

2005 Local Impact Statement Report

Bills Passed in 2004 That Became Law

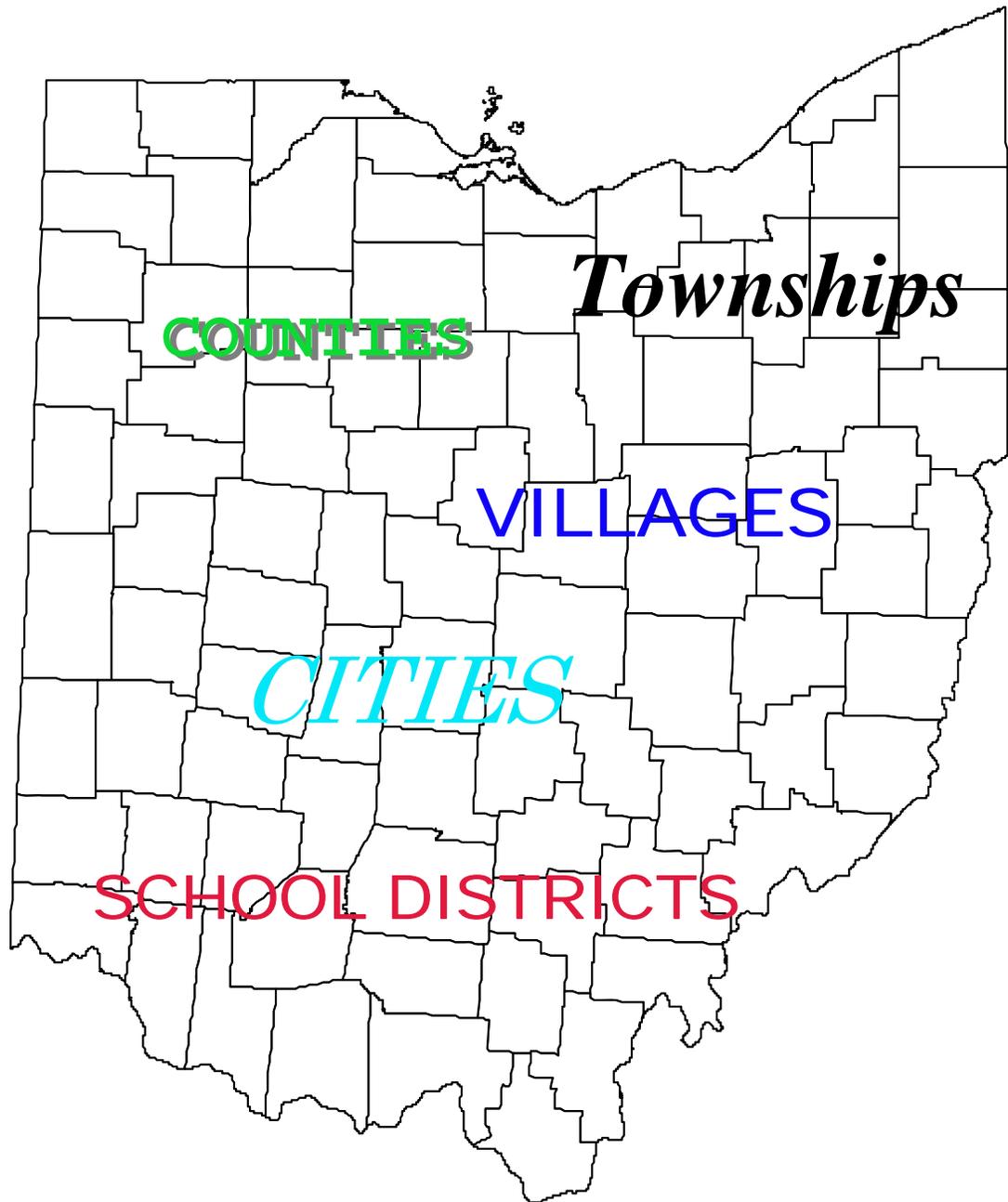


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Introduction

Why is this report being issued?

The Legislative Service Commission (LSC) 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 2004.

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 2004 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?

The purpose of LSC's local impact review 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's 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.

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 were no such bills in 2004. Occasionally an initial determination is wrong. If so, LSC corrects the error as soon as possible, and the correct determination is assigned to the bill from that point on.

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

The LIS Law has been modified three times: first, in 1997 by Am. Sub. H.B. 215 of the 122nd General Assembly; second, in 1999 by Am. Sub. H.B. 283 of the 123rd General Assembly; and third, in 2001 by Am. Sub. 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 2004, two enacted bills were exempt from the LIS Law pursuant to the reasons stated above. They are Sub. H.B. 434 (the tobacco budget bill), and Am. Sub. S.B. 189 (the capital reappropriations bill). Although not required, 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?

LSC 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

Printed copies are available upon request from the Ohio Legislative Service Commission at a cost of \$12.00 per copy. Call LSC at 614-387-3319 to receive a printed copy, or download the reports from the LSC website at <http://www.LSC.state.oh.us/>.

**COMMENTS ON 2004
LOCAL IMPACT STATEMENT REPORT**



COUNTY COMMISSIONERS ASSOCIATION OF OHIO

The 2004 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 13 bills that became law during 2004 for which a Local Impact Statement was prepared, all 13 impacted counties. Two of these bills, HB 361 providing funding for enhanced wireless 9-1-1 service and HB 414 establishing agriculture security areas, were major policy initiatives of the CCAO which we were pleased to see passed by the General Assembly. Three others, HB 262, HB 427, and SB 178, received significant attention from the CCAO with HB 262 being the best example of an "unfunded mandate" in its provision of a pay increase for poll workers to be totally born by the counties.

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 provisions of HB 95 [the FY 2004/2005 state budget bill] extending the "freeze" in Local Government Funds, a form of state revenue sharing with local governments; eliminating the reimbursement for lost revenue resulting from the state exemption of tangible personal property tax; accelerating the phase out of the inventory tax; continuing the woefully inadequate level of funding for indigent defense; or the reducing the funding for child support enforcement or child protective service, responsibilities the state expects the counties to perform. These "unfunded mandates" contained in the budget bill carry a far greater significance than the legislation reviewed in this Report.

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.

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.

CCAO wishes to acknowledge the professionalism and extreme competence of the LSC staff. We again thank the Legislative Service Commission for the opportunity to comment on this report and firmly believe that the LSC provides a true service to local governments in preparing Local Impact Statements under what is often challenging circumstances.



Ohio Municipal League

Our Cities and Villages ★ Bringing Ohio to Life

OHIO MUNICIPAL LEAGUE

The Ohio Municipal League has reviewed the draft for the 2004 Local Impact Statement Report and would like to make the following comments.

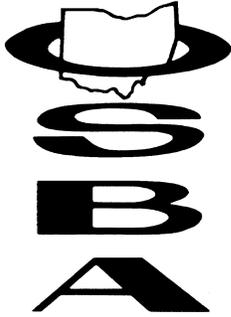
The report has improved with each passing session. The same can be said for the actual fiscal notes and local impact statements.

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 municipalities and other local units of government. However, the report does not give a comprehensive and accurate view of unfunded mandates from the perspective of municipalities 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. Significant fiscal impacts were incurred by municipalities as a result of the state budget process. In our view, there are also unfunded mandates contained in the budget bill that carry greater significance than the legislation reviewed in this report. To that end, we hope that one day the budget bill will be included in this report.

We are always optimistic that this document will gain a larger recognition with state decision makers as they consider imposing additional programs or duties on local governments or reducing or limiting funding.

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

The Ohio School Boards Association would like to thank the Ohio Legislative Service Commission and the efforts that have gone into preparing the 2004 Local Impact Statement Report. As per Section 103.143 of the Ohio Revised Code division (D) it allows OSBA and other political subdivisions to comment on this annual local impact statement report.

The issue of unfunded and underfunded mandates on schools and other political subdivisions continues to be of concern. Local impact statements help legislators understand the potential fiscal impact of proposed legislation they are considering. Their importance cannot be overstated.

To address concerns with the local impact statement law, OSBA continues to support the recommendations by the now defunct State and Local Government Commission. The Commission recommended that the General Assembly amend the local impact statement law to require impact statements throughout the process and to repeal the budget appropriations exceptions in the law.

The 2004 Local Impact Statement Report shows that 132 bills passed in 2004 and became law. LSC should have the authority to analyze the fiscal impact of bills throughout the whole 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.

OSBA would once again like to thank the LSC for their work in providing fiscal analysis of bills and resolutions and that this service is invaluable to legislators and the whole process. Local impact statements provide full information on legislation that threatens the fiscal integrity of a political subdivision. The knowledge of negative fiscal consequences for a political subdivision makes it less likely the bill will survive the legislative process. OSBA looks forward to working with the LSC and the Ohio General Assembly in improving the legislative process.



OHIO TOWNSHIP ASSOCIATION

On behalf of the Ohio Township Association (OTA), I would like to thank the Ohio Legislative Service Commission (LSC) for the opportunity to comment on the 2004 Local Impact Statement Report. The LSC Local Impact Report is an important educational resource for our members and the members of the General Assembly. The report highlights 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 underestimated. 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 2004 report, there are three bills with a negative fiscal impact on townships, one bill with a positive fiscal impact, and three bills with an indeterminate impact potentially resulting in a loss of revenue, increased expenditures, gain of revenue, or reduction in expenditures for township governments.

For example, House Bill 427 has a negative impact on township government. This legislation increases from 10 years to 15 years the number of years property within an enterprise zone may be exempt from taxation. Enterprise zones are created to attract business investments and jobs. Townships do not have the authority to create enterprise zones in an unincorporated area of the state but counties may. When a county creates an enterprise zone, thus exempting property within a township from taxation, the township will lose revenue and will see an increased cost to provide services to land that is now developed.

On the other hand, House Bill 432 has a positive impact on townships. This legislation permits townships that have a construction and demolition debris (C&DD) facility located within their township to collect four cents per cubic yard or eight cents per ton of debris deposited at such facility. Prior to HB 432 townships could collect from solid waste facilities but not C&DD facilities. While the monetary amount is small, it

provides additional revenue to those townships with C&DD facilities to help offset the negative impacts of these facilities in communities.

The list included in this report is not inclusive of all legislation passed in 2004 that has a local impact on townships. House Bill 255 increases the charges a township may collect for responding to false fire alarms, which could result in an increase in revenue. House Bill 299 permits a township to place a road on non-maintained status, which could result in a decrease in township expenditures. House Bill 185 permits townships to pay some or the entire premium for employees' long-term care insurance. This bill, should the township adopt such a resolution, could result in increased expenditures.

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

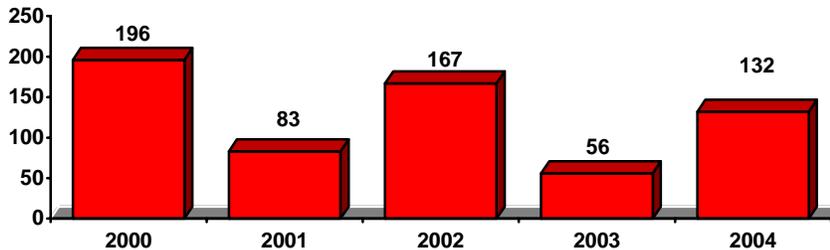
In 1995, the staff of the Legislative Budget Office (since merged with the Legislative Service Commission) produced the first local impact statement (LIS) as required by S.B. 33 of the 120th General Assembly. The purpose of local impact statements is to provide members of the General Assembly with more 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 2004 and during the 125th General Assembly. Comparisons are made with the bills enacted in 2004 and those enacted in previous years.

Bills Becoming Law

In calendar year 2004, the 125th General Assembly passed 99 House bills and 33 Senate bills, for a total of 132, the lowest number in a non-budget year since 1998. The number of enacted bills has varied in even numbered years (the non-budget years) from a high of 196 in 2000 to a low of 132 in 2004.

Figure 1. Bills Passed and Becoming Law, 2000 - 2004



Of the 340 bills introduced in 2004, 71 were determined to have a local impact, and 229 bills were determined to have no local impact. Of the 132 bills that became law, 119 were initially determined by LSC to have no local impact. The remaining 13 of the bills

were initially determined to meet LSC thresholds for a "yes" local impact determination.¹ All 13 of the bills passed in 2004 had a local impact when they were enacted.

Local Impact Determinations for 2003 and Prior Year Comparisons

Next, this report compares bills enacted in 2004 to prior years, with a word of caution about making comparisons to prior years. 2004 was the second year of the 125th General Assembly, during which many of the bills introduced in 2003, the first year of the general assembly, were enacted. Thus, in order to make valid comparisons, this section of the report analyzes bill introduction and enactment rates in 2004 to figures from 2002 and 2000, the second year of the preceding two General Assemblies.

Table 1 below compares the number of enactments during 2004—the second year of the 125th General Assembly—to the second year of the two preceding General Assemblies. Ten percent, or 13 of the bills enacted in 2004, were designated with a "Yes" local impact determination. This is approximately the same as in 2002, when 11%, or 18 of the bills enacted in that year triggered LSC's criteria for a "Yes" local impact determination. For 2000, which encompasses the second year of the 123rd General Assembly, the enactment rate for such bills was slightly higher at 14%.

Table 1. Local Impact Determinations of Enacted Bills

G.A.	Year	# of Yes (%)	# of No (%)	Total (%)
125th	2004	13 (10%)	119 (90%)	132 (100%)
124th	2002	18 (11%)	149 (89%)	167 (100%)
123rd	2000	28 (14%)	168 (86%)	196 (100%)

The following three tables provide more detailed data for the same period. 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 2004.

Table 2 shows that during the second year of the 125th General Assembly, 18% of all bills with an initial "Yes" local impact determination, or 13 of 71 such bills, were enacted. This compares with an enactment rate of 52% (119 of 229) for bills with a "No" local impact determination. Overall, about 38% of all the bills introduced in 2004 were enacted.

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

Table 2. Bills Passed by the 125th General Assembly in 2004 that Became Law

Initial Review	# of Introduced Bills	# of Enacted Bills	% Becoming Law
Yes	71	13	18%
No	229	119	52%
Total	340	132	38%

Table 3 presents figures for 2002, the second year of the 124th General Assembly. For that year, 39% of enacted bills met LSC's thresholds for an initial "Yes" local impact determination, compared to 54% of those bills determined to bear no local impact. Overall, 51 % of all the bills introduced in that year were enacted.

Table 3. Bills Passed by the 124th General Assembly in 2002 that Became Law

Initial Review	# of Introduced Bills	# of Enacted Bills	% Becoming Law
Yes	51	20	39%
No	272	147	54%
Total	323	167	51%

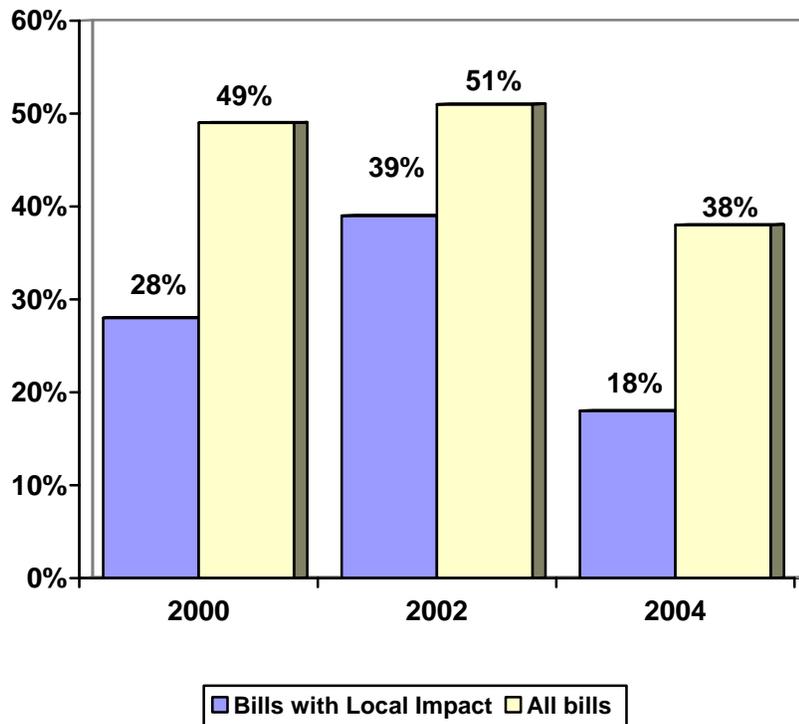
Table 4 shows that 28% of bills with a " Yes" local impact determination in 2000, the second year of the 123rd General Assembly were enacted, compared to 56% for bills with a "No" local impact determination. Overall, 49% of all the bills introduced in 1999 were enacted.

Table 4. Bills Passed by the 123rd General Assembly in 2000 that Became Law

Initial Review	# of Introduced Bills	# of Enacted Bills	% Becoming Law
Yes	98	27	28%
No	301	169	56%
Total	399	196	49%

The chart below consolidated the data in those previous tables for easy comparison, by showing the percentage of bills carrying a local impact that were enacted in 2004 compared to the final year of the previous two General Assemblies. It illustrates that a lower percentage of bills with a "Yes" local impact are enacted when compared to all bills. For example, 18% of bills with local impact were enacted in 2004, whereas 38% 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 13 bills passed in 2004 that became law and were designated with "Yes" local impact determinations in their "As Introduced" form. The political subdivisions affected are also shown.

Bill	Subject	Political Subdivision Affected ²			
		C	M	T	SD
H.B. 52	Expands the offenses of aggravated vehicular homicide, vehicular homicide, and vehicular assault to also prohibit causing death or serious physical harm as a proximate result of committing a reckless operation or speeding violation in a construction zone	✓	✓	✓	
H.B. 181	Permits a special commission to suspend an elected local government official charged with a felony related to the official's administration of, or conduct in, the performance of his or her duties; prohibits a person convicted of certain felony theft offenses from holding a public office or position of public employment or serving in certain unpaid volunteer positions with a state agency, political subdivision or private entity	✓	✓		
H.B. 204	Provides for the use of electronic records and signatures by county offices if specified security procedures are adopted, requires the Auditor of State to audit electronic record security procedures adopted by the counties, and creates a single definition of "Internet" to be used throughout the Revised Code	✓			
H.B. 262	Revises election law to increase the maximum poll worker pay and to permit state and local government employees to work as judges of elections and receive poll worker pay in addition to regular employment compensation and prohibits employees of county boards of elections from engaging in collective bargaining, and places additional requirements necessary for compliance with the Help America Vote Act of 2002	✓	✓	✓	
H.B. 331	Raises the cap on the amount of benefits health care plans must provide for the expense of screening mammographies, provides for annual adjustment of this cap, modifies existing limits on the fees a medical provider may charge for providing copies of medical records, and extend the applicability of those limits until December 31, 2008	✓	✓	✓	
H.B. 361	Allows for the administration, operation, funding and regulation of enhanced wireless 9-1-1 service	✓	✓		
H.B. 414	Provides for establishment of agricultural security areas and for tax exemptions on qualifying improvements in those areas	✓	✓	✓	✓
H.B. 426	Defines benefits for persons called to active military duty	✓	✓		
H.B. 427	Increases from 10 to 15 the number of years that enterprise zones or urban jobs and enterprise zone agreements may exempt property from taxation, creates the Job Development Initiatives Fund, transfers up to \$25.8 million of unclaimed funds, conveys state-owned real estate to Hamilton County, broadens the scope of activities which may be supported by state payments to municipalities and counties that attract federal jobs, creates a moldbuilder's lien, adds state buildings to the Clean Ohio Brownfield Revitalization Program, prevents repeal of the Employee Ownership Assistance Program at the end of this year, creates and makes an appropriation for the Industrial Site Improvement Fund for the purpose of making grants to counties for job development, makes appropriations, changes the tax increment financing law	✓	✓	✓	

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

H.B. 432	Replaces the construction and demolition debris license fee with a disposal fee and authorizes the Ohio Environmental Protection Agency to impose an additional fee for the purpose of funding ground water monitoring at construction and demolition debris facilities	✓	✓	✓	
S.B. 71	Changes the penalties for failure to attend as required by a notice for jury service and to serve as a juror, changes the circumstances under and methods by which jury service may be postponed, provides protections for employees and small employers when employees are summoned for jury service, eliminates the cap on juror compensation, shortens the period of jury service after which a juror may be discharged, allows the commissioner of jurors to establish an electronic notification system to allow jurors to be notified electronically that the juror shall attend in person the term or part of the term specified in the notice, makes other changes to the jury selection procedures, permits costs of summoning jurors to be assessed against a defendant in certain nonjury criminal trials, eliminates the four-day maximum on the amount of jury fees that are taxed as costs in a civil action, expands the circumstances in which a municipal court judge may appoint special constables to also include circumstances in which the municipal court has countywide jurisdiction and is a successor court of a county court that previously served the county, adds one judge to the Clermont County Court of Common Pleas to be elected in 2006, modifies the crediting of unused sick leave of public officials returning to public employment, and changes the status of the judge of the Berea Municipal Court from part-time to full-time	✓	✓	✓	
S.B. 178	Implements the recommendations of the MR/DD Victims of Crime Task Force, makes related changes in the law, and provides a mechanism for the closing of developmental centers of the Department of Mental Retardation and Developmental Disabilities that involves independent studies and public hearings	✓	✓		
S.B. 185	Repeals the Uniform Child Custody Jurisdiction Act and replaces it with the Uniform Child Custody Jurisdiction and Enforcement Act	✓			

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 2004 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. All of the 14 bills impacted counties, 11 affected municipalities, 1 affected school districts, and 7 affected townships.

Counties

Bill	Time Frame	Revenues	Expenditures	Net Effect
H.B. 52	Annual	Potential gain or loss	Potential increase	Indeterminate
H.B. 181	Annual	Potential gain	Potential increase	Indeterminate
H.B. 204	Annual	-0-	Potential increase to upgrade computer systems	Negative
H.B. 262	Annual	Potential gain of up to \$2.5 million for poll worker training and voter education for FY 2005-2006	Potential increase up to \$940,000 or more in poll worker costs; increase in voter education program costs	Indeterminate
H.B. 331	Annual	Potential minimal loss	Increase up to \$1.3 million in FY 2005; Increase up to \$2.2 million in FY 2006; and increase up to \$2.6 million, with the amount growing at a comparable rate over time in future years	Negative
H.B. 361	Annual	Gain up to \$6.0 million in FY 2005 in wireless assistance fund, Gain up to \$18.0 million until 12/31/08 in wireless assistance fund	Increase up to \$6.0 million in FY 2005 in wireless assistance fund, Increase up to \$18.0 million until 12/31/08 in wireless assistance fund	Indeterminate
H.B. 414	Annual	Potential loss	Potential minimal increase	Negative
H.B. 426	Annual	Potential decrease up to \$25,400	Potential increase	Negative
H.B. 427	Annual	Potential gain	Potential increase	Indeterminate
H.B. 432	Annual	Potential gain up to \$390,000	Potential minimal increase	Positive
S.B. 71	Annual	Potential gain from elimination of four-day maximum jury fees assessed in civil actions	Unknown potential increase in sick leave expenditures for affected public entities, Potential decrease related to potential gain in collection of jury fees in civil actions	Indeterminate
S.B. 178	Annual	Potential gain, not likely to exceed minimal	Increase, possibly exceeding minimal in some jurisdictions	Negative

Bill	Time Frame	Revenues	Expenditures	Net Effect
S.B. 185	Annual	Gain, not likely to exceed minimal	Increase, likely to exceed minimal in two types of counties: (1) those located in rural areas with relatively small populations, and (2) some located in urban areas with more moderately-sized populations	Negative

Municipalities

Bill	Time Frame	Revenues	Expenditures	Net Effect
H.B. 52	Annual	Potential gain or loss	Potential increase	Indeterminate
H.B. 181	Annual	Potential gain	Potential increase	Indeterminate
H.B. 262	Annual	-0-	Potential increase	Negative
H.B. 331	Annual	Potential minimal loss	Increase up to \$1.3 million in FY 2005, Increase up to \$2.2 million in FY 2006, and Increase up to \$2.6 million, with the amount growing at a comparable rate over time in future years	Negative
H.B. 361	Annual	Minimal gain	Minimal increase	Indeterminate
H.B. 414	Annual	Potential loss	Potential minimal increase	Negative
H.B. 426	Annual	Potential decrease up to \$25,400	Potential increase	Negative
H.B. 427	Annual	Potential gain	Potential increase	Indeterminate
H.B. 432	Annual	Potential gain up to \$520,000	-0-	Positive
S.B. 71	Annual	Potential gain from elimination of four-day maximum jury fees assessed in civil actions	Unknown potential increase in sick leave expenditures for affected public entities	Indeterminate
S.B. 178	Annual	Potential gain, not likely to exceed minimal	Increase, possibly exceeding minimal in some jurisdictions	Negative

School Districts

Bill	Time Frame	Revenues	Expenditures	Net Effect
H.B. 414	Annual	Potential loss	Potential minimal increase	Negative

Townships

Bill	Time Frame	Revenues	Expenditures	Net Effect
H.B. 52	Annual	Potential gain or loss	Potential increase	Indeterminate
H.B. 262	Annual	-0-	Potential increase	Negative
H.B. 331	Annual	Potential minimal loss	Increase up to \$1.3 million in FY 2005; Increase up to \$2.2 million in FY 2006; and increase up to \$2.6 million, with the amount growing at a comparable rate over time in future years	Negative
H.B. 414	Annual	Potential loss	Potential minimal increase	Negative
H.B. 427	Annual	Potential gain	-0-	Indeterminate
H.B. 432	Annual	Potential gain up to \$520,000	-0-	Positive
S.B. 71	Annual	-0-	Unknown potential increase in sick leave expenditures for affected public entities	Indeterminate

Part II

Local Impact Statements

Fiscal Notes & Local Impact Statements for Bills Enacted in 2004

Bill	Local Impact As Introduced	Local Impact As Enacted	Page Number
H.B. 52	Yes	Yes	11
H.B. 181	Yes	Yes	21
H.B. 204	Yes	Yes	25
H.B. 262	Yes	Yes	32
H.B. 331	Yes	Yes	40
H.B. 361	Yes	Yes	44
H.B. 414	Yes	Yes	50
H.B. 426	Yes	Yes	58
H.B. 427	Yes	Yes	64
H.B. 432	Yes	Yes	81
S.B. 71	Yes	Yes	89
S.B. 178	Yes	Yes	101
S.B. 185	Yes	Yes	116

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

*For the purposes of this analysis, it is assumed the state will not begin to fully experience any of the bill's fiscal effects until FY 2005.

- **Vehicular homicide and vehicular assault.** It appears that, as a result of the bill's vehicular homicide and vehicular assault prohibitions and related penalties, that a court may be less likely to sentence certain offenders to prison or sentence certain offenders to a shorter prison term than might otherwise have been the case under current law and sentencing practices. If that were in fact to happen, then the Department of Rehabilitation and Correction's (DRC) GRF-funded annual incarceration costs should theoretically at least decline. The annual magnitude of such a decrease is difficult to quantify as of this writing, but would likely be no more than minimal, as the available information suggests that the number of affected offenders will be relatively small. For the purposes of this fiscal analysis, a minimal decrease means less than \$100,000 per year for the state.
- **Peace officer victim and repeat drunk driver specifications.** It appears likely that offenders that might be affected by the bill's peace officer victim and repeat drunk driver specifications in the future are the type of offender that is already receiving a prison term under current law and sentencing practices. Thus, the likely fiscal effect of this provision will be to increase the length of stay for offenders who would already be prison-bound under current law and sentencing practices. As of this writing, the number of offenders that may be affected in this manner is uncertain, but appears to be relatively small. That said, the magnitude of the related increase in DRC's annual incarceration costs seems unlikely to exceed minimal. For the purposes of this fiscal analysis, a minimal increase means less than \$100,000 per year for the state.
- **State incarceration costs.** The net effect of the two bullet points immediately above on DRC's annual incarceration costs is likely to vary over time. In the initial years after the bill's enactment, DRC's annual incarceration costs may decline, probably no more than minimally, as a result of the vehicular homicide and vehicular assault prohibitions and related penalties. And at some point in the future, the bill's peace officer victim and repeat drunk driver specifications may increase the length of stay for offenders who would already be prison-bound under current law and sentencing practices. The magnitude of the related increase in DRC's annual incarceration costs seems unlikely to exceed minimal. Thus, the net effect of these offense and specification provisions on DRC's annual incarceration costs at some point in the future is likely to be minimal. In other words, it is uncertain whether DRC's annual incarceration costs will show a net increase or decrease, but that change, whatever its direction, would be no more than minimal. For the purposes of this fiscal analysis, "minimal" means less than \$100,000 per year for the state.
- **Discharge of a firearm.** As a result of the bill's graduated penalty structure, it is possible that additional offenders may be sentenced to prison or that some offenders could be sentenced to prison for a longer stay than may have occurred under current law. As of this writing, it appears to LSC fiscal staff that the number of affected offenders will be relatively small and that the resulting increase in DRC's annual incarceration costs would not exceed minimal. For the purposes of this fiscal analysis, "minimal" means an estimated cost of less than \$100,000 per year for the state.
- **Traffic law revisions.** The overall fiscal effect of the bill's traffic law provisions on the state may be to simultaneously: (1) generate revenues, (2) lose revenues, (3) increase expenditures, and (4) decrease expenditures. As of this writing, the net effect of these potentialities on the state would appear to be minimal. In other words, it is uncertain whether the annual revenues and expenditures of certain state funds will show a net increase or decrease, but that change, whatever its direction, would be no more than minimal. For the purposes of this fiscal analysis, "minimal" means less than \$100,000 per year for any affected state fund.

- **Penalty warning signs.** As a result of the bill, the Department of Transportation appears likely to design, produce, erect, and sell more penalty warning signs. Whether the associated costs and revenues, which would affect the Department’s Highway Operating Fund (Fund 002), will exceed minimal on an ongoing basis is uncertain as of this time. “Minimal” for the purposes of this fiscal analysis means in excess of \$100,000 annually.
- **Victims of Crime/Reparations Fund (Fund 402).** The state may also gain some locally collected state court cost revenue for the Victims of Crime/Reparations Fund (Fund 402) as a result of the possibility that some cases may be elevated from a misdemeanor to a felony. If, as assumed, the number of offenders affected in this manner annually is relatively small, then the amount of additional revenue that may actually be collected for Fund 402 is likely to be negligible. For the purposes of this fiscal analysis, “negligible” means less than \$1,000 per year for Fund 402.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2004	FY 2005	FUTURE YEARS
Counties and Municipalities			
Revenues	Minimal effect	Minimal effect	Minimal annual effect
Expenditures	Potential increase, uncertain as to whether costs might exceed minimal in some local jurisdictions	Potential increase, uncertain as to whether costs might exceed minimal in some local jurisdictions	Potential annual increase, uncertain as to whether costs might exceed minimal in some local jurisdictions
Townships			
Revenues	Minimal effect	Minimal effect	Minimal annual effect
Expenditures	Increase, potentially exceeding minimal in some jurisdictions	Increase, potentially exceeding minimal in some jurisdictions	Increase, potentially exceeding minimal annually in some jurisdictions

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

- **Counties and municipalities.** One noticeable local effect of the bill appears likely to result from the imposition of mandatory minimum stays of 15 and 7 days in local incarceration for certain misdemeanor violations of the offenses of vehicular homicide and vehicular assault, respectively. As of this writing, LSC fiscal staff has no readily available information indicating what the statewide average jail stay for these types of offenses is under current law and sentencing practices. Thus, it is unclear as to: (1) whether these offense modifications will increase average jail stays in any given local jurisdiction, and (2) whether if such an increase in average jail stays were in fact to occur would the magnitude of the associated costs exceed minimal, which means in excess of \$5,000 for affected counties and municipalities.
- **Discharge of a firearm.** As a result of the bill’s enhanced penalty structure, some criminal cases that would have been handled as misdemeanors by municipal courts or county courts may be elevated to felony status and end up being handled by courts of common pleas instead. As of this writing, it appears that the number of affected criminal cases will be relatively small. Thus, any resulting decrease in annual municipal criminal justice expenditures and related loss in annual court cost and fine revenues would be minimal at most. Similarly, any resulting increase in annual county criminal justice expenditures and related gain in annual court cost and fine revenues would be minimal at most. For the purposes of this fiscal analysis, “minimal” means no more than \$5,000 annually for any affected county or municipality.

- **Traffic law revisions.** The overall fiscal effect of the bill’s traffic law revisions on any given local government may be to simultaneously: (1) generate revenues, (2) lose revenues, (3) increase expenditures, and (4) decrease expenditures. As of this writing, it appears that the net effect of these potentialities on any given local government will be minimal. In other words, it is uncertain whether annual revenues and expenditures of any given local government will show a net increase or decrease, but that change, whatever its direction, would be no more than minimal. The magnitude of these potential revenue and expenditure shifts is likely to be minimal in any given local jurisdiction because the number of cases that will be affected by the bill annually should be relatively small. For the purposes of this fiscal analysis, “minimal” means no more than \$5,000 annually for any affected county or municipality.
- **Penalty warning signs.** As the bill requires certain penalty warning signs to be erected in a construction zone, it becomes rather difficult to estimate any associated local costs on an affected county or township because of variations in the amount of construction work in any given township or county in any given year. Presumably, in any given year, these local signage costs could possibly exceed minimal. However, as of this writing, LSC fiscal staff have not gathered any information that would permit one to predict more precisely how a given county or township might be affected by this signage requirement, and whether the magnitude of the related local cost for an affected county or township or the aggregated local cost statewide might exceed minimal as a one-time or ongoing annual expense.

Detailed Fiscal Analysis

Overview

For the purposes of this fiscal analysis, the bill’s most notable components include:

- Vehicular homicide and vehicular assault modifications.
- Peace officer victim specification and repeat drunken driving specification.
- Discharge of a firearm.
- Traffic law revisions.
- Penalty warning signs.
- Emergency clause.

Vehicular homicide and vehicular assault modifications

Aggravated vehicular homicide

Under current law, depending on the circumstances surrounding the violation, the offense of *aggravated vehicular homicide* is either a felony of the first, second, or third degree. The court is also required to impose a mandatory prison term under certain circumstances.

The bill adds a provision prohibiting causing death as a proximate result of committing reckless operation in a construction zone. Under the bill, a violation of this prohibition is a felony of the third degree. But, it is a felony of the second degree if, at the time of the offense, the offender was driving under a suspension or if the offender was previously convicted of or pleaded guilty to aggravated vehicular homicide, vehicular homicide, or vehicular manslaughter,

or any traffic-related homicide, manslaughter, assault offense, or has a certain number of prior OMVI violations.

