice system is difficult to estimate, but two likely important determinants of those annual costs would be: (1) how the local criminal justice responds to various failures to comply, and (2) the number of, and frequency with which, offenders and juveniles fail to comply. Additional failure to comply cases also means that counties and municipalities may gain court cost and fine revenues. The amount of these local revenues that any given county or municipality could gain annually, however, appears unlikely to exceed minimal on an ongoing basis, as it is very likely that many adults and juveniles will be indigent.

(5) Removal or termination of compliance requirements for certain sex offenders. The bill removes existing law allowing the court to consider removing or terminating the compliance requirements for certain SORN registrants. Following the bill's enactment, sexual predators, habitual sex offenders, and aggravated sexually oriented offenders will not be permitted to file for a change in their registration status. This likely means some possible savings in the local costs that might otherwise have been incurred to adjudicate such matters (including any related prosecution and defense costs). As of this writing, the magnitude of the potential annual savings to any given local jurisdiction is uncertain.

(6) Forcible entry and detainer actions and injunctive relief

(6)(a) Rental agreement terminations and injunctive relief actions. Generating a reasonably precise estimate of the potential local government fiscal effects of permitting: (1) a landlord to terminate certain rental agreements, and (2) certain persons to file a cause of action for injunctive relief is complicated by several difficult-to-measure variables. More specifically, LSC fiscal staff has no knowledge of any easy or readily available means of knowing: (1) how many sexually oriented offenders would already be in violation of the prohibition once it became law, (2) how many sexually oriented offenders might knowingly or unknowingly violate the prohibition in the future, (3) the frequency with which landlords are aware or will become aware of having entered into a rental agreement with a sexually oriented offender who is violating the prohibition, (4) the frequency with which landlords will opt to terminate such rental agreements, (5) the frequency with which landlords will actually have to go to court to evict a sexually oriented offender in violation of the prohibition, (6) the frequency with which certain owners or lessees of real property will file an action for injunctive relief, and (7) the frequency with which local law enforcement will have to physically evict a person in violation of the prohibition.

Despite these aforementioned uncertainties, LSC fiscal staff has not gathered any information in the process of researching the bill's fiscal effects suggesting that it would produce a significant burden for local courts and law enforcement. Thus, it would appear that the number of new evictions and injunctive relief actions that may require the involvement of local courts and law enforcement is likely to be relatively small in most, if not all, counties and municipalities with jurisdiction over such matters. Assuming that were true, then the annual cost for counties and municipalities to resolve these eviction and injunctive relief matters would be at most minimal, and it is also likely that counties and municipalities can recover some of those costs through the assessment and collection of service charges, filing fees, and judgments for costs.

(6)(b) Civil liability protection. The bill provides that a landlord is not liable in a tort or other civil action in damages for injury, death, or loss to person or property that allegedly results from the decision to not terminate a rental agreement or tenancy. Presumably, this provision will prevent the potential filing of such civil actions and thus save adjudication-related expenditures that local courts might otherwise have incurred. It also means that any related filing fee and court cost revenues that might have to an extent offset those adjudication expenditures would not be collected either. Those potential savings and revenue effects appear unlikely to exceed minimal in any given local jurisdiction annually.

(7) Importuning. The bill modifies the offense of importuning to remove certain language involving a person who solicits a person of the same sex to engage in sexual activity with the offender. This language was held by the Supreme Court of Ohio to be unconstitutional. Thus, the bill codifies the Court’s ruling. The likely affect of the Court’s ruling and this modification of the offense is that the number of importuning charges filed annually in Ohio would presumably decline from what might otherwise have been the number of such charges filed under current practice. At this time, however, it is unclear as to what the magnitude of that decline might be.

Federal compliance

Federal funds

The federal government had ordered Ohio and 13 other states to amend their SORN laws to comply with federal requirements by October 2001 or risk reductions in certain federal grant moneys. In June 2001, the federal Bureau of Justice Assistance stated that non-complying states, such as Ohio, would have 10% of certain grant moneys withheld each year if that state failed to be in compliance by October 2, 2001. That compliance deadline was extended for Ohio to October 1, 2002 for a portion of the federal requirements. The state also failed to bring Ohio’s SORN Law into compliance with other federal requirements that did not require state compliance until mid-November 2002. Table 3 below summarizes the federal compliance areas. According to the Office of Criminal Justice Services, the bill brings Ohio’s SORN Law into compliance with these federal requirements.

Table 3 - Guidelines for Federal Compliance	
Subject Area	Federal Requirement
Habitual Sex Offenders	Requires lifetime registration
Aggravated Offenses	Requires lifetime registration
Termination of Sex Offender Designation	Prohibits termination of any designation that requires an offender to register for life
Out-of-State Offender Registration	Offenders must register in the state if: (1) working in a state for more than 14 days or for an aggregate period exceeding 30 days in a calendar year; or (2) enrolled in any type of school on a full- or part-time basis
Offenders: Students or Employees at Institutions of Higher Education	Must register with the law enforcement agency having jurisdiction over the campus, including status updates on enrollment or employment termination

The specific federal grants that were affected by Ohio's failure to comply with federal requirements include the Byrne Memorial Criminal Justice Block Grant (CFDA #16.579) and the Local Law Enforcement Block Grant (CFDA #16.592). Between the two federal block grant programs, the state receives roughly \$18.9 million a year. These moneys are handled by the state's Office of Criminal Justice Services and are deposited in federal Fund 3L5, Justice Programs.

As Ohio failed to comply with federal law, the federal government is withholding 10% of the aforementioned federal grant moneys. This amounts to around \$1.89 million annually. Most of the moneys associated with these grant programs are distributed to local governments. According to the Office of Criminal Justice Services, the withholding of these federal moneys has caused the loss or reduction of funding for some programs on both the state and local level, especially if those affected state and local agencies could not find alternate sources of funding. It also appears that, should Ohio's SORN Law be brought into compliance with these federal requirements, then the state may regain the federal grant moneys that have been withheld to date.

