OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

H.B. 340
133rd General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 340's Bill Analysis

Version: As Enacted

Primary Sponsor: Rep. Cupp

Local Impact Statement Procedure Required: Yes

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Highlights

- The bill may result in loss of property tax revenue to school districts and other units of local government. The magnitude of such losses appears indeterminate in the absence of additional information.
- The bill contains other provisions that give the state and political subdivisions flexibility in the way they pay assessments on drainage improvements to publicly owned lands. Currently, the only funds that may be used to pay these assessments are motor vehicle revenues or general fund money.

Detailed Analysis

Overview

The bill makes numerous changes to the laws governing the process for proposing and approving water and drainage improvements undertaken by soil and water conservation districts (SWCDs) and counties. The foremost fiscal effect is a potential loss of property tax revenue to school districts and other units of local government. This stems from a provision of the bill increasing from 4 feet to 10 feet the width of sod or seeded strips used for an improvement's erosion and sediment control which is removed from the property's taxable value. Many of the bill's other provisions appear to have little, if any, fiscal effect on SWCDs and counties that undertake these improvements. Certain provisions may allow for some possible cost savings. For example, the bill could reduce travel costs by removing the requirement that the SWCD board or board of county commissioners meet at a designated location near the proposed improvement

for a view of the current drainage system. The bill instead requires the board or its designee to present an overview of the proposed improvement that adequately informs attendees of the view about the proposed improvement's location and drainage issues that will be addressed by the improvement. Additionally, the bill allows SWCD boards and boards of county commissioners to conduct video conferences and teleconferences. Below is a more detailed discussion on the bill's provisions that have a potential fiscal effect.

Erosion and sediment controls

Changes made by the bill to taxability of real property appear to LBO to apply prospectively to new improvements, and not to land improved by past such projects. The relevant sections of the bill, R.C. 940.24 and 6131.14, change the requirements for erosion and sediment control, and the taxability of sod or seeded strips used for this purpose, on proposed improvements. Past improvements may not conform to the new requirements, and the bill does not explicitly reference applying the change in taxability to past improvements. On this understanding of the bill's meaning, the fiscal effects of these tax changes made by the bill would grow with the passage of time as new projects are undertaken and completed that comply with the requirements of the bill rather than current law. Tax revenue losses would cumulate over time. The amount of these losses would depend on numbers of such projects, the design of these projects both if built under the provisions of the bill and if they had instead been built under current law, the value of property that would be taxable under current law but that would become nontaxable under the bill, and the tax rates applicable to that property.

For an improvement that is a ditch or similar structure for disposal of water, current law (R.C. 940.26 and 6131.14) provides that erosion and sediment control is to be provided by sod or seeded strips that are to be 4 feet to 15 feet wide. Those more than 4 feet wide are to be removed from the taxable value of the property. The bill (R.C. 940.24 and 6131.14) provides that the sod or seeded strips are to be 10 feet to 15 feet wide and removed from the property's taxable value. This change implies the following:

- Sections that would be built 4 feet wide under current law and would be taxable instead would be required by the bill to be built 10 feet to 15 feet wide and would be nontaxable, an increase in nontaxable width of 10 feet to 15 feet.
- Sections that would be built more than 4 feet wide and less than 10 feet wide under current law and would be nontaxable instead would be required by the bill to be built 10 feet to 15 feet wide and would be nontaxable, an increase in nontaxable width ranging up to less than 11 feet.
- Sections that would be built 10 feet to 15 feet wide under current law and would be nontaxable presumably would comply with the same standard under the bill, and would not increase the nontaxable width.

LBO is not aware of data indicating the revenue loss that would result from the bill. However, the revenue loss clearly could become significant with the passage of time. Ohio has more than 16 million acres enrolled in the current agricultural use valuation (CAUV) program, according to Department of Taxation data. If one-tenth of one percent (0.1%) of the taxable value of this land was removed from tax rolls because of the provisions of the bill, the revenue loss to

local governments might exceed $400,000. The eventual revenue loss might be higher than this. Even if the 0.1% reduction is too high by a factor of four, the revenue loss could exceed $100,000. Please note that these figures are not LBO estimates of the actual cost of the bill, but are only illustrative. Additional losses could be incurred on land not enrolled in the CAUV program.

Flexibility in the way public entities can pay assessments

The bill provides for some flexibility in the way public entities can pay assessments for particular improvements. It does so by removing a requirement that any part of the assessment benefitting state, county, or township roads, or highways or municipal streets be paid from motor vehicle revenues. It also removes a requirement that part of the assessment benefitting property owned by any public corporation, any political subdivision, or the state be paid from the general fund or motor vehicle revenue of the corporation, political subdivision, or the state. Removing these restrictions on how the cost of water and drainage improvements are assessed gives the entities responsible for paying the assessments more flexibility in paying for them.

Assessments on Department of Natural Resources property

Additionally, the bill removes a provision that states any land owned and managed by the Department of Natural Resources (DNR) for wildlife, recreation, nature preserve, or forestry purposes is exempt from assessments if DNR determines that the land derives no benefit from the improvement. However, according to DNR, the Department has not been exempted from any assessments. In FY 2019, assessments on parks, natural areas and preserves, and canal lands were nearly $10,000. From FY 2016-FY 2019, assessments on state forestry land totaled a little over $11,000.

Repairs to a drainage improvement dating from before 1957

The bill increases the amount a board of county commissioners may authorize a county engineer to spend to make repairs on a drainage improvement that was authorized prior to August 23, 1957, from $4,000 under current law to $24,000 under the bill. This change is unlikely to have a widespread effect, since most counties would likely have undertaken improvements to existing drainage infrastructure after this time. However, Williams County is an example of a county that does have drainage infrastructure dating from before this time and therefore does use this process. According to Williams County, raising the current threshold could potentially allow projects to be completed within a year, but it would ultimately depend on the total cost of repairs for certain improvements. Lastly, the bill eliminates the authorization to pay for repairs from the county general fund when the drainage repair fund for the improvement is inadequate, thus removing a possible source of funds for making repairs if the drainage fund is inadequate.