Vehicular homicide

Under current law, *vehicular homicide* is generally a misdemeanor of the first degree, and a felony of the fourth degree under specified circumstances. The court is also required to impose a mandatory prison term under certain circumstances.

The bill adds a provision prohibiting causing death as a proximate result of speeding in a construction zone. A violation of this prohibition is essentially the same as it is under current law, which the exception that the court must impose a mandatory minimum of 15 days local incarceration if the violation is a misdemeanor of the first degree.

Vehicular assault

Under current law, *vehicular assault* is generally a felony of the fourth degree, and a felony of the third degree under specified circumstances. The court is also required to impose a mandatory prison term under certain circumstances.

The bill adds a provision prohibiting causing serious physical harm as a proximate result of speeding in a construction zone and generally classifies a violation of this prohibition as a misdemeanor of the first degree with a mandatory minimum of seven days local incarceration. In certain circumstances, a violation of this prohibition is a felony of the fourth degree.

Fiscal effects

In calendar year 2001, there were about 65 combined fatalities and injuries to pedestrians and workers in construction zones. Ohio statistics do not separate road construction workers from other pedestrians. Most such accidents appear to also involve speeding, and according to the Ohio Prosecuting Attorney's Association, prosecutors currently try to link speeding and recklessness and charge the offender with aggravated vehicular homicide or vehicular assault. Thus, the actual number of new first degree misdemeanor cases that could be created by the bill involving speeding alone as the proximate cause of the accident will likely be few in number statewide.

The bill's most noticeable local effect appears likely to result from the imposition of mandatory minimum stays of 15 and 7 days in local incarceration for certain misdemeanor violations of the offenses of vehicular homicide and vehicular assault, respectively. Under current law, a violation of a misdemeanor of the first degree carries a possible jail term of not more than six months and/or a fine of not more than \$1,000. As of this writing, LSC fiscal staff has no readily available information indicating what the statewide average jail stay for these types of offenses is under current law and sentencing practices. Thus, it is unclear as to: (1) whether these offense modifications will increase average jail stays in any given local jurisdiction, and (2) whether if such an increase in average jail stays were in fact to occur would the magnitude of the associated costs exceed minimal annually, which means in excess of \$5,000 for any affected county and municipality.

It appears that, as a result of the bill's new vehicular homicide and vehicular assault prohibitions and related penalties, that a court may be less likely to sentence certain offenders to prison or sentence certain offenders to a shorter prison term than might otherwise have been the case under current law and sentencing practices. If that were in fact to happen, then the Department of Rehabilitation and Correction's (DRC) GRF-funded annual incarceration costs should theoretically at least decline. The annual magnitude of such a decrease is difficult to quantify as of this writing, but would likely be no more than minimal, as the available information suggests that the number of affected offenders will be relatively small. For the purposes of this fiscal analysis, "minimal" means less than \$100,000 per year for the state.

Peace officer victim specification and repeat drunken driving specification

Peace officer victim specification

Under the bill, if an offender is convicted of or pleads guilty to aggravated vehicular homicide and the victim of the offense is a *peace officer*, the court is required to impose a prison term of five years. This prison term may not be reduced pursuant to judicial release, earned credits, any other provision of the Pardon, Parole, and Probation Law, or by DRC. Also, the offender must serve the mandatory prison term consecutively to and prior to any prison term imposed for the underlying aggravated vehicular homicide.

Repeat drunk driving specification

If an offender is convicted of or pleads guilty to aggravated vehicular homicide and also is convicted of or pleads guilty to a specification that charges that the offender previously has been convicted of or pleaded guilty to three violations of *state OMVI*, *state OMVUAC*, or an equivalent offense, the court is required to impose a prison term of three years. If a court imposes such a prison term on an offender, the offender must serve the mandatory prison term consecutively to and prior to any prison term imposed for the underlying aggravated vehicular homicide. Additionally, the prison term may not be reduced pursuant to judicial release, earned credits, any other provision of the Pardon, Parole, and Probation Law, or by DRC.

Fiscal effects

These two provisions of the bill provide for mandatory fixed prison terms for aggravated vehicular homicide convictions involving the fatality of a peace officer and/or the presence of three prior OMVI convictions. This mandatory prison term is to be meted out in addition, and to be served consecutively, to any sentence given by the court for the underlying aggravated vehicular homicide offense. These provisions of the bill do not produce any new criminal cases nor do they change the court that would have subject matter jurisdiction over such matters. Consequently, these provisions should not produce any new costs for local jurisdictions. The predominate fiscal effect will be borne by the state and will stem from the mandatory three- and five-year prison terms as required by the peace officer and repeat drunk driving specifications.

The number of offenders that would receive these additional mandatory sentences is difficult to predict. In calendar year 2000, there were 350 alcohol-related traffic fatalities in Ohio, of which 213 involved the death of the drunk driver at fault. This leaves 137 fatalities for which the driver would be subject to prosecution. A very small number of alcohol-related

fatalities involve a peace officer. It is not clear how many of these remaining cases would involve offenders with three prior OMVI convictions.

It appears likely that, under current law and practice, such offenders are already receiving a prison term. Thus, the likely fiscal effect of this provision will be to increase the length of stay for offenders who would already be prison-bound under current law and practice. As of this writing, the number of offenders that may be affected in this manner is uncertain, but appears to be relatively small. That said, the magnitude of the related increase in DRC’s annual GRF-funded incarceration costs seems unlikely to exceed minimal. For the purposes of this fiscal analysis, “minimal” means less than \$100,000 per year for the state.

These provisions of the bill would likely have very little, if any, fiscal effect on the state and county juvenile justice systems. The reason is that there are very few juvenile drivers who would qualify for the additional terms of incarceration as mandated by these two specifications. In calendar year 2000, 16 drivers between the ages of 16 and 18 were at fault in fatal drunk driving crashes. Given the infrequency of peace officers being killed by drunk drivers and the very small number of juvenile OMVUAC offenders with three prior convictions, it seems unlikely that these features of the bill will affect many, if any, juveniles.

Discharge of a firearm

Table 1 below summarizes the bill’s graduated offense structure for discharge of a firearm upon or over a public road or highway, including the levels of seriousness and associated sentences and penalties.

**Table 1
Graduated Offense Structure for Discharge of a Firearm
Upon or Over a Public Road or Highway**

Type & Degree of Harm	Offense Level	Term of Incarceration	Maximum Fine
No particular property damage or injury to people	1st degree misdemeanor	Up to 6 months in jail	\$1,000
Created substantial risk of physical harm to any person or caused serious physical harm to property	3rd degree felony	1, 2, 3, 4, or 5 years in prison	\$10,000
Caused physical harm to any person	2nd degree felony	2, 3, 4, 5, 6, 7, or 8 years in prison	\$15,000
Caused serious physical harm to any person	1st degree felony	3, 4, 5, 6, 7, 8, 9, or 10 years in prison	\$20,000

State fiscal effects

Under current law, unchanged by the bill, a felony of the first or second degree carries a presumption for the imposition of a prison sentence, and generally, a felony of the third degree does not carry a presumption either for or against prison time.

As a result of the bill's graduated penalty structure, it is possible that additional offenders may be sentenced to prison or that some offenders could be sentenced to prison for a longer stay than might have occurred under current law. As of this writing, it appears to LSC fiscal staff that the number of affected offenders will be relatively small and that the resulting increase in DRC's annual incarceration costs would not exceed minimal. For the purposes of this fiscal analysis, "minimal" means an estimated cost of less than \$100,000 per year for the state.

The state may also gain some locally collected state court cost revenue for the Victims of Crime/Reparations Fund (Fund 402) as a result of the possibility that some cases may be elevated from a misdemeanor to a felony. If, as assumed, the number of offenders affected in this manner annually is relatively small, then the amount of additional revenue that may actually be collected for Fund 402 is likely to be negligible. For the purposes of this fiscal analysis, "negligible" means less than \$1,000 per year for Fund 402.

Local fiscal effects

This type of conduct is arguably already a violation of existing law, and offenders, if identified, would already be subject to arrest, prosecution, and sanctioning. This would most certainly be the case in any situation where people were or property was seriously harmed.

As a result of the bill's enhanced penalty structure, some criminal cases that would have been handled as misdemeanors by municipal courts or county courts may be elevated to felony status and end up being handled by courts of common pleas instead. As of this writing, it appears that the number of affected criminal cases will be relatively small. Thus, any resulting decrease in annual municipal criminal justice expenditures and related loss in annual court cost and fine revenues would be minimal at most. Similarly, any resulting increase in annual county criminal justice expenditures and related gain in annual court cost and fine revenues would be minimal at most. For the purposes of this fiscal analysis, "minimal" means no more than \$5,000 annually for any affected county or municipality.

Traffic law revisions

The bill modifies, corrects, and clarifies various traffic law provisions that became effective on January 1, 2004, as a result of the enactment of Am. Sub. S.B. 123 of the 124th General Assembly.

Local fiscal effects

The overall fiscal effect of the bill's various traffic law provisions on any given local government may be to simultaneously: (1) generate revenues, (2) lose revenues, (3) increase expenditures, and (4) decrease expenditures. As of this writing, it appears that the net effect of these potentialities on any given local government will be minimal. In other words, it is uncertain whether annual revenues and expenditures will show a net increase or decrease, but

that change, whatever its direction, would be no more than minimal. The magnitude of these potential revenue and expenditure shifts is likely to be minimal in any given local jurisdiction because the number of cases that will be affected by the bill annually should be relatively small. For the purposes of this fiscal analysis, “minimal” means: (1) no more than \$5,000 for any affected county, municipality, or township with a population of 5,000 or more; or (2) no more than \$1,000 for any affected village or township with a population of less than 5,000.

The bill’s traffic law provisions that appear to carry a more immediately discernible potential fiscal effect on local governments are noted in more detail immediately below.

Increased penalties for street racing. The bill increases the penalty for the offense of *street racing* such that a violator would face, in addition to any other sanctions, a required suspension of the person’s driver’s license, temporary instruction permit, probationary license, or non-residential operating privilege for a period of not less than 30 days or more than 3 years. Under current law, this suspension cannot exceed 1 year.

Five year look-back period. The bill establishes a look-back period of five years during which a court must enhance the penalty for a person who is guilty of driving under financial responsibility law suspensions or cancellations if they have previously been convicted of or pleaded guilty to driving under a financial responsibility law suspension or cancellation.

Modification of suspensions. The bill allows persons placed under suspension before the bill’s effective date to petition a court for limited driving privileges or to modify a suspension of 15 years or more. These appear to be narrow exceptions that should not result in a dramatic increase in the number of motions or related hearings handled annually by any given court.

Limited driving privileges. The bill permits a non-resident to seek limited driving privileges during any suspension by filing a petition in Franklin County or in the appropriate Ohio court in the county in which the offense occurred. Under Am. Sub. S.B. 123, such a non-resident must file a petition in the appropriate court in Franklin County. This change will likely shift some of the annual costs and related revenue gains that might otherwise have been experienced by Franklin County to other counties and municipalities around Ohio.

Driving without a valid license. The bill modifies the penalty for the offense of *operating a motor vehicle without a valid license* to clarify that driving without ever having held a valid driver’s or commercial driver’s license in Ohio or another jurisdiction is a misdemeanor of the first degree. Under current law, unchanged by the bill, an offender violating a misdemeanor of the first degree could face up to six months in local incarceration and/or a fine of up to \$1,000. As a result of this penalty modification, local governments may incur increased costs to process such traffic law violations and collect additional court and fine revenues.

State fiscal effects

The overall fiscal effect of the bill’s traffic law provisions on the state may be to simultaneously: (1) generate revenues, (2) lose revenues, (3) increase expenditures, and (4) decrease expenditures. As of this writing, the net effect of these potentialities on the state would appear to be minimal. In other words, it is uncertain whether the annual revenues and expenditures of certain state funds will show a net increase or decrease, but that change,

whatever its direction, would be no more than minimal. For the purposes of this fiscal analysis, “minimal” means less than \$100,000 per year for any affected state fund.

Penalty warning signs

Under current law, the Director of Transportation is required to adopt rules governing the posting of signs advising motorists that increased penalties apply for certain traffic violations occurring on streets and highways in a construction zone, and the Director of Transportation, a board of county commissioners, or a board of township trustees is permitted, but not required, to cause signs to be erected advising motorists that increased penalties apply for certain violations occurring on streets or highways in a construction zone. The bill changes this latter provision to *require* such signs to be erected.

According to the Department of Transportation, the average cost to erect such signs, including purchase price and installation, is approximately \$200 per sign. It is also apparently the Department’s intention to offer to sell the necessary signs to counties and townships.

Local fiscal effects

As the bill requires certain penalty warning signs to be erected in a construction zone, it becomes rather difficult to estimate any associated local costs because of variations in the amount of construction work in any given township or county in any given year. Presumably, in any given year, these local signage costs could possibly exceed minimal for the purposes of this fiscal analysis in a number of ways as follows:

- The estimated aggregate (statewide) cost in any given year is in excess of \$100,000 for all affected counties and townships.
- The estimated cost in any given year is more than \$1,000 for any affected township with a population of less than 5,000.
- The estimated cost in any given year is more than \$5,000 for any affected county or township with a population of 5,000 or more.

As of this writing, however, LSC fiscal staff have not gathered any information that would permit one to predict more precisely how a given county or township might be affected by this signage requirement, and whether the magnitude of the related local cost for an affected county or township or aggregated statewide might exceed minimal as a one-time or ongoing annual expense.

State fiscal effects

As a result of the bill, the Department of Transportation appears likely to design, produce, erect, and sell more penalty warning signs. Whether the associated costs and revenues, which would affect the Department’s Highway Operating Fund (Fund 002), will exceed minimal on an ongoing basis is uncertain as of this time. “Minimal” for the purposes of this fiscal analysis means in excess of \$100,000 annually for the state.

LSC fiscal staff: Joseph Rogers, Budget Analyst

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- The Attorney General may experience minimal expenditure increases for reviewing cases and forwarding documents, reimbursing members of the special commission for related costs, and notifying a public official of suspension filing requirements.
- The Joint Legislative Ethics Committee may experience minimal increases to update and file financial disclosure statements for former state elected officers and staff members for 24 months after they leave public employment.
- Various state agencies may experience a minimal increase to provide financial disclosure forms to former state elected officers or staff members.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2005	FY 2006	FUTURE YEARS
Counties and Municipalities (Courts)			
Revenues	Potential gain	Potential gain	Potential gain
Expenditures	Potential increase	Potential increase	Potential increase
Other Political Subdivisions			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase	Potential increase	Potential increase

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

- Local courts, which are funded by counties and municipalities, may experience an increase in expenditures to adjudicate civil actions filed by political subdivisions to recover the amount of compensation paid to the public official during his or her suspension. Costs to the courts may be offset by court fees. The Supreme Court would not experience any fiscal effect for review of cases regarding suspension appeal.
- Local prosecuting attorneys employed by political subdivisions may experience expenditure increases for reviewing cases, forwarding documents, and replacing and compensating an appointed official. Costs to compensate a replacement official may be in the thousands or tens of thousands of dollars per political subdivision. The compensation paid to a former official who was suspended and who is found guilty of a felony could be recovered by the political subdivision by filing a civil action in court. If the political subdivision is successful in recovering the compensation, its cost could be lowered as a result.

Detailed Fiscal Analysis

State fiscal effects

The Attorney General

The Attorney General's office (AGO) may experience minimal costs for determining if felony charges relate to the public official's administration of, or conduct in, the performance of his or her duties, and transmitting copies of the charging documents to the Chief Justice of the Supreme Court and to the prosecuting attorney of the county in which the public official holds office. The AGO may also experience minimal cost to notify a public official of written statement requirements regarding a voluntary suspension or suspension disapproval.

When the Chief Justice of the Supreme Court receives the charging documents from the AGO or a prosecuting attorney, he or she shall establish a special commission to review the charging documents. The bill requires the AGO to compensate the members of the commission for their expenses and reimburse the members for any expenses incurred in connection with the special commission's functions. At this time the actual costs the commission may incur and the amount of reimbursement by the AGO is unknown.

Joint Legislative Ethics Committee

The Joint Legislative Ethics Committee (JLEC) may experience expenditure increases to update and file financial disclosure statements and investigate associated violations for former state elected officers and staff members for 24 months after they leave public employment. The JLEC may collect a filing fee of \$10 and charge a late filing fee up to \$100 for statements that describe the income received from executive agency lobbyists or legislative agents (and possibly their employers), and certain entities, associations, or businesses (with conditions that apply). The JLEC will not collect a filing fee for the initial statement described in the bill that states whether the former state elected officer or staff member will or will not receive any income from the aforementioned sources. At this point it is unknown how many disclosure statements the JLEC may file within a 24-month period. Any expenditures increases to the JLEC are likely to be covered by the filing fees.

Local fiscal effects

Prosecuting attorneys

Local prosecuting attorneys may experience costs for determining if felony charges relate to the public official's administration of, or conduct in, the performance of his or her duties, and transmitting copies of the charging documents to the Attorney General and Chief Justice of the Supreme Court. A prosecuting attorney may also experience minimal cost to notify a public official of written statement requirements regarding a voluntary suspension or suspension disapproval.

Public official compensation

Political subdivisions may also experience expenditure increases for replacing and compensating a replacement public official (at the same rate of pay as the suspended official). Compensation costs would depend on the office, the local government, and duration of the official's replacement. If a replacement official were in office for several months, compensation costs could be in the thousands or tens of thousands of dollars per political subdivision. A political subdivision may file a civil action to recover compensation paid to an official during his or her suspension. The amount awarded may or may not cover all of the compensation paid by the political subdivision. Costs to local courts for adjudicating these civil actions may be offset by court fees.

Courts

Local courts may experience an increase in expenditures to adjudicate civil actions filed by political subdivisions to recover the amount of compensation paid to the public official during his or her hire suspension. Any cost to local courts may be offset by court fees. The Ohio Judicial Conference reports that if a public official appeals the special commission's decision to the Supreme Court, the bill would have no fiscal impact on the Supreme Court since the suspension of public officials is not likely to occur frequently. Also, any cost for case reviews would be incorporate into ongoing daily operation expenses.

LSC fiscal staff: Jonathan Lee, Budget Analyst

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Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2004	FY 2005	FUTURE YEARS
Counties			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase in expenses to upgrade unprotected systems	Potential increase in expenses to upgrade unprotected systems	Potential increase in expenses to upgrade unprotected systems

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

- Potential increase in expenses to counties engaged in electronic commerce to install or upgrade security programs to meet the requirements of the bill. Costs would apply in specific cases if a county were engaged in a form of electronic commerce without the required security programs in place.
- Allows counties or townships to participate in contract offerings from the General Services Administration within the federal government, as well as other cooperative purchasing programs sponsored by national or state organizations that represent political subdivisions, and sets conditions for exempting these entities from competitive selection requirements. Counties and townships have the option of entering into contracts to purchase supplies or services from another party outside of those participating in a national or state association of political subdivisions. This can be done if the vendor can offer a price lower than those participating in the association of political subdivisions. Depending on the services or goods to be acquired, this may reduce purchase costs for counties or townships. However, the main effect would be to expand the procurement choice beyond those currently available to political subdivisions.
- Delays the effective date of destination-based sourcing for sales and use tax purposes to July 1, 2005, from January 1, 2005. However, certain vendors may still choose to apply the new sourcing rules anytime after January 1, 2005. This change has a minimal fiscal effect.

Detailed Fiscal Analysis

County Electronic Records

House Bill 204 stipulates that county security software/systems must provide security in four ways: (a) signature verification, (b) verification of records, (c) verification of a performance of a specific person, and (d) detection of changes and errors. The bill identifies that security procedures would minimally include (a) the use of algorithms or other codes, (b) identification of words and numbers, (c) encryption, (d) callback or other acknowledgment procedures.

Counties that are already engaged in electronic commerce may already have software that has security measures, firewalls, etc. in place because security programs may have been built into the customized programming and applications at the time these products were installed. However, in any case where a county might be engaged in e-commerce without the required security measures, the county would incur costs to bring security up to the required level. In such a case, the costs to the county could potentially be significant.

The two general security categories addressed by the bill are (a) signature verification and (b) record integrity. If a software engineer/consultant were to start with a client's existing commercial system and modify or enhance the system to perform these required functions, the costs would vary with the degree of work required and the complexity of the functions the system must perform. For example, to modify a system to securely handle the sale of a license would cost much less than to modify a system to securely handle something much more complex such as processing property tax payments.

Using an example of the county auction, either a reverse auction or a forward auction, one would see that they require the acceptance of a bid, and in some cases, the verification of a signature. In the electronic domain, there are essentially two options available to assure electronic signature verification: (a) customized software designed specifically for the customer, in which case the customer assumes the liability and costs for the security systems, or (b) web-based services, within which the security costs are pre-built. The costs of web-based services may range from \$0 to \$20,000 per year. Generally, web-based options carry lower costs than custom-designed and programmed products.

The bill allows counties or townships to participate in contract offerings from the federal government including, but not limited to, from general services administration. Acquisition of equipment, supplies, or services by a county or township, through participation in a contract of another county or township is exempt from competitive selection, if the contract was awarded pursuant to a publicly solicited request for proposal. Acquisition of supplies, equipment, or services pursuant to participating in contract offerings from the federal government as listed in (A)(3) in the bill is exempt from competitive selection. A county or township eligible to participate in a joint purchasing program operated by or through a national or state association of political subdivisions in which the purchasing county or township is eligible for membership may purchase supplies or services from another party, instead of through participation in contracts authorized in (A)(2) of the bill. In order to do so, the county or township must show that the other party can provide the supply or service upon equivalent terms, conditions, and

specifications, but at a lower price than the providing party in the previous contracts. Purchases made under these terms are exempt from competitive selection procedures. Presumably, such a process would allow these political subdivisions to acquire goods or services at a lower price, and thereby lower costs.

Technical Variables – A Wide Range of Costs

If a county government needed to revise the infrastructure of their chosen electronic commerce activity in order to meet the provisions of the bill (rather than upgrade their current system), several factors would need to be taken into consideration. While some programs are free to government, some service providers charge relatively large fees. Overall, costs could vary from \$0 to more than \$20,000 per year, with the choice in the hands of the county.

Hosts

A county or other entity could contract with a secured hosting service such as Verisign, and for under \$100 a month in charges, complete up to 1,000 transactions a month by electronic card or check.

Template Sites

In some cases, a county may be able to complete a county auction of surplus materials by leasing a secured “template site” specifically for auction purposes from a company like Yahoo at a cost of approximately \$60 per month.

Web Design

Costs could be incurred if a county chose to contract with a web designer for development of a customized web site. Rates for web site designers range from \$50 to \$100 per hour and a basic web site could require at least two to four weeks (or 80 to 160 hours) to complete.

Technical Support

Charges could be incurred if the county elected to contract for technical support services through a company such as Sarcom. Technical support costs could vary widely depending upon the frequency and type of technical issues that required attention.

Bandwidth

If a county contracted with a company like Yahoo, the costs for use of necessary bandwidth would be included. However, if not leasing with a company like Yahoo, the county would need a permanent high speed circuit with a dedicated line at a cost of approximately \$600 per month.

Added Charges

Some electronic procurement/electronic commerce tools are known to charge a percentage of each transaction in addition to the initial and/or monthly charges.

Disposing of County Records

When the Ohio Historical Society is informed that public records of a county are to be disposed of, the county records commission must notify the county historical society and certain other organizations. Then the county historical society and other organizations may select records of continuing historical value. This provision could result in minimal cost increases for counties for county record commissions to make notifications.

Ohio Privacy/Public Record Access Study Committee

The bill creates the Ohio Privacy/Public Record Access Study Committee. The committee consists of 23 members, both public officials and private industry representatives. The President of the Senate appoints 3 members. The Speaker of the House appoints 3 members as well. The Governor appoints the remaining 16. The committee is to study the following:

1. The concerns associated with the dissemination of personal information contained in public records.
2. The legitimate uses of personal information contained in public records by businesses, governments, the legal community, and others.
3. The costs to state and local governments associated with placing restrictions on access to personal information contained in public records.
4. The impact on legitimate businesses, law enforcement, the legal community, government agencies, and others.
5. The impact of protecting disclosure of personal information contained in public records.
6. Electronic, Internet, and bulk access to personal information contained in public records.
7. Current and potential future misuse, fraud, harassment, and identity theft prevention and detection efforts.
8. Existing criminal and civil penalties for misuse of personal information contained in public records.

The committee must submit a report of its findings to the President of the Senate, Speaker of the House, Minority Leader of the Senate, Minority Leader of the House, the Governor, and the Chief Justice of the Supreme Court no later than 12 months after the appointment of all the members of the committee. Presumably, there would be minimal administrative costs in preparing this report. The bill does not mention whether the committee members are to be compensated for their expenses related to the committee's business.

Financial Transaction Devices

The bill expands the options by which fees, taxes, penalties, and other such payments due the state can be made. The specific guidelines are to be prepared by the State Board of Deposit. The bill expands the definition of what is considered a financial transaction device to include automated clearinghouse network credit, debit, or e-check entry that includes, but is not limited to, accounts receivable and Internet-initiated, point of purchase, and telephone-initiated applications. Any surcharge or convenience fee that is imposed must follow the guidelines of the financial institution, issuer of financial transaction devices, or processor of financial devices. Although there might be some initial start-up costs, this expansion of what is considered a financial transaction device could potentially lower the administrative costs associated with the payment of state expenses.

Sales and Use Tax Sourcing Law

Uniform sourcing standards for the taxation of sales, which must be adopted by all member states, are an important piece of the streamlined sales tax agreement (the Agreement) and the streamlined sales tax project (SSTP). The SSTP is an effort by states and private retailers to simplify and modernize sales and use tax administration and collections throughout the United States. The recommendations of the SSTP are contained in the Agreement that must be adopted by member states. States such as Ohio are required to adopt the destination-based sourcing of sales to participate fully in the next phases of the SSTP. Beginning in January 1, 2005, Ohio law adopts the Agreement's sales tax sourcing provisions. Under current law and until that date, sales of tangible personal property and services are generally deemed to occur at the seller's place of business, even if the property or service is received or delivered elsewhere (an origin-based or a point of sale sourcing of sales). Under the Agreement, for sales that are delivered or received elsewhere than the seller's place of business (e.g., remote sales), a sale of property or service is sourced at the point of destination (destination-based sourcing), where the buyer actually receives the property or the service. The change in the sourcing of sales does not substantially change revenues from the taxation of motor vehicles, watercraft, and outboard motors that are titled. In those transactions, buyers pay the tax based on the sales and use tax rate in effect in their locality of residence. Am. Sub. H.B. 95 of the 125th General Assembly delayed the effective date of previously adopted (in S.B. 143 of the 124th General Assembly) destination-based standards for sales and use tax purposes until January 1, 2004. That effective date was further delayed until January 1, 2005, under Sub. H.B. 127 of the 125th General Assembly.

Adopting the destination-based sourcing standards would result in both gains and losses to local jurisdictions as the location of certain sales for tax purposes shifts from retail outlets to where sales are delivered. Generally, most sales are taxed at the rate in effect at the point of sale (customer leaves the business location with the item) or the items are delivered within the same taxing jurisdiction. However, whenever the location of the sale and the delivery are in different counties, local sales tax rates may be different. Few studies on the effects of sales tax sourcing changes have been conducted. A report from the Department of Revenue for the state of Washington¹ estimates that approximately 15% of that state local sales tax base is affected by the Agreement. Ohio nonauto taxable base was about \$114 billion in FY 2003. Assuming that 10%

¹ *Streamlined Sales and Use Tax Agreement Sourcing Study*. Washington State Department of Revenue, December 2003.

to 20% of this taxable base is affected by the change to from point-of-sale to destination-based sourcing of sales, the value of goods and services that would change location for local sales tax purposes may be \$11.4 billion to \$22.8 billion. Applying an average local tax rate of 1.1% in Ohio, \$125 million to \$251 million per year in sales tax revenue might be redistributed among counties as a consequence of the destination-based sourcing standards.

When this shifting occurs, an individual local jurisdiction may incur net revenue losses if the value of purchases from businesses inside its boundaries but delivered elsewhere exceeds the value of deliveries within the local jurisdiction's boundaries from outside purchases. Local jurisdictions will have a net gain if the opposite occurs. However, the change to destination-based sourcing of sales generally affects the redistribution of sales tax revenues to local governments, but does not substantially change the total amount of revenue collected by all local governments within the state, at least until the Agreement is effective and provide additional revenue from enhanced tax collections.

The bill postpones the effective date of the application of destination-based sourcing to July 1, 2005. However, the bill also allows any vendor to switch to destination-based sourcing anytime after January 1, 2005 and before July 1, 2005. Once the switch is made, the vendor is not allowed to revert back to the origin-based sourcing of sales. This change has a minimal fiscal effect, although the six-month transition period during which vendors use different sourcing of sales might create some practical issues in the administration of sales and use tax in the Department of Taxation.

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HB0204EN/arc

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. 262**

DATE: **May 12, 2004**

STATUS: **As Enacted—Effective April 7, 2004**

SPONSOR: **Rep. Carmichael**

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

The as introduced version required local governments to continue paying employees who are also poll workers. The bill is now permissive.

CONTENTS: **Revises election law to increase the maximum poll worker pay and to permit state and local government employees to work as judges of elections and receive poll worker pay in addition to regular employment compensation and prohibits employees of county boards of elections from engaging in collective bargaining, and places additional requirements necessary for compliance with the Help America Vote Act of 2002**

State Fiscal Highlights

STATE FUND	FY 2005	FY 2006	FUTURE YEARS
Secretary of State—General Revenue Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase for new ADA compliance coordinator	Potential increase for new ADA compliance coordinator	Potential increase for new ADA compliance coordinator
Secretary of State—Election Reform Fund (Fund 3AA)			
Revenues	Up to \$160,000,000	Remainder of unappropriated HAVA Funds	- 0 -
Expenditures	Increase of expenditures to meet HAVA deployment plan	Increase of expenditures to meet HAVA deployment plan	Increase of expenditures to meet HAVA deployment plan
Secretary of State—2004 HAVA Voting Machine Fund (Fund 3AR)*			
Revenues	Up to \$27.25 million	- 0 -	- 0 -
Expenditures	Up to \$27.25 million for deployment of electronic voting machines in 2004	Potential increase to complete deployment	- 0 -
Secretary of State—2005 HAVA Voting Machine Fund (Fund 3AS)			
Revenues	Up to \$79.25 million	- 0 -	- 0 -
Expenditures	Potential increase up to \$79.25 million for deployment of electronic voting machines in 2005	Potential increase to complete deployment	- 0 -

STATE FUND	FY 2005	FY 2006	FUTURE YEARS
Secretary of State—Voter/Poll Worker Education Fund (Fund 3AT)*			
Revenues	\$5,000,000	- 0 -	- 0 -
Expenditures	\$2,500,000 to distribute to counties, \$2,500,000 to conduct voter education programs	Potential increase to complete county distribution of funds and conduct voter education programs	- 0 -
Secretary of State—County Electronic Voting Machine Maintenance Fund			
Revenues	- 0 -	Gain from unused moneys from Fund 3AA, Fund 3AS, and Fund 3AT	- 0 -
Expenditures	- 0 -	Increase, depending on county needs for voting machine maintenance	Increase, depending on county needs for voting machine maintenance

Note: The state fiscal year is July 1 through June 30. For example, FY 2005 is July 1, 2004 – June 30, 2005.

* Appropriations made only if Controlling Board does not approve funds for deployment of HAVA certified voting machines.

Poll worker pay provisions

- Permitting state employees to work as judges of elections may result in a potential cost increase if an agency uses overtime or outsourcing to complete that employee’s work during his or her absence.

HAVA implementation provisions

- The bill appropriates up to \$27.25 million in FY 2004, and up to \$79.25 million in FY 2005 for the purchase and deployment of electronic voting machines.
- Creates four new funds within the Secretary of State's Budget, and lists certain requirements placed on the office for the implementation of the Help America Vote Act of 2002 (HAVA).
- Gives the Director of the Legislative Service Commission access to up to \$350,000 from the Election Reform Fund to conduct security assessments on voting machines. Unlike the other specified transfers and appropriations, no Controlling Board approval is required.
- Provides for a transfer of funds in which counties will receive up to \$2.5 million for poll worker and voter education purposes from the Secretary of State's Fund 3AT.
- Establishes the position of Americans with Disabilities Act coordinator within the Secretary of State's Office. As a result, there will be a minimal increase in personnel costs borne by the GRF.
- Creates the county electronic voting machine maintenance fund, which will consist of HAVA revenues that are not approved by the Controlling Board as of January 1, 2006.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2004	FY 2005	FUTURE YEARS
Counties			
Revenues	Potential gain of up to \$2.5 million for poll worker training and voter education, subject to Controlling Board approval	Potential gain of up to \$2.5 million for poll worker training and voter education, subject to Controlling Board approval	- 0 -
Expenditures	Potential increase up to \$940,000 or more in poll worker costs; increase in voter education program costs	Potential increase up to \$940,000 or more in poll worker costs; increase in voter education program costs	Potential increase up to \$940,000 or more in poll worker costs; increase in voter education program costs
Other Political Subdivisions			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase	Potential increase	Potential increase

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

- The increase in per diem pay for judges may increase the costs for county boards of elections.
- Statewide the annual increase in costs could be as much as \$940,000 or more, depending on the number of poll workers and the number of elections in a year.
- Permitting local government employees to work as judges of elections may result in a potential cost increase if an agency uses overtime or outsourcing to complete that employee's work during his or her absence.
- Allocates \$2,500,000 to counties to undertake voter education and poll worker training programs, subject to approval of these plans by the Secretary of State.

Detailed Fiscal Analysis

Provisions of the Bill

The bill revises current law in the following ways:

- Increases the maximum per diem pay for individuals serving as judges of an election from \$85 to \$95.
- Permits employees of the state and political subdivisions to work as judges of elections, provided they are not election officials or public school teachers.
- Allows employees of the state and political subdivisions working as poll workers to receive poll worker pay, in addition to their regular compensation. Political subdivisions must pass a resolution permitting employees to receive regular compensation in addition to poll worker pay. The director of a state agency must also authorize the compensation for employees of the agency. Eliminates required ballot language pertaining to local option elections dealing with the sales of alcoholic beverages at a specific location.
- Prohibits public employers from engaging in collective bargaining with employees of county boards of elections.
- Establishes new responsibilities for the Secretary of State and counties for the state plan for deployment of new voting machine technology under the Help America Vote Act of 2002.
- Establishes new state funds and appropriates \$106.5 million for the purchase, deployment, and maintenance of electronic voting machines.

