



Ohio Legislative Service Commission

Bill Analysis

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Am. H.B. 318

128th General Assembly
(As Passed by the House)

Reps. Sykes, Bolon, Chandler, DeBose, Foley, Hagan, Harris, Koziura, Letson, Luckie, Stewart, Szollosi, Ujvagi, B. Williams, Winburn, Yates, Yuko

BILL SUMMARY

- Postpones for two years the last of five previously scheduled reductions in state income tax rates.
- Reduces legislative salaries and supplements by 5%.
- Provides that the salary and supplement reduction applies only to legislators whose terms commence on or after January 1, 2011.
- Updates legislative salaries in the Revised Code and removes statutory language providing for automatic salary updates.
- Makes changes to travel reimbursement policies and unexcused absence penalties.
- Makes changes to compensation for the Speaker and Speaker Pro Tempore of the House of Representatives.
- Makes changes to education appropriations for state fiscal years 2010 and 2011.

CONTENT AND OPERATION

Delay in income tax rate reduction

(R.C. 5747.02(A)(6) and 5747.056; Sections 5 and 6)

Under current law, as enacted by H.B. 66 of the 126th General Assembly, the state income tax rates have been reduced by 4.2% per year since 2005 according to a statutory schedule, with the fifth and final reduction applying to taxable years beginning in 2009. (R.C. 5747.02(A)(6).) The total rate reduction over the five years is

21%. The reductions apply to all of the nine income brackets. The income tax applies to individuals, estates, and some trusts.

The bill postpones the fifth of the five scheduled reductions for two years. The rates for 2008 are extended to taxable years beginning in 2009 and 2010. The final 4.2% reduction previously scheduled to take effect in 2009 takes effect in 2011. The provision is not subject to the referendum and takes effect immediately, pursuant to Article II, Section 1d, Ohio Constitution. (Section 6.)

\$10,000 exemption

Current law grants lower-income individuals a credit that effectively exempts them from liability for state income tax if their taxable income is \$10,000 or less. (R.C. 5747.056.) As the income tax rates have been reduced since 2005, the credit amount has decreased accordingly. The credit for 2008 was \$93. The credit for taxable years beginning in 2009 currently is scheduled to be \$88.

In conformance with the delay in the rate reduction, the lower-income credit reduction for 2009 is postponed by two years: the credit is to remain at \$93 for taxable years beginning in 2009 and 2010, and will decline to \$88 in 2011. The credit continues to effectively exempt individuals whose taxable income is no greater than \$10,000.

Estimated tax payment "safe harbor"

The bill precludes the imposition of any interest penalty for an underpayment of quarterly estimated taxes resulting from the postponement of the income tax rate reduction. The postponement could have the effect of causing some taxpayers to have paid estimated taxes throughout 2009 in lesser amounts than are required under ongoing law. Ongoing law requires taxpayers whose estimated annual net liability exceeds \$500 (after accounting for withholding and credits) to pay estimated taxes quarterly.¹ (R.C. 5747.09.) The Department of Taxation publishes the income tax rates for each year to assist taxpayers in calculating their estimated tax payments; the rates published for 2009 reflect the final 4.2% rate decrease prescribed by current law. To avoid any interest charge, a taxpayer must pay at least 22.5% of the current year's liability each quarter. Any deficiency in a quarterly payment carries an "interest penalty" until the deficiency is paid. The rate of interest is the same rate charged for other unpaid income taxes, and is set each year; for 2009, the rate is 5% (0.42% per month). The interest penalty does not apply, however, if a taxpayer pays an amount at least equal to 90% of the current year's liability or 100% of the preceding year's liability.

¹ Includes liability for state income tax and any applicable school district income tax.

The bill states that the interest penalty will not be charged for underpayments of estimated taxes for taxable years ending in 2009 if the payments would have satisfied the 90% of current year liability or 100% of preceding liability thresholds computed on the basis of the lower tax rates that would have gone into effect for 2009 as previously scheduled. The waiver of the interest penalty applies to estimated payments made before the effective date of the provision (i.e., before the effective date of Section 5). Because Section 5 is not exempted from the referendum, its effective date apparently is the 91st day after the bill becomes law.

Indexing

The bill retains current law's requirement that the income brackets be adjusted to correspond with any percentage increase in the Gross Domestic Product deflator index, beginning in 2010. (The effect of the indexing adjustment is to cause a general reduction in tax liability, as greater portions of every taxpayer's taxable income is subject to lower marginal rates.)

Reduction in legislative salaries and supplements

(R.C. 101.27)

The bill reduces the salaries that are paid to officers and members of the General Assembly, and the additional supplements that are paid to committee officers, by 5%. Because, however, Ohio Constitution, Article II, Section 31 prohibits changing the compensation of General Assembly members during their terms of office, the 5% reduction in salary and supplements will not affect officers and members who are currently holding office. This portion of the bill goes into effect on the 91st day after the bill is filed with the Secretary of State and the pay changes apply only to those members whose terms of office commence on or after January 1, 2011.

