Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 276 of the 129th G.A.

Date: December 12, 2011

Status: As Reported by House Agriculture & Natural Resources

Sponsor: Reps. Buchy and Gentile

Local Impact Statement Procedure Required: Yes

Contents: Allows agricultural property used for certain forms of energy production to qualify for valuation under the Current Agricultural Use Value Program and makes other changes

State Fiscal Highlights

- State assistance to school districts, paid from the General Revenue Fund, could increase as a result of reduced local real property tax valuations.
- The bill requires that any specified energy production facilities mentioned in the bill that are located on the premises of a Concentrated Animal Feeding Facility (CAFF) be regulated under best management practices outlined in CAFF statutes. There are approximately 176 CAFFs in operation statewide, some of which could house these types of energy production facilities. The Department of Agriculture will incur regulatory costs for overseeing these operations. The costs would presumably be paid from GRF appropriation item 070418, Livestock Regulation Program.

Local Fiscal Highlights

- The bill allows agricultural property used for algaculture, biodiesel production, biomass energy production, electric or heat energy production, and biologically derived methane gas production to qualify for tax treatment under the Current Agricultural Use Valuation (CAUV) Program. Including additional uses of real property among those qualifying for CAUV treatment could reduce the real property tax base of school districts and other units of local government.
- Part of the revenue loss to school districts could be offset by increased state aid, beginning in FY 2012.

Detailed Fiscal Analysis

Overview

The primary fiscal effect of the bill is to allow the property tax owed on real property that is used exclusively for producing certain forms of energy to be calculated under the Current Agricultural Use Valuation (CAUV) Program. This reduces the property tax owed on the property and reduces the amount of revenue that school districts and local governments receive. The bill also requires that certain types of energy production operations located on Concentrated Animal Feeding Facilities (CAFFs) be regulated by the Department of Agriculture. As a result, the Department will incur new costs, depending on the scope of regulation that is required. The bill also broadens the definition of "agriculture" in the township and county zoning statutes to include the types of energy production defined in the bill. Just as with property used for agricultural purposes under current law, this would limit the authority of counties and townships to enforce zoning requirements on property used for energy production under the bill. There appears to be no direct fiscal effect attributable to this additional zoning limitation.

Current agricultural use valuation

Land used exclusively for commercial agriculture may be valued for real property tax purposes based on that current use rather than on the basis of its potential "highest and best" use. To qualify for treatment under the CAUV Program, in the previous three years either ten acres or more must have been used for commercial agriculture, or average yearly gross income from commercial agriculture must have exceeded $2,500 (if less than ten acres). Statewide, valuations for more than 16.1 million acres (over 60% of the state) were determined using CAUV in calendar year 2009. On average, statewide, tax valuations using CAUV were 80% lower than valuations of the same land using the highest and best use method.

The bill adds to property qualifying for CAUV tax treatment acreage that is used for algaculture, biodiesel production, biomass energy production, electric or heat energy production, and biologically derived methane production, with certain restrictions. Overall, this change could reduce tax revenues to school districts and other units of local government in the localities where these production facilities are situated. LSC does not have an estimate of the amount of this tax revenue loss at this time. Part of the revenue loss to school districts would be offset by increased state assistance from the General Revenue Fund, equal to the reduction in the local share under the school funding formula resulting from the erosion of the tax base. Tax revenue losses to other units of local government would not be offset by the state.

Energy production operations located on CAFF premises

Current law authorizes the Director of Agriculture to adopt rules that prescribe best management practices regarding specified activities at CAFFs. The bill adds the production of biodiesel, biomass energy, electric or heat energy, and biologically derived methane gas to the list of these specified activities for which the Director may prescribe rules. There are approximately 176 CAFFs in Ohio. Presumably, any additional costs of developing rules in accordance with the bill would be minimal. However, the Department might incur some larger new costs in regulating these energy producing facilities under CAFF statutes. These responsibilities would likely be handled by staff in the Livestock Environmental Permitting Program (LEPP). This program is currently funded through a combination of GRF and state special revenue funds. The program issues permits to install after reviewing applications for large animal feeding facilities. The program also develops administrative rules and guidelines for operating procedures, compliance monitoring, ground water quality, manure handling and containment, as well as rodent, pest, and odor control. LEPP consists of 11 employees who are paid through GRF appropriation item 070418, Livestock Regulation Program. The appropriation for this line item is $1.1 million in both FY 2012 and FY 2013. State special revenue funds associated with LEPP are specifically for laboratory testing and CAFF remediation purposes and are not typically used to pay the administrative costs of the program. The Department may need to either add additional staff to LEPP or train existing staff in order to regulate facilities under the provisions of the bill.

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