County sheriff fees

Ohio's SORN system is growing and will continue to grow for at least several more years before any of the currently registered sex offenders will even be eligible for deletion from the system. One factor that will spur that growth is the enactment of Am. Sub. S.B. 3 of the 124th General Assembly, which, effective January 1, 2002, applied the SORN Law to children adjudicated delinquent for committing a sexually oriented offense. It appears that the number of delinquent children that could be subject to annually registering as sex offenders as a result of Am. Sub. S.B. 3 could easily approach 700 or more. Under the bill, a county sheriff cannot start collecting any SORN fees from a delinquent child until the child reaches their age of majority.

The Office of the Attorney General's Bureau of Criminal Identification and Investigation, which maintains the State Registry of Sex Offenders, has reported that, as of February 2003, there were 9,135 sex offenders registered in Ohio. Table 4 below provides a breakdown of those registered sex offenders, including their classification level, registration duties, and whether that offender's presence is subject to community notification.

Table 4 - Sex Offender Registrants				
Classification	Registration Duty*	Community Notification	S.B. 9 Maximum Annual Fees	Number of Registrants Statewide**
Sexual Predator	Lifetime duty; Verification every 90 days	Required	\$100	1,085 (12%)
Aggravated Sexually Oriented Offender	Lifetime duty; Verification every 90 days	Required	\$100	Not Available
Habitual Sex Offender	20-year duty; Verification annually	Discretion of sentencing judge	\$50	Notification 135 (1%)
			\$25	No Notification 233 (3%)
Sexually Oriented Offender	10-year duty; Verification annually	Not required	\$25	7,682 (84%)
Total Number of Sex Offender Registrants				9,135

*Under existing law, duties to register and provide notices regarding change of residence address within certain timeframes are imposed on sex offenders who are required to register with the appropriate county sheriff.

**Data as of February 2003.

Based on: (1) the number and types of sex offenders summarized in Table 4 above, and (2) the maximum amounts that a county sheriff would be permitted to collect from registered sex offenders, up to at least \$313,125 or more could initially be collected annually by county sheriffs statewide and deposited into each county's respective general fund. Presumably, urban counties have higher concentrations of registered sex offenders, which would mean that the county sheriff in one of those jurisdictions could annually collect relatively larger amounts from these sex offender fees than would the county sheriff located in one of the state's more rural counties.

Several caveats need to be attached to this \$313,125 annual estimate of additional county revenues as follows:

- (1) This estimate assumes all registered sex offenders would pay the maximum allowable annual amounts.
- (2) The bill simply permits a county sheriff to collect these fees; it does not require these fees be collected.
- (3) Some registered sex offenders will likely refuse to pay these fees. Some offenders will not pay, just as some will not adhere to their registration requirements.
- (4) The number of registered sex offenders will continue to rise for some time, and thus the amount of fee revenues that could be collected annually would increase as well.
- (5) It assumes that all sex offender incomes would be equal to or greater than 125% of the federal poverty level.⁹

⁹The federal poverty level is a function of: (1) the size of the family unit, and (2) the location of their residence. For example, in federal FY 2003, the federal poverty level for a one-person family unit that resides in Ohio is \$8,980. Therefore, under the bill, a sex offender's income would need to be less than \$11,225 (125% of \$8,980) for the county sheriff to waive fee payments.

Based on a conversation with the Buckeye State Sheriffs' Association, it appears that the collection of these fees will most likely defray some, but not all, of the annual operating expenses that a county sheriff incurs in handling the sheriff's sex offender registration and notification duties. For example, during testimony delivered in March 2002, Summit County Sheriff Drew Alexander reported that it cost his department \$60,000 annually to run their county Sex Offender Registration and Notification (SORN) system for 500 sex offenders: 430 sexually oriented offenders, 35 habitual sex offenders (13 with community notification), and 35 sexual predators. Based on that previously reported data, if Summit County charged the maximum allowable amount in fees, it could collect up to at least \$16,000 or more annually, which would only partially offset the more than \$60,000 that Summit County is spending annually to run its existing sex offender registration and notification system. As the number of registered sex offenders in Summit County is likely to have increased in the last year, the amount in fees that Summit County could collect annually would probably be larger.

It is uncertain as to how aggressively a county sheriff might pursue the collection of these fees if the administrative costs, such as tracking how much offenders have paid and determining their ability to pay, exceeded the revenues that could be gained.

Civil actions. Related to the issue of collection costs, under the bill, unpaid fees could be recovered in a civil action. Presumably, this would involve a county prosecutor filing a claim with the small claims division of the municipal or county court having territorial jurisdiction over the matter. Under current law, at the time of the commencement of such a civil action, a plaintiff is required to pay both of the following: (1) a filing fee, and (2) court costs. A county prosecutor could then recover not only the unpaid fees that were the subject of the claim, but also the filing fee and related court costs as well.

At this writing, it does not appear that a large number of claims will be filed in the small claims divisions of municipal and county courts around the state in pursuit of unpaid fees. Thus, new claims may be filed, but the number should not be extremely large, and the resulting burden on the small claims divisions of municipal and county courts to resolve these matters would not be very costly. The small claims divisions of municipal and county courts would also be collecting additional revenues in the form of filing fees and court costs. The associated costs to municipal and county courts and related revenue gains would certainly not exceed minimal annually.

It also seems unlikely that a county would generally pursue such civil actions if the cost of doing so significantly outweighed the potential benefits (revenues gained). One would think that a county sheriff and prosecutor would be somewhat selective in their use of a civil action, opting to use this court collection mechanism mostly when it involves a sex offender registrant that clearly has the financial means to pay the fees.

LSC fiscal staff: Laura A. Potts, Budget Analyst

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Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2003 – FY 2004*	FY 2005	FUTURE YEARS
Counties			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	One-time increase, potentially significant in certain counties	- 0 -	- 0 -

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

*It appears likely that the one-time local costs associated with the post-conviction DNA tests will fall across FYs 2003 and 2004.

