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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research and Drafting

Legislative Budget Office

H.B. 150
133rd General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 150's Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Merrin

Local Impact Statement Procedure Required: Yes

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Highlights

Fund	FY 2020	FY 2021	Future Years
State General Revenue Fund			
Revenues	Loss of $33.8 million to $39.6 million	Loss of $62.8 million to $70.6 million	Loss of $62.8 million to $70.6 million per year
Local Government and Public Library funds (counties, municipalities, townships, and public libraries)			
Revenues	Loss of $1.2 million to $1.4 million	Loss of $2.2 million to $2.4 million	Loss of $2.2 million to $2.4 million per year

Note: The state or school district fiscal year runs from July 1 through June 30 and is designated by the calendar year in which it ends. For other local governments, the fiscal year is identical to the calendar year.

- The bill reduces from 0.8% to 0.6% in tax year (TY) 2020, and to 0.4% in TY 2021, the rate of the financial institutions tax (FIT) that applies to an institution's first $200 million of taxable equity capital. The bill also combines the lowest two tax tiers of the tax base and applies a 0.4% rate to taxable equity capital up to $1.3 billion in TY 2021. Under current law, the FIT has a three-tier tax structure based on the level of taxable equity capital.
- The bill limits the tax base upon which the FIT is computed for financial institutions that report total equity capital in excess of 14% of total assets, and exempts newly formed banks from the FIT.

- Revenue from the FIT is deposited in the GRF. The fiscal loss would be shared under permanent law by the GRF (96.68%), the Local Government Fund (LGF, 1.66%), and the Public Library Fund (PLF, 1.66%).

Detailed Analysis

The financial institutions tax

Continuing law levies the FIT on the basis of a financial institution's "total Ohio equity capital" (TOEC), defined to be the institution's total equity capital multiplied by the ratio of the institution's gross receipts attributed to doing business in Ohio to gross receipts generated anywhere; the gross receipts ratio described here is called the "apportionment ratio." TOEC is taxed under a three-tier rate structure: a rate of 0.8% (8 mills) applies to the first $200 million of a taxpayer's TOEC – Tier 3, a rate of 0.4% (4 mills) applies to total equity capital greater than $200 million but less than $1.3 billion – Tier 2, and a rate of 0.25% (2.5 mills) applies to TOEC greater than or equal to $1.3 billion – Tier 1. The minimum FIT tax is $1,000. In FY 2018, the FIT provided $201.1 million to the General Revenue Fund.[1] FIT returns for a tax year are filed in October of the tax year. However, financial institutions are required to make estimated payments in January, March, and May of the tax year, generally in one-third payments, with adjustments and other reconciliations by October of the tax year. Thus, for example for changes in the bill for TY 2020, most of the revenue impact would occur in FY 2020.

H.B. 150

The bill makes several major changes to the FIT law. It changes tax rates for tax year (TY) 2020 and TY 2021. For TY 2020, the bill reduces the statutory rate for the first $200 million of TOEC from 0.8 mills to 0.6 mills, but maintains the tax rates for TOEC above $200 million. For TY 2021, the bill entirely eliminates the third tier, consolidating it into the second tier: the new second tier applies to TOEC up to $1.3 billion, with a tax rate of 4 mills; the first tier remains unchanged, applying to TOEC above $1.3 billion with a tax rate at 2.5 mills.

The bill also reduces the tax base upon which the FIT is computed in a specific way. TOEC in excess of 14% of an institution's total assets would not be included in the FIT base. If total equity capital exceeds 14% of total assets, for multi-state banks, only the amount of equity capital equal to 14% of assets would be apportioned to Ohio on the basis of the institution's gross receipts.

In addition, the bill excludes from the FIT newly created financial institutions for a specified number of years. More specifically, the bill excludes from the tax base a bank organization that first began operations in the taxable year preceding the current tax year or in either of the two immediately preceding taxable years, defining an institution that meets these criteria a "de novo bank organization."

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[1] Reported gross tax liability for TY 2018 was $247 million, tax credits totaled $36 million, and net tax liability was $211 million.

Finally, the bill provides that the application fees charged by the superintendent for approval to incorporate a state bank shall not exceed the application fees charged by the federal Office of the Comptroller of the Currency for approval of a federal charter.

Fiscal impact

Reducing the FIT tax rates and changing current law to a two-tier tax base with lower tax rates will reduce FIT revenue by a significant amount. Summary data for TY 2018 from the Tax Department show that TOEC was about $31.1 billion for the highest tier of taxpayers, and about $10.2 billion each for Tier 2 (between $200 million and $1.3 billion) and Tier 3 (under $200 million). Data also provides reported tax liability by taxpayers in each tier.

Based on each tier's TOEC, the proposed rate changes to current law in TY 2020 are estimated to reduce gross tax liability by up to $34 million in TY 2020. Though most of the revenue loss would occur from decreased tax payments by Tier 3 taxpayers, the proposed rate of 0.6 mills for the first $200 million of TOEC also decreases FIT revenue from the other two tiers. Based on the newly proposed structure and rate changes in TY 2021, estimated gross tax liability loss would be up to $65 million.

The provision limiting the tax base only to the extent that the total equity capital does not exceed 14% of the financial institution's total assets may reduce FIT revenue by up to $10 million per year.

The provision excluding newly created banks from the FIT tax base is assumed to have a minimal fiscal impact. Data from the Federal Deposit Insurance Corporation indicate that the number of commercial banks in Ohio has decreased in the last ten years. Similarly, data from the Ohio Department of Commerce show a general trend decline for the number of state-chartered banks. Note that the fiscal effect of this provision assumes that bank mergers, acquisitions, or reorganizations do not give rise to the creation of a new bank for purposes of this bill.

According to the Department of Commerce, the provision that prohibits the Division of Financial Institutions from charging an application fee that exceed that of the Comptroller of the Currency may have no fiscal effect on fee revenue.[2]

Other adjustments were made to estimated decreases in gross tax liability as a result of H.B. 150. Estimated payments by FIT taxpayers occur in January, March, and May of a tax year, with a reconciliation and final report due in October of the same year. Thus, fiscal year revenue from estimated payments would generally be different than reported tax liability or payments related to a tax year. In addition, taxpayers claim a number of refundable and nonrefundable tax credits against their FIT liability, which would reduce their gross tax liability.

[2] The Office of the Comptroller of Currency (OCC) charges substantially higher annual assessment fees, but no application fee. The Ohio Department of Commerce charges lower assessment fees, but also an application fee. According to an official at the agency, without the application fee, the costs for conducting the review of financial institutions will be spread across the rest of state-chartered institutions in the annual assessment.

Overall, the bill may decrease FIT revenue by between $35 million and $41 million in FY 2020, and $65 million and $73 million in FY 2021. The revenue reduction would be dependent on the number of qualifying taxpayers and their excess equity capital for each of the tax brackets. Credits claims against the FIT would also affect the estimated revenue losses.

The fiscal loss would be shared under permanent law by the GRF (96.68%), the Local Government Fund (LGF, 1.66%), and the Public Library Fund (PLF, 1.66%). Funds deposited into the LGF and PLF are distributed to counties, municipalities, townships, and public libraries according to statutory formulas and decisions by county budget commissions. Thus, losses to the GRF would be between $33.8 million and $39.6 million in FY 2020, and between $62.8 million and $70.6 million in FY 2021. Decreases in distributions to the local government funds would total between $1.2 million and $1.4 million in FY 2020 and $2.2 million and $2.4 million in FY 2021.

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