Per Diem Pay Increase Provision

The provision increasing the maximum per diem pay for judges may increase the costs of an election to the county. As of November 2002, there were 11,756 voting precincts in the state of Ohio. Each precinct employs approximately four, but can have as many as six judges per election. Assuming each precinct employs only four judges per election, compensates judges at the current maximum rate of \$85 per diem, and that these precincts compensate judges at the increased rate established in the bill, there is a potential increase in cost of \$470,240 per election. Assuming two elections per year, the potential annual increase would be \$940,480. Potential costs would be higher than this if there are more than four judges or more than two elections in a year. The bill also allows for pay raises for election judges based on the following conditions:

- In any county where a judge was making \$85 or less, judges may receive a pay raise of 9%.
- In any county where a judge was making between \$86 and \$95, judges may receive a pay raise of 4.5%.

State and Local Government Employees Provisions

The bill allows state and local government employees to serve as election judges. Terms and conditions must be set forth by a board of county commissioners, legislative authority of a political subdivision, or head of a state agency. These conditions must include a standard procedure for deciding which employees are permitted leave with pay if multiple employees decide to serve as a judge of elections. If no such terms and conditions are set forth, employees of state and local governments may use personal leave, vacation leave, or compensatory time, or take unpaid leave to serve as judge of elections. Prior to the day of the election for which the employee will serve as a judge, the employee must notify his or her regular employer in writing of the employee's decision to serve as judge of elections at the particular election. The employee must also indicate whether he or she chooses to receive either the compensation paid to the judge of elections, or the employee's regular compensation for that day. The employee shall not be considered to have been absent from work the day of the election or required to charge the time that the employee otherwise would have worked to vacation or any other type of paid leave. The employer shall notify the board of elections of the employee's choice of compensation. If employees chose to receive their regular compensation, the county could see a decrease in costs for poll worker pay.

These provisions could result in a potential increase in costs if the state agency, county, or other political subdivision elects to permit leave with pay for employees, and then uses overtime or outsourcing to complete the work of those employees during their absence.

The bill prohibits collective bargaining between county boards of elections and their employees. The Legislative Service Commission contacted 15 county boards of elections. All indicated that Lucas County is the only county that is known to engage in collective bargaining. Unionization can lead to collective bargaining costs, and potentially higher salaries. The bill could reduce or prevent these costs.

HAVA Provisions

Pursuant to guidelines in the Help America Vote Act (HAVA) of 2002, the Secretary of State will receive federal funds to meet the federal requirements of the act, as well as supplement any additional state requirements. This revenue gain will be utilized for the state of Ohio to become compliant with the requirements of HAVA, as well as comply with any additional state requirements listed in this bill or otherwise.

The bill requires the Secretary of State's Office to establish the full-time position of Americans with Disabilities Act (ADA) coordinator. This position will assist the Secretary of State with ensuring there is equal access to polling places for people with disabilities, assist with ensuring that each voter may cast the voter's ballot in a manner that provides the same opportunity for access and participation, advise the Secretary of State in the development of standards for the certification of voting machines, marking devices, and automatic tabulating equipment, and report annually to the General Assembly on the progress of these duties. The ADA coordinator will be a position within the Secretary of State's office and the compensation of this position will result in an increase of costs for the Secretary of State. The Secretary of State is authorized to request from the director of Budget and Management, a transfer from the Election Reform Fund (Fund 3AA) to a GRF appropriation item within the Secretary of State's budget for the compensation of the ADA coordinator.

The Secretary of State's office must establish standards for the certification of voting machines with a voter verified paper trail component. The standards shall include, but are not limited to:

- A definition of a voter verified paper audit trail as a paper record of the voter's choices that is verified by the voter prior to the casting of the ballot, and is securely retained by the board of elections.
- Requirements that the voter verified paper trail shall contain information that can be optically scanned, shall not be retained by the voter, and shall not contain individual voter information.
- A prohibition against the production of any direct recording electronic voting machine of anything that legally could be removed by the voter from the polling place.
- A requirement that paper used in producing a voter verified paper audit trail be sturdy, clean, and resistant to degradation.

The Secretary of State will experience increased costs resulting from the additional certification process for certifying machines with a voter verified paper trail component.

The board of voting machine examiners and the Secretary of State shall not approve or certify any marking device that is not accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation as for other voters. The marking device must not provide to the voter any type of receipt that may be retained after leaving the polling place. In order to satisfy this provision, the Secretary of State or board of voting machine examiners may have to purchase marking devices that are more expensive in order to meet these requirements.

The bill also places restrictions on the approval and certification of voting machines by the board of voting machine examiners or Secretary of State. The machines must be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation. It must not provide the voter any type of receipt or confirmation, which can be retained after leaving the polling place. After January 1, 2006, if the voting machine is a direct recording electronic voting machine, it shall include a voter verified paper audit trail. There will be increased costs in providing the machines that meet these requirements. There will also be costs associated with retrofitting all direct recording electronic voting machines that were purchased before January 1, 2006 and do not have a voter verified paper audit trail component. These costs will be dependent on vendor capabilities to produce such a device, and the predetermined amount that the Secretary of State's office will appropriate per machine that requires retrofitting.

New Funds Created by Bill and Specified Transfers

The bill creates the County Electronic Voting Machine Fund in the state treasury. All moneys received pursuant to the Help America Vote Act of 2002 that are not approved for release by the Controlling Board as of January 1, 2006, shall be deposited in the state treasury to the credit of the fund.

Four new funds are created within the Secretary of State's budget. The Voter/Poll Worker Training Fund is the first created. The bill will transfer \$5,000,000 to this fund from the Election Reform Fund. Of this appropriation, the Secretary of State shall use \$1,500,000 to conduct a statewide voter education and poll worker training program, subject to Controlling Board approval. The remaining \$2,500,000 will be allocated to the counties for the same purpose. Each county will receive a base amount of \$5,000, and the remaining \$2,060,000 will be distributed to the counties on a per capita basis. The Secretary of State may use up to \$1,000,000 of its appropriation for the development, implementation, and certification for standards of Voter Verified Paper Audit Trail (VVPAT) systems.

After January 1, 2005, the Secretary of State may seek Controlling Board approval for the release of an additional \$2,500,000 from the Election Reform Fund (Fund 3AA). In order to obtain this release, the Secretary of State must demonstrate that it is necessary for the implementation of additional voter education and poll worker training. Of this \$2,500,000, the Secretary of State must distribute \$1,250,000 to the counties on a per capita basis. However, the \$1,250,000 will not be released to the counties until those counties have submitted a voter education plan to, and had that plan approved by the Secretary of State.

The second fund created is the 2004 HAVA Voting Machine Fund. The bill states if no Controlling Board action has been taken as of the effective date of this act, that the Director of Budget and Management shall transfer an amount not to exceed \$27,250,000 from the Election Reform Fund to the 2004 HAVA Voting Machines Fund. This transfer shall be used for the deployment of HAVA certified voting systems in 2004.

The third fund created is the 2005 HAVA Voting Machine Fund, which is to be used for the deployment of HAVA certified voting systems in 2005. As of the effective date of the bill, the Director of Budget and Management shall transfer an amount not to exceed \$79,250,000 from the Election Reform Fund, to the 2005 HAVA Voting Machine Fund. The bill also states that any unspent and unencumbered money from the 2004 HAVA Voting Machine Fund that was not required for replacement or upgrades shall also be transferred into the 2005 HAVA Voting Machine Fund. The 2004 HAVA Voting Machine Fund will be abolished at that time.

The fourth fund created is the County Electronic Voting Machine Maintenance Fund. All unspent moneys from the Election Reform Fund (Fund 3AA), the 2005 HAVA Voting Machine Fund (Fund 3AS) and the Voter/Poll Worker Education Fund (Fund 3AT) shall be transferred to this fund after full implementation of HAVA has been completed in all counties. The purpose of the fund is to pay for counties' ongoing expenses associated with voting machine maintenance. All expenditures requested by the Secretary of State must be presented in a plan that is to be approved by the Controlling Board.

Finally, the bill specifies that the Director of the Legislative Service Commission may use up to \$350,000 from the Election Reform Fund (Fund 3AA) created in the Controlling Board

in 2003. This appropriation is to be used to conduct studies on the security of electronic voting machines.

LSC fiscal staff: Terry Steele, Budget Analyst

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

- Counties, municipalities, and townships would incur an increase in the costs of providing health benefits to employees and dependents. The increase may be up to \$1.3 million in the first year, followed by an increase of \$2.2 million in the second year, and of \$2.6 million in the third year. The expenditure increase would grow at a comparable rate over time.
- Publicly owned medical care providers may have a minimal loss of revenue from fees charged to provide medical records. This provision may have an effect on revenue to local health clinics. LSC has no data with which to quantify the potential loss of revenue, but LSC staff expects any potential revenue loss due to this provision to be minimal.

Detailed Fiscal Analysis

Under current law, all health insurance policies, plans offered by health insuring corporations, and public employee health benefit plans must offer coverage for screening mammographies for women whose age is within specified ranges. Current law caps the amount that may be paid for this benefit at \$85 per test. H.B. 331 would increase the amount of the cap to 130% of the Medicare reimbursement rate for screening mammographies in Ohio.

The bill would also modify existing limits on the amount that medical providers may charge for providing copies of medical records. Under current law the limits will expire on December 31, 2004. The bill pushes back the expiration date to December 31, 2008. The existing limits for providing copies of data recorded on paper are generally increased by less than 3% under the bill.

Fiscal Effect

Screening mammographies

The state would incur costs associated with providing health benefits for state employees and their dependents. As of May 2004, an official with the Department of Administrative Services reports that 53,306 state employees are eligible for health benefits. Data on members of the Ohio Public Employees Retirement System (OPERS) indicate that 59.3% of female members that are state employees are between the ages of 40 and 64. If half of state employees are female, then approximately 15,811 state employees would be females between the ages of 40 and 64. A similar calculation using similar assumptions yields an estimate that approximately 7,482 of those employees are between the ages of 50 and 64.

The current Medicare reimbursement rate for this procedure in Ohio is \$81.57. An official with the Centers for Medicare and Medicaid Services reports that this rate will rise to \$82.13 effective January 1, 2005. The bill would increase the cost of benefits provided to 130% of the Medicare reimbursement rate, which will presumably grow over time. The bill would require insurers to increase reimbursement rates by \$21.77 in calendar year 2005 ($\$21.77 = \$82.13 \times 1.3 - \$85$). The medical care component of the Consumer Price Index for All Urban

Consumers increased by an average of 4.4% per year for the five years ending April 2004.² Using a 4.4% growth rate to project the benefit cap forward yields estimated increases to the cap of \$26.47 in 2006, \$31.37 in 2007, and \$36.49 in 2008. The increased benefit would need to be provided annually to females over the age of 50 and to those between the ages of 40 and 50 who a licensed physician determines to have risk factors for breast cancer. For other female beneficiaries between the ages of 40 and 50, the increased benefit must be paid once every two years.

Using these estimates of the number of eligible state employees and of the increases in benefit caps, the cost to all funds of providing screening mammographies to eligible employees would be approximately \$254,000 in calendar year 2005 assuming the higher caps were in effect for the full year. The total cost would be significantly higher than this as there may be female dependents covered as spouses of male employees. Legislative Service Commission staff does not expect the cost to exceed \$380,000 in the first year allowing for the cost of benefits to dependents. Assuming the bill were effective April 1, 2005, this would work out to an expenditure increase up to \$95,000 in FY 2005. The corresponding estimates for FYs 2006 and 2007 are \$462,000 and \$548,000. Approximately half of these costs would be paid out of the GRF, with the remainder being paid out of other state funds.

Similarly, counties, municipalities, and townships would incur costs associated with providing health benefits to their employees. As shown above, the bill would increase the benefits provided to female beneficiaries who are aged 40 to 65 by \$21.77 in calendar year 2005. An official with OPERS reports that their records show 38,131 female employees in the local government division between the ages of 40 and 49 (inclusive) as of December 31, 2002, and 35,734 between the ages of 50 and 64. Assuming that half of those aged 40 to 49 get a screening mammography each year then based on these counts, the potential cost to local governments could be up to \$1.2 million or more in the first year the bill's provisions were in effect (\$1.2 million = \$21.77 X 54,800). Allowing for female beneficiaries to be covered as spouses of male employees or as employees under other retirement systems, LSC staff does not expect the potential cost would exceed \$1.8 million. Assuming the bill were effective around April 1, 2005, the cost would be up to \$1.3 million in FY 2005.

In the second year of operation, the potential cost to local governments would increase as the Medicare reimbursement rate increases. Using the 4.4% growth rate developed above to project the benefit cap forward yields estimated increases to the cap of \$26.47 in year two, and \$31.37 in year three. Thus the potential cost increase in the second year would increase to approximately \$2.2 million (\$2.2 million = \$26.47 X 54,800 X 1.5). The potential cost increase in the third year is estimated to be \$2.6 million, with the expenditure increase growing at a similar rate over time in future years.

Caps on fees for providing copies of medical records

Existing section 3701.741 of the Revised Code provides that certain medical providers and medical records companies must not charge more than specified amounts for copies of medical records (until the section expires on December 31, 2004). The table below specifies the current caps and the caps specified in the bill.

² This inflation rate has not accelerated in more recent years. The average growth rate in the two years ending April 2004 is also 4.4%.

Description	Current cap	Proposed cap
Original recorded on paper		
Initial fee	\$15.00	\$15.35
Pages 1 through 10	\$1.00 per page	\$1.02 per page
Pages 11 through 50	\$0.50 per page	\$0.51 per page
Pages 51 and higher	\$0.20 per page	\$0.20 per page
Original recorded on medium other than paper	Actual cost	\$1.70 per page

When a copy is provided for the patient or the patient’s personal representative, the bill does not permit the \$15.35 initial fee to be charged, but permits the fee for the first ten pages to be up to \$2.50 per page.

Because the current caps would expire without legislative action, the bill would reduce the potential revenue to medical providers and medical records companies subject to this section of the Revised Code. In some cases, the medical providers affected may be state or local government agencies. This provision of the bill would apply, for example, to the Department of Mental Retardation and Developmental Disabilities (DMR) when it provides medical records for residents of state developmental centers. A DMR official reports that the fees the department currently imposes for copying medical records are \$0.05 per page for copies of documents over 100 pages long, and that copies of shorter documents are provided at no charge. Because these fees are significantly less than the existing limit, the bill would not affect revenues to DMR under its current practice. Hospitals administered by the Department of Mental Health (DMH) are exempt from the bill’s provisions. The bill has the potential to reduce revenues to state agencies other than DMR and DMH, and to reduce revenues to local governments that operate local public health clinics. LSC staff expects any such potential revenue loss to state agencies to be minimal. LSC staff does not have data with which to estimate the potential revenue loss to local governments, but expects any such loss to be minimal.

LSC fiscal staff: Ross Miller, Economist

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reimbursement of expenses, while if revenues exceed eligible expenses, the fund balance would increase. The amount of the Wireless 9-1-1 Charge may be changed by a future action of the General Assembly in order to achieve a balance between revenues and expenditures. The Charge is imposed until December 31, 2008, after which it will lapse.

- The position of Ohio 9-1-1 Coordinator is established in the Public Utilities Commission of Ohio (PUCO). The Chairperson of PUCO will determine the amount of compensation for the position, with that compensation to be paid out of the Wireless 9-1-1 Administrative Fund. This fund is also used to pay PUCO expenses related to the duties of the Ohio 9-1-1 Coordinator. Total annual expenses anticipated by PUCO officials to fund the activities of the Coordinator are approximately \$375,000 per year. Start-up costs associated with the new position are estimated to be \$275,000. Expenditures shown in the table assume that personnel are hired in July 2005. There is no appropriation in the bill for these costs.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2005	FY 2006	FUTURE YEARS
Counties (Wireless 9-1-1 Government Assistance Fund)			
Revenues	Gain up to \$6.0 million	Gain up to \$18.0 million	Gain up to \$18.0 million until 12/31/08, then zero gain
Expenditures	Increase up to \$6.0 million	Increase up to \$18.0 million	Increase up to \$18.0 million until 12/31/08, then zero increase
Counties and municipalities			
Revenues	Potential minimal gain	Potential minimal gain	Potential minimal gain
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase

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

- The Wireless 9-1-1 Government Assistance Fund, a new fund in the custody of the Treasurer of State, will receive most of the revenue generated by the \$0.32 Wireless 9-1-1 Charge imposed by the bill. A county's share of the fund will be in the same proportion as the number of wireless service subscribers with billing addresses in that county to the number of wireless service subscribers statewide, with a minimum share of \$25,000. Counties that have not adopted a final 9-1-1 plan for wireless enhanced service will have their share held by the fund for up to three years; if that county has not adopted a final plan after three years, its share is divided among the other counties. This fund's share of revenues from the Wireless 9-1-1 Charge is projected to be up to \$18.0 million per year. Revenues shown assume the Charge is imposed beginning July 2005 and the fund receives its first receipts in September 2005.
- The revenues to the Wireless 9-1-1 Government Assistance Fund are determined by the amount of the Wireless 9-1-1 Charge, which is initially set at \$0.32 per month per subscriber telephone number. The revenues to the fund may be either more or less than are needed to reimburse eligible expenses. If revenues are less than eligible expenses for the fund, local governments would be required to wait to receive reimbursement of expenses, while if revenues exceed eligible expenses, the fund balance would increase. The amount of the Wireless 9-1-1 Charge may be changed by a future action of the General Assembly in order to achieve a balance between revenues and expenditures. The Charge is imposed until December 31, 2008, after which it will lapse.
- The bill establishes new misdemeanor and felony offenses and permits people who receive an unsolicited advertisement through a facsimile device located at a residential premise to bring a civil action from which

they may recover \$1,000 from the sender of the advertisement. These provisions may result in a slight increase in caseload for county courts of common pleas and for municipal courts. To the extent that caseload increases there would be an accompanying increase in revenue from filing fees and an accompanying increase in administrative costs. LSC staff believe any increase in caseload would be minimal.

Detailed Fiscal Analysis

H.B. 361 generally creates a framework for aiding counties and other local governments in providing enhanced emergency 9-1-1 service for federally licensed commercial mobile radio service (primarily cellular telephone service). "Enhanced" emergency 9-1-1 service is a service that automatically provides to the public safety answering point (PSAP), which is the location that receives a 9-1-1 call, the location of the handset from which the call originated and, when feasible, the telephone number of that handset.

The bill establishes the position of Ohio 9-1-1 Coordinator to head the 9-1-1 Service Program within the Public Utilities Commission of Ohio (PUCO). Compensation for the Ohio 9-1-1 Coordinator would be determined by the Chairperson of the PUCO, and would be paid by the newly-created Wireless 9-1-1 Administrative Fund, one of two funds created by the bill. The Wireless 9-1-1 Administrative Fund is created in the State Treasury, while the Wireless 9-1-1 Government Assistance Fund would be under the custody of the Treasurer of State but not be a part of the State Treasury. Both funds receive moneys from a newly established "Wireless 9-1-1 Charge" imposed on each wireless telephone number of a wireless service subscriber. This charge is initially set at \$0.32 per month, and is scheduled to expire on December 31, 2008. The amount of the charge is subject to change by the General Assembly in response to recommendations made by the Ohio 9-1-1 Coordinator. The charge is exempt from state and local taxes. Earnings on the Wireless 9-1-1 Administrative Fund would be credited to the GRF, while the new custodial fund would be credited with earnings on its investments. Both funds would be administered by the Ohio 9-1-1 Coordinator.

The bill provides funding for equipment and training costs of the PSAPs that are attributable to providing wireless 9-1-1 service. Beginning one year after the Wireless 9-1-1 Charge is imposed, a political subdivision may use the funds to pay personnel costs associated with staffing its PSAP if it provides countywide wireless enhanced 9-1-1 service. After receiving its April 2009 disbursement from the fund, a political subdivision may use any remaining disbursements it has received to pay any costs associated with providing wireless 9-1-1 service.

The bill also creates the Ohio 9-1-1 Council, an 11-member body, and the Wireless 9-1-1 Advisory Group, a six-member body, to help establish policies governing the operation of enhanced wireless 9-1-1 service. The bill specifies that appointed members of both bodies serve without compensation and without expense reimbursement, and that neither body is an agency within the meaning of section 101.82 of the Revised Code.

The bill would not make any fundamental changes to the county-based provision of emergency 9-1-1 services, nor would it require local governments to provide enhanced wireless 9-1-1 service.

Background

Emergency 9-1-1 services are not provided on a statewide basis in Ohio. Current law specifies the conditions under which a county may arrange for the provision of emergency 9-1-1 services within that county; the LSC bill analysis provides information about the sources of funding currently available to local governments to provide the service. The service is generally established on a countywide basis, but a number of PSAPs may be operated by different local governments within a single county. For example, about 18 different PSAPs are operated in Franklin County. Enhanced 9-1-1 service for wireline phones is currently available in 82 of Ohio's 88 counties.

Emergency 9-1-1 calls are routed directly to PSAPs, which serve as dispatching points for emergency services of whatever kind is needed. As noted above, "enhanced" 9-1-1 service has the additional benefit that PSAP staff are able immediately to identify the telephone number and location from which a call is being made.

Enhanced 9-1-1 service is technically more difficult for wireless phones because of their mobility. The Federal Communications Commission (FCC) has ordered cellular companies to offer enhanced wireless service in two steps. In Phase I, a wireless phone company would automatically provide the phone number of a 9-1-1 caller, and the location of the base station that is handling the 9-1-1 call, which would narrow down the location of a caller to somewhere within approximately a one mile radius of the tower. In Phase II, the phone company would provide the caller's location within 300 meters of its actual position for at least 95% of calls. The FCC does not dictate the technology to be used to comply with either standard.

State Fiscal Effect

The bill would create several new positions or bodies: the office of Ohio 9-1-1 Coordinator within the PUCO, the Ohio 9-1-1 Council, and the Wireless 9-1-1 Advisory Group. The bill specifies that no compensation or expenses will be paid to appointed members of either the Ohio 9-1-1 Council or the Wireless 9-1-1 Advisory Group. Compensation would be paid to the Ohio 9-1-1 Coordinator, with the amount of compensation set by the Chairperson of the PUCO.

A PUCO official reports that compensation would likely be in the range of \$110,000 per year, including fringe benefits. This official reports anticipated set up costs to carry out the Coordinator's duties at \$275,000, which includes funding for two desktop computers, one laptop computer, and two modular offices (\$21,000) and \$254,000 for IT programming, hardware, and software to track revenues and disbursements related to the Wireless 9-1-1 Charge. Additional staffing needs are projected to cost \$230,000 annually, including fringe benefits. This amount would be for an Administrative Assistant for the Coordinator (\$50,000), and for a share of compensation for one fiscal specialist (\$25,000) and three utilities staff (\$155,000). With an estimate of \$35,000 for maintenance and indirect costs, the total ongoing costs for PUCO are estimated to be \$375,000 annually.

This amount would be paid from the Wireless 9-1-1 Administrative Fund, which the bill creates and establishes in the State Treasury. Funding for this and for the Wireless 9-1-1 Government Assistance Fund would come from the \$0.32 charge imposed on each cellular

telephone number. Wireless service providers are permitted to keep 2% of any revenue they collect from this charge as a billing and collection fee. Up to 4% of the remaining revenue during the first full fiscal year may be deposited into the Wireless 9-1-1 Administrative Fund; in subsequent fiscal years up to 2% of remaining revenue may be deposited into the fund. The actual percentage each year would be determined by the Chairperson of the PUCO subject to the limits imposed by the bill. The Wireless 9-1-1 Government Assistance Fund would receive the remaining revenue and would be administered by the Ohio 9-1-1 Coordinator. After the Wireless 9-1-1 Charge expires on December 31, 2008, revenue to the Wireless 9-1-1 Administrative Fund will end, meaning that a new source of funding for the activities of the Ohio 9-1-1 Coordinator will need to be found. The bill does not specify a funding source after that date.

The amount of revenue likely to be raised by the \$0.32 charge is uncertain, as LSC is unaware of any published information about the number of cellular subscribers in Ohio. Information gleaned from various corporate quarterly reports indicates that six of the largest cellular companies³ had a combined 124.98 million subscribers nationally as of September 30, 2003. If cellular subscribers are distributed across states in the same ratio as fixed telephone lines, then Ohio subscribers would represent approximately 3.91% of the number of subscribers nationally. This percentage also approximates Ohio's share of the national population. If so, there would be approximately 4.89 million cellular subscribers in Ohio, which works out to approximately one cellular subscriber per household. Since the bill does not distinguish between household accounts and business accounts, the estimate of 4.89 million subscribers in Ohio may be reasonable. Thus the \$0.32 charge may raise up to a total of \$18.8 million per year (\$18.76 million = 4.89 million X \$0.32 X 12). That total would represent up to \$375,000 for cellular companies (as billing and collection fees), up to \$368,000 for the Wireless 9-1-1 Administrative Fund, and up to \$18.0 million for the Wireless 9-1-1 Government Assistance Fund after the initial year; these amounts would be slightly different in the initial fiscal year due both to the reduction in the share going to the Wireless 9-1-1 Administrative Fund and to the fact that the first fiscal year would be a partial year. Revenues could increase in the future as wireless subscribers increase.

The revenues to both funds are determined by the amount of the Wireless 9-1-1 Charge. The revenues to either of the funds may be either more or less than are needed to reimburse eligible expenses. If revenues are less than eligible expenses for the custodial fund, local governments would be required to wait to receive reimbursement of expenses, while if revenues exceed eligible expenses, the fund balance would increase. The amount of the Wireless 9-1-1 Charge may be changed by a future action of the General Assembly in order to achieve a balance between revenues and expenditures. Because the Charge expires after December 31, 2008, revenues to both funds will be a portion of the estimated amount in FY 2009, and will be zero in FY 2010 and subsequent fiscal years.

Local Fiscal Effects

The bill does not impose a requirement on local governments to provide enhanced 9-1-1 service, on either a wireline or wireless basis. It does provide a funding source, through the new Wireless 9-1-1 Government Assistance Fund, to provide such service. This fund receives most of the revenue generated by the Wireless 9-1-1 Charge; LSC staff estimate that the fund will

³ The six companies included in this total are Verizon, Cingular, Sprint PCS, AT&T Wireless, Nextel, and T-Mobile.

receive approximately \$18.0 million per year until the Charge expires on December 31, 2008. The bill provides no source of funding to local governments for providing enhanced wireless 9-1-1 service after the Charge expires.

Revenues to the new fund are to be sent to the Treasurer of State, who disburses the county shares to county treasurers based on the allocation provided in the bill and calculations made by the Ohio 9-1-1 Coordinator. Disbursements to counties are to be made monthly. Each county receives a share based on the proportion of the number of wireless service subscribers whose billing address is located in the county to the number of subscribers whose billing address is located in Ohio. Each county receives a minimum share of \$25,000. Each county treasurer is to disburse the funds received to local governments in the county in accordance with the allocation formula found in the county's final 9-1-1 plan.

A county receives its share only if it has adopted a final 9-1-1 plan for wireless enhanced 9-1-1 service. If it has not adopted such a plan, the fund holds its allocation for up to three years. After three years, if the county has still not adopted such a plan, its share is distributed to those counties that have adopted such plans.

A PUCO official estimates that the cost to upgrade the equipment at one PSAP to provide the Phase I level of enhanced wireless 9-1-1 service would be \$250,000. The cost to upgrade further to the Phase II level of service would be in addition to that, but would be less than \$250,000 additional.

The bill establishes new misdemeanor and felony offenses and permits people who receive an unsolicited advertisement through a facsimile device located at a residential premise to bring a civil action from which they may recover \$1,000 from the sender of the advertisement. These provisions may result in a slight increase in caseload for county courts of common pleas and for municipal courts. To the extent that caseload increases there would be an accompanying increase in revenue from filing fees and an accompanying increase in administrative costs. LSC staff believe that any increase in caseload would be minimal.

LSC fiscal staff: Ross Miller, Economist

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Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2005	FY 2006	FUTURE YEARS
School Districts			
Revenues	- 0 -	- 0 -	Potential loss rising over time, partly offset by state aid gain for most districts
Expenditures	- 0 -	- 0 -	- 0 -
Other Local Governments			
Revenues	- 0 -	Potential loss	Potential loss rising over time that eventually may reach the tens of millions
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase

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 exemption of up to 75% of the value of qualifying investments in an agricultural security area, for up to ten years with the possibility of renewal. This could reduce taxable property valuation relative to what it would otherwise have been, resulting in loss of tax revenues. It might also encourage investments which would not otherwise have been made, augmenting tax revenues. Annual agricultural new construction that might be partially abated was \$420 million in 2002, with a taxable value of \$147 million, and property tax payments of \$5 to \$7 million per year for the one year's construction. Abated tax payments could be \$4 to \$5 million per year.
- Revenue losses would depend on local exemption decisions, on the total land area approved as agricultural security areas, and on the effect of availability of tax abatements on investment decisions. Revenue losses would rise over time as facilities are constructed year by year. Annual losses could rise into the tens of millions of dollars after ten years. Losses would continue to increase relatively rapidly thereafter if renewals of abatements were widely granted.
- The reduction in taxable property valuation would increase foundation aid payments to most school districts from the state beginning no earlier than FY 2008. These payments would partially offset the loss of tax revenues for most districts, with about a one-year lag. School district net losses depend on the effective rate for real property for continuing levies above the state foundation program.
- For emergency and bond tax levies, the reduction in taxable value would be offset by a tax rate increase, to ensure that the specific amount of tax revenue required by the levies is raised. The agricultural property owner granted the exemption would pay less taxes and other property owners would pay more taxes. New levies of all types would require a higher tax rate than current law to raise the same amount of revenue.
- The bill could increase expenditures for counties and townships by requiring these entities to, among other things, review agricultural security area applications and hold public hearings regarding these applications. According to the Ohio Township Association, this increase should be minimal in nature. Counties and townships may require that costs of public notice and certified mail be paid by the applicant. Activities might be heaviest during the first half dozen years the bill is effective as farms or groups of farms apply for agricultural security area status.

Detailed Fiscal Analysis

The bill allows a property owner to apply for land to be designated as an agricultural security area, within which qualifying investments may be partially exempted from real property taxes for up to ten years with the possibility of renewal. The exemption from tax of as much as 75% of taxable value is subject to agreement by boards of county commissioners and township trustees in whose jurisdictions the land proposed as an agricultural security area is located. These boards may also set a maximum value to which the tax exemption may apply. Other units of local government, however, would not have a role in deciding on the exemption, under the terms of the bill. Only land located in unincorporated areas, and not proposed for annexation to a municipal corporation, may be included in an agricultural security area. A hearing must be held on the application, and all school districts that would be affected and the public must be notified of the hearing. Township trustees and county commissioners may impose reasonable fees on applicants to cover costs of public notice and certified mail for any proceedings. Investments qualifying for the tax exemption include a building, structure, improvement, or fixture used exclusively for agricultural purposes, worth \$25,000 or more, and first added to the tax list in a year when the property is enrolled in an agricultural security area.

There is no clear basis for forecasting either the amount of investment that might take place in response to the bill, adding to tax revenues, or the amount of investment that would take place whether or not the bill becomes law but which would be partly exempted from tax as a consequence of the bill, reducing tax revenues. Legislative Service Commission's presumption is that other factors generally would outweigh tax considerations in such investment decision-making, and that the net impact of the bill could be expected to be a loss of tax revenues. The tax exemption would not apply to land, and would be incremental, applying only to new construction in the agricultural security area, not current value. These characteristics would tend to limit its cost in forgone local government tax revenues. Also, a board or boards of county commissioners and of township trustees would need to be persuaded of the merits of the application for designation as an agricultural security area, and would need to agree on the percentage of tax exemption, which could also tend to limit the amount of local government revenues forgone.

Department of Taxation records show about \$420 million of new agricultural construction in Ohio, with a tax value of \$147 million, in tax year 2002. Incremental real property taxes would have been about \$5 million to \$7 million, depending on the effective tax rates in the parts of the state in which the land is located. If all of this amount of investment had been in agricultural security areas, with the 75% maximum tax exemption under the bill, forgone real property tax receipts might have totaled \$4 million to \$5 million per year. New agricultural construction has been growing, and assuming this continues, each year's new construction would add a similar but growing amount to forgone tax receipts. The potential annual loss of tax receipts after ten years could total \$50 million to \$70 million. Growth in the loss of tax revenues would slow thereafter if agricultural security area tax exemptions generally were not renewed, but could continue to grow rapidly if renewals were the norm. Availability of the tax reduction might encourage additional construction. However, actual loss of tax receipts probably would be less than this potential because the counties and townships losing revenue would have to approve the loss and not all construction on agricultural land would be in areas that meet the definition of

an agricultural security area. If the bill becomes law, the key determinant of resulting tax exemptions would be the behavior of the boards of county commissioners and township trustees deciding on applications to enroll in agricultural security areas.

Description of Agricultural Security Areas

In order to qualify land to be enrolled in an agricultural security area, a landowner must apply to all boards of county commissioners and township trustees within whose counties and townships the land proposed for enrollment is located. Agriculture is broadly defined, including farming, ranching, aquaculture, beekeeping, winemaking, sod production, forestry, and other activities. The land area must include 500 or more acres of farmland that is contiguous, defined in the bill to allow separation of parts of the area by rights-of-way or bodies of water. Two or more landowners may aggregate their land in an agricultural security area to meet the acreage requirement. The land must be in an agricultural district or districts (ORC Chapter 929.) and must be valued for real property tax purposes at its current agricultural use value. About 16 million acres, or 61% of the state's land area, is valued for real property tax purposes at its current agricultural use value. Current agricultural use valuation applies only to land used directly for agricultural purposes. All homes and other structures on an agricultural property, plus a one-acre home site, are appraised at fair market value. Both land valued at current agricultural use value and other real estate valued at fair market value are assessed at 35% to calculate taxable value.

Each applicant must commit to use the land in the agricultural security area only for agricultural purposes, with certain limited exceptions, for the next ten years. Each application must include a statement from an approved conservation professional that the applicant is complying with best agricultural management practices. In approving an application, each board must require land owners to continue to use best management practices, and must commit not to "initiate, approve, or finance any development for residential, commercial or industrial purposes, including construction of new roads and water and sewer lines" in the agricultural security area for ten years. However, a limited amount of residential development is permitted on agricultural security area land for individuals related to the landowner. Whether this residential investment might be considered to be for an agricultural purpose, and therefore qualified for partial tax exemption, is not made clear. Following approval of an agricultural security area, each board must send a copy of its resolution of approval to the county auditor and the Director of Agriculture. The county auditor is responsible for maintaining records of any agricultural security area real property that is exempt from taxation.