- **Estimated post-conviction DNA testing costs.** The bill is silent on who would cover the cost of the one-time post-conviction DNA tests permitted by the bill. If local governments had to absorb the expense of post-conviction DNA tests, then the maximum total one-time cost for counties statewide is estimated at up to \$3.4 million or so.
- **County criminal justice expenditures.** The post-conviction DNA testing application process, in which applications are made to the original trial court for approval or denial, will create a one-time burden for the general divisions of common pleas courts, the clerks of common pleas courts, and county prosecutors. While the exact cost is unclear, in larger and more urban counties, it could exceed minimal, which means in excess of \$5,000.
- **Appeals.** Counties will also likely incur some additional one-time costs related to certain appeals in the sense that prosecutors and possibly public defenders would have to provide written briefs and oral arguments before the various courts of appeals or the Supreme Court of Ohio. This cost is also one of increased workload and administrative burdens. In larger and more urban counties that may be initially inundated with DNA test applications, some of which will likely be denied by common pleas courts, the cost for the one-time appeals process may approach and even exceed the minimal threshold. In smaller and more rural counties, the one-time costs associated with such appeals would presumably be much less.

Detailed Fiscal Analysis

Operation of the bill

The bill establishes a procedure that permits inmates currently serving a sentence for a felony conviction to petition for a post-conviction DNA test. This opportunity would not be available to every inmate. It would only be available to an inmate whose case and circumstances meet one of the following three conditions enumerated in the bill.

- (1) The inmate was convicted by a judge or jury of a felony resulting in either a death sentence or a prison term with at least one year remaining at the effective date of the bill.
- (2) The inmate must not have pleaded guilty or no contest to the offense for which the inmate is requesting DNA testing.
- (3) If the inmate pleaded guilty or no contest to the offense for which the inmate is requesting DNA testing, and has at least one year remaining on their prison term, then the inmate may also qualify for DNA testing under the terms of the bill, if the prosecuting attorney's office that originally prosecuted their case files a written statement to the effect that the prosecuting attorney's office is in agreement with the inmate's request for DNA testing.

New petitions

As of January 2003, the inmate population in the Department of Rehabilitation and Correction (DRC) was 45,044. The three previously noted conditions in the bill would significantly reduce the number of those inmates who will be able to utilize the post-conviction DNA test procedure.

Condition 1: Pleaded guilty or no contest

Most felony convictions stem from plea bargains or no contest pleas, and thus, initially at least under the bill, will not be eligible for a post-conviction DNA test. Data from the Ohio Criminal Sentencing Commission suggest that 92% of felony convictions are reached through a negotiated plea. This fact would reduce the inmate population eligible for a post-conviction DNA test, under the terms of the bill, to around 3,600.

Condition 2: Death sentence or at least one year left on a prison term

The bill also requires that any inmate petitioning for the post-conviction DNA test have at least one year remaining on their sentence at the effective date of the bill. Since we cannot be precise as to if and when the bill will become enacted, it is difficult to discern the exact percentage of inmates that will have more than a year left on their sentence on the bill's effective date. The most recent data from DRC suggest that about 37% of all inmates have less than one year left on their sentence. These inmates would, under the terms of the bill, be excluded from

petitioning for a post-conviction DNA test. Assuming this percentage is randomly distributed, if the 37% exclusion figure is applied to the previously estimated 3,600 inmates, the total number of eligible inmates becomes approximately 2,268 (3,600 inmates x 63%).

Condition 3: Application to the prosecuting attorney

An inmate that pleaded guilty or no contest to a felony offense committed prior to the effective date of the bill, with at least one year remaining on their prison term, may also qualify for DNA testing under the terms of the bill, if the prosecuting attorney's office that originally prosecuted their case files a written statement in response to the inmate's application to the effect that the prosecuting attorney's office is in agreement with the inmate's request for DNA testing. This third condition, in conjunction with conditions (1) and (2) noted above, will create an additional pool of inmates potentially eligible for DNA testing in the range of about 26,108.

This figure is based on the estimate that about 92% of the current DRC population will have pleaded guilty or no contest to the offense for which the inmate is requesting DNA testing. This would represent about 41,440 inmates (January 2004 inmate population of 45,044 x 92%). Assuming a random distribution, if the 37% with less than one year on their sentence exclusion figure is applied to the estimated 41,440 inmates, the total number of additional potentially eligible inmates becomes approximately 26,108 (41,440 inmates x 63%). The number of these inmates that would actually be granted a post-conviction DNA test, however, is likely to be fairly small. Based on a conversation with the Ohio Prosecuting Attorneys Association, county prosecutor's offices will be very confident in the quality of their work, and as a result, would generally not support such a request, unless presented with evidence of a serious miscarriage of justice.

Estimated post-conviction DNA testing costs

The Office of the Attorney General has previously estimated the cost for a post-conviction DNA test to be about \$1,500. Given the above estimate of approximately 2,268 or so eligible inmates, the *maximum* total one-time expense for post-conviction DNA tests would be up to \$3.4 million or so. This maximum estimated one-time expense could be further reduced by two additional realities. First, the bill will only allow a post-conviction DNA test to be conducted if there is a useable sample for testing and a protective chain of custody that has kept the sample intact, and that the identity of the inmate was a key issue at the original trial. Many of the felony crimes, for which inmates are serving sentences, had no DNA samples collected because it was not relevant to the identification of a defendant. While there is no way to accurately calculate such a number, it would further reduce the number of eligible inmates.

Second, presumably those who are guilty of the crime for which they were convicted will rarely seek a DNA test that would simply reconfirm their guilt. Given these factors, it is possible that the actual number of eligible inmates that will petition for the post-conviction DNA test could be perhaps as low as a few hundred. If, for example, the number of inmates filing a petition were 200, the one-time DNA testing cost would be \$300,000.

