OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

H.B. 196
133rd General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 196's Bill Analysis

Version: As Reported by House Ways and Means

Primary Sponsor: Rep. Powell

Local Impact Statement Procedure Required: Yes

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Highlights

Fund	FY 2022	FY 2023	Future Years
State General Revenue Fund			
Revenues	Loss of about $8.6 million	Loss of about $8.9 million	Losses to increase about 3.5% annually
Public Library Fund and Local Government Fund			
Revenues	Loss of about $145,000 each	Loss of about $150,000 each	Losses to increase about 3.5% annually
County Permissive Sales Taxes			
Revenues	Loss of about $2.1 million	Loss of about $2.2 million	Losses to increase about 3.5% annually

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.

- Exempting from the sales and use tax membership dues paid to certain nonprofit fitness facilities and recreation clubs would reduce revenue to the GRF, Local Government Fund (LGF), and Public Library Fund (PLF). The bill specifies that the exemption begins on July 1, 2021.
- Revenue to the LGF is distributed to counties, municipalities, townships, and certain special districts across the state. Revenue to the PLF is distributed primarily to public libraries across the state.

- Exempting such membership dues from the state sales tax base also exempts them from permissive county and transit authority sales taxes, which share the same tax base. The FY 2022 revenue loss shown in the table is for calendar year (CY) 2022. There would also be a revenue loss for counties in FY 2021, not shown in the table, totaling about $1 million statewide.

Detailed Analysis

The bill exempts membership dues paid for physical fitness facility services and recreation club services if the facility or club is operated by a 501(c)(3) nonprofit organization.[1] Under current Ohio law, membership dues paid to these service providers are considered taxable sales regardless of whether a given facility is a for-profit facility or a nonprofit organization. The exemption would take effect on July 1, 2021.

The best public data source for analyzing the revenue loss from the bill is likely the 2012 Economic Census,[2] though the definitions used by the Census Bureau do not necessarily line up precisely with the definitions in the bill. Businesses affected by this bill fall under the North American Industry Classification System (NAICS) code 7139, which is labeled "Other Amusement and Recreation Industries." Of the major subclassifications, the category with the most establishments in Ohio is NAICS code 71394, "fitness and recreational sports centers." This trend is confirmed in the 2016 County Business Patterns (CBP) survey, where this business segment accounted for just over 44% of Ohio establishments in NAICS code 7139.[3] According to CBP, there were 501 Ohio nonprofit establishments participating in this industry in 2016, employing a total of 14,237 persons.[4]

Fiscal impact

According to the 2012 Economic Census, Ohio nonprofits that fall under the NAICS categories of fitness and recreation centers generated approximately $107 million in membership revenue that year. Based on year-over-year growth in consumer spending on recreation services,[5] revenue for the bill's tax base in Ohio would be approximately $137 million in CY 2019. LBO estimates the GRF fiscal impact to be $8.6 million in FY 2022 and $8.9 million in FY 2023. State collections of county and local permissive sales taxes are likely to decrease by

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[1] "Physical fitness facility service" includes all transactions by which an individual is granted access to a "physical fitness facility," which includes an athletic club, health spa, or gymnasium, to use the facility for physical exercise. "Recreation and sports club" includes an aviation club, gun or shooting club, yacht club, card club, swimming club, tennis club, golf club, country club, riding club, amateur sports club, or similar organization.

[2] The U.S. Census Bureau conducts the Economic Census every five years. Currently, the 2012 Economic Census is the most recent for which state-level data are available.

[3] This percentage reflects establishments in both nonprofit and for-profit sectors.

[4] CBP utilizes an official register of employers as the base of their data. An establishment is defined as a physical location; a company or nonprofit can operate more than one establishment, and each establishment is linked by the Census Bureau.

[5] Source: IHS Economics data and projections.

slightly more than $2.1 million in CY 2022 and in CY 2023.[6] Revenue to the Public Library Fund (PLF) and Local Government Fund (LGF), which each will receive 1.66% of GRF tax revenue beginning July 2021 under current law, is anticipated to decrease by around $145,000 each in FY 2022 and by around $150,000 each in FY 2023.

It should be noted that the above estimates reflect 2012 Economic Census data for "fitness and recreation sports center" membership revenue for nonprofits in the state of Ohio. While the bill also provides a sales and use tax exemption for "recreation and sports club service" membership dues, this data category was excluded in the analysis. A search of the Ohio Attorney General's website indicates numerous "recreation and sports club service" organizations with 501(c)(3) status; with few exceptions, most report no operational revenue or very little operational revenue. The "recreation and sports club service" subclassification in Economic Census data was not included in our analysis for this reason. LBO cannot rule out the possibility that some of these organizations will be affected by H.B. 196, and that the bill's fiscal effect might exceed the estimates provided above; based on the research reported here, though, any additional revenue loss appears unlikely to exceed a few hundred thousand dollars annually.

To project taxable industry revenue from CY 2012 to CY 2018, LBO economists multiplied the 2012 Economic Census revenue by year-over-year growth rates in recreation spending, as provided by IHS Economics; to project taxable industry revenue from CY 2019 through CY 2021, LBO economists multiplied the previous year's revenue projection by the year-over-year growth rate in recreation spending, as projected by IHS.[7] For projecting taxable industry revenue from CY 2022 onward, LBO economists multiplied the previous year's revenue projection by 3.5%. GRF fiscal estimates are obtained by first adjusting revenue estimates for Ohio's fiscal year, then multiplying this revenue by the 5.75% sales and use tax rate.

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[6] Unlike the state fiscal year, county and local fiscal years typically coincide with the calendar year.

[7] Annual growth is measured as the percent change in recreation spending in Ohio from the fourth quarter of each calendar year. Data are derived from the October 2019 release of IHS quarterly economic indicators.