Failure of a landowner to comply with the commitment in the agricultural security area application not to "initiate, approve, or finance any new development on the land for nonagricultural purposes" or failure to send certain required notices is subject to a \$500 fine, payable through a court to the boards of county commissioners and township trustees within whose jurisdiction the land is located. A tax incentive review council in each county or township that grants such a tax exemption would review each agreement's conformance with the requirements for establishment of an agricultural security area, and whether specified subsequent events make the property no longer eligible for tax exemption.

Effective Tax Rates on Real Property in Predominantly Agricultural Areas

Average effective tax rates on real property in nonmetropolitan areas of the state are usually lower than the statewide average of 51 mills for residential and agricultural (Class I) property, and average tax rates in metropolitan counties are usually above this average. Tax rates in agricultural areas typically are 35 to 45 mills, with some exceptions. Millage rates in some areas are lower because school district income taxes substitute for 5 to 10 mills worth of property taxes. About 20% of Ohio school districts have an income tax and most of these districts are in rural areas.

Department of Agriculture Role

The bill requires the Director of Agriculture to create an application for agricultural security areas and to distribute copies of these forms to county auditors. The bill also requires the Director to provide guidance and technical assistance to landowners, boards of township trustees, and boards of county commissioners, when requested, regarding the establishment of agricultural security areas. The Director is required to prepare and submit an annual report on agricultural security areas to the Governor, the President of the Senate, and the Speaker of the House of Representatives. According to the Department of Agriculture, these expenses should be minimal in nature as long as the requirement concerning technical assistance can be covered with an informational assistance package and by addressing the topic of agricultural security areas in public meetings (assuming this topic could be addressed during meetings already scheduled by the Department regarding other matters). The expenses will come out of the General Revenue Fund.

Local Costs for Review Procedures

The bill specifies the procedures necessary for establishing land as an agricultural security area. Some of the procedures and requirements concerning local governmental entities are listed. The bill allows land to be enrolled in an agricultural security area by submitting an application to boards of township trustees and county commissioners of each county or township in which the land is located. Within 60 days of the submission of the application, the boards shall hear the application at the next regularly scheduled meeting. The time and place of the meeting shall be published in a newspaper of general circulation and be sent to the superintendent of each school district within the proposed agricultural security area, as well as the county engineer of each county in which the proposed area would be located, and the Director of Transportation. Costs for public notice and certified mail associated with these proceedings may be charged to the applicant, at the discretion of each board of township trustees and county commissioners. The board of township trustees of each township and the board of county commissioners of each county required to hear an application, may conduct a joint meeting regarding the application and submit a single public notice. Each respective board shall adopt a resolution approving or disapproving the application within a specified time constraint. If it is determined that the application is incomplete or incorrect, the application shall be returned by certified mail to the applicant. The board shall also notify the applicant by certified mail, of the board's decision and send a copy of the resolution by certified mail to the Directors of Agriculture and Transportation, the superintendent of each school district within the area, the county engineer, and the county auditor.

The bill also addresses the role of local governments regarding the renewal of the area and the violations concerning the agricultural security area law. According to the Ohio Township Association, minimal costs will be incurred by local governments as a result of the above provisions. In fact, the requirements regarding the reviewing of applications and public hearings are similar to requirements in already existing code sections. Thus, this process of review and hearings is not novel. Most costs of establishing agricultural security areas would probably be incurred in the first half dozen years the law is effective.

Effect of Tax Exemptions on the State

State aid for school districts includes a foundation or basic aid program that provides greater assistance to districts with lower tax capacity. Each district's capacity is measured as 23 mills (2.3%) times the district's taxable property value. The formula determining state assistance compares this measure of capacity with the product of a per-pupil foundation level of funding—\$5,169 in FY 2005—times the district's average daily membership. A further adjustment, the cost of doing business factor, is made for local costs. Any shortfall is filled by state aid. Under this formula, a decline in taxable property value, such as might result from H.B. 414, would increase annual state aid to most school districts by 2.3% of the property value reduction. Per-pupil property values in about 4% of school districts are high enough that they do not receive state base cost funding based on the formula calculation alone, but most of these districts have little agricultural lands. If any of these districts included property qualified for tax exemption under the bill, the resulting reduction in tax receipts would not be partly offset by an increase in state funding.

Taxes on all real property are subject to various reductions from voted or administered millage rates. One of these reduces taxes by 10%, which is reimbursed to local governments by the state. Lower taxable property value as a result of the tax exemption in the bill would reduce the state's reimbursement payments. As discussed above, the effective tax rate on agricultural real property is typically 35 to 45 mills. The state's 10% reimbursement therefore would cost about four mills, and a reduction in taxable agricultural property values as a result of tax exemption would save the state an estimated four mills times the amount of the reduction. The increase in school foundation aid payments, at 23 mills times the amount of the reduction in 96% of school districts, would be larger than this reduction.

Effect of Tax Exemptions on Local Governments

The bill provides that after the "tax exemption is granted, the qualifying agricultural real property shall become exempt in the tax year following the year in which the construction of the property is completed." As a nonemergency measure, the bill would have an earliest possible effective date in the first half of 2005. The earliest possible period of tax exemption, for agricultural security areas approved promptly thereafter with construction completed expeditiously following that approval, would be tax year 2006. The earliest date when local governments would be due to receive reduced tax payments, relative to what those payments would otherwise have been, is December 31, 2006, the first payment date for tax year 2006. The language in the bill appears to create the possibility that the investment might be fully taxable during construction, if the process of building the qualifying investment extended over two or more tax years.

As described above in the discussion of state aid for schools, loss of part of the property tax base because of partial tax exemption would be partly offset for most school districts by an increase in state aid. The increase in state aid corresponding to reduced tax payments due for tax year 2006, the earliest that such a reduction could take place under the terms of the bill, would be received by school districts in their FY 2008, beginning July 1, 2007.

For some types of real property taxes, a reduction in taxable property values as a result of investments in agricultural security areas would trigger adjustments in tax rates. Emergency levies are enacted to raise a specific amount of tax revenue. Bond levies must raise enough tax revenue to service outstanding bonds. For emergency and bond tax levies, tax rates are set annually to raise the required amounts of revenues. A reduction in taxable value under the provisions of H.B. 414 would be offset by a tax rate increase, to ensure that the specific amount of tax revenue required by the levies is raised. The agricultural property owner granted the exemption would pay less taxes, and other property owners would pay more taxes.

Example of Tax Effects

An example may help to clarify the workings of these various tax effects. Assume a qualifying investment of \$1 million by a landowner in an agricultural security area, for which a tax exemption of 50% was granted, with no maximum exemption. Assume further that the net or effective tax rate where the agricultural security area is located is 45 mills, that 70% or 31.5 mills is levied by local schools, and that the remaining 30% or 13.5 mills is levied by other local governments.

Apart from any tax exemption, the \$1 million investment would have a taxable value of \$350,000, since real property is assessed for tax purposes at 35% of true value. The assumed 45 mill effective tax rate implies taxes charged of \$15,750 per year, before the 10% reduction. Net taxes collectible by local governments would be \$14,175, and the state would pay local governments an additional \$1,575 in reimbursement of the 10% reduction. The share of the total payable to local governments other than schools would be \$4,725, and the share payable to schools would be \$11,025. However, the additional school district property value would reduce state aid for schools by 23 mills times \$350,000, or \$8,050, implying a net increase in funds available to schools of \$2,975.

With the 50% tax exemption, most of these numbers would be reduced by half. The sum of net property taxes payable to schools plus state reimbursement of the 10% reduction would fall to \$5,512.50. The reduction in state aid to schools would also be smaller, i.e., more favorable to the schools, by \$4,025. Netting these two changes implies a \$1,487.50 increase in funds available to schools, half of the increase without the exemption. Other local governments would gain \$2,362.50, also half of the increase with no exemption.

If, in the absence of the incentives offered under the agricultural security area program, the \$1 million qualifying investment would not have been made, the net amounts in the previous paragraph are the increases in tax revenues to local governments as a result of the program. However, if the investment would have been made even if the program incentives had not been available, the tax abatements result in the loss of tax revenues to local governments noted in the previous paragraph.

*LSC fiscal staff: Phil Cummins, Economist
Wendy Risner, Budget Analyst*

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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. 426** **DATE:** December 15, 2004

STATUS: As Enacted - Effective May 18, 2005 **SPONSOR:** Rep. Ujvagi

LOCAL IMPACT STATEMENT REQUIRED: Yes

CONTENTS: Defines benefits for persons called to active military duty

State Fiscal Highlights

STATE FUND	FY 2005	FY 2006	FUTURE YEARS
General Revenue Fund			
Revenues	Potential decrease up to \$12,500	Potential decrease up to \$25,000	Potential decrease up to \$25,000
Expenditures	- 0 -	- 0 -	- 0 -
Fund 554 (Department of Insurance Operating Fund)			
Revenues	Potential one time gain in the tens of thousands of dollars	- 0 -	- 0 -
Expenditures	Potential one time increase of approximately \$40,000	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2005 is July 1, 2004 – June 30, 2005.

- The bill would require the addition of new provisions to existing life insurance policies used in the state, if the policy has been in force for 180 days and has been brought under the Servicemembers Civil Relief Act. The Department of Insurance (ODI) is charged with reviewing all new forms used in the business of insurance in Ohio. With the addition of this provision there is a possibility that forms will need to be reviewed. An ODI official reports that the Department would incur approximately \$40,000 in one-time expenses to review as many forms as possible within the time frame allotted. These would be largely personnel costs associated with paying overtime. The expenses would be paid out of the Department of Insurance Operating Fund (Fund 554). There is a \$50 fee that would accompany any form submitted for review; the fee would be deposited into the Department of Insurance Operating Fund (Fund 554). Fund 554 could therefore experience a one-time revenue gain in connection with this provision of the bill in the tens of thousands of dollars.
- The bill requires public and private institutions of higher education to grant a military leave of absence, without academic penalty, when a student has been deployed on active military duty and a year thereafter. If requested, tuition may be credited to a subsequent term or refunded if the student withdrew before the school's "withdraw date." The student will retain prior educational status, credits earned, scholarships, grants, tuition, or other fees paid before deployment on active duty, if the student requests restoration of academic status, with in one year after release from active duty. Unless an institution fails to comply with

the requirements of the bill, these provisions have no fiscal effect. Local court costs could result from a failure to comply with this requirement of the bill.

- This bill requires that the county recorder will not charge a fee for the recording of a military power of attorney to any member of the armed forces. This will result in decreased revenue to the GRF fund in the amount of up to approximately \$25,000.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2005	FY 2006	FUTURE YEARS
Counties and Municipalities			
Revenues	Potential decrease up to \$25,400	-0-	Potential decrease up to \$25,400
Expenditures	Potential increase	Potential increase	Potential increase

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

- Public and private institutions of higher education failing to comply with the provisions of this bill could face action before the court of common pleas. Court costs would be a function of the merits and complexity of the case. While this would most likely be minimal on a statewide basis, such cases could produce a fiscal impact on particular counties.
- The bill allows courts to intervene in eviction proceedings when the failure to pay the agreed upon rent is a result of the tenant or resident, or any member of the tenant's or resident's immediate family's deployment on active duty. Increased court costs would result from this provision. While this would most likely be minimal on a statewide basis, such cases could produce a fiscal impact on particular counties.
- The bill requires that the county recorder charge no fee to any member of the armed forces for recording a military power of attorney. This provision will result in a potential decrease of revenue to the counties of up to \$25,400. This fiscal impact will likely be disproportionate among counties that have a larger military population, and counties in which National Guard or reservists are deployed. Additionally, during times of low deployment this impact will be decreased, as less military power of attorneys would be recorded.
- The bill prohibits creditors from charging interest or finance charges exceeding 6% per annum on obligations of persons, or spouses of persons, deployed on active duty. A court may grant a creditor relief from this limitation, if the court decides that the ability of the person, or spouse of the person, deployed on active duty to pay interest or finance charges in excess of the 6% is not affected by the person's deployment on active duty. This could increase expenditures for county courts. The total increase would be dependent upon the number of persons deployed, the number of those that take advantage of this provision, and the number of cases brought before the courts. As a result, the total increase is unknown at this time.

Detailed Fiscal Analysis

This bill extends benefits to persons deployed on active military duty. There are currently approximately 60,000 military personnel in the state of Ohio, approximately 6,500 of those personnel are Ohio National Guard and reservists on active duty. The Legislative Service Commission does not have any information on the number of Ohioans on full-time military duty. Both the number of military personnel in the state of Ohio, as well as the number of guard and reservists on active duty are imprecise and will change with deployment.

State and local costs incurred in this bill result from the elimination of charging recordation fees for recording military power of attorney. Additionally, local governments will be affected by the court costs of various provisions.

Provision of Communication Services

The bill directs the Department of Administrative Services to contract to purchase bulk long distance telephone services or provide them under an existing contract, and make those services available, at cost, to members of the immediate family of a person deployed on active duty.

Recordation Fees

This bill establishes that the county recorder will not charge a fee to any member of the armed forces who presents for recording a military power of attorney. Am. Sub. H.B. 95 of the 125th General Assembly doubled the fees charged by the county recorders. These fees are divided into base fees, which stay within the county, and housing trust fund fees, which are paid to the Treasurer of State. Of the housing trust fund fees received, the Treasurer of State is responsible for depositing the first \$50 million collected into the Low- and Moderate-Income Housing Trust Fund (Fund 646). Revenue from recordation fees in excess of \$50 million will be deposited into the General Revenue Fund (GRF).

The Adjutant General reports that approximately 1,800 members of the Ohio National Guard and reserves have been deployed each year since September 11, 2001. We can estimate that this number of troops will also be deployed in FY 2005. If each active duty member was to record a military power of attorney at \$28 apiece the cost would total approximately \$50,400. This number is likely to fluctuate between wartimes and peacetimes, when a fluctuating number of soldiers are registering a military power of attorney.

Half of the revenue loss will occur in recorder fees designated base fees in the amount of approximately up to \$25,200. The other portion of the revenue loss will occur in the form of housing trust fund fees, in the amount of approximately up to \$25,200. Of the Housing Trust Fund fees 1% would have been returned to the county for deposit in the county general fund in the amount of approximately \$252, as an administrative fee which is an additional decrease in county revenue.

It is unlikely that this decrease in revenue would affect the amount paid yearly into Fund 646. The \$50 million dollars allocated to Fund 646 was received within the first three quarters of FY 2004, with additional spill-over being deposited into the GRF. Given this amount paid to Fund 464 in only three quarters of the fiscal year, the revenue loss at the state level would occur in the spill-over to the GRF, and would not affect Fund 646.

Consumer Protections

- The bill prohibits a creditor from charging interest or finance charges equal to more than a 6% annual percentage rate on obligations of a person, or spouse of a person, who is deployed on active duty. Only contracts entered into after the effective date of the bill are affected by this provision. Interest or finance charges in excess of 6% per annum that would be incurred without this provision will be forgiven. The amount of periodic payments due shall be reduced by the amount forgiven. The retail buyer must provide the seller with a copy of the military or gubernatorial orders calling them to active duty or extending active duty within 180 days of return from active duty for the contract to be subject to this limitation. A court may grant a creditor relief from the interest and finance charges limitation if, in the opinion of the court, the ability of the person deployed to pay the charges in excess of the 6% per annum is not affected by the person's deployment on active duty. This could have a fiscal impact on local governments if courts must become involved in these issues. The total impact is dependent upon many factors and is unknown at this time.
- The bill allows for the early termination of a motor vehicle lease if a person, or spouse of a person, is deployed on active duty for at least 180 days. If a motor vehicle lease is entered into on or after the effective date of this amendment, the person or spouse of the person deployed on active duty for at least 180 days may terminate the lease at any time without a charge for early termination. Termination occurs 15 days after the person gives notice by certified mail, return receipt requested, of the intention to terminate the lease and the military or gubernatorial orders calling the person to active duty and the motor vehicle is returned to the lessor. The bill provides that any lease amounts unpaid for the period prior to the lease's termination are to be paid on a prorated basis. Any taxes or other payments required under the lease, including costs for excess wear and tear, that have not been paid by the time the lease is terminated must be paid by the lessee. Any lease amount paid in advance for a period after the lease's termination date must be refunded by the lessor. There is no fiscal impact of this provision.
- The bill allows for early termination, without charge, of a cellular phone contract. The contract may be terminated by the person or spouse of the person who is deployed on active duty, providing that the contract is entered into on or after the effective date of this section. Termination occurs 30 days after the person gives notice by certified mail, return receipt requested and the cellular phone, if not owned, is returned to the cellular phone company. There is no fiscal impact of this provision.

Utility Provisions

The bill would prohibit any electric or natural gas company from shutting off service to the residence of a consumer on active duty in the U.S. armed forces, the Ohio National Guard, or the Ohio organized militia. Any electric or natural gas companies that might be affected by the

bill would be required to provide financing for a period of time to households with a member of the U.S. armed forces or a National Guard or reserve member serving on active duty. Upon the resident's return from active duty the company will offer the residential consumer a period equal to at least the time spent on active duty to pay the past due amount. If the period presented to the consumer presents a hardship the consumer may request a longer repayment period and in the case of a company that is a public utility, may request the assistance of the public utilities commission to obtain a longer repayment period. No late fees or interest will be charged to the consumer during the deployment or the repayment period.

If a company determines that it is unable to collect the amounts owed by such a consumer, it may file an application with the Public Utilities Commission of Ohio (PUCO) to recover the amounts through a rider on the bills of other consumers or through other means approved by the PUCO. The bill provides that the costs associated with financing such debt forgiveness would be built into utility rates approved by the PUCO by adding a rider to the bills of other consumers. Thus, such financing charges are ultimately paid by all utility customers. A PUCO official reports that any duties the PUCO may have to perform due to this provision of the bill could be performed using existing resources. There would be no fiscal effect, either for the state or for local governments, from this provision of the bill.

Tenant Protections

The bill allows the court to intervene in eviction actions if the failure to pay the agreed upon rent is a result of deployment on active military duty of the tenant or resident or any member of the tenant's or resident's immediate family. The court may intervene in one of two ways; it may stay the proceedings for a period of 90 days or longer, or it may adjust the obligation under the rental agreement. If a stay is granted the court may grant the landlord or park operator relief. This provision of the bill does not apply to landlords or park operators operating less than four residential premises. Additionally, for this provision to be in effect the rental agreement must have been entered into on or after the effective date of this section.

Insurance Extension

The bill would require that individual life insurance policies sold in Ohio contain a provision that the policy shall not lapse or be voided for nonpayment of premiums if the insured is a reservist on active duty or during the two-year period subsequent to the end of active duty if: the policy has been in force for at least 180 days, and the policy has been brought within the Servicemembers Civil Relief Act. This provision does not apply to a policy that was cancelled or that had lapsed for nonpayment of premiums prior to the insured's period of military service. This provision must allow the policy to remain in force during the period of active duty, and continue in force after the period of active duty if all premiums due are paid within two years of the end of active duty. A life insurance company's enforcement of provisions in the insured's policy relating to military service in times of war is not affected by this provision.

The bill would require the addition of new provisions to existing life insurance policies used in the state, which would possibly result in the need to review these new forms. The Department of Insurance (ODI) is charged with reviewing all new forms used in the business of insurance in Ohio. The Department is subject to a 30-day limit on reviewing any forms submitted; forms that have not been reviewed in that time are approved by default. There were approximately 586 companies writing life insurance in Ohio as of financial year 2002. ODI

officials would have to review new forms used by each of these companies for compliance with state insurance laws. An ODI official reports that the Department would incur approximately \$40,000 in one-time expenses to review as many forms as possible within the time frame allotted. These would be largely personnel costs associated with paying overtime. The expenses would be paid out of the Department of Insurance Operating Fund (Fund 554). There is a \$50 fee that would accompany any form submitted for review; the fee would be deposited into Fund 554. Fund 554 could therefore experience a one-time revenue gain in connection with this provision of the bill in the tens of thousands of dollars. Both the potential increased expenditures and revenue gain to Fund 554 are dependent upon whether there is a need to review new forms.

Education Protection

The bill permits a child whose parent is deployed on active duty, or temporarily on an out-of-district assignment, to continue attending school in the same district, as long as the parent remains a resident of that district. Children residing with a person other than a parent are entitled to attend school in the district where the person resides based on two conditions: if the person has military power of attorney or comparable document as to the child's care, and the power of attorney or comparable document includes the ability to enroll the child in school. This provision entitles the child to attend school in the district until the end of the school year in which the power of attorney expires. There is no fiscal impact from this provision.

The bill requires public and private institutions of higher education to grant a military leave of absence, without academic penalty, when a student has been deployed on active military duty and a year thereafter. If requested, tuition may be credited to a subsequent term or refunded if the student withdrew before the school's "withdraw date." The student will retain prior educational status, credits earned, scholarships, grants, tuition, or other fees paid before deployment on active duty, should the student request restoration of academic status, not later than one year after release from active duty. Unless an institution fails to comply with the requirements of the bill, these provisions would have no fiscal effect. Institutions failing to comply with these provisions will face action before the court of common pleas. Court costs will also be a function of the merits and complexity of the case. On a statewide basis these costs are likely to be minimal, however, there is a potential that such cases could produce a fiscal impact on particular counties beyond what would be considered minimal.

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Liquor Control Fund (Fund 043)				
Revenues	- 0 -		- 0 -	- 0 -
Expenditures	Increase of \$5.0 million		- 0 -	- 0 -
Industrial Site Improvement Fund (Fund 5AR)				
Revenues	Gain of \$5.0 million		- 0 -	- 0 -
Expenditures	Increase of \$5.0 million		- 0 -	- 0 -

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

- **Unclaimed Funds.** The transfer of \$25.8 million from the Unclaimed Funds (Fund 543) to the Jobs Development Initiatives Fund (Fund 5AD) for three new Department of Development programs reduces the amount of funds available for other programs and reduces amounts available to pay claims of those seeking to claim their funds.
- **Department of Development.** The transfer of \$25.8 million from the Unclaimed Funds (Fund 543) to the Job Development Initiatives Fund (Fund 5AD) allows moneys to be spent on three new Department of Development programs in FY 2005: \$12.8 million for the Investment in Training Expansion, \$3.0 million for the Worker Guarantee program, and \$10.0 million for Wright Operating Grants.
- **Unemployment Compensation Trust Fund.** The bill allows the Hamilton County Commissioners to purchase a state-owned office building located in Hamilton County for \$300,000. The payment is to be deposited in the Unemployment Compensation Trust Fund.
- **Liquor Control Fund (Fund 043).** The bill transfers \$5.0 million from the Liquor Control Fund (Fund 043) to the Industrial Site Improvement Fund (Fund 5AR) to be used for the Industrial Site Improvement program.
- **Industrial Site Improvement Fund (Fund 5AR).** The bill appropriates \$5.0 million to the Industrial Site Improvement Fund (Fund 5AR) to be disbursed by the Director of Development to eligible counties. This money will be used for the purpose of making improvements to commercial or industrial areas when these improvements create new jobs or preserve existing jobs. The revenue source of these funds is the Liquor Control Fund (Fund 043), from which money is transferred to the Industrial Site Improvement Fund (Fund 5AR).
- **General Revenue Fund.** Because most of the administrative support for current programs is paid for using General Revenue Funds (GRF), there is a potential minimal increase in GRF expenditures due to the Investment in Training Expansion and additional funding for the Wright Operating Grants.
- The bill broadens the scope of activities to attract federal jobs that the Department of Development may support by payments to a county or municipal corporation. This provision is intended to attract the NASA Shared Services Facility to Ohio.
- A repeal of the sunset provision of the Employee Ownership Assistance Program within the Department of Development would have a minimal fiscal impact on the General Revenue Fund which supports program operations.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2004	FY 2005	FUTURE YEARS
Counties and Municipal Corporations			
Revenues	Possible gain	Possible gain	Indeterminate
Expenditures	Possible increase	Possible increase	Possible increase
Other Local Governments			
Revenues	Possible gain	Possible gain	Indeterminate
Expenditures	- 0 -	- 0 -	- 0 -
Hamilton County			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential \$300,000 increase, plus negligible conveyance costs	- 0 -	- 0 -
Courts of Common Pleas			
Revenues	Potential gain in court fees	Potential gain in court fees	Potential gain in court fees
Expenditures	Potential minimal increase in cases	Potential minimal increase in cases	Potential minimal increase in cases

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

- Local property tax revenues may increase if extending partial tax exemption in enterprise zones from 10 years to 15 years attracts investment that would not have been made if these incentives were available only for the 10 years generally allowed under current law.
- Alternatively, local property tax revenues may decrease in years 11 through 15, 2014 or later, if the investments would have been made in an enterprise zone even without the longer period of partial tax exemption provided in this bill, but nevertheless receive this benefit.
- Businesses in an enterprise zone pay an annual fee of 1% of the value of incentives (but at least \$500 and no more than \$2,500), to cover the cost of reporting and of Tax Incentive Review Council oversight. More agreements as a result of lengthened tax abatements would increase these revenues and expenditures.
- Expenditures by municipal corporations and counties may increase to provide optional services or assistance to project sites. This may occur in years 1 through 15 for additional investments attracted by the longer period of tax exemption, or in years 11 through 15 for investments that would have been undertaken without the longer period of benefit but which nevertheless receive these services for the extended period of time.
- The bill allows the Hamilton County Commissioners to purchase a state-owned office building for \$300,000. The Hamilton County Commissioners are also responsible for paying relevant conveyance costs, including conveyance fees, transfer tax, and recordation fees to the applicable jurisdictions. These costs would be negligible. Payments on interest and principal will increase revenue and expenditures in future years.
- The bill broadens the scope of activities to attract federal jobs that the state may support by payments to a county or municipal corporation. This provision is intended to attract the NASA Shared Services Facility to Ohio.
- The bill may result in a possible increase in cases in courts of common pleas by moldbuilders who have not been paid by customers. It is unclear how many new civil actions would take place as a result of this bill.

- The bill modifies certain aspects of incentive districts created by H.B. 405 of the 124th General Assembly under the Tax Increment Financing (TIF) Law. The bill requires service payments and charges in lieu of property taxes to be treated as taxes for purpose of lien, i.e., penalties, interest, or other charges may be imposed when recipients of exemptions are not making those payments as agreed.
- The bill makes other clarification regarding incentive district TIFs. This fiscal note assumes that these changes do not alter incentive districts' agreements with school boards where school districts are compensated for any taxes lost to a TIF.
- The bill requires that a portion of service payments for a real property located within an incentive district TIF created by a municipal corporation or a township be distributed to the county treasury to the credit of the county general fund if the incentive district is created by a municipal corporation or township. Alternatively, if a county creates an incentive district within a township, a portion of service payments for a real property that should be paid to the county will be distributed to the township.
- The bill may potentially increase revenues to the county or the township that would not have occurred otherwise. Conversely, the municipal, county, or township public improvement tax increment fund may lose an equal amount of revenues to their service payment fund.
- The bill permits the Director of Development to provide from the Industrial Site Improvement Fund (Fund 5AR) a grant of up to \$1 million to eligible counties that apply for the funds, with the money used to make qualified improvements to industrial or commercial sites.

Detailed Fiscal Analysis

H.B. 427 extends to 15 years, from 10 years under current law, the period during which enterprise zone agreements or urban jobs and enterprise zone agreements may exempt real and tangible personal property from taxation. It also creates three programs within the Department of Development: the Investment in Training Expansion, the Worker Guarantee Program, and Wright Operating Grants. These three programs are funded through the newly created Jobs Development Initiatives Fund (Fund 5AD), which is funded with revenue from a transfer of \$25.8 million in FY 2005 from the Unclaimed Funds (Fund 543). The bill also conveys state-owned real estate to the Hamilton County Commissioners. It broadens the scope of activities that may be supported by state payments to local governments that attract federal jobs, creates a moldbuilder's lien, adds state buildings to the Clean Ohio Brownfield Revitalization Program, and repeals the sunset provision of the Employee Ownership Assistance Program within the Department of Development, which would have otherwise expired on December 31, 2004. It makes various changes to Tax Increment Financing programs.

Enterprise Zone Agreements

The bill allows the legislative authority of a municipal corporation or a board of county commissioners to enter into agreements providing property tax exemptions for up to 15 years to businesses located within an enterprise zone, as inducements to them to hire and invest. Currently, with a very limited exception, the maximum term of these agreements is 10 years. So the maximum exemption would increase 50% as a result of the increased term. Any extension beyond 10 years requires approval of the board of any affected school district, and would

continue to do so under the bill. The tax exemption applies to 75% or less (60% or less in unincorporated areas) of the taxable value of tangible personal property first used on the site and of the increase in the value of the real property at the site. This tax exemption may exceed these percentages with school board approval. Details including the term and percentage of tax abatement and property to which abatement applies are negotiable, and are specified in each agreement. The extension from 10 to 15 years also applies to the maximum period for which a municipality or county may commit to provide optional services or assistance to the project site. Consequently, the total service or assistance cost could increase 50% as a result of the increase in years.

The Enterprise Zone program in Ohio, begun in 1982, was originally intended to help distressed cities attract business investment and jobs. In the late 1980s, eligibility was extended to nondistressed areas in the state. An enterprise zone is a geographic area, which is required to have a single continuous boundary. Large portions of many of Ohio's counties are included in enterprise zones. The agreements have had a maximum term of 10 years, except for an extension to 15 years passed last year for uranium-related projects, as part of the state's successful competition for a large investment.

As of January of this year, 344 enterprise zones were active in the state, with 3,207 agreements in effect with businesses, out of 4,813 entered into since the program started. The taxable value of real property that is partially tax exempt under these agreements was less than \$1.15 billion in calendar year 2002, or less than 0.5% of the value of all real property in the state.⁴ The 2002 annual report for the program shows real property taxes paid by participating businesses of \$47 million and real property taxes forgone under these agreements of \$51 million. Tangible personal property taxes paid by these firms on business equipment and inventory were \$51 million and tangible personal property taxes forgone were \$145 million. Companies may also enter into agreements with school districts and other units of local government to compensate them for tax revenue forgone as a result of the enterprise zone agreements.

Using these revenue figures as a guide would imply that the maximum possible effect if this proposal would have been adopted 15 or more years ago and the maximum time period was used extensively, up to a 50% increase in the loss of \$196 million, or \$98 million, would be possible. Because of payments to school districts and agreements with less than the maximum term, loss increases would probably be substantially less. On the other hand, both taxes paid and forgone by businesses under enterprise zone agreements would tend to be higher if availability of the longer term led to an increase in the number of exemptions granted. The average agreement entered into in 2002 provided an average incentive of 50% for 7 years on increases in the value of real property and of 66% for 9 years on investments in tangible personal property, according to the annual report. No similar summary figures are provided in that document for all outstanding agreements, but a review of the information provided on individual agreements indicates that incentives vary widely, including up to 100% for 10 years on real property but no tax abatement on personal property, and no abatement on real property but 100% for 10 years on personal property. Presumably, currently outstanding agreements reached for less than the 10-year term permitted under current law would not have instead been for 15 years, if that had been allowed.

⁴An Ohio Department of Taxation report, Taxable Value of Real Property Improvements Exempted by Tax Abatements (PE-3), shows enterprise zone tax abatements as part of an "other" category which includes several programs, the largest of which is enterprise zone abatements.

Enterprise zone agreements include commitments by businesses to make specified investments, anticipated dates between which the investments are to be made, projections of the number of employees to be hired or retained, and estimates of the amount of payroll associated with those positions. The bill adds a requirement that the business benefiting from the enterprise zone agreement repay exempted taxes for any three-year period in which it does not create or retain at least 75% of the number of jobs estimated in the agreement. In addition, the municipal corporation or county with which the business has an enterprise zone agreement may terminate or modify these exemptions. Performance in meeting these commitments is to be monitored by Tax Incentive Review Councils (TIRCs), which include representatives of the county auditor and of taxing jurisdictions affected by each enterprise zone agreement. A TIRC lacks power to take punitive action against a business that fails to live up to its commitments, but may only recommend that local legislative bodies take such action.

A business participating in an enterprise zone agreement is required to pay an annual fee of 1% of the value of incentives offered to it, with a minimum of \$500 and a maximum of \$2,500, to be used to pay for reporting on its activities in the enterprise zone and for oversight by a TIRC. An increase in the number of such agreements as a result of lengthening the period of tax abatement would increase both revenues and expenditures under these provisions. This fee, but not the duties for which it pays, may be waived by the municipal corporation or county within which the enterprise zone is located.

Other states competing with Ohio for business investment dollars use a variety of tax incentives to attract investments, including enterprise zones. A summary this year from the Department of Development indicated that Indiana and Kentucky offered enterprise zones with terms up to 20 years. The time period for tax benefits to individual companies is tied to the term of the zone. Michigan has multiple programs to encourage business investment and job creation, offering tax abatements for various periods of time up to 20 years. Numerous other states around the country have enterprise zone programs.

Academic studies of the effectiveness of enterprise zones have reported mixed findings. Cassell, in reviewing research on whether enterprise zone incentives attract additional business and investment, states that “effectiveness of enterprise zone programs is notoriously difficult to assess.”⁵ He cites several studies, some of which conclude that enterprise zones tend to increase job growth and investment, while others find that enterprise zone incentives alone do not offset other locational disadvantages or have no discernible impact on employment growth. Peters and Fisher conclude that enterprise zones have “little or no” effect on growth of establishments or employment.⁶

Availability of partial exemption from property tax in an enterprise zone for 15 years instead of 10 years might attract some investments that otherwise would be made elsewhere or not be undertaken. Such investments would generally tend to add to property tax revenues of local governments, though other investments that might have occurred if these had not been made should be offset against any such gains. For example, if a desirable site is occupied by a business attracted by the enterprise zone tax abatements in years 11 through 15, and if in the absence of the added tax incentive another business might have located at that site, the net gain

⁵ Mark Cassell, “Zoned Out: Distribution and Benefits in Ohio’s Enterprise Zone Program,” Policy Matters Ohio, October 2003, page 8.

⁶ Alan H. Peters and Peter S. Fisher, State Enterprise Zone Programs: Have They Worked? W.E. Upjohn Institute for Employment Research, 2002, page 225.

(if any) in tax revenues resulting from the changes in this bill would be the difference between tax revenues from the two projects.