Upon the effective date of the bill, inmates currently in the prison system would have one year to request the post-conviction DNA test. Since the bill's effective date is uncertain, it is difficult to ascertain which fiscal year or fiscal years the costs associated with these post-conviction DNA tests will fall. Notwithstanding this issue of timing, this is a one-time expense

involving a single test and a fixed number of inmates. The bill is silent on who would pay for the one-time post-conviction DNA tests.

Application process

When an inmate submits a notice of intention to apply for a post-conviction DNA test, the clerk of the common pleas court will screen the notices for proper eligibility and provide eligible inmates with all application materials. Upon receipt of the formal applications, clerks of the common pleas courts must notify, in writing, the county prosecutor originally involved in the case and the Office of the Attorney General. This application review and notification requirement will generate a one-time increase in the workload of the clerks of common pleas courts, which may or may not exceed minimal cost, which means in excess of \$5,000.

If the inmate has not yet commenced any federal habeas corpus proceedings relative to the case in which the inmate was convicted, then the county prosecutor must file a response to the application for a post-conviction DNA test and the Office of the Attorney General is permitted to file a response. If, however, the inmate has commenced federal habeas corpus proceedings, then the Office of the Attorney General is designated as the entity that must file a response to the inmate application and the county prosecutor is permitted to file a response. In any case, the Office of the Attorney General or the county prosecutor must file a response stating whether each agrees or disagrees that the application should be accepted, and in the case of disagreement, a statement of the reasons for that disagreement.

The fiscal effect of this response duty on the state and counties is very difficult to quantify in terms of traditional budgets and dollars. The costs for the Office of the Attorney General and county prosecutors are probably best seen as potentially causing a temporary decrease in their administrative efficiency. Existing legal services resources will have to be stretched to ensure timely and appropriate responses to these applications for post-conviction DNA testing.

The inmate application must be submitted to the common pleas court in which the inmate was convicted of the offense for which the inmate is requesting a post-conviction DNA test and would be assigned to the judge of that court who was the trial judge in the case, or the successor in office of that judge. The judge so assigned is required to make an expedited determination as to whether the application should be accepted or rejected in accordance with the criteria set forth in the bill. The bill is silent on whether the court should or could schedule a hearing on the application; it neither requires, permits, nor prohibits the scheduling of a hearing by the court.

If all these local offices are subjected to an initial flurry of applications from most of the eligible, and many non-eligible, inmates, the combined time and expense to process the applications in compliance with the bill could exceed minimal in some larger and more urban jurisdictions, which means more than \$5,000.

Forms

The bill requires the Office of the Attorney General prescribe an application form and an acknowledgement form and distribute copies of the forms to the Department of Rehabilitation and Correction. As this requirement appears to mirror similar duties to prescribe forms assigned to the Office of the Attorney General in other recent legislation, it seems unlikely that the one-time cost to prescribe and distribute the form will exceed \$10,000.

Appeals

If an eligible inmate submits an application for DNA testing and the common pleas court rejects the application, that judgment is subject to appeal.

Supreme Court of Ohio

If the inmate were under sentence of death, the appeal would be made to the Supreme Court of Ohio. The potential number of eventual appeals to the Supreme Court would be fairly small since there are only about 200 inmates on death row and not all of these would be eligible and presumably not all would apply for testing. The one-time costs associated with handling those appeals would appear unlikely to exceed minimal for the Supreme Court.

Courts of Appeals

If the inmate were not under sentence of death, the appeal would be made to the court of appeals of the district in which the common pleas court rendering the judgment is located. There are 12 courts of appeals in Ohio, the judges of those courts are paid from the state treasury, and many of the court's employees, e.g., reporters, law clerks, secretaries, and other necessary employees are paid from the state treasury as well.

The caseloads of the courts of appeals will likely experience a one-time increase as a result of applications for DNA testing being rejected by common pleas courts. While difficult to calculate a precise cost per appeal, that one-time cost would likely be borne in terms of increased backlogs and reduced administrative efficiency.

Counties

Counties will also likely incur some additional one-time costs related to such appeals in the sense that prosecutors and possibly public defenders would have to provide written briefs and oral arguments before the various courts of appeals or the Supreme Court of Ohio. This cost is also one of increased workload and administrative burdens. In larger and more urban counties that may be initially inundated with DNA test applications, some of which will likely be denied by common pleas courts, the cost for the one-time appeals process may approach and even exceed the minimal threshold. In smaller and more rural counties, the one-time costs associated with such appeals would presumably be much less.

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Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2004	FY 2005	FUTURE YEARS
Counties			
Revenues	Gain, not likely to exceed minimal	Gain, not likely to exceed minimal	Gain, not likely to exceed minimal annually
Expenditures	Increase, likely to exceed minimal in some jurisdictions	Increase, likely to exceed minimal in some jurisdictions	Increase, likely to exceed minimal annually in some jurisdictions
Municipalities			
Revenues	Loss, not likely to exceed minimal	Loss, not likely to exceed minimal	Loss, not likely to exceed minimal annually
Expenditures	Decrease, not likely to exceed minimal	Decrease, not likely to exceed minimal	Decrease, not likely to exceed minimal annually