The bill, in making the reductions, also updates the legislative salary statute, R.C. 101.27, to show the current salaries resulting from the salary adjustment formula applied by the statute from 2002 through 2008 (see "**Removal of automatic salary increases**," below for discussion of the formula).² The following tables show the

² The bill does not, however, update the legislative salary statute to reflect Section 303 of Am. Sub. H.B. 420 of the 127th General Assembly. That section modifies the pay scales for certain officers of the General Assembly for calendar years 2009 and 2010. Additionally, that section refers to the "Senate Majority Floor Leader" in place of the statutory "Senate Assistant President Pro Tempore." Section 303 provides that the members of the Senate elected president, president pro tempore, majority floor leader, majority whip, minority leader, assistant minority leader, minority whip, and assistant minority whip shall receive salary payments equal to the amounts paid under R.C. 101.27 to the members of the House of Representatives elected speaker, speaker pro tempore, majority floor leader, assistant majority floor leader, minority leader, assistant minority leader, minority whip, and assistant minority whip, respectively.

current legislative salaries and supplements and what they will be after the 5% reduction.

Position	Current Salary	Reduced 5%
Speaker of House	\$94,437	\$89,715
President of Senate	\$94,437	\$89,715
Speaker Pro Tempore	\$86,165	\$81,857
President Pro Tempore	\$86,165	\$81,857
Minority Leader	\$86,165	\$81,857
Majority Floor Leader	\$81,163	\$77,105
Assistant Minority Leader	\$78,668	\$74,735
Assistant Majority Floor Leader (H only)	\$76,169	\$72,361
Majority Whip (H only)	\$71,173	\$67,614
Minority Whip	\$71,173	\$67,614
Assistant Majority Whip (H only)	\$66,175	\$62,866
Assistant Minority Whip	\$63,381	\$60,212
Member	\$60,584	\$57,555

Finance Committee Supplements	Current	Reduced 5%
Chairperson	\$10,000	\$9,500
Vice-Chairperson	\$5,500	\$5,225
Ranking Minority Member	\$6,500	\$6,175
Standing Subcommittee Chairperson	\$6,500	\$6,175
Standing Subcommittee-Ranking Minority Member	\$5,000	\$4,750

Other Committee Supplements	Current	Reduced 5%
Chairperson	\$6,500	\$6,175
Vice-Chairperson	\$5,000	\$4,750
Ranking Minority Member	\$5,000	\$4,750
Standing Subcommittee Chairperson	\$5,000	\$4,750
Standing Subcommittee-Ranking Minority Member	\$2,500	\$2,375



Speaker and Speaker Pro Tempore compensation

The bill provides that the Speaker and Speaker Pro Tempore of the House of Representatives cannot receive any additional sum specified in the law governing finance and other committee supplements for serving as chairperson or vice-chairperson of any committee.

Travel reimbursement

Under current law, a member of the General Assembly must be reimbursed for mileage expenses incurred driving to and from the member's residence to and from the seat of government. The rate of reimbursement is to be the same rate provided to all state agents as established by rule of the Director of Budget and Management. The bill provides that members are to be reimbursed at *up to* the same rate established by the Director and that the rate of reimbursement will be set at the discretion of the Senate President and the Speaker of the House of Representatives.

Unexcused absence penalty

Current law requires that a member of the General Assembly who is absent without leave or subsequent excusal must have \$20 deducted from the member's compensation for each day's absence. The bill states that up to \$100 may be deducted per day at the discretion of the Senate President or the Speaker of the House of Representatives.

Removal of automatic salary increases

Under current law, for calendar years 2002 through 2008, the legislative salary amounts were to be increased by the lesser of 3% or the percentage increase of the federal Consumer Price Index (set by the U.S. Bureau of Labor Statistics). The bill repeals this provision.

Education appropriation changes

(Sections 3 and 4)

The bill decreases appropriation item 200612, Foundation Funding, by \$285,236,905 in fiscal year 2010 and by \$566,271,428 in fiscal year 2011 and increases appropriation item 200550, Foundation Funding, by the same amount. These appropriations have the same purpose--to pay state formula aid obligations for school districts, community schools, and joint vocational school districts. The appropriations, however, have different revenue sources. Item 200612 is paid from the Lottery Profits Education Fund (Fund 7017), which receives revenue from the profits of the state

lottery. Item 200550 is paid from the General Revenue Fund (GRF). The two largest sources of revenue for the GRF are the sales and use tax and the personal income tax.

HISTORY

ACTION	DATE
Introduced	10-16-09
Reported, H. Finance & Appropriations	10-20-09
Passed House (55-44)	10-21-09

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