Alternatively, if investments that would have been attracted to an enterprise zone by 10 years of tax abatements under current law instead receive 15 years of tax reductions as a result of this bill, the result would be a net loss of tax revenues in years 11 through 15. Local authorities have an obvious incentive to offer tax benefits only to the extent necessary to attract investment and jobs, but determining that needed extent may be difficult. The loss of tax revenues might occur sooner than 11 years in the future if existing agreements, with benefits ending 1 to 9 years in the future, could be renegotiated. The bill does not provide for reopening existing agreements to extend their term, but neither does it appear to preclude such a change. Also, prospective investors in an enterprise zone may come to expect whatever period of benefits is permitted, and might insist on 15 years of benefits if the law allows that, even if 10 years of tax abatements would have been sufficient to attract the project if that was the maximum allowed by law.

Answers to such “what if” questions, regarding alternative possible outcomes, are inevitably murky and difficult to determine. Academic literature on enterprise zones in general, as well as the more specific plausible outcomes of this bill outlined above, suggest that the changes in law in the bill might result in increased or decreased revenues in years 11 through 15 of future agreements. Consequently the revenue impact of this bill in that time period appears indeterminate.

Taxes are only one of various considerations in business location decisions. Net present value is a commonly used business decision technique for making choices among alternatives that have differing future consequences. The net present value of real property tax abatements discounted from 11 to 15 years in the future might be relatively small, and might play only a minor role in many location analyses. However, as property values rise, the discounted value of the out year values could be substantial unless the business uses a high discount rate in its calculations. In some cases, this could conceivably be the deciding factor in an investment decision.

Some types of property taxes—bond issues and school district emergency levies—are designed to collect specific amounts of money. To the extent that an enterprise zone tax abatement results in an increase in the tax base, relative to what it would otherwise have been, the taxes of other taxpayers in a taxing district would go down. But to the extent that the enterprise zone program reduces the tax base, other taxpayers would have to pay more. More generally, there is an equity issue in imposing different effective tax rates on two essentially similar taxpayers, differing only in that one of them satisfies the qualifications for the enterprise zone tax abatement and the other does not.

In some cases, enterprise zone incentives are viewed as an essential tool for competing with other states for business investment and employment. In other cases, Ohio local governments use the enterprise zone tax abatements to compete with other local governments within the state for these investments. This intrastate competition may result in a net loss of local tax revenues with no net gain in investments and jobs for the state as a whole.

The state plays a limited role in administration of enterprise zones. The Department of Development certifies zones to allow local communities to negotiate agreements. Local governments must apply to the Department for certification. The Department has authority to

approve or deny requests from companies looking to relocate within Ohio to nondistressed based zones. It provides technical assistance to zone managers, communities, and businesses. Finally, it publishes an annual report based on the data supplied by zone managers.

State Special Revenue appropriation item 195-630, Enterprise Zone Operating, provides funding for administrative support of the program, through the Department's Office of Tax Incentives. Am. Sub. H.B. 95 of the 125th General Assembly appropriated \$211,900 to this line item in each of FYs 2004 and 2005, funded by application fees and penalties collected under the Ohio Enterprise Zone and Community Reinvestment Area programs. The Department believes that the funding in the operating budget bill should be sufficient to cover any costs from this bill. It does not expect the bill to result in a large increase in new projects or the need to hire additional staff.

Investment in Training Expansion

In this bill, the Investment in Training Expansion program receives an appropriation of \$12.8 million in FY 2005 through appropriation item 195-667, Investment in Training Expansion, which is to be used under the same purposes and in the same manner as specified in Section 38.09 of Am. Sub. H.B. 95 of the 125th General Assembly. Language in that section directs the use of the moneys for the Investment in Training program, which is funded through GRF appropriation item 195-434, Investment in Training Grants. That line item received appropriations of \$12.2 million in FY 2004 and FY 2005, which are to be used to promote training through grants for the reimbursement of eligible training expenses. The appropriation in H.B. 427 must be used for the same purpose and added to the \$12.2 million appropriation in Am. Sub. H.B. 95 of the 125th General Assembly thus bringing the total appropriations for the program to \$25.0 million in FY 2005.

Am. Sub. H.B. 238 of the 116th General Assembly created the Investment in Training Program through appropriation item 200-514, Post Secondary Vocational Education, in the Department of Education. The program was transferred to the Department of Development and renamed the Industrial Training Grants program. During the FY 2002-2003 biennium, the program name was again changed to Investment in Training Grants to better reflect the changing scope of the program. The program provides financial assistance of up to 50% reimbursement for instructional costs, materials, and training-related activities for new and expanding Ohio businesses. The program places an emphasis on manufacturing and selected employment sectors that have significant training and capital investments related to creating and retaining jobs. The program has 12 regional coordinators who walk companies through all phases of the application and approval process, at no cost to the business. The program strives to achieve increased employee productivity, improved labor/management relations, and a highly skilled labor pool.

Administrative expenses for the Office of Investment in Training are supported through GRF appropriation item 195-415, Economic Development Division and Regional Offices, which received appropriations of nearly \$5.6 million in each fiscal year through the biennial operating budget, Am. Sub. H.B. 95 of the 125th General Assembly. In addition to the Office of Investment in Training, the line item also funds other components of the Economic Development Division as well as the Department's Regional Offices. The Department estimates the administrative expenses of the Office of Investment in Training will cost approximately \$354,000 in FY 2004; the Department anticipates using its current staff to handle the increased workload due to the expansion of the program and does not see a need to increase its staff size.

Worker Guarantee Program

Created in this bill, the Worker Guarantee Program is funded through appropriation item 195-668, Worker Guarantee Program, at \$3.0 million in FY 2005. The program will be available to employers who create at least 100 high-paying, full-time jobs over a three-year period; prior to the commitment of state funds, the employer must show that the availability of those skilled workers is a major factor in the employer's decision to locate or expand in Ohio. Activities eligible for funding under this program include job assessment services, screening and testing of potential employees, customized training activities, and any other training or related service determined by the Director.

For each approved project, state funds will total one-third of a project's cost if an employer and local workforce development service provider, in conjunction with the local community, contracts with the Department of Development to provide services under the program. The contributions by the employer and the local community must equal that of the state, or one-third of the project's cost. In-kind contributions shall be counted towards the local community's contribution. A local workforce development service provider may include, but is not limited to, a community college, technical or vocational school, one-stop center, or any other entity designated by the Director of Development, to provide services under the program.

Again, the Department does not anticipate the need to hire additional staff to manage the new program, but rather intends on using its current staff in the Office of Investment in Training to handle the incoming program applications. The entire appropriation will be used for Worker Guarantee projects; none will be used for administrative expenses.

Wright Operating Grants

The bill appropriates \$10.0 million in FY 2005 in appropriation item 195-669, Wright Operating Grants to support the nonbioscience-oriented Wright Centers and Wright Capital Projects funded by the Board of Regents capital appropriation item CAP-068, Third Frontier. Funding of the Wright Operating Grants shall be awarded based on criteria developed by the Department of Development. Grants must first be recommended for funding by the Third Frontier Commission, which consists of the Director of Development (chair), the Governor's Science and Technology Advisor, and the Chancellor of the Board of Regents, and then approved by the Controlling Board before funds are disbursed.

Previous Appropriations for Wright Centers and Wright Capital Projects

The Wright Capital Fund was initially funded in Am. Sub. S.B. 261 of the 124th General Assembly in CAP-068, Third Frontier, through a \$50.0 million appropriation. Then another \$50.0 million appropriation was made in H.B. 675 of the 124th General Assembly to provide additional funding for the program. The two appropriations allowed \$100.0 million to be spent on the program over the FY 2003-2004 capital biennium. These appropriations are part of the Governor's Third Frontier Project, a plan to create high-wage jobs and support the expansion of high-growth industries in Ohio. The Wright Brothers Capital Fund was proposed by the Governor to be a 10-year commitment of \$50.0 million per year in competitive grants for capital assets to support leading edge research and commercialization activities in Ohio, though funds cannot be appropriated that far in the future. The Wright Capital Projects Fund supports

commercialization collaborations involving Ohio universities, other nonprofit research institutions, and Ohio companies. Collaborations between these entities are formed to further the near-term commercialization of specific or platform technology or capability with significant, defined market opportunities in the areas of information technology, power and propulsion, advanced materials, and instruments, controls, and electronics. The appropriations, made from the Higher Education Improvement Fund (Fund 034), are used to provide grants for the acquisition, renovation, or construction of facilities, as well as the purchasing of equipment for research programs, technology development, product development, and commercialization programs. Though funds are appropriated through the Board of Regents, the Department of Development provides administrative support to the Third Frontier Commission, which is responsible for determining the recipients of Wright Capital Fund grants.

Of the \$100.0 million in capital funds appropriated for the program, \$11.6 million was spent on seven Wright Capital projects, \$18.0 million on one nonbioscience Wright Center, and \$20.0 million on two bioscience Wright Centers in FY 2003; in FY 2004, \$3.0 million was spent on two Wright Capital projects, \$22.0 million on two nonbioscience Wright Centers, and \$19.8 million on one bioscience Wright Center. In addition, approximately \$16.6 million in FY 2003 and \$7.9 million in FY 2004 of the Biomedical Research and Technology Transfer Trust Fund (BRTTTF) dollars, which are provided through the biennial tobacco budget, were used for the bioscience Wright Centers. The Department hired independent, outside contractors to review and evaluate the proposals, spending \$178,000 in FY 2003 and \$113,000 in FY 2004 from GRF appropriation item 195-422, Third Frontier Action Fund. Based on the recommendations of the contractors, the Third Frontier Commission awarded the grants.

Recently, Am. Sub. S.B. 189 of the 125th General Assembly appropriated \$50.0 million for the program for the FY 2005-2006 capital biennium because of the absence of a capital budget this spring. That appropriation allows the program to continue with its funding rounds. The Department plans on issuing the next request for proposals for the program in May 2004.

Appropriations in H.B. 427 for Wright Centers and Wright Capital Projects

The \$10.0 million appropriation made in this bill will be administered in the same manner that the Wright Capital Fund grants are administered. This additional funding will balance out the funding provided through the BRTTTF for the bioscience Wright Centers since BRTTTF funds are not available for nonbioscience Wright Centers. The three existing nonbioscience Wright Centers include a fuel cell center at Case Western Reserve University, an advanced data management center at Wright State University, and the Ohio Center for Advanced Power and Propulsion, which is a collaborative effort between research entities in Columbus and Cincinnati. The Department does not anticipate an increase in administrative expenses relating to the additional appropriation in this bill, as it plans on using the existing structure to administer the grants.

Unclaimed Funds Transfer to the Job Development Initiatives Fund

The Department of Commerce, Division of Unclaimed Funds, collects unclaimed funds and deposits them to the credit of the Unclaimed Funds Trust Fund. These unclaimed funds are then transferred to: (1) Fund 543, Unclaimed Funds – Operating, to be used for administrative costs of the division, and (2) Fund 543, Unclaimed Funds – Claims, to be used to pay the unclaimed fund owners who claim their funds. The remainder of the unclaimed funds is then

made available to the following funds: (1) the Mortgage Insurance Fund, (2) the Minority Business Bonding Fund, (3) the Housing Guarantee Fund, and (4) the Housing Development Fund. The Housing Guarantee Fund and the Housing Development Fund are used to fund programs of the Ohio Housing Finance Agency. These funds are guarantee funds so that only occasional draws are made on unclaimed funds due to defaults.

The bill contains temporary law authorizing the transfer of up to \$25.8 million in unclaimed funds to the Job Development Initiatives Fund (Fund 5AD) prior to June 30, 2005. This transfer would effectively decrease the amount available to the Mortgage Insurance Fund, the Minority Business Bonding Fund, the Housing Guarantee Fund, and the Housing Development Fund. It also reduces funds available to pay claims by those seeking their unclaimed funds.

Department of Development Payments to Local Governments in Support of Projects to Attract Federal Jobs

The bill broadens the scope of activities to attract federal jobs that the Department of Development may support by payments to counties or municipal corporations. This change is intended to enable Ohio to attract the Shared Services Facility of the National Aeronautics and Space Administration (NASA) to the state. This new service center, which could bring with it 400 to 500 jobs (both federal government employees and contractors), is to be selected among existing locations that house other NASA facilities in Virginia, Florida, Alabama, Mississippi, Ohio, and Texas. NASA is trying to save millions annually by consolidating a range of business services, financial management, and human resources activities. These services include procurements, financial management, grant applications, payroll processing, and personnel training.

Changes to the law include a broadened definition of employee, to include contractors. The definition of the federal entity whose rental payments to the local government may be subsidized by the state is broadened to include persons under contract with the United States. This change in law, if it is successful in attracting the desired tenant, will result in additional Department of Development expenditures beginning in state FY 2006, in corresponding additional local government receipts, and in additional local government expenditures for debt service on financing for construction of a facility for the tenant. State funding to make the anticipated payments is to come from money “not raised by taxation, including profits on the sale of spirituous liquor.”

Repeal Sunset Provision of Employee Ownership Assistance Program

H.B. 427 repeals Section 2 of Sub. S.B. 186 of the 123rd General Assembly which would have abolished the Employee Ownership Assistance Program (EOAP) within the Department of Development on December 31, 2004. Currently, the EOAP is supported through appropriation line item 195-436, Labor/Management Cooperation, which received appropriations of \$811,869 in FY 2004 and FY 2005 in the most recent budget bill. The extension of EOAP operations would continue existing program activities, which include grants to the Ohio Employee Ownership Center (OEOC), housed at Kent State University. In FY 2004, the grant to the OEOC was \$93,000.

Land Conveyance to the Hamilton County Commissioners

The bill authorizes the Hamilton County Commissioners to purchase a state-owned office building located at 1916 Central Parkway for \$300,000. The proceeds from the sale of the building will be deposited in the Unemployment Compensation Trust Fund.

According to the Department of Job and Family Services (JFS), this office building was constructed in 1961 and used by the former State Bureau of Employment Services using federal and state dollars. This two-story building, consisting of 48,354 square feet on 0.793 acres of land, was appraised at \$1,023,700 by the Auditor, with a tax value of \$358,295. According to JFS, this building is no longer needed due to its consolidation plan. Federal legislation was recently passed waiving the federal government's right to the equity in this building. This bill conveys the state's portion of the equity to the county in exchange for \$300,000. The Hamilton County Commissioners plan to use this building as their One-Stop Employment and Training Center.

Moldbuilder Liens

This bill establishes a new, separate moldbuilder's lien for a molder who fabricates, casts, or otherwise makes or improves a die, mold, pattern, or form that is used to produce plastic or metal projects. This bill also specifies that the moldbuilder must comply with certain requirements in order for a lien to be enforceable. By complying with these requirements, the moldbuilder has the right to (1) enforce the right to possession of the mold by judgment, foreclosure, or any available judicial procedure, (2) commence a civil action in a court of common pleas to enforce the lien, including by obtaining a judgment for the amounts owed and a judgment permitting the mold to be sold at an execution sale, (3) take possession of the mold, if possession without judicial process can be done without breach of the peace, or (4) sell the mold in a public auction. In addition, the bill specifies that in any action by a moldbuilder to enforce a perfected lien, the court must award the moldbuilder that is the prevailing party reasonable attorney fees, court costs, and expenses related to enforcement of the lien. These provisions may result in a possible increase in cases in courts of common pleas by moldbuilders who have not been paid by customers, either molders or the end-user of the product fabricated from the mold.

Workforce Development Designation Change

The bill reduces the minimum county population necessary for a county to become a single county local area for the purposes of workforce development. Under the current state plan, a county must satisfy several criteria, including a minimum population of 225,000, to be designated a single county local area. The bill would lower the minimum population threshold to 175,000 until June 2005. Clermont County, the only county impacted by this section, currently operates as a single county sub-area in the Ohio Option Area 7. With the new minimum population threshold, Clermont County could be designated a single county local area, removing it from the Area 7 designation until June 2005.

The fiscal impact of this change is expected to be minimal. The county's administrative obligations under the new arrangement are expected to continue at the current level. The Ohio Department of Job and Family Services has indicated that departmental support to the county will not increase. Other state agency partners, including the Rehabilitation Services Commission, the Ohio Department of Aging, the Ohio Department of Development, and the

Ohio Department of Education, may be required to offer additional, but minimal, support to the county.

Tax Increment Financing and Incentive Districts

The bill modifies certain aspects of incentive districts created by H.B. 405 of the 124th General Assembly under the Tax Increment Financing (TIF) Law.

Background on Incentive Districts under TIFs

An incentive district is defined as an area of land that is no more than 300 acres enclosed by a continuous boundary and has one or more of the following characteristics:

- 51% of the residents have incomes less than 80% of the median income of residents of the political subdivision in which the district is located.
- The average rate of unemployment in the district is 150% or more of the unemployment rate of the state.
- 20% of the residents live at or below the poverty line.
- The district is a “blighted area.”
- The district is in a “situational distress area” as designated by the Director of the Ohio Department of Development.
- The engineer for the political subdivision has certified the public infrastructure serving the district to be below the standards of the economic development plan of the subdivision.
- The district is comprised entirely of unimproved land located in a “distressed area.”

The incentive district may include one or many parcels, but all parcels must be identified in the ordinance that creates the incentive district. Under certain circumstances it also allows housing renovations to benefit from TIFs. A percentage of the increases in the taxable value of real property due to improvements made to parcels located in the incentive districts are exempt from taxation. Instead, service payments are required in lieu of the property taxes. The service payments are to be used to finance public improvements that *benefit or serve* the district, rather than public improvements that *directly benefit* the parcels in the district. Finally, townships with TIFs adopted before July 21, 1994, are allowed to add additional public infrastructure improvement projects. If these added projects include land acquisition in the aid of industry, commerce, distribution, or research, demolition on private property, or storm water and flood remediation projects, it may do so only if the affected school districts are held harmless.

Modifications to the Incentive District TIFs

H.B. 427 requires service payments and charges in lieu of property taxes to be treated as taxes for purpose of lien, i.e., penalties, interest, or other charges may be imposed when recipients of exemptions are not making those payments as agreed. The bill also makes the following clarification on the application of the incentive district TIFs.

- A municipal corporation, township or county that has enacted an ordinance or resolution for incentive district TIFs and has entered into an agreement with a school board may also file for exemption of property under incentive district TIFs, in addition to the owner of the property as indicated in section 5715.27 of the Revised Code. If a municipal corporation, township or county does so, an exemption granted under the district incentive TIF would be subordinate to any exemption granted under any other provision of the Revised Code, and there will be no service payments from a property exempt from real estate taxes under other provisions of the law.
- If the application for exemption in the incentive district is made by the owner of the property or a municipal corporation, township or county, no other tax exemption shall be granted for the portion of the property already exempt under the incentive district TIF.
- If the application for exemption is filed by municipal corporation, township or county and approved by the tax commissioner, if the owner of the property subsequently provides written consent to the exemption, if more than one real property tax exemption applies to the property or a portion of it, no other exemption shall be granted for the portion of the property already exempt under the district incentive TIF unless the municipal corporation, township or county that enacted the district incentive TIF provides an ordinance or resolution consenting to subsequent exemption.
- After the tax commissioner has approved an application for exemption filed by or with the property owner consent, the owner, the municipal corporation, township, or county shall file with the county recorder a notice identifying the property and its owners. The notice shall state that the property, regardless of future use or ownership, remains liable for any service payment or charges required by the exemption, unless the municipal corporation, township, or county consents to subsequent exemptions or relinquishes its right to collect the service payments and charges. The county recorder shall charge a fee of fourteen dollars to record the notice with the proceeds retained by the county.

These clarifications to the application of the incentive district TIFs are not expected to have a significant fiscal impact on the local governments that have enacted incentive districts under TIF law. This fiscal note assumes that these changes do not alter incentive districts' agreements with school boards where school districts are compensated for any taxes lost to a TIF.

Payments to counties or townships in lieu of service payments

The bill requires that no later than 30 days prior to applying for an exemption from taxes on behalf of owners of a property located within a proposed incentive TIF district, the legislative body of a municipal corporation, township or county that has proposed the incentive district TIF shall conduct public hearings on the proposed ordinance or resolution, and give notice on the proposed ordinance or resolution to every real property owner whose property is located within the boundaries of the proposed incentive district which is the subject of the ordinance or resolution. Under the bill, a county that proposes to create an incentive district TIF within a township shall also notify the township’s clerk of the proposed incentive district TIF.

Under current TIF law, any real property owner that receives a tax exemption is required to make certain service payments in lieu of taxes to the relevant county, municipal corporations or townships based on the valuation of the property and other requirements in the TIF agreement. The service payments are used by the municipal corporation, township, or county to finance improvements within the incentive districts. In addition to public hearings and the notification of real property owners, the bill requires that a portion of service payments for a real property located within an incentive district TIF created by a municipal corporation or a township be distributed to the county treasury to the credit of county general fund if the incentive district is created by a municipal corporation or township. Alternatively, if a county creates an incentive district within a township, a portion of service payments for a real property that should be paid to the county would be distributed to the township (Generally, a county cannot create an incentive district within a municipal corporation).

The bill requires establishing the value of real property prior to a TIF (“base real property”)⁷ and the value of real property after the implementation of a TIF, with specific monetary values calculated for the “base real property” and to the improvements/construction as a result of the TIF. Then, the increase in value for the base real property from the TIF is used to calculate an amount to be paid to county or the township. The bill provides the mechanics of the calculation of potential payments to the counties or the townships based on inside millage rates applicable to the county or township, as illustrated in the table below.

Table 1. Illustration of the calculation of reimbursements to a local government		Amount
Pre - Incentive District TIF assessed value	Base Real Property	\$1,000
Post-Incentive District TIF assessed value	Base Real Property	\$1,500
Post-Incentive District TIF assessed value	TIF Improvements/Additional Construction	\$1,500
		\$500
Increase in the assessed value	Base Real Property	
	TIF Improvements/Additional Construction	\$1,500
Calculation of payment to a county	(a) Exemption percentage on Base Real Property	75%
	(b) County inside millage rate (mills)	4
	Step 1: base real property increase x (a) x (b)	\$1.5
	Step 2: Estimated payment to county	\$0.8

⁷ This is defined as land, building, and structures that existed and in the condition in which they existed for the year the ordinance or resolution creating the incentive district was adopted.

The bill exempts from the reimbursement mechanism parcels located in incentive districts created by municipal corporation before the effective date of the bill, and incentive districts entirely or mostly devoted to residential use (at least 90%). The bill also exempts from the reimbursements land which, prior to the creation of an incentive district, was valued for real property tax purposes at its current agricultural use valuation.

The bill may increase revenues to the county or the township that would not have occurred otherwise. Conversely, the municipal, county or township public improvement tax increment fund created by the TIF may lose an equal amount of revenues to their service payments fund. This provision does not apply if county enters into an alternative agreement with the municipal corporation or the township that this provision of the law would not apply. Also, such alternative agreement may instead provide for other payments to the county by the municipal corporation or the township, or to the township by the county. The extent of additional revenues to counties or townships will depend on the number of incentive districts TIFs created by the municipal corporations and townships, the increase in value of property, and other agreements between the counties, municipal corporations, and townships. Service payments are used by the municipal corporation, townships, or county to finance improvements within the incentive districts. Generally, local governments issue bonds for the creation of the incentive districts, and it is unclear how changes proposed by the bill may affect that process.

Technical Changes

Current law permits the legislative authority of a municipal corporation that the U.S. Office of Management and Budget defines as a “central city” of a Metropolitan Statistical Area to designate one or more areas of the municipal corporation to be an enterprise zone. The bill changes the wording from “central city” to “principal city.” There is no fiscal effect from this change.

Current law requires township officials to submit to the Director of Development a report on the status of each economic development project for which the officials have granted a real property tax exemption to the developer as an incentive. The report must be submitted by March 31 each year, and must include a summary of the receipts from service payments in lieu of taxes, expenditures from funds created under section 5709.75 of the Revised Code, a description of the public infrastructure improvements and housing renovations financed, and a quantitative summary of changes in employment and private investment resulting from the project. The bill removes the requirement that a summary of the changes in employment be included in this report, retaining all other reporting requirements. There is no fiscal effect from the change.

Industrial Site Improvements

This provision creates the Industrial Site Improvement Fund (Fund 5AR) and transfers \$5.0 million in cash to the fund in FY 2005 from the Liquor Control Fund (Fund 043). The money in this fund will be used at the discretion of the Director of Development to make grants to eligible counties for the purpose of making improvements to an industrial or commercial site that will create or preserve jobs. An eligible county meets one of four criteria:

- Is one of 29 Appalachian Counties in Ohio.
- Is defined in section 122.06 of the Revised Code as distressed. A county must meet two of the following criteria:

- The average unemployment for the most recent five years is greater than 125% of the national average;
- The county per capita income is less than 80% of the U.S. county median;
- The ratio of transfer payment income to total county income is greater than or equal to 25%.
- For counties with a population of less than 100,000 residents, 350 or more residents were permanently or temporarily terminated through no fault of their own.
- For counties with a population of more than 100,000 residents, 1,000 or more residents were permanently or temporarily terminated through no fault of their own.

This provision will provide additional funds to counties that can establish need based on the above criteria. Counties will also have to prove that the usage of the funds is eligible. Eligible improvements to qualify for funding include: expanding, remodeling, renovating, and modernizing existing buildings and structures, remediating environmentally contaminated property that could cause Ohio or the U.S. EPA to identify the property as contaminated, and infrastructure improvements.

An eligible county will apply to the Director of Development through an application process determined by the Director, but which requires the county to describe how they meet the eligibility for this grant, as well as the amount of the grant requested. Once a county receives a grant from this fund they are not eligible for additional grants from this fund.

Liquor Control Fund (Fund 043)

The Liquor Control Fund (Fund 043) is used to fund the operating expenses of the Division of Liquor Control and the Liquor Control Commission and is used to pay debt service on certain Department of Development bonds. Any money not used for these purposes is then transferred to the GRF. The transfer of \$5.0 million to the Industrial Site Improvements Fund (Fund 5AR) will decrease the amount transferred to the GRF by \$5.0 million.

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- The Ohio EPA is authorized to impose an additional fee on the disposal of C&DD at a C&DD facility for the purpose of funding ground water monitoring at C&DD facilities. Ohio EPA will receive a portion of fees collected, and revenues will be deposited in the Construction and Demolition Debris Facility Ground Water Monitoring Fund.
- Potential revenues and expenditures for FY 2005 reflect only half of FY 2005.

Local Fiscal Highlights

LOCAL GOVERNMENT		FY 2005	FY 2006	FUTURE YEARS
Municipalities or Townships				
Revenues	Potential gain up to	\$520,000	Potential gain up to	\$520,000
		- 0 -		- 0 -
Expenditures				
Counties				
Revenues	Potential gain up to	\$390,000	Potential gain up to	\$390,000
		- 0 -		- 0 -
Expenditures				
Local Health Districts				
Revenues	Net gain between	\$2.3 million and	Net gain between	\$2.3 million and
	\$3.2 million from oversight	disposal fees. Additional	\$3.2 million from oversight	disposal fees. Additional
	gain of approximately	\$123,500 from authorized	gain of approximately	\$123,500 from authorized
	ground water monitoring	disposal fee	ground water monitoring	disposal fee
Expenditures	Potential minimal increase	associated with ground	Potential minimal increase	associated with ground
	water monitoring activities		water monitoring activities	water monitoring activities

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

- Municipalities or townships may appropriate up to 4¢ per cubic yard or 8¢ per ton of the newly established oversight disposal fee. Assuming they do so at the maximum rate permitted, municipalities or townships will receive approximately \$520,000 annually.
- Counties may appropriate up to 3¢ per cubic yard or 6¢ per ton of the newly established oversight disposal fee. Assuming they do so at the maximum rate permitted, counties will receive approximately \$390,000 annually.
- Local health districts will receive a portion of the new oversight disposal fee as well. Depending on the amount of the fee appropriated by municipalities or townships and counties, it is estimated that health districts will gain (net) between \$2.3 million and \$3.2 million annually.
- Local health districts will receive a portion of the newly authorized ground water monitoring disposal fee.

Detailed Fiscal Analysis

The bill changes the funding mechanism through which local boards of health and the Ohio Environmental Protection Agency (Ohio EPA) regulate the disposal of construction and demolition debris (C&DD). The bill also specifies that C&DD may be disposed in either a licensed C&DD facility or a licensed solid waste facility. H.B. 432 replaces the annual license fee, currently assessed to C&DD facilities, with a disposal fee of 30¢ per cubic yard or 60¢ per ton of construction debris. This disposal fee is shared between local health districts and Ohio EPA. A portion of the fee also may be appropriated by municipalities or townships and counties. In addition to this fee, the Ohio EPA is authorized to impose a separate fee of up to \$.05 per cubic yard or \$.10 per cubic ton on the disposal of C&DD at a C&DD facility for the purpose of funding annual ground water monitoring at C&DD facilities.

Establishment of Disposal Fees

I. New Disposal Fee – Construction and Demolition Debris Facility Oversight

Currently, C&DD facilities pay a \$3,000 license fee annually. H.B. 432 replaces this license fee with a 30¢ per cubic yard or 60¢ per ton disposal fee. The disposal fee will be collected by owners/operators of C&DD facilities or solid waste facilities and transmitted to local health districts or to Ohio EPA, where appropriate, in order to help fund oversight of C&DD facilities by local boards of health or Ohio EPA.

Sixty-nine (69) C&DD facilities are currently licensed with the state.⁸ These facilities collect approximately 13 million cubic yards of construction and demolition debris per year. All facilities currently measure their volume by the cubic yard (not by the ton).

Current Annual License Fee

There are two groups of C&DD facilities in Ohio; those licensed and regulated by local boards of health and those regulated by Ohio EPA. Of the 69 facilities in Ohio, boards of health regulate 65.⁹ Each \$3,000 license fee is split so that \$1,500 goes to the local board of health and \$1,500 goes to Ohio EPA (Fund 4U7, Construction and Demolition Debris Facility Oversight). Ohio EPA solely regulates the remaining four facilities because they are located in health districts that are not approved to regulate C&DD disposal. In these instances, the agency collects the entire \$3,000 license fee. Table 1 shows the annual distribution of these license fees.

⁸ Most recent Ohio EPA data indicates that 72 C&DD facilities are now licensed. When this analysis was begun, 69 facilities were permitted. This number will be left as the basis for the analysis. It should be noted that totals will change proportionately with the number of licensed facilities.

⁹ For purposes of this analysis, 65 will be left as the number of facilities located in local health districts that are on Ohio EPA's approved list. As mentioned above, the number of licensed facilities has increased. It is possible, therefore, that the number of facilities located in approved districts has also increased.

Table 1	
Current Annual Fee Distribution	
License Fee: \$3,000	
<u>Local boards of health receive half of license fee</u>	\$1,500 * 65 facilities
Total to all Local Boards of Health	\$97,500
Ohio EPA receives half of license fee	\$1,500 * 65 facilities
Ohio EPA receives entire license fee	\$3,000 * 4 facilities
Total to Ohio EPA (Fund 4U7)	\$109,500

Disposal Fee – Without Municipalities or Townships and Counties

Under H.B. 432, the newly established disposal fee will be split so that 27¢ per cubic yard or 54¢ per ton will be distributed to local boards of health and 3¢ per cubic yard or 6¢ per ton will go to Ohio EPA. For the four facilities regulated solely by Ohio EPA, the entire disposal fee of 30¢ per cubic yard or 60¢ per ton will go to the agency. Table 2 (a) shows this distribution of disposal fees, with no appropriation made for municipalities or townships and counties.¹⁰ Under this funding mechanism, local boards of health will collect net revenues of approximately \$3.2 million and Ohio EPA will collect net revenues of approximately \$484,000 per year.

Table 2 (a)		
Disposal Fee Distribution		
Excludes municipalities or townships and counties		
<i>Based on 30¢ per cubic yard disposal fee on 13 million cubic yards of debris annually</i>		
Category	Notes	Total
Disposal fee distribution		
Local boards of health receive a portion of fee	27¢ fee @ 65 facilities	\$3,306,522
Ohio EPA receives a portion of fee	3¢ fee @ 65 facilities	\$367,391
Ohio EPA receives entire fee	30¢ fee @ 4 facilities	\$226,087
Total to local boards of health		\$3,306,522
Total to Ohio EPA (Fund 4U7)		\$593,478
Net gain from passage of H.B. 432		
(New revenue – current revenue¹¹)		
Local boards of health	(\$3,306,522 - \$97,500)	\$3,209,022
Ohio EPA (Fund 4U7)	(\$593,478 - \$109,500)	\$483,978

Disposal Fee – With Municipalities or Townships and Counties

The bill allows municipalities and townships to appropriate up to 4¢ per cubic yard or 8¢ per ton of the newly established disposal fee. Counties may also appropriate up to 3¢ per cubic yard or 6¢ per ton. Assuming each local entity does so at the maximum rate permitted, the portion that local boards of health will receive declines to 20¢ per cubic yard or 40¢ per ton. For the four facilities regulated solely by Ohio EPA, the agency will receive 23¢ per cubic yard or

¹⁰ Analysis from this point will use cubic yards as its base. For reference, a cubic yard of debris may range from 0.25 to 1.0 tons. In terms of an accepted per-ton average, one cubic yard of debris weighs 0.5 tons. Therefore, there are 2.0 cubic yards of debris in 1.0 ton.

¹¹ “Current revenue” is based on the current license fee (see Table 1).

46¢ per ton. Table 2 (b) shows this distribution of disposal fees, with full appropriation made for municipalities or townships and counties. Under these estimates, municipalities and townships will receive \$520,000, counties will receive \$390,000, local boards of health will collect \$2.3 million and Ohio EPA will collect \$431,000 per year.

Table 2 (b) Disposal Fee Distribution Includes municipalities or townships and counties		
<i>Based on 30¢ per cubic yard disposal fee on 13 million cubic yards of debris annually</i>		
Category	Notes	Total
Disposal fee distribution		
Municipalities or townships receive an appropriation	4¢ fee @ 69 facilities	\$520,000
Counties receive an appropriation	3¢ fee @ 69 facilities	\$390,000
Local boards of health receive a portion of fee	20¢ fee @ 65 facilities	\$2,449,275
Ohio EPA receives a portion of fee	3¢ fee @ 65 facilities	\$367,391
Ohio EPA receives entire fee (minus appropriation)	23¢ fee @ 4 facilities	\$173,333
Total to local boards of health		\$2,449,275
Total to Ohio EPA (Fund 4U7)		\$540,724
Total to municipalities or townships		\$520,000
Total to counties		\$390,000
Net gain from passage of H.B. 432		
(New revenue – current revenue)		
Local boards of health	(\$2,449,275 - \$97,500)	\$2,351,775
Ohio EPA (Fund 4U7)	(\$540,724 - \$109,500)	\$431,224
Municipalities or townships	(\$520,000 - \$0)	\$520,000
Counties	(\$390,000 - \$0)	\$390,000

II. Authorized New Disposal Fee - Construction and Demolition Debris Facility Ground Water Monitoring

The bill authorizes Ohio EPA to impose an additional fee of up to \$.05 per cubic yard or \$.10 per ton on the disposal of C&DD at C&DD facilities for the purpose of funding annual ground water monitoring at C&DD facilities. For facilities located in local health districts that are on Ohio EPA’s approved list under section 3714.09 of the Revised Code, 80% of this fee will be remitted to Ohio EPA to the credit of the Construction and Demolition Debris Facility Ground Water Monitoring Fund, and 20% of this fee will be retained by local boards of health and paid into a newly created special fund of the local health district. For those facilities located in local health districts that are not on Ohio EPA’s approved list, the entire fee will be remitted to Ohio EPA.¹² Both of these new funds will be used to pay for the installation of wells and the sampling and laboratory analysis of ground water at C&DD facilities.