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

- **Domestic violence criminal cases.** It seems reasonable to conclude that, as a result of the bill, a number of domestic violence cases, potentially a relatively large number, will shift from municipal and county courts to common pleas courts where the processing of felony cases is generally considered to be more expensive.
- **Counties and domestic violence criminal cases.** From a fiscal perspective, the bill's penalty enhancement provisions will likely create the most noticeable local fiscal effects on county criminal justice systems, as the provisions will change the manner in which domestic violence offenders are charged, prosecuted, and sanctioned. It appears the likely effect is that annual county criminal justice expenditures will increase, probably more than minimally. Shifting cases out of the misdemeanor system into the felony system also means that counties will gain court cost and fine revenues. Although an estimate of how much revenue is difficult to calculate with precision at this time, it would appear that these revenue gains would be unlikely to exceed minimal annually.
- **Municipalities and domestic violence criminal cases.** Conversely, as a result of the bill's penalty enhancement provisions, municipal criminal justice systems will likely realize some expenditure savings, as cases are elevated into county criminal justice systems, and will also lose court cost and fine revenues that would otherwise have been collected. Although it is fairly difficult at this time to put a precise annual price tag on these local fiscal effects for municipalities, the expected decreases in expenditures and losses in revenues appear unlikely to exceed minimal annually.
- **Domestic violence temporary protection orders.** The bill's expansion of the circumstances under which a domestic violence temporary protection order (TPO) can be requested and issued likely means that additional TPOs will be requested and presumably issued. These possibilities create additional work for various components of local criminal justice systems, including municipal, county, and common pleas courts. The annual magnitude of that additional work and its associated costs to local governments is unclear at this time.
- **Protection order violations.** The bill increases the penalty offenders who violate a protection order would face under certain circumstances. It is unclear as to how many offenders would face this enhanced penalty. It is clear, however, that some number of these protection order violation cases will be elevated out of the misdemeanor jurisdiction of municipal and county courts and into the felony jurisdiction of common pleas courts. As a result, municipalities will likely lose court cost and fine revenues and possibly realize an

expenditure savings and counties will likely gain court cost and fine revenues and experience an expenditure increase. The size of those possible revenue and expenditure shifts between municipalities and counties annually is difficult to estimate at this time.

Detailed Fiscal Analysis

Operation of the bill

From a fiscal perspective, the bill most notably:

- Expands the list of prior offenses that enhance the penalty for domestic violence.
- Increases under certain circumstances the penalty for domestic violence from a felony of the fifth degree to a felony of the fourth degree or a felony of third degree.
- Expands the factors a court must consider in setting bail for a person charged with the offense of domestic violence or another specified offense involving a family or household member.
- Modifies the list of offenses for which certain persons may file a motion requesting the issuance of a domestic violence temporary protection order as a pretrial condition of the release of the alleged offender.
- Increases under certain circumstances the penalty for the offense of “violating a protection order” to a felony of the fifth degree or a felony of the third degree.

Certain prior offense penalty enhancements

Under existing law, an offender in a domestic violence case may have any subsequent offense enhanced from a misdemeanor of the first degree to a felony of the fifth degree. Also under current law, a domestic violence violation that involves the threat of harm to the victim is a misdemeanor of the fourth degree, with any such subsequent violation enhanced to a misdemeanor of the third degree.

Currently, if the offender has a previous conviction for victimizing a household or family member by means of any of the ten offenses listed in Table 1 immediately below, that offender would be subject to a penalty enhancement.

Table 1 Current Law: Prior Offenses Enhancing the Domestic Violence Penalty When Committed Against a Household or Family Member	
Domestic violence (M1 or M4*)	Aggravated trespassing
Felonious assault	Aggravated menacing
Aggravated assault	Menacing
Assault	Menacing by stalking
Negligent assault	Endangering children

*“M” denotes a misdemeanor offense, in this table, of the first or fourth degree.

The bill expands this list of prior offenses to any “offense of violence” (as defined in section 2901.01 of the Revised Code) that would trigger a penalty enhancement for knowingly causing or attempting to cause physical harm or recklessly causing serious physical harm to a family or household member.

If subsequent to having committed one of these prior offenses (from the list of prior offenses in either Table 1 or any “offense of violence,” as defined in section 2909.01 of the Revised Code), an offender who knowingly caused or attempted to cause physical harm or recklessly caused serious physical harm to a family or household member would have the penalty of their current offense elevated to a felony of the fourth degree. Offenders who have been convicted of committing two or more prior offenses (from the list of prior offenses in either Table 1 or any “offense of violence” as defined in section 2909.01 of the Revised Code) would be facing a penalty enhancement to a felony of the third degree for knowingly causing or attempting to cause physical harm or recklessly causing serious physical harm to a family or household member.

Provisions of current law related to threats of harm to family or household members are enhanced to a misdemeanor of the second degree. Offenders having two or more prior offenses (from the list of prior offenses in either Table 1 or “offense of violence,” as defined in section 2909.01 of the Revised Code) would be facing a penalty enhancement to a misdemeanor of the first degree. Table 2 shows the penalty enhancements that exist under current law and as proposed under the bill.

Table 2 Penalty Enhancements of Domestic Violence: Current Law vs. Senate Bill 50					
Type of Domestic Violence Act	Current Law		S.B. 50		
	1st Offense	2 or more Offenses	1st Offense	2nd Offense	3 or more Offenses
Causing/Attempting to cause physical harm	M1	<u>F5</u>	M1	F4	F3
Recklessly causing serious physical harm	M1	F5	M1	F4	F3
Threats of causing physical harm	M4	M3	M4	M2	M1

Key: M=misdemeanor, F=Felony, number following indicates the degree of felony or misdemeanor.

Factors in setting bail

The bill modifies what a court is required to consider when setting bail for a person charged with the offense of domestic violence or another specified offense involving a family or household member. Those modifications include: (1) specifying that the domestic violence provisions apply to any “offense of violence” (as defined in section 2901.01 of the Revised Code) or certain offenses against a family or household member, and (2) adding the offense of rape to the list of prior offenses that must specifically be considered when examining the offender’s prior criminal record. As a result of these modifications, at least two outcomes are possible. First, certain offenders may be required to post a larger bail amount than might have been the case under current law. Second, certain offenders may not be able to post the bail amount, or presumably, could be denied bail. This second outcome would extend the offender’s pre-trial jail stay and increase the local jurisdiction’s daily incarceration costs.

