



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

**Bill:** Sub. H.B. 495 of the 128th G.A.

**Date:** December 8, 2010

**Status:** As Enacted

**Sponsor:** Reps. Book and Dodd

**Local Impact Statement Procedure Required:** No — No local cost

**Contents:** Incorporates certain changes in the Internal Revenue Code into Ohio law, postpones the operation of the Sunset Review Law until July 1, 2011, and declares an emergency

### State Fiscal Highlights

| STATE FUND                   | FY 2011                   | FY 2012                   | FUTURE YEARS                         |
|------------------------------|---------------------------|---------------------------|--------------------------------------|
| <b>General Revenue Fund</b>  |                           |                           |                                      |
| Revenues                     | Loss of \$11.7 million    | Gain of \$3.7 million     | Gain of \$3.5 million in FY 2013     |
| Expenditures                 | - 0 -                     | - 0 -                     | - 0 -                                |
| <b>Local Government Fund</b> |                           |                           |                                      |
| Revenues                     | Loss of \$0.5 million     | Gain of \$0.1 million     | Gain of \$0.1 million in FY 2013     |
| Expenditures                 | Decrease of \$0.5 million | Increase of \$0.1 million | Increase of \$0.1 million in FY 2013 |
| <b>Public Library Fund</b>   |                           |                           |                                      |
| Revenues                     | Loss of \$0.2 million     | Gain of \$0.1 million     | Gain of \$0.1 million in FY 2013     |
| Expenditures                 | Decrease of \$0.2 million | Increase of \$0.1 million | Increase of \$0.1 million in FY 2013 |

Note: The state fiscal year is July 1 through June 30. For example, FY 2011 is July 1, 2010 – June 30, 2011.

### Tax changes

- The bill brings conformance of Ohio tax law with federal statutes up to date. This will simplify administration of the tax laws, as well as compliance by taxpayers, but will reduce personal income tax revenue in FY 2011, with gains in future years.
- These losses and gains will be divided among the GRF, the Local Government Fund, and the Public Library Fund.

### Sunset Review provisions

- Under current law, various provisions of the Sunset Review Law go into effect on December 31, 2010, meaning that the public bodies subject to sunset review would expire if not renewed by that date. The bill postpones the operation of the Sunset Review Law until July 1, 2011, providing the General Assembly with a six-month extension to complete the sunset review process.

## Local Fiscal Highlights

| LOCAL GOVERNMENT                                    | FY 2010               | FY 2011               | FUTURE YEARS          |
|---|-----------------------|-----------------------|-----------------------|
| <b>Counties and Other Units of Local Government</b> |                       |                       |                       |
| Revenues  | Loss of \$0.5 million | Gain of \$0.1 million | Gain of \$0.1 million |
| Expenditures  | - 0 -                 | - 0 -                 | - 0 -                 |
| <b>Public Libraries</b>                             |                       |                       |                       |
| Revenues  | Loss of \$0.2 million | Gain of \$0.1 million | Gain of \$0.1 million |
| Expenditures  | - 0 -                 | - 0 -                 | - 0 -                 |

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

- Losses to the state's Local Government Fund and Public Library Fund in FY 2011, and gains in future years, as a result of conforming Ohio tax law with federal law, will cause equivalent losses and gains in distributions to counties, other units of local government, and public libraries.

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## Detailed Fiscal Analysis

The bill amends the Ohio Revised Code to incorporate changes made in the Internal Revenue Code since October 16, 2009 into Ohio law. The bill also postpones operation of the Sunset Review Law until July 1, 2011. Finally, the bill declares an emergency, making these provisions effective immediately. The fiscal effects of these changes are described below.

### Tax changes

The Ohio personal income tax is conformed to federal tax law. This simplifies compliance by taxpayers and administration and enforcement by the Department of Taxation. Ohio's corporate franchise tax has also historically been conformed to federal tax law, but has now been phased out except for financial institutions. Ohio most recently incorporated federal tax law changes effective October 16, 2009. The changes in this bill bring incorporation of federal tax law changes up to date.

Estimates of fiscal effects reported in this fiscal note were provided by the Department of Taxation. The Department estimated that two pieces of federal legislation having significant fiscal effects would be incorporated into Ohio law by this bill: H.R. 3548, the Worker, Homeownership, and Business Assistance Act of 2009, and H.R. 5297, the Small Business Jobs Act of 2010. The former included a provision that expanded the business net operating loss carryback to businesses of all sizes, and made it applicable to 2009 losses. Previously, this five-year carryback was limited to small businesses with revenues of \$15 million or less, and applied to 2008 losses. The latter provides a number of tax benefits, including extension of bonus first-year depreciation and increased amounts of otherwise depreciable outlays that may be expensed by small businesses. Other pieces of federal legislation that would be incorporated into Ohio law by this bill were estimated by the Department to have no more than minimal fiscal effects. Virtually all of the effects are on personal income tax revenue. Effects on corporate franchise tax revenue were deemed negligible.<sup>1</sup>

H.R. 3548 was estimated by the Department of Taxation to reduce GRF tax revenue by \$11.2 million in FY 2011, and to increase GRF tax revenue by \$1.5 million in FY 2012 and by \$1.4 million in FY 2013. H.R. 5297 was estimated to reduce GRF tax revenue by \$0.5 million in FY 2011 and to increase GRF tax revenue by \$2.2 million in FY 2012 and by \$2.1 million in FY 2013.

A change in general tax revenues, under current procedures, is divided between the General Revenue Fund, the Local Government Fund, and the Public Library Fund. Under permanent law, 94.1% is retained by the GRF, 3.68% is paid to the Local

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<sup>1</sup> Following the phase-out of the corporate franchise tax on most businesses, only financial institutions remain subject to the tax. The financial institutions tax base is net worth, not net income which is modified by the two federal law changes.

Government Fund, and 2.22% is paid to the Public Library Fund. In FY 2011, under a provision of H.B. 1 of the 128th General Assembly, the distribution to the Public Library Fund is reduced to 1.97% and the share retained by the GRF is increased to 94.35%.

The decline in GRF tax revenue totaling \$11.7 million estimated for FY 2011 implies a reduction in tax revenue on an all-funds basis of \$12.4 million. This number takes account of the distribution to the Local Government Fund and the Public Library Fund of 5.65% of the all-funds fiscal impact. Local Government Fund revenue would be reduced by \$0.5 million and Public Library Fund revenue would be reduced by \$0.2 million. The increase in GRF tax revenue totaling \$3.7 million estimated for FY 2012 implies an increase in tax revenue on an all-funds basis of \$3.9 million, with Local Government Fund revenue increased by \$0.1 million and Public Library Fund revenue increased by \$0.1 million. The increase in GRF tax revenue totaling \$3.5 million estimated for FY 2013 implies an increase in tax revenue on an all-funds basis of \$3.7 million, with Local Government Fund revenue increased by \$0.1 million and Public Library Fund revenue increased by \$0.1 million.

### **Sunset Review Law**

Under the Sunset Review Law, the joint legislative Sunset Review Committee periodically evaluates public bodies to determine their usefulness, performance, and effectiveness of these entities. After each entity subject to review has been evaluated, the Committee prepares a report of its findings and recommendations. As part of the report, the Committee recommends, in bill form, that agencies be renewed, abolished, or transferred. Currently, the bill carrying out the General Assembly's recommendations must become effective by December 31, 2010. Otherwise, the public bodies subject to sunset review will expire. The bill provides the General Assembly with additional time to undertake its responsibilities under the Sunset Review Law by postponing the operation of the law until July 1, 2011. Effectively, this maintains the status quo for entities subject to review until the end of FY 2011.