¹² The bill does not state explicitly whether or not fees collected at facilities solely regulated by Ohio EPA will be split between Ohio EPA and local boards of health. For the purpose of this analysis, and based on the previously discussed oversight disposal fee, it is assumed that Ohio EPA will receive 100% of the fees collected at such facilities.

Revenues

Using 13 million cubic yards of C&DD collected annually at C&DD facilities as the basis for calculation, and assuming Ohio EPA chooses to adopt rules imposing the maximum fee based on cubic yards (\$.05) of C&DD, Ohio EPA could expect annual revenues in the Construction and Demolition Debris Facility Ground Water Monitoring Fund of up to approximately \$528,000. Local boards of health may receive additional annual revenues of up to approximately \$123,500. Table 3 shows the possible distribution of ground water monitoring fees. These calculations assume that fees are collected on *all* cubic yards of C&DD collected at C&DD facilities.

Table 3		
Authorized Ground Water Monitoring Disposal Fee Distribution		
<i>Based on \$.05 per cubic yard disposal fee on 13 million cubic yards of debris annually</i>		
Category	Notes	Total
Disposal fee distribution		
Local boards of health receive a portion (20%) of fee	\$.01 fee @ 65 facilities	\$123,500
Ohio EPA receives a portion (80%) of fee	\$.04 fee @ 65 facilities	\$490,000
Ohio EPA receives entire fee	\$.05 fee @ 4 facilities	\$38,000
Total to local boards of health		\$123,500
Total to Ohio EPA (C&DD Ground Water Monitoring Fund)		\$528,000

Expenditures

Overview. All fees deposited in the Construction and Demolition Debris Facility Ground Water Monitoring Fund and all fees retained by local boards of health shall be used to offset expenses associated with implementing annual ground water monitoring at C&DD facilities. It is difficult to estimate how much money might be expended to conduct annual ground water monitoring. If rules are adopted imposing this fee, either Ohio EPA or local boards of health, depending on whether a particular C&DD facility is located in an approved local health district or is regulated solely by Ohio EPA, must pay for the cost of installing wells and the sampling and laboratory analysis of ground water at those C&DD facilities already in operation that do not currently have annual ground water monitoring programs. Facilities that already conduct ground water monitoring pay for the wells, installation, and analysis themselves. For these facilities, either Ohio EPA or local boards of health must pay the cost of installing any additional wells and/or additional sampling and laboratory analysis of ground water above what the facility currently pays annually for ground water monitoring.

At the time of this analysis, no data was available on how many licensed C&DD facilities already have wells installed and are conducting analyses of ground water. If a facility that is already monitoring ground water does not need any further upgrades or monitoring, the bill does not state whether or not the additional ground water monitoring fee will be imposed.¹³ Presumably at those facilities neither Ohio EPA nor local boards of health would expend any money for monitoring.

¹³ If fees are not imposed at these facilities, or if lower fees are imposed, the estimated revenue would be adjusted.

Local Boards of Health and Ohio EPA duties. Although local boards of health regulate 65 C&DD facilities, the bill does not state that local boards of health will assume all responsibilities for ground water monitoring at those facilities. The bill provides some flexibility regarding the division of responsibility for funding ground water monitoring between Ohio EPA and local boards of health. It specifies that Ohio EPA shall consult with local boards of health to prioritize ground water monitoring at the various C&DD facilities. Ohio EPA may adopt rules to carry this out. Most likely Ohio EPA will develop a statewide priority list, and local boards of health will designate priorities within their local health districts. These priorities may overlap, but the bill does not mandate that a certain percentage of monitoring be done by either Ohio EPA or local boards of health. Therefore, the precise division of expenditures between Ohio EPA and local boards of health is difficult to estimate.

Purchase, installation, and monitoring costs. Ohio EPA estimates that the purchase and installation of wells may range in cost from \$1,000 to \$2,000 per facility. The annual sampling and laboratory analysis of ground water at each facility is estimated to cost \$500 to \$1,000. Assuming all facilities need to purchase and install wells and conduct ground water sampling and analysis (which is unlikely), and assuming the purchase, installation, and analysis costs are at the high end of the estimates, total expenditures of up to approximately \$207,000 during the first year of monitoring (including well purchase, installation, and sampling and analysis) may be expected. During future years, when wells have already been installed, a total of up to approximately \$69,000 may be spent annually on ground water sampling and analysis only (not including any needed well repair or replacement). As mentioned above, how these expenses would be split between Ohio EPA and local boards of health is unclear and dependent on prioritization agreements reached between Ohio EPA and local boards of health. However, because Ohio EPA will expect to receive approximately 80% of the revenue generated by this fee, this analysis assumes that Ohio EPA will also cover 80% of the costs. Table 4 shows the possible distribution of expenditures.

Table 4		
Possible Expenditure Distribution		
<i>Based on high end of expense estimates provided, with division of expenditures proportionate to division of fee revenue</i>		
	First year expenses (installation)	Future years
Ohio EPA – Ground Water Monitoring Fund	\$166,000	\$55,000
Local Boards of Health	\$41,000	\$14,000

It is impossible to estimate how much Ohio EPA and local boards of health may spend on well installation and ground water analysis at those facilities already conducting ground water monitoring. These expenses will depend on the adequacy of current ground water monitoring at applicable C&DD facilities. Most likely there will be some combination of new purchasing, installation, and monitoring costs and upgrading of current monitoring programs. Because of the variables it is difficult to predict the overall effect of these costs; therefore, estimates provided are tentative.

Potential administrative costs. This bill requires that owners or operators of C&DD facilities allow boards of health or Ohio EPA, as applicable, to conduct ground water monitoring at those facilities. It also authorizes Ohio EPA and local boards of health to enter into contracts for the purpose of conducting annual ground water monitoring at C&DD facilities. It is possible

both Ohio EPA and local boards of health will face additional administrative expenses associated with entering into contracts and prioritizing the need for upgrades and monitoring at C&DD facilities. These expenses may be higher in the first several years that the provisions of this bill are in operation and may be associated with increased oversight of ground water monitoring at C&DD facilities.

The Construction and Demolition Debris Facility Ground Water Monitoring Fund and the special local health district fund created in this bill are the only funds that may be used to support C&DD facility ground water monitoring. The bill states that neither Ohio EPA nor local boards of health will purchase or install wells or pay for the monitoring if there is insufficient money in the applicable fund to pay those costs. Also, Ohio EPA has the discretion to determine if a particular C&DD facility does not need ground water monitoring because the physical nature of the site renders it unlikely to have a negative impact on public health and the environment.

Extension of Hazardous Waste Facility Installation and Operation Permit

Under current law (R.C. 3734.02), hazardous waste facility installation and operation permits shall not exceed five years. This bill will extend this period to ten years. As a result, the approximately 40 hazardous waste facilities in the state will pay the application fee (\$1,500) for a renewal permit every ten years rather than every five years. At \$1,500 per application for renewal, 40 facilities would generate \$60,000 in fees every five years, or \$12,000 per year. As a result of the extension, 40 facilities would generate \$60,000 every ten years, or \$6,000 per year. This minimal loss in fee revenue is likely to be offset by the reduction in administrative expenses associated with permit processing.

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- **Jury service operations.** It appears that the bill's jury-related provisions will not create any noticeable fiscal effects for the state.
- **Clermont County Court of Common Pleas judgeship.** Starting with FY 2008, 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 Clermont County Court of Common Pleas is estimated at \$128,770, which consists of: (1) \$105,550 in salary, (2) \$14,048 in PERS contributions, and (3) \$9,172 in miscellaneous other contributions. As the term of the new judge does not begin until halfway through the state's FY 2007, the amount of state financial support that will be disbursed in that fiscal year is estimated at half the estimated annual cost, or \$64,385. Currently, the state has statutorily prescribed annual pay increases in the state share of the salary of common pleas court judges through calendar year 2008.
- **Conversion of part-time Berea Municipal Court judgeship to full-time.** Since the state is already incurring annual costs related to its support of the existing part-time judge of the Berea Municipal Court, the additional annual state costs generated by the bill represent the difference between that level of financial support and the higher annual costs associated with a full-time municipal court judge. Starting with calendar year (CY) 2006, the additional amount in General Revenue Fund (GRF) funding that the Supreme Court of Ohio will disburse in the form of state support for the full-time judge elected to the Berea Municipal Court is estimated at \$24,583, which consists of net increases of: (1) \$20,150 in salary, (2) \$2,682 in Public Employees Retirement System (PERS) contributions, and (3) \$1,751 in miscellaneous other contributions. As the term of the full-time municipal court judge does not begin until halfway through the state's FY 2007, the amount of state financial support that will be disbursed in that fiscal year is estimated at half the estimated annual cost, or \$12,292. Statutorily prescribed annual pay increases in the state share of the salary of part-time and full-time municipal court judges will increase that annual amount through CY 2008.
- **Crediting of unused sick leave.** As a result of the bill's provision relative to the crediting of unused sick leave, it is possible that certain employees could be credited with more previously accumulated sick leave than might otherwise have been the case under current law. However, as of this writing, LSC fiscal staff does not know the number of employees that could be affected by this change or the number of additional sick leave hours that a public entity would be responsible for crediting to such employees. Thus, the potential fiscal effect for the state is uncertain.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2005	FY 2006	FUTURE YEARS
Counties and Municipalities Generally (related to jury service operations)			
Revenues	(1) Potential gain in contempt of court fine revenues, possibly exceeding minimal in some local jurisdictions; (2) Potential gain from collection of summoning juror costs in certain criminal cases	(1) Potential gain in contempt of court fine revenues, possibly exceeding minimal in some local jurisdictions; (2) Potential gain from collection of summoning juror costs in certain criminal cases	(1) Potential gain in annual contempt of court fine revenues, possibly exceeding minimal in some local jurisdictions; (2) Potential annual gain from collection of summoning juror costs in certain criminal cases
Expenditures	(1) One-time increase for training and development of new administrative procedures, likely to be no	Potential increase in juror compensation expenses, magnitude dependent upon decision of county	Potential increase in annual juror compensation expenses, magnitude dependent upon decision of county

	more than minimal; (2) Potential increase in juror compensation expenses, magnitude dependent upon decision of county commissioners	commissioners	commissioners
Counties Specifically (related to jury service operations)			
Revenues	Potential gain from elimination of four-day maximum jury fees assessed in civil action	Potential gain from elimination of four-day maximum jury fees assessed in civil action	Potential annual gain from elimination of four-day maximum jury fees assessed in civil action
Expenditures	Potential decrease related to potential gain in collection of jury fees in civil actions	Potential decrease related to potential gain in collection of jury fees in civil actions	Potential annual decrease related to potential gain in collection of jury fees in civil actions
Clermont County* (additional court of common pleas judge)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Expected one-time increase, amount unknown, for purchasing court's furniture and equipment	\$157,209 increase in annual judicial-related expenses beginning in FY 2007
City of Berea** (conversion of part-time municipal court judge to full-time)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Estimated increase around \$17,850 in judicial-related expenses	Estimated annual increase around \$17,850 in judicial-related expenses
Cuyahoga County** (conversion of part-time municipal court judge to full-time)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Estimated increase around \$11,900 in judicial-related expenses	Estimated annual increase around \$11,900 in judicial-related expenses

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 Clermont County Court of Common Pleas judge will be elected in 2006 for a term to begin January 3, 2007

**The full-time Berea Municipal Court judge will be elected in November 2005 for a term to begin in January 2006.

- ***Jury service operations.*** Based on conversations with members of Ohio's judicial community, LSC fiscal staff has learned that the bill will require courts to rewrite jury service rules and redesign jury service operations. As a result, commissioners of jurors and their staff would most likely require training, and internal administrative procedures will need to be redeveloped. These additional costs would be incurred one-time only and are expected to be no more than minimal for any given local jurisdiction. For the purpose of this fiscal analysis, "minimal" means an estimated annual cost that does not exceed \$5,000 for any affected county or municipality.

- **Fine revenues.** As a result of the bill, it is possible that some local jurisdictions may experience an increase in fine revenues generated from charges of contempt of court. The bill increases these fines from a range of \$25 to \$250 to a range of \$100 to \$250. However, it is difficult to estimate how much additional revenue might be generated due to a wide array of variables, including, but not limited to: (1) the number of failures to report or attend, and (2) a judge’s discretion when charging an individual with contempt of court. Presumably, in some local jurisdictions, particularly in more urban areas of the state where relatively large juror pools are drawn and summoned, the amount of additional fine revenue generated annually could exceed minimal. For the purposes of this fiscal analysis, “minimal” means an estimated annual gain in revenue of no more than \$5,000 for any affected county or municipality.
- **Juror compensation.** As the bill does not require the board of county commissioners to take any action, it is difficult to predict: (1) whether the juror compensation amount in any given county might be increased, (2) if it is, by what amount, and (3) the resulting magnitude of the annual increase in the total amount of money that any given court in the affected county allocates annually for compensating jurors. As the board of county commissioners sets the compensation amount, any non-county operated municipal court in that county would have to pay its jurors that amount. Whether eliminating the cap, which permits the board of county commissioners to set an amount in excess of \$40 if so desired, will then lead to such a decision and thus mandate in effect an increase in the annual amount that certain municipalities allocate for juror compensation is uncertain. Also uncertain is whether the magnitude of such an increase would exceed minimal annually (in excess of \$5,000) for any affected municipality.
- **Electronic notification system.** The bill permits the commissioner of jurors to establish an electronic notification system to allow jurors to be notified electronically that the juror shall attend in person the term or part of the term specified in the notice. Such a decision would be voluntary in nature and not a requirement of the bill. As of this writing, LSC fiscal staff has no information readily at hand relative to the range of costs associated with establishing and maintaining an electronic juror notification system.
- **Jury fees.** By eliminating the “four-day maximum” jury fees provision, the bill creates the possibility of at least two notable and related local fiscal effects: (1) counties may gain revenues in certain civil actions in which a jury is sworn and the number of days jurors actually serve is more than four days, and (2) counties may reduce expenditures in these same civil actions, as counties presumably could save money that would otherwise go to pay jurors for their actual service in excess of four days. As of this writing, the magnitude of the potential gain in revenues and related reductions in expenditures that a given county might realize annually is uncertain.
- **Costs of summoning jurors in criminal cases.** The bill allows the court in all criminal cases to include the costs of summoning a jury in the costs of prosecution when a jury has been summoned but not yet sworn and the defendant has failed to appear without good cause. Those jury costs may be included in the costs of prosecution and may be assessed against the defendant. As of this writing, the magnitude of the potential gain in revenues and related reductions in expenditures that a given county or municipality might realize annually is uncertain, and will likely be a function of at least two factors: (1) the number of criminal actions in which a jury is summoned, and (2) the financial ability of the defendant to pay the costs of prosecution.
- **Clermont County Court of Common Pleas judgeship.** Starting with FY 2007, the annual salary and benefits for the new judge to be added to the Clermont County Court of Common Pleas will cost the county \$15,897, which is comprised of \$14,000 in annual base salary, plus 13.55%, or \$1,897, for PERS benefits.
- **Other Clermont County costs.** According to the Clermont County Court of Common Pleas, courtroom modifications have already been made in anticipation of the new judge taking the bench in January 2007. Before the judge takes the bench, however, additional furniture and equipment will need to be purchased.

At this time, the one-time cost of these purchases is uncertain, but the board of county commissioners is aware of, and anticipating, the need to secure furniture and equipment to support the new judge. In addition, the court expects to hire three additional staff in order to support the judge: (1) a constable secretary (base annual salary estimated at \$40,000), (2) a bailiff (base annual salary estimated at \$30,000), and (3) a staff attorney (base annual salary estimated at \$30,000). The total staffing costs, including fringe benefits, is estimated at approximately \$141,312 for the first year that the judge takes the bench.

- **Appointment of special constables.** The bill expands the circumstances in which a municipal court judge may appoint special constables. As of this writing, LSC fiscal staff has not had an opportunity to identify the municipal courts whose circumstances would comport with the bill's expansion. That said, the bill simply permits a municipal court judge to make certain appointments; it does not require the judge to do so. Thus, any costs for the municipal court triggered by making such appointments would be a direct result of the judge exercising his or her permissive authority.
- **Crediting of unused sick leave.** As a result of the bill's provision relative to the crediting of unused sick leave, it is possible that certain employees could be credited with more previously accumulated sick leave than might otherwise have been the case under current law. However, as of this writing, LSC fiscal staff does not know the number of employees that could be affected by this change or the number of additional sick leave hours that a public entity would be responsible for crediting to such employees. Thus, the potential fiscal effect for certain local governments is uncertain.
- **City of Berea judicial-related costs.** Starting with FY 2006, the amount that the City of Berea expends annually in support of the Berea Municipal Court will increase by an estimated \$17,850 as a result of the conversion of their part-time municipal court judge to full-time status.
- **Cuyahoga County judicial-related costs.** Starting with FY 2006, the amount that Cuyahoga County expends annually in support of the Berea Municipal Court will increase by an estimated \$11,900 as result of the conversion of the Court's part-time municipal court judge to full-time status.

Detailed Fiscal Analysis

For the purposes of this fiscal analysis, the bill most notably:

- Changes the penalties for failure to attend as required by a notice for jury service and to serve as a juror.
- Makes various changes regarding the administration and notification of the postponement of jury service.
- Provides the circumstances to which undue or extreme physical or financial hardship apply and requires the prospective juror to provide documentation of such conditions to the judge.
- Provides protections for employees and small employers when employees are summoned for jury service.
- Permits the commissioner of jurors to establish an electronic notification system to allow jurors to be notified electronically that the juror shall attend in person the term or part of the term specified in the notice.
- Eliminates the cap on juror compensation set by the board of county commissioners.
- Eliminates the maximum of four days on the amount of jury fees that may be taxed as costs in a civil action in a court of common pleas.
- Adds one judge to the Clermont County Court of Common Pleas to be elected in 2006 for a term beginning January 3, 2007.
- Permits costs of summoning jurors to be assessed against a defendant in certain nonjury criminal trials.
- Expands the circumstances in which a municipal court judge may appoint special constables to also include circumstances in which the municipal court has countywide jurisdiction and is a successor court of a county court that previously served the county.
- Modifies the crediting of unused sick leave of public officials returning to public employment.
- Changes the status of the judge of the Berea Municipal Court from part-time to full-time.

Jury service operations

State fiscal effects

It appears that the bill's jury-related provisions will not create any noticeable fiscal effects for the state.

Local fiscal effects

The bill's jury-related provisions will affect in some manner the following two areas of county and municipal governments: (1) jury service operations, and (2) revenues.

Jury service operations. Based on conversations with members of Ohio's judicial community, LSC fiscal staff has learned that the bill will require courts to rewrite jury service rules and redesign jury service operations. As a result, local jury service operations will experience a one-time expenditure increase for training and development of new administrative procedures. Although difficult to quantify, it does not appear, as of this writing, that those one-time costs for counties and municipalities would exceed minimal. For the purpose of this fiscal analysis, "minimal" means an estimated annual cost that does not exceed \$5,000 for any affected county or municipality.

Fine revenues. Under current law, when a prospective juror fails to report to the commissioner of jurors when notified, or refuses to answer the questions put to him or her by the commissioner, the commissioner can hold that person in contempt of court and may be fined not less than \$25 and no more than \$250. The bill increases the minimum fine from \$25 to \$100. As a result of this \$75 increase in the minimum fine, some courts may realize a gain in annual fine generated revenue. However, it is difficult to estimate how much additional revenue might be generated due to a wide array of variables, including, but not limited to: (1) the number of failures to report or attend, and (2) a judge's discretion when charging an individual with contempt of court. Presumably, in some local jurisdictions, particularly in more urban areas of the state where relatively large juror pools are drawn and summoned, the amount of additional fine revenue generated annually could exceed minimal. For the purposes of this fiscal analysis, "minimal" means an estimated annual gain in revenue of no more than \$5,000 for any affected county or municipality.

Electronic notification system. The bill permits the commissioner of jurors to establish an electronic notification system to allow jurors to be notified electronically that the juror shall attend in person the term or part of the term specified in the notice. Such a decision would be voluntary in nature and not a requirement of the bill. As of this writing, LSC fiscal staff has no information readily at hand relative to the range of costs associated with establishing and maintaining an electronic juror notification system.

Juror compensation. Under current law, jurors may receive compensation of an amount not to exceed \$40 for each day's attendance, with the actual amount of compensation set by the board of county commissioners. The bill removes this cap, thus permitting the board of county commissioners to potentially set that amount in excess of the existing \$40 cap. That compensation amount is what is paid to the jurors serving in any court in a given county, which would include the court of common pleas and any county court or municipal court.

As the bill does not require the board of county commissioners to take any action, it is difficult to predict: (1) whether the compensation amount in any given county might be increased, (2) if it is, by what amount, and (3) the resulting magnitude of the annual increase in the total amount of money that any given court in the affected county allocates annually for compensating jurors. As the board of county commissioners sets the compensation amount, any non-county operated municipal court in that county would have to pay its jurors that amount. Whether eliminating the cap, which permits the board of county commissioners to set an amount

in excess of \$40 if so desired, will then lead to such a decision and thus mandate in effect an increase in the annual amount that certain municipalities allocate for juror compensation is uncertain. Also uncertain is whether the magnitude of such an increase would exceed minimal annually (in excess of \$5,000) for any affected municipality.

A quick search by LSC fiscal staff of juror compensation information readily available from the Internet indicates that, as of April 2004, the daily compensation rate paid to jurors around Ohio ranged from \$6 to \$30. The sole exception to that range was Delaware County where the daily compensation rate paid is \$40. Thus, as of this writing, only one Ohio county appears to be at the existing \$40 cap.

Taxing juror fees. Current law generally requires a court of common pleas, in which a civil action is filed and a jury is sworn, to order the fees of the jurors be taxed as costs (up to a maximum of four days of actual service) to be paid by any party, allocated among the parties, or paid by the county. Upon collection, these fees are deposited in the county treasury, which presumably would be the county general fund.

According to the Judicial Conference of Ohio, most civil actions do not last more than four days in court. Some civil actions, such as contract disputes and malpractice cases, can last much longer. These types of civil actions also usually involve larger sums of money and parties that would typically be able to pay jury fees in excess of four days of actual service without significant financial hardship.

By eliminating the “four-day maximum” jury fees provision, the bill creates the possibility of at least two notable and related local fiscal effects:

- (1) Counties may gain revenues in certain civil actions in which a jury is sworn and the number of days jurors actually serve is more than four days.
- (2) Counties may reduce expenditures in these same civil actions, as counties presumably could save money that would otherwise go to pay jurors for their actual service in excess of four days.

As of this writing, the magnitude of the potential gain in revenues and related reductions in expenditures that a given county might realize annually is uncertain, and will be a function of at least three factors: (1) the number of civil actions in which a jury is sworn and the number of days those jurors actually serve in excess of four days, (2) the financial ability of any party or the parties to pay juror fees, and (3) the amount of daily juror compensation as fixed by the board of county commissioners.

Costs of summoning jurors in criminal cases. The bill allows the court in all criminal cases to include the costs of summoning a jury in the costs of prosecution when a jury has been summoned but not yet sworn and the defendant has failed to appear without good cause. Those jury costs may be included in the costs of prosecution and may be assessed against the defendant. As of this writing, the magnitude of the potential gain in revenues and related reductions in expenditures that a given county or municipality might realize annually is uncertain, and will likely be a function of at least two factors: (1) the number of criminal actions in which a jury is summoned, and (2) the financial ability of the defendant to pay the costs of prosecution.

Clermont County Court of Common Pleas Judge

With regard to the Clermont County Court of Common Pleas, the bill adds one additional judge to the General Division to be elected in 2006 for a term to begin January 3, 2007. The bill will create additional costs for both the state and Clermont County as discussed below.

Judicial salary

The annual salary of a judge of a court of common pleas consists of a state-paid share and a county-paid local share 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 Clermont County Court of Common Pleas for a term to begin January 3, 2007, the annual salary of a judge of a court of common pleas will be no more than \$119,550. Of that amount, based on the 2000 Census, Clermont County would be required to pay the \$14,000 maximum annual local share pursuant to current law (Clermont County 2000 population: 185,799). The state will cover the remainder of the annual salary, which in FY 2008 (July 1, 2007 through June 30, 2008), the first full state fiscal year of the new common pleas court judgeship, amounts to \$105,550.

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 Clermont 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, Clermont County will pay \$1,897 annually, while the state will contribute \$14,048 in FY 2008, 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 \$9,172 ($\$105,550 \times 8.69\%$) in FY 2008, the first full state fiscal year of the new common pleas court judgeship.

Other Clermont County costs

According to the Clermont County Court of Common Pleas, courtroom modifications have already been made in anticipation of the new judge taking the bench in January 2007. Before the judge takes the bench, however, additional furniture and equipment will need to be purchased. At this time, the one-time cost of these purchases is uncertain, but the board of county commissioners is aware of, and anticipating, the need to secure furniture and equipment to support the new judge. In addition, the court expects to hire three additional staff in order to support the judge: (1) a constable secretary (base annual salary estimated at \$40,000), (2) a bailiff (base annual salary estimated at \$30,000), and (3) a staff attorney (base annual salary estimated at \$30,000). The total staffing costs, including fringe benefits, is estimated at approximately \$141,312 for the first year that the judge takes the bench.

Appointment of special constables

The bill expands the circumstances in which a municipal court judge may appoint special constables. As of this writing, LSC fiscal staff has not had an opportunity to identify the municipal courts whose circumstances would comport with the bill's expansion. That said, the bill simply permits a municipal court judge to make certain appointments; it does not require the judge to do so. Thus, any costs for the municipal court triggered by making such appointments would be a direct result of the judge exercising his or her permissive authority.

Crediting of unused sick leave

Current law provides that the previously accumulated sick leave of an employee who has been separated from public service be placed to the employee's credit upon re-employment in the public service, provided such re-employment took place within ten years of the date on which the employee was last terminated from public service. Apparently, for the purposes of this ten-year period, any time during which the employee holds elective public office, whether by election or by appointment, is not considered public service. The bill modifies this tolling provision to essentially treat holding an elective public office as public service.

As a result of this change in the crediting of unused sick leave, it is possible that certain employees could be credited with more previously accumulated sick leave than might otherwise have been the case under current law. However, as of this writing, LSC fiscal staff does not know the number of employees that could be affected by this change or the number of additional sick leave hours that a public entity would be responsible for crediting to such employees. Thus, the potential fiscal effect for the state or local governments is uncertain.

Berea Municipal Court

The bill changes the status of the part-time judge of the Berea Municipal Court to that of a full-time judge to be elected in 2005, and provides that the part-time judge elected in 1999 remains in office until the end of the judge's term and that the full-time judge to be elected in 2005 is to be the successor to that part-time judge.

Judicial salary

The annual salary of a judge of a municipal court judge consists of a state share and a local share paid by the county and municipality. The Supreme Court of Ohio estimates that, when the full-time municipal court judge takes office in January 2006, the annual salary of the judge will be at most \$109,129. (The comparable annual salary figure for 2007 is estimated at \$112,402.) This annual cost in 2006 will be split amongst the appropriate local jurisdictions and the state as follows:

- The *local share* of a full-time municipal court judge's salary is fixed at \$61,750 per year, to be split between the City of Berea (60% or \$37,050) and Cuyahoga County (40% or \$24,700).
- The *state share* is equal to the annual salary minus the local share, or \$47,379.

It should also be noted that Sub. H.B. 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.

Retirement (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 full-time judge elected to the Berea Municipal Court will join PERS. The state and local PERS contributions are calculated as follows:

- The state contributes at the rate of 13.31% of its supplemental salary amount, while the county and the city each pays 13.55% on its base share amount.
- Under that PERS contribution formula, the City of Berea will pay a total of \$5,020 and Cuyahoga County will pay \$3,347 annually, while the state will contribute a total of \$6,306 in FY 2007, the first full state fiscal year of the newly elected full-time municipal court judge.

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 \$4,117 (\$47,379 x 8.69%) in FY 2007 the first full state fiscal year of the newly elected full-time municipal court judge.

Berea Municipal Court: summary of certain state and local costs

Since the City of Berea currently has a part-time municipal court judge, the state and local costs outlined above represent a mixture of existing costs plus additional costs associated with the conversion to a full-time municipal court judge. The net increase in annual costs to the state and local jurisdictions is outlined below. As of this writing, LSC fiscal staff has no information suggesting that there will be any associated capital improvements or additional staffing costs.

State Costs for Municipal Court Judges in Calendar Year 2006*

Cost Component	Part-time Judge	Full-time Judge	Net Increase
Salary	\$27,229	\$47,379	\$20,150
PERS	\$3,624	\$6,306	\$2,682
Other State Contributions	\$2,366	\$4,117	\$1,751
Total	\$33,219	\$57,802	\$24,583

*Based on estimated annual salary for part-time and full-time municipal court judges in 2006.

City of Berea Costs for Municipal Court Judge in Calendar Year 2006*

Cost Component	Part-time Judge	Full-time Judge	Net Increase
Salary	\$21,330	\$37,050	\$15,720
PERS	\$2,890	\$5,020	\$2,130
Total**	\$24,220	\$42,070	\$17,850

*Based on estimated annual salary for part-time and full-time municipal court judges in 2006.

**Total does not include other payroll related costs, e.g., Medicare and workers' compensation.

Cuyahoga County Costs for Municipal Court Judge in Calendar Year 2006*

Cost Component	Part-time Judge	Full-time Judge	Net Increase
Salary	\$14,220	\$24,700	\$10,480
PERS	\$1,927	\$3,347	\$1,420
Total	\$16,147	\$28,047	\$11,900

*Based on estimated annual salary for part-time and full-time municipal court judges in 2006.

**Total does not include other payroll related costs, e.g., Medicare and workers' compensation.

LSC fiscal staff: *Jamie L. Duskocil, Budget Analyst*
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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. S.B. 178**

DATE: **January 23, 2004**

STATUS: **As Enacted**

SPONSOR: **Sen. Spada**

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

CONTENTS: **Implements the recommendations of the MR/DD Victims of Crime Task Force, makes related changes in the law, and provides a mechanism for the closing of developmental centers of the Department of Mental Retardation and Developmental Disabilities that involves independent studies and public hearings and declares an emergency**

State Fiscal Highlights

STATE FUND	FY 2004	FY 2005	FUTURE YEARS
General Revenue Fund (GRF)			
Revenues	Potential negligible gain	Potential negligible gain	Potential negligible annual gain
Expenditures	Minimal effect	Minimal effect	Minimal annual effect
Victims of Crime/Reparations Fund (Fund 402)			
Revenues	Potential negligible gain	Potential negligible gain	Potential negligible annual gain
Expenditures	-0-	-0-	-0-

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

- **MR/DD Abuser Registry.** The bill expands the list of professional occupations that must report suspicions of abuse, neglect, or sexual misconduct to include superintendents, board members, employees of county boards of MR/DD, and clergymen that provide specialized services to individuals with MR/DD. If these individuals unreasonably fail to report such cases when the employee knew or should have known that the failure would result in a substantial risk of harm to an individual with MR/DD, they are eligible for inclusion on the Department of Mental Retardation and Developmental Disabilities' (DMR) Abuser Registry. Consequently, there might be an increase in the number of persons deemed eligible for the Registry, which in turn could elevate the Department's administrative costs. However, any such costs would likely be minimal annually, if that.
- **Conduct notification.** The bill requires the following entities to annually provide a written notice to each of its MR/DD employees explaining the conduct for which an MR/DD employee may be included on the Registry: (1) Department of MR/DD, (2) county boards of MR/DD, (3) each contracting entity, (4) each owner, operator, or administrator of a residential facility, and (5) each owner, operator, or administrator of a program certified by the Department for supported living. The notice shall be in a form and provided in a manner prescribed by the Department. The form must be the same for all persons and entities. The fact that an MR/DD employee does not receive the notice does not exempt the employee from inclusion on the Registry. There would be administrative costs associated with creating and distributing an annual written notice. However, these costs appear unlikely to exceed minimal.