Protection orders

Relative to protection orders, the bill:

- Expands the list of offenses for which certain persons may file a motion requesting the issuance of a domestic violence temporary protection order to include any “offense of violence” (as defined in section 2901.01 of the Revised Code) committed against a person who was a family or household member at the time of the violation.
- Enhances under certain circumstances the penalty for the offense of “violating a protection order” to a felony of the fifth degree or a felony of the third degree.

Domestic violence temporary protection order (TPO)

The bill clearly expands the number of circumstances under which a TPO can be requested and issued, which in turn would affect the workload of municipal, county, and common pleas courts, prosecutor offices, witness/victim assistance programs or victim advocates, clerks of court, and law enforcement agencies. All of these components of local criminal justice systems are involved in the issuance, filing, serving, and enforcement of TPOs. As a result of this provision, there will likely be more TPOs requested and issued, and local criminal justice system costs to administer TPOs will rise; the annual magnitude of these cost increases is uncertain at this time.

Penalty enhancement for protection order violations

Relative to current law, the bill increases under certain circumstances the penalty for violating a protection order of any type as follows:

- Under current law, a first-time violation of a protection order is a misdemeanor of the first degree, while a subsequent violation is a felony of the fifth degree.
- The bill broadens the circumstances that elevate violating a protection order to a felony of the fifth degree to include previous convictions/guilty pleas to violations of stalking protection orders, previous offenses of menacing by stalking, aggravated menacing, or menacing.

- The bill provides that violating a protection order while committing a felony is a felony of the third degree.

For calendar year 2001, the Franklin County Municipal Court reported that 377 charges of violating a protection order were filed in that court. If one assumes that Franklin County mirrors the rest of the state, then a simple population-based extrapolation would suggest that approximately 4,200 violations of protection orders may have been filed statewide in calendar year 2001.

It is unclear from the Franklin County Municipal Court's data as to how many of these charges were misdemeanors versus felonies, or as a result of the bill, how many of the charged individuals would face an enhanced penalty. It is clear, however, that some number of these protection order violation cases will be elevated out of the misdemeanor subject matter jurisdiction of municipal and county courts and into the felony subject matter jurisdiction of common pleas courts. As a result, municipalities will likely lose court cost and fine revenues and possibly realize an expenditure savings and counties will likely gain court cost and fine revenues and experience an expenditure increase. The size of those possible revenue and expenditure shifts between municipalities and counties annually is difficult to estimate, but may be significant in some circumstances and jurisdictions.

It is also possible that additional offenders could be sentenced to prison for violating a protection order, but the potential impact such a result might have on the size of DRC's inmate population and associated annual incarceration costs is difficult to estimate at this time.

State and local fiscal effects summary

It appears that, in general, the bill's changes to the manner in which various domestic violence matters are handled will create at least three discernible effects, as discussed immediately below.

(1) Criminal cases

A number of criminal domestic violence cases will be shifted out of the misdemeanor jurisdiction of municipal and county courts and into the felony jurisdiction of common pleas courts as a result of the bill's penalty enhancement provisions. In a study performed over a six-month period of the charges filed in the Franklin County Municipal Court, the Ohio Domestic Violence Network found that approximately 60% of the offenders charged with a domestic violence offense had at least one prior domestic violence-related offense in their criminal record. The Franklin County Municipal Court's data indicates that the filing of domestic violence charges is fairly common. For example, the Franklin County Municipal Court reported that 5,324 misdemeanor domestic violence charges were filed in that court in calendar year 2001.

Based upon the available data, it would be reasonable to conclude that, as a result of the bill's penalty enhancement provisions, a number of domestic violence cases, potentially a relatively large number statewide, will shift from municipal and county courts to common pleas courts where the annual processing of felony cases is generally considered to be more expensive. While it is difficult to predict an exact shift in caseload, some county criminal justice system's adjudication, prosecution, and indigent defense costs will increase in order to process and resolve additional domestic violence cases. Sanctioning costs will likely increase as well, with the

magnitude of that increase dependent upon the number of offenders that are sentenced to prison as opposed to being sanctioned locally.

Cases shifting out of the misdemeanor system and into the felony system also mean that counties will gain court cost and fine revenues. Although a precise estimate of that revenue in any given county is difficult to calculate at this time, it would appear that these revenue gains are unlikely to exceed minimal annually.

Conversely, municipal criminal justice systems will realize some expenditure savings as cases are elevated into county criminal justice systems, and those systems will also lose court cost and fine revenues that would otherwise have been collected. Although it is fairly difficult at this time to put a precise annual price tag on these local fiscal effects for municipalities, the expected decreases in expenditures and losses in revenues appear unlikely to exceed minimal annually.

(2) Protection orders

The bill expands the circumstances under which a protection order can be requested and issued. This means that additional protection orders will be requested and likely issued, which will create additional work for various components of local criminal justice systems, including municipal, county, and common pleas courts. The magnitude of that additional work and its associated costs to local governments is unclear at this time. If the bill results in an increase in the number of protection orders issued, then there may be additional work and associated cost increases for local law enforcement and the courts in relation to enforcing protection orders and adjudicating violations of those orders.

(3) Incarceration costs

As a result of the bill, it is highly likely that some offenders that would have been prison-bound under current law will be sentenced to longer prison terms and some offenders who would have been sanctioned locally under current law will be sentenced to a prison term instead. Table 3 immediately below presents the possible penalties for the various levels of offenses pertinent to this analysis.

<u>Table 3</u>		
Potential Sentences and Fines under Senate Bill 50		
Offense Level*	Potential Term of Incarceration	Maximum Possible Fine
M1	Up to 6 months (Jail)	Up to \$1,000
F5	6 to 12 months (Prison)	Up to \$2,500
F4	6 to 18 months (Prison)	Up to \$5,000
F3	1 to 5 years (Prison)	Up to \$10,000

Key: M=misdemeanor, F=Felony, number following indicates the degree of felony or misdemeanor.