- **MR/DD Registry hearings.** Under current law, before being put on DMR’s Abuser Registry, an accused employee must have a public hearing pursuant to Chapter 119. of the Revised Code, even if the individual does not request one. The bill changes this requirement and allows DMR to put a person’s name on the Registry without a hearing, if the individual does not request one and receives timely notification of the individual’s right to a hearing. Thus, hearing costs could be reduced. It appears, however, that any annual savings resulting from this provision would be minimal, if that.
- **Sexual misconduct notification.** The bill requires DMR and all county boards of MR/DD to notify all employees within 30 days of the effective date of the bill that any sexual conduct or contact with an individual with MR/DD is strictly prohibited. This provision could increase administrative costs to both DMR and county boards of MR/DD depending on the type of notification, with the most noticeable burden being the one-time cost of notifying all existing DMR and county board of MR/DD employees within 30 days of the effective date of the bill. The cost of notifying future employees could simply be incorporated into ongoing human resource operations.
- **Autopsy or post-mortem examination costs.** Under current law, DMR and county boards of MR/DD do not have the authority to request an autopsy or post-mortem examination for individuals with MR/DD that die. Under the bill, DMR or a county board can file a petition in court seeking authorization for the procedure. If the court authorizes an autopsy or post-mortem examination, the bill mandates that DMR or the county board that requested the procedure pay the incurred expenses. Based on conversations with DMR and the Ohio State Coroners’ Association (OSCA), it appears that this provision will not cause a significant increase in the number of autopsies or post-mortem examinations than would otherwise be performed under current law. Therefore, any fiscal impact of this provision on DMR seems unlikely to exceed minimal, if that, annually.
- **Closing of state-operated developmental centers.** The occasional one-time state administrative costs associated with the creation of a Mental Retardation and Developmental Disabilities Developmental Center Closure Commission and the subsequent performance of its duties appear unlikely to exceed minimal. The Closure Commission would, most likely, require some technical and support services from DMR and other state entities. There would be one-time costs to the Legislative Service Commission to prepare the report required by the bill. However, it seems likely that these support services would be provided using available resources.
- **Incarceration costs.** The number of additional offenders that might actually be sentenced to prison annually as a result of the bill appears likely to be relatively small. Thus, any related increase in the Department of Rehabilitation and Correction’s GRF-funded incarceration and post-release control costs would be no more than minimal annually.
- **Court cost revenues.** Given the relatively small number of new convictions expected, any potential gain in annual court cost revenues deposited to the credit of the state’s GRF and the Victims of Crime/Reparations Fund (Fund 402) is likely to be negligible.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2003	FY 2004	FUTURE YEARS
Counties and Municipalities			
Revenues	Potential increase, not likely to exceed minimal	Potential increase, not likely to exceed minimal	Potential increase, not likely to exceed minimal annually
Expenditures	Increase, possibly exceeding minimal in some jurisdictions	Increase, possibly exceeding minimal in some jurisdictions	Increase, possibly exceeding minimal annually in some jurisdictions

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

- **MOUs and county boards of MR/DD.** The bill requires a county board of MR/DD to prepare a memorandum of understanding (MOU) to coordinate investigations of abuse or neglect. The administrative burden in preparing the document would likely increase costs for county boards of MR/DD depending upon the infrastructure and level of cooperation already in place.
- **MOUs and local criminal justice systems generally.** Based on the experience of public children’s services agencies (PCSAs) that established MOUs some time ago, it appears very likely that the one-time expenses associated with establishing a MOU for some local criminal justice systems will exceed minimal, which means in excess of \$5,000. These local expenses are probably best viewed as largely an “opportunity cost.” It also seems likely that these MOUs will involve some local criminal justice systems in more investigations and prosecutions than would otherwise have been the case under current law and practice. Whether that level of activity will increase the annual expenditures of a given local criminal justice system more than minimally on an ongoing basis is uncertain.
- **Reports of abuse and neglect.** The bill expands the professions that are subject to the mandatory child abuse and neglect reporting provision to also include superintendents, board members, employees of a county board of MR/DD, investigative agents contracted with by a county board of MR/DD, and DMR employees, and modifies the provisions describing the entities to which such reports must or may be made. Consequently, the bill could increase the number of reports of abuse or neglect. The Department of Mental Retardation and Developmental Disabilities believes that the increased number of reports would not have a major fiscal impact since the Department and each county board already have investigative units in place. Based on conversations with some of the members of the MR/DD Victims of Crime Task Force, the increased number of reported suspicions of neglect, abuse, or exploitation should have, at most, a minimal annual fiscal impact on any PCSA or county board of MR/DD.
- **Conduct notification.** The bill requires the following entities to annually provide a written notice to each of its MR/DD employees explaining the conduct for which an MR/DD employee may be included on the Registry: (1) Department of MR/DD, (2) county boards of MR/DD, (3) each contracting entity, (4) each owner, operator, or administrator of a residential facility, and (5) each owner, operator, or administrator of a program certified by the Department for supported living. The notice shall be in a form and provided in a manner prescribed by the Department. The form must be the same for all persons and entities. The fact that an MR/DD employee does not receive the notice does not exempt the employee from inclusion on the Registry. There would be administrative costs associated with creating and distributing an annual written notice. However, these costs appear unlikely to exceed minimal.

- **Protective service plans.** The bill requires county boards of MR/DD to develop detailed protective service plans describing the services the county board will provide to prevent further abuse, neglect, or exploitation of individuals eligible for county board services. According to a number of superintendents of county boards of MR/DD, county boards are already providing these services pursuant to a person’s individual service plan. Based on this observation, this provision appears unlikely to create any direct and immediate fiscal effects for county boards or probate courts. However, if the county board of MR/DD fails to seek an order for adult protective services, any person who has reason to believe there is a substantial risk of immediate physical harm or death to a person with MR/DD may notify DMR. Upon notification, DMR is required to investigate the matter within 24 hours and to provide assistance to the county board and to the adult to assure the health and safety of the adult. According to DMR, this provision would give the Department the authority to step in and force a county board to investigate the matter. County boards and DMR could see a minimal increase in investigative and administrative costs. However, each county board already has an investigative unit in place and any fiscal impact appears unlikely to exceed minimal.
- **Sexual misconduct notification.** The bill requires DMR and all county boards of MR/DD to notify all employees within 30 days of the effective date of the bill that any sexual conduct or contact with an individual with MR/DD is strictly prohibited. This provision could increase administrative costs to both DMR and county boards of MR/DD depending on the type of notification, with the most noticeable burden being the one-time cost of notifying all existing DMR and county board of MR/DD employees within 30 days of the effective date of the bill. The cost of notifying future employees could simply be incorporated into ongoing human resource operations.
- **Criminal offenses.** Based on a number of conversations, it appears that the number of offenders that will be charged, prosecuted, and sanctioned for “endangerment” or “failure to report” as a result of the bill will be relatively small in any given local jurisdiction. Assuming that were true, then the annual costs for a county and municipal criminal justice system (investigation, prosecution, adjudication, indigent defense, and sanctioning) to dispose of these cases seems unlikely to exceed minimal.
- **Probate courts.** The bill’s modification of provisions regarding a probate court’s involvement in the issuance of an order authorizing a county board of MR/DD to arrange emergency services for an adult with mental retardation or a developmental disability appears likely to create little, if any, direct and immediate fiscal effects for the probate court of any given county.
- **Special testimonial procedures.** In the case of certain violations committed against children, the Revised Code currently provides special testimonial procedures in criminal and delinquent child proceedings. The bill enacts similar mechanisms where the victim of specified offenses is a functionally impaired person. As courts should already have these mechanisms in place for handling certain violations committed against children, it appears unlikely that the expansion of these special testimonial mechanisms would create more than a minimal annual cost for courts, if that.
- **Qualified interpreters.** The bill expands an existing provision requiring a court to appoint an interpreter to assist a party or witness to a legal proceeding that, because of an impairment, cannot readily understand or communicate. Under current law, the court determines a reasonable fee for all such interpreter services, which are paid out of the same funds as witness fees. As of this writing, the modification of this provision seems unlikely to generate more than a minimal, if that, annual cost for courts.

- **Court cost and fine revenues.** In the matter of local revenues, as the likely number of cases that could be created by the bill appears to be relatively small, any resulting gain in court cost and fine revenues for a given county or municipality annually would not be likely to exceed minimal.
- **County coroner notification.** The bill requires the physician, ambulance service, emergency squad, or law enforcement agency on the scene to notify the county coroner when an individual with MR/DD dies, regardless of the circumstances. No such requirement exists in current law. After conversations with the Ohio State Coroners' Association, it appears that this provision could significantly increase the number of coroner notifications. The county coroner, however, is still responsible for determining which cases warrant coroner investigation. Thus, even though the number of notifications will increase, the number of coroner cases will not necessarily increase. Counties could experience increased administrative costs if there are a number of additional coroner cases. However, it appears that any additional costs resulting from this provision would be minimal.
- **County coroner autopsies and post-mortem examinations.** The bill allows DMR or a county board of MR/DD to request an autopsy or post-mortem examination if an individual with MR/DD dies. Under current law, the county coroner makes the final decision on the necessity of an autopsy or post-mortem examination. If a county coroner does not conduct an autopsy or post-mortem examination, the bill allows DMR or a county board of MR/DD to file a petition in court seeking authorization. If the court authorizes an autopsy or post-mortem examination, the bill mandates that DMR or the county board that requested the procedure to pay the incurred expenses. Based on conversations with DMR and the Ohio State Coroners' Association, it appears that this provision will not cause a significant increase in the number of autopsies or post-mortem examinations than would otherwise be performed under current law. Consequently, any fiscal impact of this provision on a given county seems unlikely to exceed minimal, if that, annually.
- **Closing of state-operated developmental centers.** The bill's procedures for the closing of state-operated developmental centers in and of themselves should not create any immediate and direct local fiscal effects.

Detailed Fiscal Analysis

From a fiscal perspective, the bill contains two notable components as follows:

- (1) Implements recommendations made by the MR/DD Victims of Crime Task Force that will primarily affect: (1) on the state level, the Department of Mental Retardation and Developmental Disabilities (DMR), and (2) on the local level, principally county boards of MR/DD, and county and municipal criminal justice systems, including courts, law enforcement, and prosecutors. There appears to be limited data readily available statewide on the investigation and prosecution of individuals for creating a risk of harm or harming a person who has mental retardation or a developmental disability. Thus, in conducting this analysis, LSC fiscal staff has had to rely largely on qualitative information gleaned from conversations with various professionals who served on the MR/DD Victims of Crime Task Force.
- (2) Provides a mechanism for the closing of state-operated developmental centers, including the creation of the Mental Retardation and Developmental Disabilities Developmental Center Closure Commission.

DMR Abuser Registry

Under current law, the MR/DD Abuser Registry is used in cases in which there is “clear and convincing” evidence that a departmental employee committed or was responsible for the abuse, neglect, or misappropriation of an individual with MR/DD. Individuals put on the Registry go through the administrative hearing process outlined in Chapter 119. of the Revised Code. The Department of Mental Retardation and Developmental Disabilities is required to notify the accused employee of their right to request a hearing. Current law requires DMR to hold a hearing for all accused employees, even if the employee does not request one. Upon a guilty verdict, the employee’s name is then added to the Registry and is prohibited from working in the MR/DD system as long as the employee’s name remains on the Registry. Furthermore, current law requires DMR to wait until any criminal proceeding or collective bargaining arbitration concerning the same allegation has concluded. If the employee is found not guilty, DMR is prohibited from putting the employee’s name on the Registry.

The bill changes many of these requirements. Under the bill, DMR could include employees that are found not guilty in a criminal case or collective bargaining arbitration if there is “clear and convincing” evidence that the employee committed or was responsible for the abuse, neglect, or misappropriation of an individual with MR/DD. The bill requires DMR to give weight to any relevant facts presented at the administrative hearing. However, the bill requires that the disposition of a court proceeding or arbitration arising out of the same facts as the allegation that resulted in the individual’s placement on the Registry must be placed next to the individual’s name on the Registry. If an individual is charged in a complaint, indictment, or information with any crime or specified delinquent act or with any violation of law, and if the case involves a victim that the prosecutor knows is mentally retarded or developmentally disabled, the prosecutor must send a written notice to DMR. Upon receipt, DMR must review the prosecutor’s report. When DMR receives a report from a prosecutor concerning an MR/DD

employee that has been charged with abuse, neglect, or misappropriation of an individual's property, the Department must suspend any action on the matter until any criminal or collective bargaining proceeding involving the same allegation is completed, unless the Department notifies the prosecutor responsible of its desire to conduct a hearing and the prosecutor consents to the hearing. However, the bill removes the provision requiring a hearing for each accused employee. If any accused MR/DD employee does not timely request a hearing after notification, the Director of DMR can put the employee's name on the Registry if the "clear and convincing" standard is met.

Thus, the bill could result in an increase in the number of names placed on the Registry, which would increase some administrative cost for the Department. However, according to DMR, these provisions will not necessarily increase the number of individuals on the registry, but could shorten the adjudication process. As a result, the Department could experience, at most, a minimal annual savings in hearing costs if the number of hearings is reduced. There would be administrative costs associated with reviewing the prosecutor's report. However, these costs appear unlikely to exceed minimal.

Conduct notification

The bill requires the following entities to annually provide a written notice to each of its MR/DD employees explaining the conduct for which an MR/DD employee may be included on the Registry: (1) Department of MR/DD, (2) county boards of MR/DD, (3) each contracting entity, (4) each owner, operator, or administrator of a residential facility, and (5) each owner, operator, or administrator of a program certified by the Department for supported living. The notice shall be in a form and provided in a manner prescribed by the Department. The form must be the same for all persons and entities. The fact that an MR/DD employee does not receive the notice does not exempt the employee from inclusion on the Registry. There would be administrative costs associated with creating and distributing an annual written notice. However, these costs appear unlikely to exceed minimal.

MOUs and county boards of MR/DD

The bill requires each county board of MR/DD to prepare a memorandum of understanding (MOU) to coordinate all investigations of abuse or neglect. The memorandum must set forth the normal operating procedure for all concerned parties in the execution of their respective duties. The MOU requires the involvement of local law enforcement, probate judges, prosecutors, coroners, public children's service agencies (PCSAs), and any other entity deemed necessary. Current law provides no such requirement.

Because the bill's requirement of a MOU is identical to that required of PCSAs, LSC fiscal staff discussed the administrative duties and time that would be involved in establishing and maintaining a MOU with the Public Children Services Association of Ohio (PCSAO). Based on a conversation with PCSAO, it appears that the time required and the administrative duty of coordinating all the entities involved in a MOU would likely increase costs for county boards of MR/DD. However, spokespersons for county boards of MR/DD state that county boards already have the infrastructure in place to handle this new requirement. LSC fiscal staff's conversation with various interested parties also suggested that the establishment of MOUs will improve the communication between the local MR/DD and criminal justice systems and, as a

result, likely will lead to more individuals being charged and successfully prosecuted for creating a risk of harm or harming a person who has mental retardation or a developmental disability.

Reports of abuse and neglect

Current law requires the reporting of all major unusual incidents (MUIs) to county boards of MR/DD and DMR. MUIs include abuse, neglect, hospitalization, death, and other events that may significantly affect an individual's life and quality of care. All reported incidents are required to be investigated and reviewed to help prevent reoccurrence. According to the DMR's MUI/Registry Unit, the number of MUIs reported has increased over the last few years from 3,983 in 1998 to 14,116 in 2001. According to the Department, this increase is attributable to a heightened awareness and increased emphasis on reporting. In 2001, DMR received 2,832 allegations of abuse, neglect, or theft. Of those allegations, 798 were substantiated administratively as follows: 285 cases of physical abuse, 79 cases of sexual abuse, 184 cases of neglect, 42 cases of exploitation, and 208 cases of misappropriation. According to DMR, there were 4,163 allegations of abuse (sexual, verbal, or physical) or neglect in FY 2002 with a substantiation rate of approximately 14%.

The bill expands the professions that are subject to the mandatory child abuse and neglect reporting provision to also include superintendents, board members, employees of a county board of MR/DD, investigative agents contracted with by a county board of MR/DD, and DMR employees, and modifies the provisions describing the entities to which such reports must or may be made. In general, under existing law, the reports are to be made to a law enforcement agency or to the county board of MR/DD, and if the reports concern a resident of a DMR-operated facility, the reports are to be made related to a law enforcement agency or DMR. Under the bill: (1) if the reports concern any act or omission of an employee of a county board of MR/DD, the report must be made to DMR and the county board of MR/DD, and (2) if the reports concern a person who is an inmate in a state correctional institution, the report must be made to the State Highway Patrol.

The bill also mandates that, when a county board receives a report, the superintendent of a county board or a person the superintendent designates must attempt to have a face-to-face meeting with a person with MR/DD who is allegedly the victim of abuse or neglect within one hour of the board's receipt of the report if the county board believes the degree of risk to the person constitutes an emergency.

The fact that a case is administratively substantiated as having occurred does not mean that enough evidence exists to justify prosecution. The Department of Mental Retardation and Developmental Disabilities has limited data on the number of cases that have been prosecuted to date.

The bill allows the Department to conduct an independent review of any reported major unusual incident or request that an independent review be conducted by a county board of MR/DD that is not implicated in the report, a regional council of government, or any other entity authorized to conduct such investigations. However, if a report of an allegation involves an employee of a county board of MR/DD, the Department must conduct an independent investigation or request another authorized entity to do so. According to a Department spokesperson, DMR, in most cases, already independently investigates allegations of this nature. However, the Department exercises discretion in investigating based on the severity of the

allegation. The Department estimates that the number of investigations under the Department's jurisdiction may rise. However, the Department does not believe the increase will have a major fiscal impact.

Based on conversations with some county boards of MR/DD, it appears that there could be an increase in annual investigation costs for both county boards of MR/DD and local law enforcement. The Department of Mental Retardation and Developmental Disabilities believes that the increased number of reports would not have a major fiscal impact since the Department and each county board already have investigative units in place. Based on conversations with some of the members of the MR/DD Victims of Crime Task Force, the increased number of reported suspicions of neglect, abuse, or exploitation should have, at most, a minimal annual fiscal impact on any PCSA or county board of MR/DD.

Sexual misconduct notification

The bill requires DMR and all county boards of MR/DD to notify all employees within 30 days of the effective date of the bill that any sexual conduct or contact with an individual with MR/DD is strictly prohibited. This provision could increase administrative costs to both DMR and county boards of MR/DD depending on the type of notification, with the most noticeable burden being the one-time cost of notifying all existing DMR and county board of MR/DD employees within 30 days of the effective date of the bill. The cost of notifying future employees could simply be incorporated into ongoing human resource operations.

If an employee violates this provision, the employee can be included on the MR/DD Abuser Registry. Thus, the bill could result in an increase in the number of names placed on the Registry, which would increase some administrative cost for the Department.

Protective service plan

Under current law, a probate court may issue an order authorizing a county board of MR/DD to arrange emergency services for an adult. The services are renewable for an additional 14 days if the county board of MR/DD can show that a continuation is necessary.

The bill requires county boards of MR/DD to develop detailed protective service plans describing the services the county board will provide to prevent further abuse, neglect, or exploitation of an adult that is eligible for county board services. The county board must submit the plan to the court for approval and the plan may only be changed by a court order. The bill extends the provision of these services to six months and allows the services to be renewed for an additional six months. According to a number of superintendents of county boards of MR/DD, county boards are already providing these services pursuant to a person's individual service plan. Based on this observation, this provision appears unlikely to create any direct and immediate fiscal effects for county boards or probate courts.

If the county board of MR/DD fails to seek an order for adult protective services, any person who has reason to believe there is a substantial risk of immediate physical harm or death to a person with MR/DD may notify DMR. Upon notification, DMR is required to investigate the matter within 24 hours and to provide assistance to the county board and to the adult to assure the health and safety of the adult. According to DMR, this provision would give the Department the authority to step in and force a county board to investigate situations in which a

county board of MR/DD fails to seek an order for adult protective services. County boards and DMR could see a minimal increase in investigative and administrative costs. However, each county board already has an investigative unit in place and any fiscal impact appears unlikely to exceed minimal.

Closing of state-operated developmental centers

In any instance where the Governor intends to close a state-operated developmental center that was in operation on or after January 1, 2003 the bill requires:

- The Governor to notify the General Assembly in writing at least ten days prior to making any official, public announcement that the Governor intends to close one or more developmental centers.
- Promptly after the Governor's notification of the General Assembly, the Legislative Service Commission (LSC) shall conduct an independent study of the developmental centers and DMR's operation of the centers. The study must be completed no later than 60 days after the Governor makes the official, public announcement of the closure.
- Not later than the date on which LSC is required to complete the report, a six-member Mental Retardation and Developmental Disabilities Developmental Center Closure Commission be created to make recommendations on the developmental center closure to the Governor. The Legislative Service Commission shall appear before the Closure Commission and present the report LSC prepared.
- The Closure Commission shall consist of the Directors of DMR and Health; one private executive with expertise in facility utilization, economics, or both; one member of the board of the Ohio Civil Service Employees' Association; one shall be either a family member of a resident of a developmental center or a representative of an MR/DD advocacy group; and a member of the law enforcement community, all of whom serve without compensation. The private executive with expertise in facility utilization and the family member or representative of an MR/DD advocacy group may not be members of the General Assembly or have a developmental center identified for closure in the county in which the member resides.
- Not later than 60 days after the Closure Commission receives LSC's report, the Closure Commission shall prepare a report containing the Closure Commission's recommendations and shall provide a copy to the Governor and each member of the General Assembly who requests a copy.
- Upon receipt of the Commission's report, the Governor may (1) follow the recommendation of the Commission, (2) close no developmental center, or (3) take other action the Governor determines is necessary for expenditure reductions or budget cuts and state the reasons for the action.
- Upon the Governor's final decision on the closure, the Closure Commission ceases to exist.

State fiscal effects

State expenditures. The creation of a Mental Retardation and Developmental Disabilities Developmental Center Closure Commission would in all likelihood produce no more than a

minimal one-time increase in state expenditures principally associated with: (1) Closure Commission members performing their duties, and (2) state employees providing staff assistance.

(1) Commission members. The members of the Closure Commission serve without compensation. Although the bill is silent on the matter, it is possible that Closure Commission members could be eligible for and request reimbursement for expenses incurred during the performance of their Closure Commission duties for such items as travel, meals, and lodging.

(2) Staff assistance. The Closure Commission would, most likely, require some technical and support services from DMR and other state entities. There would be one-time costs to the Legislative Service Commission to prepare the report required by the bill. However, it seems likely that these support services would be provided using available resources.

Local fiscal effects

These state institutional facilities closure procedures, in and of themselves, should not create any immediate and/or direct local fiscal effects.

MOUs and local criminal justice systems generally

The bill will essentially require county and municipal criminal justice systems to establish and maintain formal agreements (MOUs) with county boards of MR/DD. These agreements will facilitate the sharing of information, with the intent of better protecting individuals with mental retardation or a developmental disability and improving the investigation and prosecution of persons who have harmed or endangered such individuals.

Based on the experience of PCSAs that established such agreements some time ago, it appears very likely that the one-time expenses associated with establishing a MOU for some local criminal justice systems will exceed minimal, which means in excess of \$5,000. These local expenses are probably best viewed as largely an “opportunity cost.” In other words, various local criminal justice participants will absorb this task within their existing mix of duties and responsibilities, and most likely will have to delay as appropriate the performance of some of those other duties and responsibilities. If one were able to then put a price (time spent) on that one-time involvement across all of the criminal justice participants, then, in some local jurisdictions, it likely would exceed minimal.

It also seems likely that these MOUs will involve some local criminal justice systems in more investigations and prosecutions than would otherwise have been the case under current law and practice. Whether that level of activity will increase the annual expenditures of a given local criminal justice system more than minimally on an ongoing basis is uncertain.

Criminal offenses

The bill makes the following notable changes to the state’s criminal law:

- (1) Creates the offense of “endangering a functionally impaired person,” a misdemeanor of the first degree.
- (2) Creates the offense of “patient endangerment,” a misdemeanor of the first degree. If the offender previously has been convicted of, or pleaded guilty to, such a violation, patient endangerment is a felony of the fourth degree. If the violation results in serious physical harm to the person with mental retardation or a developmental disability, patient endangerment is a felony of the third degree.
- (3) Revises existing penalties for specified violations of the reporting law and expands the persons to whom the reporting law applies. A violation is a misdemeanor of the fourth degree or, if the abuse or neglect constitutes a felony, a misdemeanor of the second degree.

The sentences and fines associated with those offense levels under current law, unchanged by the bill, are summarized in Table 1 below.

Table 1 Existing Sentences & Fines for Certain Offense Levels		
Offense Level	Maximum Fine	Maximum Term
Felony, 3rd degree	\$10,000	1-5 year definite prison term
Felony, 4th degree	\$5,000	6-18 month definite prison term
Misdemeanor, 1st degree	\$1,000	6 month jail stay
Misdemeanor, 2nd degree	\$750	90 day jail stay
Misdemeanor, 4th degree	\$250	30 day jail stay

According to a detective with the Columbus Police Department who investigates cases involving allegations that a person with mental retardation or a developmental disability has been victimized, current law does not cover caretaker recklessness. Thus, law enforcement can take no action unless physical harm occurs, regardless of the fact that the person may have been in danger. The bill addresses this issue by creating an offense that is comparable to the child endangerment statute.

The law currently requires certain individuals (“mandated reporters”), such as medical professionals, teachers, social workers, and MR/DD employees, to report suspected cases of abuse, neglect and exploitation. This statute differs from the children’s protective services statute in that it does not require mandated reporters to report when an individual with MR/DD faces a threat of physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect. The bill amends this provision to include these situations and enhances the penalties associated with the failure to report.

As noted, there must be proof of serious harm before a charge can be filed. By including language that makes placing a person at substantial risk a criminal act, law enforcement officials should be able to charge an individual when there is no clear evidence of abuse. Prosecutors will then, theoretically, be able to more effectively prosecute such cases. Based on a conversation

with the Ohio Prosecuting Attorneys Association, as well as the chief assistant prosecutor of Cuyahoga County, it appears that the number of offenders that will be charged, prosecuted, and sanctioned for “endangerment” or “failure to report” as a result of the bill will be relatively small in any given local jurisdiction. Assuming that were true, then the annual costs for a given county or municipal criminal justice system (investigation, prosecution, adjudication, indigent defense, and sanctioning) to dispose of these cases seems unlikely to exceed minimal. And in the matter of local revenues, as the likely number of cases that could be created by the bill appears to be relatively small, any resulting gain in court cost and fine revenues for a given county or municipality annually would not be likely to exceed minimal either.

State incarceration costs

It is possible as a result of the bill that a few more offenders could end up being sentenced to prison, which would increase the Department of Rehabilitation and Correction’s (DRC) annual incarceration and post-release control costs. The number of additional offenders, however, that might actually be sentenced to prison annually appears likely to be so small that any related increase in DRC’s GRF-funded incarceration and post-release control costs would be no more than minimal annually.

State court cost revenues

As a result of the bill, it is possible that some individuals, who may not have been prosecuted and convicted under existing law, will be prosecuted and sanctioned. This outcome creates the possibility that the state may gain locally collected court cost revenues that are deposited to the credit of the GRF and the Victims of Crime/Reparations Fund (Fund 402). As the number of affected offenders appears to be very small, the amount of court cost moneys that those state funds will gain annually is likely to be negligible.

Probate courts

The bill’s modification of provisions regarding a probate court’s involvement in the issuance of an order authorizing a county board of MR/DD to arrange emergency services for an adult with mental retardation or a developmental disability (i.e. emergency *ex parte* order) appears likely to create little, if any, direct and immediate fiscal effects for the probate court of any given county. The bill clarifies that, in order to issue an emergency *ex parte* order by telephone, there must be reasonable cause to believe that the person who is the subject of the notice is a mentally retarded or developmentally disabled person and that there is substantial risk to the person of immediate physical harm or death. The bill also clarifies that, subject to certain exceptions, the order is effective for 24 hours.

Special testimonial procedures

In the case of certain violations committed against children, the Revised Code currently provides special testimonial procedures in criminal and delinquent child proceedings. The bill enacts similar mechanisms where the victim of specified offenses is a functionally impaired person. As courts should already have these mechanisms in place for handling certain violations committed against children, it appears unlikely that the expansion of these special testimonial mechanisms would create more than a minimal annual cost for courts, if that.

Qualified interpreters

The bill: (1) expands an existing provision requiring a court to appoint an interpreter to assist a party or witness to a legal proceeding that, because of an impairment, cannot readily understand or communicate, and (2) permits the court to appoint an interpreter only after the court evaluates that person's qualifications and determines to the court's satisfaction that the person can effectively interpret. Under current law, the court determines a reasonable fee for all such interpreter services that are paid out of the same funds as witness fees. The interpreter could be a family member or caretaker that is able to aid the parties in formulating methods of questioning the person and interpreting the person's answers. One example would be in the case of a person with autism. As of this writing, the modification of this provision seems unlikely to generate more than a minimal, if that, annual cost for courts.

County coroner notification

Under current law, when a county coroner is notified of a death, the coroner decides, based on the circumstances, whether the case should be investigated by the coroner's office. If a case is deemed a coroner's case, the county coroner must go into the field, examine the body, determine possible cause of death, and sign the death certificate. If a case is not deemed a coroner's case, the physician on the scene is responsible for the above responsibilities.

The bill requires that the county coroner be notified anytime a person with MR/DD dies, regardless of the circumstances. The physician called in attendance, emergency squad, or law enforcement officer who obtains knowledge of the death arising from the person's duties is responsible for notification. According to DMR, 735 individuals with MR/DD died in calendar year 2002. There are over 61,000 individuals with MR/DD in Ohio.

After conversations with the Ohio State Coroners' Association (OSCA), it appears that this provision could significantly increase the number of coroner notifications. The county coroner, however, is still responsible for determining which cases warrant further investigation by the coroner. Thus, even though the number of notifications will increase, the number of coroner cases will not necessarily increase. Counties could experience increased administrative costs if there are a number of additional coroner cases. However, it appears that any additional costs resulting from this provision would be minimal.

County coroner autopsies and post-mortem examinations

Section 313.131 of the Revised Code gives the county coroner authority to determine when an autopsy or post-mortem examination is necessary. The county in which the death occurred pays the costs associated with an autopsy or post-mortem examination. According to OSCA, the average cost of an autopsy ranges between \$800 and \$1,500. The Department of Mental Retardation and Developmental Disabilities reported 15 adverse or accidental deaths in FY 2001 and 29 in FY 2002.

The bill requires that the county coroner be notified any time an individual with MR/DD dies. If a county coroner decides an autopsy or post-mortem examination is not necessary, DMR or a county board of MR/DD can file a petition in court seeking authorization for an autopsy or post-mortem examination. If the court authorizes an autopsy or post-mortem examination, the

bill mandates that DMR or the county board that requested the procedure to pay the incurred expenses

Based on conversations with DMR and OSCA, it appears that this provision will not cause a significant increase in the number of autopsies or post-mortem examinations than would otherwise be performed under current law. Consequently, any fiscal impact of this provision on the Department or a given county seems unlikely to exceed minimal, if that, annually.

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common pleas located in the state's larger, more urban counties – will experience some increase in their annual cost of doing business as well. Such an increase would not, however, be likely to exceed minimal on an ongoing basis, as these courts will have more resources at their disposal to implement changes to the management of child custody cases.

- **Parenting determination advance deposit or fee.** The bill permits a parenting order issued by another state to be registered in this state if certain conditions are met, including sending to the clerk of a juvenile court an advance deposit or fee established by the court. Legislative Service Commission fiscal staff has gathered no information suggesting that the number of parenting determinations registered annually with the clerk of any given juvenile court will be significant enough that any associated gain in annual revenues from such deposits or fees would exceed minimal. For the purposes of this fiscal analysis, a minimal revenue gain means an estimated annual increase of no more than \$5,000 for any affected county.

Detailed Fiscal Analysis

Overview

The bill replaces existing law (originally the Uniform Child Custody Jurisdiction Act) with the Uniform Child Custody Jurisdiction and Enforcement Act and includes the following fiscally notable provisions:

- Communicating court-to-court regarding parenting orders status and determination of appropriate jurisdiction;
- Creating and maintaining a parenting orders registry;
- Training court administrative staff and magistrates in new procedures;
- Determining appropriate compensation for travel and other miscellaneous expenses incurred by parties required to appear before the court;
- Imposition of an advance deposit or fee when registering a parenting determination issued by a court of another state in this state.

The fiscal effect of the bill's provisions will be faced predominantly by courts of common pleas in two types of counties: (1) those located in rural areas with relatively small populations, and (2) those located in urban areas with more moderately sized populations. It appears that many of the former counties and some of the latter counties will need to: (1) upgrade technology in order to perform court-to-court information sharing, and (2) increase staff to handle additional workload.

It also appears that most courts of common pleas located in urban areas with more moderately sized populations and all of the courts of common pleas located in the state's larger, more urban counties will likely already be equipped with the necessary technology and sufficiently staffed to handle the additional workload created by the bill's child custody jurisdiction and enforcement provisions.

Legislative Service Commission fiscal staff research indicates no expectation raised by various court personnel that the bill will result in a net increase in the number of child custody cases heard in Ohio's courts of common pleas statewide.

Local fiscal effects: courts of common pleas

Workload and training

The bill will require the courts of common pleas to engage in court-to-court information sharing in order to determine the appropriate venue for child custody actions as well as to gather information relevant to cases. A parenting orders registry, mandated by the bill, will require each court of common pleas to create and maintain a registry of some type. In addition, each court of common pleas will be required to make determinations regarding compensation for parties required to appear before the court.

Based on LSC fiscal staff's conversations with the Judicial Conference of Ohio, it seems likely that workload increases as a result of the court-to-court information sharing, maintenance of the parenting orders registry, and determination of expenses will require the courts of common pleas located in rural areas with relatively small populations and some courts of common pleas located in urban areas with more moderately sized populations to each hire at least one additional employee.

Most courts of common pleas located in urban areas with more moderately sized populations and all of the courts of common pleas located in the state's larger, more urban counties will likely be able to redistribute existing staff capacity to handle the increased workload.

In addition, the bill's provisions would require the training of administrative staff and magistrates in all courts of common pleas regarding new policies and procedures established by the bill.

Technology upgrade

Some courts of common pleas, most likely those located in rural areas with relatively small populations, will require a one-time upgrade to the technological infrastructure of their operations to accommodate the court-to-court information sharing required by the bill. The addition of new telephone lines, telephone equipment, and computer and internet hardware may be necessary in order to handle both court-to-court information sharing and teleconferencing for parties unable to appear before the court.

Costs

Based on LSC fiscal staff's research, it seems reasonable to conclude that the bill's effect on workload, training, and technology will trigger an increase in the annual operating expenses of certain courts of common pleas that could easily exceed minimal. The courts of common pleas likely to be affected in this manner are of two types: (1) those located in rural areas with relatively small populations, and (2) those located in urban areas with more moderately sized populations. For the purposes of this fiscal analysis, "minimal" means an estimated annual cost

of no more than \$5,000 for any affected county. A more precise estimate of the magnitude of the increase in annual operating expenses is difficult to calculate at this time.

It also seems reasonable to conclude that certain other courts of common pleas – most courts of common pleas located in urban areas with more moderately sized populations and all of the courts of common pleas located in the state’s larger, more urban counties – will experience some increase in their annual cost of doing business as well. Such an increase would not, however, be likely to exceed minimal on an ongoing basis, as these courts will have more resources at their disposal to implement changes to the management of child custody cases.

Revenues

The bill permits a parenting order issued by another state to be registered in this state if certain conditions are met, including sending to the clerk of a juvenile court an advance deposit or fee established by the court. Legislative Service Commission fiscal staff has gathered no information suggesting that the number of parenting determinations registered annually with the clerk of any given juvenile court will be significant enough that any associated gain in annual revenues from such deposits or fees would exceed minimal. For the purposes of this fiscal analysis, a minimal revenue gain means an estimated annual increase of no more than \$5,000 for any affected county.

State fiscal effects

As of this writing, it does not appear that the bill will directly affect state revenues and expenditures.