A preliminary analysis previously performed by the Department of Rehabilitation and Correction indicates that the bill's penalty enhancement provisions could affect the length of stay of as many as 646, or possibly even more, prison-bound offenders annually.¹⁰ This DRC-generated estimate includes 615 offenders that would already be prison-bound under current law plus 31 offenders who would otherwise be sanctioned locally under current law but would be sentenced to prison as a result of the bill. The resulting increase in DRC's average daily inmate population will require it bring an additional 297 beds online.

The Department of Rehabilitation and Correction's annual incarceration cost per inmate was, as of March 2003, \$22,257. Thus, 297 additional inmate beds would increase DRC's annual incarceration costs by \$6.61 million (\$22,257 x 297 beds). That said, it is important to note that, because of time and data limitations, DRC research staff viewed these estimates at the time as somewhat speculative and incomplete.

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¹⁰ These estimates were generated for H.B. 508 of the 124th General Assembly, but as the bills are substantially similar to each other, these figures have been reused for this analysis.

Appendix

All House Bills Passed in 2003 that Became Law

House Bill	LIS	Subject
1	Yes	Establishes the Research and Development Loan Fund program, creates nonrefundable and transferable tax credits for payments made on loans from the Program, makes changes to laws governing various programs in the Department of Development, and makes appropriations for the Innovation Ohio Loan Fund in FY 2003, and for the Research and Development Loan Fund in FY 2004 and 2005
3	No	Conforming Ohio's public school accountability system to the No Child Left Behind Act of 2001
6	No	To modify the powers and duties of the Department of Health, Public Health Council, and Boards of Health relative to bioterrorism and other public health matters
7	No	Modifies the Corporation Law, Securities Law, and the Attorney General's enforcement authority
23	No	Allows the Ohio State Board of Optometry to license out-of-state or Canadian optometrists without examination regardless of whether the other state or Canadian province does the same for Ohio and clarifies education requirements in the engineers and surveyors licensing law
24	Yes	Permits dissolution of a village under certain conditions when the Auditor of State makes certain findings for villages with a population of 150 or less, and limits the presence of mayors courts to municipal corporations with a population of over 100 persons
25	No	Permits counties to include regulations in building codes to protect surface and subsurface drainage and eliminates the Residential Construction Advisory Committee
26	Yes	Adds one additional judge for the general division of the Warren County Court of Common Pleas to be elected in 2004 and adds one additional judge to the Henry County Court of Common Pleas to be elected in 2004 as judge of the domestic relations division
40	No	Makes program and budget modifications
43	No	Establishes requirements for the use of credible data in administering the Water Pollution Control Law

House Bill	LIS	Subject
49	Yes	Permits a board of county commissioners to enter into an agreement of affiliation with a citizens' reward program and requires the imposition of one dollar in additional court costs to assist in the funding of affiliated citizens' reward programs
50	No	Increases the penalty for failure to stop after an accident if the violation caused the death of a person and modifies the offenses of aggravated vehicular homicide and aggravated vehicular assault
51	No	Amends sections of the Revised Code relative to the election by a surviving spouse, notice of admission of a will to probate, accounts of administrators and executors, distribution of estate assets, presentation of creditors' claims to distributees, dispute resolution procedures in probate court, and time for presenting claims against an estate
53	No	Permits the maintenance of registered land records by various means
54	No	Provides for a removable sticker or banner to be issued along with a temporary instruction permit that reads "student driver"
70	No	Designates Interstate Route 75 as the "Pearl Harbor Memorial Highway; " designates a portion of State Route 126 as the "Governor William Bebb Bicentennial Roadway; " designates a portion of State Route 744 as the "Governor James M. Cox Bicentennial Roadway;" designates a portion of State Route 4 as the "Governor James E. Campbell Bicentennial Roadway;" designates a portion of U.S. Route 127 as the "Governor Andrew L. Harris Bicentennial Roadway"
72	No	Permits the execution of a Declaration for Mental Health Treatment
75	No	Allows a board of education to grant a high school diploma to veterans of the Korean Conflict, clarifies the educational qualifications for county sheriffs, and declares an emergency
81	No	Gives power to community improvement corporations to serve as an agent for grant applications and for the administration of grants
85	Yes>No	Requires licensure of ambulettes and medical air transport vehicles
86	Yes	Adds one judge to the Erie County Court of Common Pleas for a term to begin on January 2, 2005, reallocates jurisdictional responsibilities of current judges of the Erie County Court of Common Pleas, creates the Domestic Relations-Juvenile-Probate Division of the Logan County Court of Common Pleas, adds a judge to be the judge of that Division of the Logan County Court of Common Pleas for a term to begin on January 2, 2005, specifies that a board of elections may not invalidate a petition on the ground that its form does not satisfy statutory requirements, if the board originally

House Bill	LIS	Subject
		distributed the petition form and, at the time of distribution, it did not satisfy statutory requirements, and declares an emergency
87	No	Transportation Budget Bill
91	No	Workers Compensation Budget Bill
92	No	Industrial Commission Budget Bill
95	No	Main Operating Budget Bill
97	No	Permits lease or lease-to-purchase options by adding this authority to various political subdivisions, including townships, township fire districts, joint fire districts, joint township police districts, and joint fire and ambulance districts for the procurement of police, road, or fire-fighting equipment and for real and personal property; and permits a telegraph or telephone company to construct telegraph or telephone lines upon, along, and beneath public roads, highways, and waters that are in the unincorporated area of a township
108	No	Requires that notice of unclaimed funds be mailed to owners by holders of the funds
127	Yes	Permits municipal corporations and townships to acquire tax-delinquent land for redevelopment free from tax liens, exempts from municipal taxation certain S corporation income, and makes numerous other changes
133	No	Specifies the process by which the Power Siting Board may hold hearings on possible violations of the power siting law, makes changes to the penalties for violations of the power siting law, and makes changes to the Energy Efficiency Revolving Loan Program
137	No	Makes changes relative to the appointment of statutory agents by foreign insurance companies doing business in Ohio and permits organizations of health care providers and organizations of insurance agents to sponsor small employer health care alliance programs
139	No	Specifies that insurance policies under the Financial Responsibility Law remain subject to their terms and conditions
143	No	To revise the law governing the labeling and sale of seed
152	No	To revise the statutes governing animal feeding facilities
159	No	Adds one additional judge for the Fifth District Court of Appeals, creates the separate office of clerk of the Clermont County Municipal Court for a term beginning January 1, 2004, and declares an emergency