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Appendix

All House Bills Passed in 2004 that Became Law

House Bill	LIS	Subject
11	No	Creates the offenses of misrepresentation by a child day-care provider, failure of a child day-care center to disclose the death or serious injury of a child, and failure of a type A or type B family day-care home to disclose the death or serious injury of a child, revises the law pertaining to child day-care, includes additional offenses in criminal background checks of child care providers, regulates criminal background checks performed for child day camps, and makes changes in the law governing certification of type B family day-care homes
12	No	Authorizes county sheriffs to issue licenses to carry concealed handguns to certain persons, creates the offenses of falsification to obtain a concealed handgun license, falsification of a concealed handgun license, and possessing a revoked or suspended concealed handgun license, increases the penalty for theft of a firearm and having weapons while under disability, modifies the definition of handgun that applies to the Weapons Control Law, requires the Office of Criminal Justice Services to prepare and distribute to federally licensed firearms dealers a poster and brochure that describe safe firearms practices, and requires federally licensed firearms dealers to offer a gun locking device to purchasers at the time of sale, post the poster, and provide the brochure to purchasers
30	No	Permits a fine of between \$250 and \$500 for standing or parking a vehicle in a disability parking spot, and denial of registration if fines are not paid
36	No	Permits the court to award attorney's fees and litigation expenses in certain domestic relations cases
52	Yes	Expands the offenses of aggravated vehicular homicide, vehicular homicide, and vehicular assault to also prohibit causing death or serious physical harm as a proximate result of committing a reckless operation or speeding violation in a construction zone when the victim is any person in the construction zone and notice of the prohibitions was posted, imposes a five-year mandatory prison term for a conviction of aggravated vehicular homicide and a peace officer victim specification, imposes a three-year mandatory prison term for a conviction of aggravated vehicular homicide and a specification of three OMVI-related violations, increases the penalty for discharging a firearm upon or over a public road or highway and links the amount of the increase to the injury caused, or risk of injury created, by the offense, limits the use of restitution as a sanction for misdemeanor offenders and delinquent children and changed the terminology used regarding the court's imposition of a restitution sanction, revises the definition of "economic loss" that applies to the Delinquent Child Law and the Criminal Sentencing Law, eliminates the application of the overriding purposes of misdemeanor sentencing to certain misdemeanor offenses, corrects errors in and otherwise modifies certain provisions that contain some of the Ohio Criminal Sentencing Commission's traffic law revisions

House Bill	LIS	Subject
59	No	To designate a portion of State Route (S.R.) 4 within Clark County as the "Heritage Parkway"; to designate a portion of U.S. Route 68 in a Clark County the "Ron Burton Highway"; to designate a portion of S.R. 93 in Coshocton County as the "Crile-Lower Memorial Highway"; and to designate S.R. 129 in Butler County the "Butler County Veterans Highway"
64	No	Allows the sale of oxygen to an individual who holds a valid certificate from a nationally recognized S.C.U.B.A. diving school
67	No	Removes the limit on the amount of a secured line of credit for which the directors of a joint township hospital district board may contract
98	No	Makes changes to law concerning division of retirement benefits as marital property
105	No	Requires home medical equipment services providers to be licensed by the Ohio Respiratory Care Board or to be nationally accredited and registered by the Board
106	No	Requires that upon a child's discharge or release from the custody of the Department of Youth Services certain records pertaining to that child be released to the juvenile court and to the superintendent of the school district in which the child is entitled to attend school, specifies that a school district's policy on the assignment of students to an alternative school may provide for the assignment of any child released from the custody of the Department of Youth Services to such a school, makes the Department of Youth Services eligible for certain grants and services from the Ohio SchoolNet Commission, includes public and chartered nonpublic schools as out-of-home care entities for the purposes of the Juvenile Code, exempts limited English proficient students who have been enrolled in United States schools for less than one year from certain testing and accountability requirements, requires the county probate court, instead of the educational service center governing board, to perform the duties of or fill vacancies on the board of education of a local school district if the board fails to perform those duties or fill vacancies, eliminates the deadline for issuing one-year conditional teaching permits in the area of intervention specialist, clarifies the calculation of transitional aid to school districts in fiscal year 2005, establishes a per student rates to be paid by the Department of Education for a safe school help line, permits a reverse auction to satisfy any law requiring a political subdivision to competitively bid for services or supplies, clarifies the minimum population requirement for counties that create a regional arts and cultural district under alternative procedures, requires the State Board of Education to request a criminal records check of an applicant prior to issuing an educator license, and clarifies the procedures for awarding grants to teachers certified by the National Board for Teaching Standards
117	No	Revises foster caregiver training requirements, adds additional offenses to those that disqualify a person as a person responsible for a child's care in out-of-home care or prospective adoptive parent, permits the Department of Job and Family Services to seek injunctive relief in certain circumstances, and eliminates the duty of the Legislative Office of Education Oversight to review certain types of Head Start agreements
120	No	Permits the assessment of reasonable late fees for the failure to pay rent for a self-

House Bill	LIS	Subject
		service storage facility
126	No	Regarding the provision or use of RU-486 (mifepristone) for an abortion
130	No	Permits the execution of a power of attorney or caretaker authorization affidavit permitting a grandparent with whom a child resides authority over the care, custody, and control of the child including the authority to make decisions regarding school matters and to consent to the medical, psychological, and dental care for the child; requires the power of attorney or caretaker authorization affidavit be filed with the juvenile court or any other court that may have jurisdiction; requires the grandparent to provide certain specified information to the court with the power of attorney or caretaker authorization affidavit; and allows the court to report that information to the public children services agency for the purpose of investigating the grandparent
135	No	Makes revisions to Ohio Condominium Law
142	No	To require each student living in on-campus housing at an institution of higher education to disclose to the institution the student's meningococcal meningitis and hepatitis B vaccination status
148	No	Requires the township clerk to attend meetings once a quarter, requires the township clerk to be bonded at specified minimum levels, permits the board of township trustees to request copies of records, authorizes a township clerk to hire assistants, provides for the expansion of certain township police districts, and authorizes joint ambulance districts to establish reasonable user charges
149	No	Provides for review of a child support order at the request of a member of the uniformed services called to active military service
161	No	Modifies the period within which a plaintiff may commence a new action after the reversal of a judgment for the plaintiff or the plaintiff's failure otherwise than upon the merits, includes within the four-year statute of limitations for certain actions an action for relief on the grounds of a physical or regulatory taking of real property
163	No	Provides an additional prison term or term of imprisonment for certain repeat OVI or OVUAC offenders, provides an increased penalty for an OVI conviction if the offender refused to take a chemical test after being arrested for the offense and has a prior OVI or OVUAC conviction, requires municipal, county, and common pleas court clerks to retain admissible evidence of criminal convictions for 50 years after the entry of judgment of that conviction, gives the police force of a township with a population of greater than 50,000 the same authority to make arrests for specified traffic offenses on interstate highways as now exists for the police force of a township with a population greater than 60,000, increases the penalty for vehicular assault when the offender also fails to stop at the scene of the accident resulting in that offense, modifies the definition of "committed in the vicinity of a school" in the Controlled Substance Law to specify that it is irrelevant whether the person who engages in the prohibited conduct knows that conduct is being committed on school premises, in a school building, or within 1,000 feet of any school premises, specifically authorizes continuous alcohol monitoring as a sanction in criminal and delinquent child cases, and corrects errors in and otherwise modifies certain provisions that contain some of the Ohio Criminal Sentencing Commission's traffic law revisions

House Bill	LIS	Subject
168	No	Makes changes to various county financial management procedures or requirements involving county auditors and treasurers, and makes certain sales and use tax changes
175	No	Establishes a state building code for residential buildings, establishes a process for granting variances from the statewide uniform residential building code, re-establishes the Residential Construction Advisory Committee, and makes other changes in laws governing residential contractors and residential construction
181	Yes	To permit a special commission to suspend an elected local government official charged with a felony related to the official's administration of, or conduct in, the performance of his or her duties; prohibits a person convicted of certain felony theft offenses from holding a public office or position of public employment or serving in certain unpaid volunteer positions with a state agency, political subdivision or private entity; requires former state elected officers and staff members who filed or were required to file financial disclosure statements to continue for a 24-month period to report specified information relating to certain income sources, gifts, and expenditures
183	No	Registers professional employer organizations for the purpose of enforcing workers' compensation laws and adopts a new Ohio pressure piping law
184	No	Permits the imposition of a sentence of life imprisonment without parole, life imprisonment with parole eligibility after serving 25 full years of imprisonment, or life imprisonment with parole eligibility after serving 30 full years of imprisonment when an offender is convicted of or pleads guilty to aggravated murder and is not charged with or convicted of an aggravating circumstance, and clarifies and revises the procedures that govern the resentencing of a person sentenced to death whose sentence is set aside, nullified, or vacated
185	No	Permits the state and political subdivisions to pay some or all of the premium for their employees' long-term care insurance
189	No	Allows podiatrists to make independent hospital admissions
200	No	Makes changes to the law regarding the enforcement of child support orders
204	Yes	Provides for the use of electronic records and signatures by county offices if specified security procedures are adopted, requires the Auditor of State to audit electronic record security procedures adopted by the counties, and creates a single definition of "Internet" to be used throughout the Revised Code; delays the effective date of certain sales and use tax sourcing laws
212	No	Changes the rate of interest on money due under certain contracts and on judgments, provides trial courts notification of the rate of interest, specifies that the rate of interest is that in effect on the date of the judgment in a civil action and remains in effect until the judgment is satisfied, changes the computation of the period for which prejudgment interest is due in certain civil actions, precludes prejudgment interest on future damages, requires that the finder of fact in certain tort actions in which future damages are claimed specify the amount of past and future damages awarded, modifies the period of limitations revivors of judgments, and precludes the accrual of interest from the date a judgment becomes dormant to the date the judgment is revived
215	No	Establishes qualifications for expert witnesses in medical liability actions, regulates the collection and disclosure of data on medical liability claims, regulates the use of affidavits of noninvolvement in medical liability claims, and prohibits the use of a

House Bill	LIS	Subject
		defendant's statement of sympathy as evidence in a medical liability action
219	No	Prohibits a person from installing air bags in a vehicle that are not compliant with federal law standards for the make, model, and model year of the vehicle
223	No	Specifies the conditions under which chemical testing of an injured worker may establish a rebuttable presumption that the injury was proximately caused by the use of alcohol or a controlled substance
224	No	Designates November 19 of each year as "George Rogers Clark Day"
230	No	Revises and clarifies various provisions of law governing the Department of Public Safety
231	No	Regulation of household sewage treatment systems (HSTS)
239	No	To expand the definition of costs of hospital facilities, to confirm and validate amendments made to section 140.01 and the enactment of section 140.051 of the Revised Code by Am. Sub. S.B. 109 of the 113th General Assembly in order to eliminate any legal challenges that have been or may be raised concerning the constitutionality of these amendments, to modify the conditions under which a board of county hospital trustees may obtain a secured line of credit, to permit transfer of operational authority of a county home to a board of county hospital trustees, and to authorize a board of county commissioners to contract with third parties to manage a county home
243	No	Removes oversight of sales of home service contracts from the jurisdiction of the Department of Insurance and extends for two years an existing limit on the interest rate used to compute minimum nonforfeiture amounts on deferred annuities
247	No	To authorize the establishment of demonstration railroad quiet zones in Ohio municipalities or townships
252	No	Regulates when motions for judgment on the pleadings, motions to dismiss, and motions for summary judgment may be filed in actions to remove a prosecuting attorney
255	No	Increases charges for responding to certain security system false alarms in townships, authorizes charges for township fire and rescue services, and extends fireworks manufacturer and wholesaler license moratoria
256	No	Revision of the Merger Law
257	No	Regarding the information on death certificates
262	Yes	Revises election law to increase the maximum poll worker pay and to permit state and local government employees to work as judges of elections and receive poll worker pay in addition to regular employment compensation and prohibits employees of county boards of elections from engaging in collective bargaining, and places additional requirements necessary for compliance with the Help America Vote Act of 2002
269	No	Conveyance of state-owned real estate located in Warren County to the City of Mason, real estate in Pike County to the Western Local School District, real estate located in Williams County to Filling Memorial Home of Mercy, Inc., real estate located in Delaware County to Delaware County, and real estate located in Williams County to the City of Bryan

House Bill	LIS	Subject
272	No	Specifically declares that same-sex marriages are against the strong public policy of the state, declares that the recognition or extension of the specific statutory benefits of legal marriage to nonmarital relationships is against the public policy of the state, and makes other declarations regarding same-sex marriages
275	No	To provide scholarships to children of Ohioans killed or disabled during Operation Enduring Freedom or Operation Iraqi Freedom
278	No	To declare that the Division of Mineral Resources Management in the Department of Natural Resources has exclusive authority to regulate the permitting, location, and spacing of oil and gas wells in the state, and to revise the laws governing the drilling of oil and gas
281	No	Changes the assets permitted for health insuring corporations to meet the statutory minimum, provides criminal and financial penalties for persons operating unlicensed insurers, and amends provisions governing the issuance of certificates of compliance to insurers
282	No	Lengthens the time period during which the liquidator of an insolvent insurance company may void certain preferential transfers of property and permits the Superintendent of Insurance to establish a Medical Liability Underwriting Association
288	No	To modify the Cooperative Law
292	No	Establishes minimum medical requirements for filing certain asbestos claims, specifies a plaintiff's burden of proof in tort actions involving exposure to asbestos, establishes premises liability in relation to asbestos claims, and prescribes the requirements for shareholder liability for asbestos claims under the doctrine of piercing the corporate veil
299	No	To provide for the vacation upon petition of certain township roads that are not used by and maintained for the public; to permit a board of county commissioners and a board of township trustees to place a gravel or unimproved county or township road on nonmaintained status; to preserve certain utility rights of way in vacated roads; to revise notification requirements for drilling of oil and gas wells; to create the Oil and Gas Advisory Council; to permit a county prosecuting attorney to be the legal advisor to a joint fire district
301	No	Generally limits the duration of a mutual insurance company's lien on property it insures to five years
303	No	Adopts the Uniform Mediation Act
306	No	Modifies liquor laws
316	No	Provides sheriffs, deputy sheriffs, municipal police officers, and county and municipal correctional officers with qualified immunity from damages caused or suffered by certain prisoners or adult offenders who are working on a work detail and volunteered for the work detail, provides counties and municipal corporations in which such prisoners or offenders work on a work detail and that employ the sheriff, deputy sheriff, or officer and townships in which such prisoners and offenders work on a work detail with a similar qualified immunity, adopts the "public duty rule" for lawsuits against the state in the Court of Claims pursuant to which the state is generally immune from liability in any civil action or proceeding involving the performance or nonperformance of a public duty, and provides radio stations,

House Bill	LIS	Subject
		television systems, cable systems, and their officials and employees with immunity from damages related to the broadcast or cablecast, or failure to broadcast or cablecast, information under an Amber Alert program
322	No	To increase the annual renewal of registration fee for professional engineers and professional surveyors and to implement continuing professional development requirements for these registration renewals beginning in calendar year 2008
323	No	Allows boards of county commissioners, boards of township trustees, and school boards to donate certain personal property to eligible nonprofit organizations
325	No	Revises the Charitable Bingo Law
331	Yes	Would raise the cap on the amount of benefits health care plans must provide for the expense of screening mammographies, provide for annual adjustment of this cap, modify existing limits on the fees a medical provider may charge for providing copies of medical records, and extend the applicability of those limits until December 31, 2008
342	No	Establishes minimum medical requirements for filing certain silicosis claims or mixed dust disease claims, establishes premises liability in relation to those claims, specifies a plaintiff's burden of proof in tort actions involving exposure to silica or mixed dust, and prescribes the requirements for shareholder liability for those claims under the doctrine of piercing the corporate veil
361	Yes	Administration, operation, funding and regulation of enhanced wireless 9-1-1 service
362	No	Permits school district permanent improvements levies imposed for a limited period of time to be renewed for a continuing period of time; allows a qualifying single member limited liability company to elect to be taxed separately; updates references in Ohio tax law to federal tax law; creates an amnesty period for refiling applications for exemption of real property that were dismissed due to case law; requires under the municipal income tax law that a business add back tax exempt stock options in the apportionment of its net profit among municipal corporations; makes changes to the Lottery Prize Awards Law; and modifies the distribution of the job training tax credit
367	No	Permits any metropolitan park district to expand its board of park commissioners permanently from a three-member to a five-member board
368	No	Specifies that manufactured home parks are to be regulated separately from recreational vehicle parks, recreation camps, combined park-camps, and temporary park-camps and creates two parallel regulatory programs
369	No	Expands the offense of "harassing a police dog or horse," renames "handicapped assistance dogs" as "service dogs," enacts the offense of "harassing a service dog," requires an offender who commits any of the assault or harassment offenses related to police dogs or horses or service dogs to pay resulting veterinary, replacement, and training costs, makes theft of a police dog or horse or a service dog a third degree felony, includes seizure assistance, response, and alert dogs as "service dogs" for the assault, harassment, and theft offenses related to service dogs, exempts seizure assistance, seizure response, or seizure alert dogs from the fee for registration and provides that the registration is permanent, and replaces the phrase "unfit to work" with "unable to work" in various definitions related to persons with a disability
375	No	Requires the Parole Board, at the request of the victim of a specified offense or certain

House Bill	LIS	Subject
		other persons, to hold a full board hearing, permits the victim of such an offense, the victim's representative, and the victim's immediate family and the prisoner's counsel or another designated person to testify at that hearing, and permits the Correctional Institution Inspection Committee to inspect Department of Youth Services facilities
377	No	Permits the State Board of Pharmacy to establish and maintain a drug database to monitor the misuse and diversion of controlled substances and certain dangerous drugs
383	No	Prohibits a person from transmitting multiple commercial electronic mail messages, falsifying routing information in those messages, falsifying registration information for multiple electronic mail accounts, or falsifying the right to use five or more Internet protocol addresses, and prohibits unauthorized access to a computer to transmit multiple commercial electronic mail messages
388	No	Authorizes the Supreme Court to create a board, commission, or other entity to operate and maintain the facilities and attendant exterior grounds of the state-owned real estate located in Franklin County that this act conveys, exempts that real estate from taxation and assessments, authorizes the conveyance of that real estate to the Supreme Court, and declares an emergency
392	No	Permits a declarant of a declaration or living will to make an anatomical gift in the declaration and makes changes to the membership of the Second Chance Trust Fund Advisory Committee
393	No	To provide that the Arts and Sports Facilities Commission may participate in the financing of motorsports complexes
398	No	Requires the Department of Mental Health to create compilations of information about patients buried, entombed, or inurned in cemeteries located on the grounds or adjacent to the grounds of hospitals under the Department's control
401	No	Increases the authorized amount of a check-cashing loan from \$500 to \$800, modifies the fee for such a loan if it is \$500 or more, expands the offense of passing bad checks to apply to electronic transactions, includes in the offense a provision regarding stop payment orders on checks, and includes in the offense a provision regarding aggregation of checks issued within 180 days for purposes of determining an offender's penalty
406	No	Prohibits the use or possession of a portable signal preemption device under certain conditions; creates "National Defense" license plates, "U.S. Armed Forces Active Duty" license plates, Armed Forces Expeditionary Medal license plates, "Silver Star" license plates, "Bronze Star Medal" license plates, "4-H" license plates, "Ohio Cattlemen's Foundation Beef" license plates, "Share the Road" license plates, "Pets" license plates, "Breast Cancer Awareness" license plates, "Rock and Roll Hall of Fame" license plates, "Mahoning River" license plates, four different "Sportsmen's" license plates, "Smokey Bear" license plates, "Ohio State Parks" license plates, "Ohio Zoo" license plates, "Perry Monument" license plates, "National Rifle Association Foundation" license plates, and special motorcycle license plates for retired and honorably discharged veterans; establishes an additional procedure for the issuance of license plates bearing the logo of a professional sports team; increases the competitive bid threshold for the Ohio Turnpike Commission, allows the Ohio Turnpike

House Bill	LIS	Subject
		Commission to decrease toll rates without holding a public hearing; makes an appropriation
411	No	Provides counties, limited home rule townships, and other local entities "quicktake" authority to appropriate land for the construction of sewers, provides to boards of county commissioners and boards of township trustees of limited home rule townships expanded and revised rule-making authority related to implementation of the Federal Water Pollution Control Act, and provides to county commissioners expanded and revised rule-making authority related to the prevention of sewer back-ups
414	Yes	Provides for establishment of agricultural security areas and for tax exemptions on qualifying improvements in those areas
420	No	Modifies the Secured Transactions Law, modifies the Garnishment Law, enacts provisions relative to engaging in the business of debt adjusting, eliminates previous provisions related to regulating entities engaging in the business of debt pooling, and prohibits the unauthorized use of the name or logo of a financial institution in connection with the sale or advertising of any product or service if such use is misleading or deceptive
421	No	To revise the statutes governing the Agricultural Commodity Depositors Fund
425	No	Makes changes to laws governing mine subsidence insurance, repeals a provision of current law that permits an annual distribution of excess moneys in the Mine Subsidence Insurance Fund to policyholders, repeals language citing state appropriations as a source of funding for the Mine Subsidence Insurance Fund, clarifies the Department of Insurance's authority to impose annual valuation fees, and extends the Ohio coal tax credit permitted under the corporate franchise tax until January 1, 2008
426	Yes	Defines benefits for persons called to active military duty
427	Yes	To increase from 10 to 15 the number of years that enterprise zones or urban jobs and enterprise zone agreements may exempt property from taxation, to create the Job Development Initiatives Fund, to transfer up to \$25.8 million of unclaimed funds, to convey state-owned real estate to Hamilton County, to broaden the scope of activities which may be supported by state payments to municipalities and counties that attract federal jobs, to create a moldbuilder's lien, to add state buildings to the Clean Ohio Brownfield Revitalization Program, to prevent repeal of the Employee Ownership Assistance Program at the end of this year, to create and make an appropriation for the Industrial Site Improvement Fund for the purpose of making grants to counties for job development, to make appropriations, to make various changes to the tax increment financing law
431	No	Removes the Ohio Housing Finance Agency from the Ohio Department of Development and establishes it as an independent agency; makes changes to the Ohio Housing Finance Agency Law; modifies the applicability of certain bond law; makes changes to the definition of interest rate hedge; makes changes to bond proceedings; and allows port authorities to establish linked deposit programs
432	Yes	Replaces the construction and demolition debris license fee with a disposal fee and authorizes the Ohio Environmental Protection Agency to impose an additional fee for

House Bill	LIS	Subject
		the purpose of funding ground water monitoring at construction and demolition debris facilities
434	No	Tobacco budget for FY 2005-2006 biennium
449	No	Allows a retiree reemployed in a position covered by a state retirement system to receive a refund of the retiree's contributions in lieu of a benefit for the period of reemployment
454	No	Authorizes, under certain conditions, the distribution of sample drugs by and to charitable pharmacies
463	No	Requires students to be immunized against chicken pox subject to certain exceptions; permits school districts to remove students not immunized during an epidemic; requires school districts to adopt measures to preserve a student's academic status if removed
473	No	Revises the Sex Offender Registration and Notification Law's "change of address" requirements, includes any person adjudicated a sexual predator within that Law's registration and notification requirements, grants prosecuting attorneys, municipal and township chief legal offices, and officials designated as prosecutors in a municipal corporation a cause of action for injunctive relief when an offender required to register under that Law violates its prohibition against residing within 1,000 feet of any school premises, clarifies that the Law's criminal penalty provisions to ensure that they apply to offenders whose duties under that Law are based on a conviction that occurred in a jurisdiction other than Ohio, clarifies that the Sexually Violent Predator Sentencing Law does not require that an offender have a prior conviction of a sexually violent offense in order to be sentenced under that Law, and increases the mandatory minimum term under the Sexually Violent Predator Sentencing Law for kidnapping with a sexual motivation specification and a sexually violent predator specification and for rape with a sexually violent predator specification
477	No*	Requires the Lottery Director to enter an agreement with the Department of Alcohol and Drug Addiction Services for operation of a program for gambling addiction, for which the Lottery Commission is to pay, and requires the Department to provide gambling addiction services
493	No	To designate the fourth week of September as "Parent's Week" and changes the criteria for imposing sanctions on school districts under the No Child Left Behind Act, makes nonpublic teachers with National Board Certification eligible for state-funded stipends
498	No	Replaces the existing statutory provisions on employment intentional torts with a requirement that the plaintiff in a civil action based on an employment intentional tort prove that the employer acted with intent to injure another or in the belief that the injury was substantially certain to occur
516	No	To implement the recommendations of the Sunset Review Committee, establish the Ohio African-American Hall of Fame, and establish environmental covenants as standardized legal mechanisms governing the long-term use of properties deemed environmentally contaminated
525	No	Requires DNA specimen collection from delinquent children and criminal offenders for all felonies, makes other changes relating to the collection and use of DNA

House Bill	LIS	Subject
		specimens, extends for one year the period of time for certain inmates to request DNA testing, clarifies the applicability of Chapter 5120. of the Revised Code to offenders who committed their offense prior to July 1, 1996, and to those who committed their offense on or after that date, specifies who collects DNA specimens from juvenile offenders when the juvenile is not committed to the Department of Youth Services or other specified facilities, and gives the Department of Rehabilitation and Correction rule-making authority over the collection of a DNA specimen from an offender whose supervision is transferred to Ohio from another state
536	No	Makes the penalty for theft of anhydrous ammonia a felony of the third degree
552	No	To establish a recommended procedure for folding the state flag

Yes means a local impact for both introduced and enacted.

No means no local impact for both introduced and enacted.

***H.B. 477 had an initial determination of "No", however, a determination of "Yes" was mistakenly noted on the fiscal note. The bill has no local impact.**

All Senate Bills Passed in 2004 that Became Law

Senate Bill	LIS	Subject
2	No	Implementation of recommendations of the Governor's Commission on Teaching Success
18	No	Changes the composition of certain Metropolitan Housing Authorities; alters the purpose and scope of county and township zoning regulations; permits counties and townships to enforce landscaping and architectural standards in zoning codes in any zone (not only residential); and permits students enrolled in certain community schools to participate in extracurricular activities at school district schools to which they would otherwise be assigned
35	No	To permit the practice of physical therapy under certain circumstances
43	No	To require the inclusion of specified pharmacy benefits information when health insurers issue or require the use of standardized identification cards or electronic technology for submission of claims
58	No	Increases the penalties for certain drug offenses if the offense is committed in the vicinity of a school or in the vicinity of a juvenile and expands the offense of endangering children to prohibit allowing children to be within the vicinity of certain drug offenses
66	No	Permits counties to establish children's advocacy centers to perform and provide certain functions, activities, and services relative to reports of child sexual abuse or other types of abuse of a child over which the document creating the center gives it jurisdiction, requires the Children's Trust Fund Board to develop and provide to certain entities and persons a list of funding sources for establishing or operating a children's advocacy center, permits child abuse and child neglect prevention and advisory boards to request up to \$5,000 per county out of Children's Trust Fund Board funds as one-time, start-up costs for a children's advocacy center, permits children's advocacy centers to annually request funds from the Children's Trust Fund Board to conduct primary prevention strategies, and provides the Children's Trust Fund Board with more authority and flexibility to approve, revise, or deny a child abuse and child neglect prevention advisory board's local plan
67	No	Prohibits terrorism involving agricultural products or equipment
71	Yes	Changes the penalties for failure to attend as required by a notice for jury service and to serve as a juror, changes the circumstances under and methods by which jury service may be postponed, provides protections for employees and small employers when employees are summoned for jury service, eliminates the cap on juror compensation, shortens the period of jury service after which a juror may be discharged, allows the commissioner of jurors to establish an electronic notification system to allow jurors to be notified electronically that the juror shall attend in person the term or part of the term specified in the notice, makes other changes to the jury selection procedures, permits costs of summoning jurors to be assessed against a defendant in certain nonjury criminal trials, eliminates the four-day maximum on the amount of jury fees that are taxed as costs in a civil action, expands the circumstances in which a municipal court judge may appoint special constables to also include circumstances in which the municipal court has

Senate Bill	LIS	Subject
		countywide jurisdiction and is a successor court of a county court that previously served the county, adds one judge to the Clermont County Court of Common Pleas to be elected in 2006, modifies the crediting of unused sick leave of public officials returning to public employment, and changes the status of the judge of the Berea Municipal Court from part-time to full-time
79	No	Permits, subject to certain limitations and requirements, school district boards of education and governing boards of educational service centers to adopt procedures for a nonpartisan primary for the purpose of nominating candidates for those boards
80	No	Makes numerous changes to civil practice and procedure, including generally specific causes of action, statutes of repose, trial, liability, damages, and judgment, and product liability actions, provides qualified immunity from civil damages to for food manufacturers, sellers, and trade associations for claims resulting from a person's cumulative consumption, obesity, or weight gain or any health condition related to cumulative consumption, obesity, or weight gain, prohibits imputing any assurances or assumption of liability regarding public access to premises used for growing agricultural produce, precludes assumption of liability regarding the use of recreational trails, modifies the civil immunity for health care professionals and health care workers, specifies the nurses who may refer to themselves as advanced practice nurses, eliminates obsolete references to pilot programs for advanced practice nurses, requires the State Dental Board to issue volunteer certificates to retired dental practitioners upon submission of a complete application, and establishes limitations on successor asbestos-related liabilities relating to corporations
102	No	Establishes the Ohio Manufactured Homes Commission to regulate the installation of manufactured housing in Ohio
106	No	Modifies the relationships between real estate licensees and customers, establishes a penalty for failing to comply with the bill's disclosure requirements, and makes various changes in the regulation of the real estate industry
115	No	Changes the definition of "subdivision" in the Platting Law, changes procedures for plat approvals, provides different methods for implementing the statute authorizing the approval of subdivisions without a plat, permits compensation to appointive members of county planning commissions, and provides for the conveyance of state-owned land in Summit County
133	No	Revises the laws regarding the state retirement systems
146	No	Expands "disrupting public services" to specifically prohibit the use of a computer, another specified type of device or the Internet so as to disrupt, interrupt, or impair any police, fire, educational, commercial, or governmental function, expands "criminal mischief" to specifically include certain conduct related to computer hacking or the introduction of a computer contaminant, increases the penalty for "unauthorized use of computer, cable, or telecommunication property" when committed under certain specified circumstances and when the value of the involved property, services, or victim's loss is at least \$10,000, specifically includes "computer hacking" within the scope of "criminal mischief" and

Senate Bill	LIS	Subject
		"unauthorized use of computer, cable, or telecommunication property," provides a rule for interpreting statutory references that define or specify a criminal offense, and presents the prevailing versions of sections 2915.01 and 2915.092 of the Revised Code
151	No	Prohibits consumer reporting agencies from disclosing certain information obtained from insurer inquiries
156	No	To designate S.R. 48 the "U.S.A.F. Pararescue Memorial Parkway;" to designate a portion of U.S. 35 within Gallia County the ""Bob Evans Highway;" to designate a portion of S.R. 588 and Jackson Pike within Gallia County as the "Nehemiah and Permelia Atwood Memorial Highway;" to designate S.R. 160 within Gallia County the "Charles E. Holzer Highway;" to designate S.R. 756 within Brown and Clermont counties as the "Ohio Army National Guard 216th Engineering Battalion Memorial Highway;" to designate U.S. 24 within Defiance County as the "Defiance County Veterans Memorial Highway;" to designate a portion of U.S. 250 within Tuscarawas County as the "Bill Hinig Memorial Highway;" to designate a portion of S.R. 315 within in Franklin County the "Lawrence E. Hughes Memorial Highway;" to designate a portion of S.R. 209 within Guernsey County as the "Veterans' Memorial Highway;" to designate a portion of S.R. 66 in Auglaize County the "Kenneth Jutte-John Garman Memorial Highway;" to designate a portion of S.R. 711 within Mahoning County the "Robert E. Hagan Memorial Highway;" to name the new I-280 bridge spanning the Maumee River in Lucas County the "Veterans' Glass City Skyway;" to allow certain vehicles to be exempt from current requirements when crossing railroad tracks; and creates the Choose Life license plate
160	No	Specifically identifies vessels as places that are within the offense of criminal child enticement
164	No	Allows liquor agency stores to sell spirituous liquor on Sunday, allows for the transfer of D-4 permits in certain conditions
165	No	To authorize liens that may be used to secure the performance of obligations by recipients of development loans and local property tax incentives
178	Yes	Implements the recommendations of the MR/DD Victims of Crime Task Force, makes related changes in the law, and provides a mechanism for the closing of developmental centers of the Department of Mental Retardation and Developmental Disabilities that involves independent studies and public hearings and declares an emergency
179	No	Provides for the licensure of backflow and prefabricated fireplace contractors, changes the name of, and makes changes to, the Ohio Construction Industry Examining Board, and Allen Ohio Turnpike Commission bidding procedures
185	Yes	Repeals the Uniform Child Custody Jurisdiction Act and replaces it with the Uniform Child Custody Jurisdiction and Enforcement Act
187	No	Makes changes to the standard nonforfeiture law for individual deferred annuities and imposes requirements on insurance companies that terminate coverage under medical malpractice insurance policies
189	No	To make capital reappropriations for the biennium ending June 30, 2006, to make

Senate Bill	LIS	Subject
		certain supplemental and capital appropriations, and to provide authorization and conditions for the operation of state programs
202	No	To revise the laws governing the inspection of meat and poultry, claims for injuries to certain animals by coyotes or black vultures, agricultural easements, and applications concerning new drugs
209	No	To revise the Auctioneers Law
218	No	Changes the distribution of local sales and use tax collections to counties, compensates counties that incur sales tax losses due to destination-based sourcing of taxable sales, and provides temporary compensation to vendors to implement destination-based sourcing of sales
222	No	To modify the laws governing municipal hospitals
224	No	To permit any technical college that is not co-located with another institution of higher education to acquire housing and dining facilities
234	No	Authorizes transfers and conveyances of state-owned real estate to political subdivisions and private entities; permits abatement of unpaid property taxes, penalties, and interest owed on property owned by the state or a board of education that would have been tax exempt except for failing to comply with certain filing procedures
250	No	Designates May as "Ohio Cystic Fibrosis Awareness Month" and creates the Ohio Cystic Fibrosis Legislative Task Force to advise the state of Ohio on issues pertaining to the care and treatment of individuals with cystic fibrosis
277	No	To create the Ohio Veterans Hall of Fame to recognize the post-military achievements of outstanding veterans

Yes means a local impact for both introduced and enacted.

No means no local impact for both introduced and enacted.

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Fiscal Note & Local Impact Statement