House Bill	LIS	Subject
179	No	Permits suspension of the driver's licenses of offenders convicted of thefts by reason of causing a motor vehicle to leave the premises of a retail gasoline establishment without full payment for gasoline dispensed into the motor vehicle's fuel tank or another container, declares that those sections in the Revised Code that regulate theft of gasoline in certain circumstances are general laws, prohibits motion picture piracy; authorizes the detention of individuals suspected of motion picture piracy, and extends from January 1, 2004, to January 1, 2009, the time by which environmental audits must be completed in order to be within the scope of certain privileges and immunities that apply to such audits
311	No	To create Ohio's Best Rx Program

Yes means a local impact for both introduced and enacted.

Yes > No means a local impact as introduced, but not as enacted.

No > Yes means no local impact as introduced , but a local impact as enacted.

No means no local impact for both introduced and enacted.

All Senate Bills Passed in 2003 that Became Law

Senate Bill	LIS	Subject
4	Yes	Implements the recommendations of the MR/DD Victims of Crime Task Force, makes related changes in the law, and establishes a mechanism for closing state-operated developmental centers of the Department of Mental Retardation and Developmental Disabilities that involves independent studies and public hearings
5	Yes	Makes numerous changes to the Sex Offender Registration and Notification Law and declares an emergency
8	No	Expands menacing by stalking to prohibit the posting of a computer-related message with intent to urge or incite a person to illegally stalk another, specifically includes electronic communication and telecommunication as a pattern of conduct under the crime, and clarifies the nature of the mental distress that constitutes an element of the crime
11	Yes	Establishes a mechanism and procedures for the DNA testing of certain inmates serving a prison term for a felony or under a sentence of death
12	No	Permits conversion community schools to be established as Internet- or computer-based community schools; permits schools to make up calamity days by adding hours onto the school day; declares an emergency
23	No	Requires the Liquor Control Commission to consider completion of training when considering enforcement actions against a liquor permit holder; makes changes to local option elections; and creates a new liquor permit
28	No	Prohibits any seller or telemarketer from engaging in any act or practice in violation of the federal laws dealing with telemarketing acts or practices and authorizes the Attorney General to enforce the state and federal laws dealing with telemarketing acts and practices and to conduct investigations of violations of those laws
37	No	Clarifies the responsibility for payment of sales and use tax for packaging materials used in highway transportation for hire; clarifies when the transfer of a motion picture is a sale, and modifies certain requirements for the mailing of notices by county treasurers for certain sales of delinquent tax certificates
44	No	To authorize, subject to Public Utilities Commission approval, cost-based rate adjustments for water and sewage disposal utility
47	No	Extends the time within which National Guard members and armed forces reservists who have been called to active duty must pay property taxes; extends educator licenses for active duty members; delays the effective date of certain

Senate Bill	LIS	Subject
		sales tax law changes; and declares an emergency
50	Yes	Enhances the penalty for domestic violence for certain repeat offenders, expands the authority for the issuance of a criminal domestic violence temporary protection order, makes other changes regarding criminal domestic violence temporary protection orders and victim's bill of rights, and enhances the penalty for violating a protection order while committing a felony offense
51	No	Establishes the Dentist Loan Repayment Program and makes changes to the Ohio State Dental Board
53	No	Ratifies the National Crime Prevention and Privacy Compact
55	No	Makes various changes affecting public library districts, nonprofit corporations, and regional councils of governments
57	No	Increases the penalty under specified circumstances for failure to disperse and misconduct at an emergency, clarifies the required proof for the offenses of riot and aggravated riot, modifies the definition of residential unit used in the SORN law, makes technical corrections and clarifications to the misdemeanor sentencing statutes, and declares an emergency
64	No	Provides for distribution of the trust estate upon a probate court's termination of small trusts and representation in a trust, specifies the circumstances for the revocation or nonrevocation of a power of attorney upon the termination of the marriage between the principal and the principal's spouse as attorney in fact or upon their entering into a separation agreement, specifies when the forfeiture or postponement provisions of a spendthrift provision in an inter vivos or testamentary trust apply to a property interest that qualifies as a qualified terminable interest property deduction, and specifies when such a trust may require or permit the accumulation for more than one year of any income of property that qualifies as such an interest
82	No	Modifies the authority of a county treasurer to invest public moneys in securities lending agreements, authorizes boards of county commissioners to approve the use of procurement cards for certain work-related expenditures, allows counties to authorize certain employee payroll deductions, allows enterprise zone agreements to be extended from 10 years to 15 years for uranium-related projects under certain conditions, modifies the authority of a political subdivision to reimburse taxing units for tax revenue foregone due to tax exemptions, changes the definition of "new employee" for the job creation tax credit, and exempts certain township road projects from the force account assessment form requirement
86	No	Extends immunity from liability for services provided by volunteer health care professionals and workers to additional health care facilities and locations and to

Senate Bill	LIS	Subject
		nonprofit health care referral organizations, provides additional requirements for the immunity of a health care professional, increases the maximum allowable income of individuals who may be served by volunteers having immunity from liability, and changes the effective date of the drug repository statute to January 1, 2004
92	No	Modifies parameters for use of new hire reports, changes unemployment compensation eligibility requirements, and makes other changes in unemployment compensation rules and procedures
97	No	Removes the terms "colored persons" and "Negroes" from the Revised Code and broadens the existing prohibition against discrimination in selling life insurance

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Fiscal Note & Local Impact Statement