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H.B. 270
(l_133_0398-5)
133rd General Assembly

Fiscal Note & Local Impact Statement

Revised

Click here for H.B. 270's Bill Analysis

Version: In House Finance

Primary Sponsor: Rep. Merrin

Local Impact Statement Procedure Required: No

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Highlights

- The amount of unclaimed funds deposited with the state in the future could decrease as a result of the bill's provision establishing a minimum threshold of $25 for what constitutes unclaimed funds, replacing the current requirements under which there is no threshold. As of May 2020, there are approximately 8.6 million unclaimed properties under a value of $25. The aggregate value of these unclaimed properties is $59.1 million.
- The bill includes as unclaimed funds Ohio tax refunds of $25 or more that are not cashed within five years after they are issued, potentially increasing the amount of unclaimed funds held by the state five years from now. Currently, the uncashed tax refunds are deposited into the GRF or other funds to which receipts of the taxes or fees are credited.
- The bill allows the Treasurer of State to invest any moneys of the Unclaimed Funds Trust Fund in custodial accounts of the state. The bill precludes funds in this account from a codified limit on investment of state funds in debt interests other than commercial paper.

Detailed Analysis

The bill makes several changes to the Unclaimed Funds Law that is overseen by the Department of Commerce. Certain provisions will affect the amount of unclaimed funds held by the state. Those provisions are described below.

Ohio tax refunds as unclaimed funds

The bill includes Ohio tax refunds of $25 or more that are not cashed within five years after they are issued as unclaimed funds, regardless of whether voided. The amount is to be transferred from the fund or funds to which receipts of the tax are ultimately credited, in proportion to the amount credited to each such fund. According to the Department of Taxation, refunds of income taxes and other GRF taxes voided in FY 2015-FY 2019 ranged from $4.0 million to $7.0 million per fiscal year. However, the amount transferred to unclaimed funds under the bill may be less because the amounts in the last five years encompass income tax refunds not cashed within two years, and refunds of other GRF taxes not cashed within 90 days. Some tax refund warrants not cashed within these time periods may be reissued and cashed within five years of original issuance. Also, the above amounts include refunds of any amount, instead of only refunds over $25 as under the bill. The amount transferred to unclaimed funds under the bill may be larger than these amounts because of uncashed refunds of non-GRF taxes and fees.

The bill would increase amounts transferred to unclaimed funds starting five years from the effective date of the bill.

Monetary threshold

The bill could also reduce the amount of funds transferred to the state as unclaimed funds in the future by establishing a minimum threshold of $25 for what constitutes unclaimed funds. Under current law, there is no threshold. For context, there are presently 8,602,499 unclaimed properties totaling $59.1 million under the $25 threshold (please note that these particular properties would still constitute as unclaimed funds after the bill's effective date). Until the rightful owners of unclaimed funds claim their properties, the Department uses a portion of reported unclaimed funds to support the Mortgage Insurance Fund, Minority Business Bonding Fund, and the Housing Development Fund. The allocations to these funds remain the same under the bill. Unclaimed funds have also been used in recent years to support operations of other state programs through transfers to the GRF.

Retaining rate of unclaimed funds

The bill alters a requirement in current law which allows holders of unclaimed funds to retain 90% of the value of funds valued at $50 or greater. Under H.B. 270, all unclaimed funds except certain certificates of deposit must be remitted to the state within one year of the bill's effective date. In total, $961.9 million of all unclaimed funds are retained by holders under the current process, which includes unclaimed funds valued at the current threshold of $50 or more. Overall, requiring all unclaimed funds of $25 or greater to be remitted to the state will increase the amount of unclaimed funds held in the state's account under the Unclaimed Funds Trust Fund.

Treasurer of State

The bill requires all unclaimed funds to be deposited into the Unclaimed Funds Trust Fund. Under the bill, the Treasurer of State is authorized to invest any or all moneys held in the Unclaimed Funds Trust Fund in custodial accounts. Any interest generated by these investments is to be credited to the fund of custodial account in which the funds are deposited. According to the office of the Treasurer of State, no increase or decrease in employment or operating expense is expected.

Under ongoing law, the Treasurer is prohibited from investing more than 25% of the state's interim funds in debt instruments other than commercial paper. The bill exempts the investment of the new custodial accounts from this 25% limitation. To the extent that the Treasurer exceeds the limitation in practice, this exemption may increase the financial risk associated with investing the funds.

Penalties

The bill establishes the following penalties under the Unclaimed Funds Law: (1) for negligently failing to report or deliver unclaimed funds, up to 5% of the funds or $5,000, with a cap of the lesser of 25% of the funds or $5,000, and (2) for knowingly failing to report or deliver unclaimed funds, including when requested by the Department, up to 5% of the funds or $10,000 with a cap of the lesser of 50% of the funds or $10,000. As a result, this could increase penalties collected by the Department. Penalties are deposited into the GRF.

Other provisions with potential fiscal effects

The bill makes several other changes to the Unclaimed Funds Law that could affect state revenues and expenditures. First, the bill requires the Department of Commerce to adopt rules to liquidate tangible property that the Department receives mistakenly as an item of unclaimed funds and requires that any proceeds from the sale of such property be treated as if they were unclaimed funds. The last auction the Department held was in 2016 and generated $1.2 million in claimable funds.

Secondly, the bill establishes a new procedure for unclaimed funds on small or closed estate affidavits without requiring letters testamentary or letters of administration to be issued upon the estate. It could be possible that the new process would decrease the cost and time for claimants to file a claim, thereby increasing the volume of claims filed. Thirdly, the bill prohibits the Department from commencing an action or proceeding against a holder more than five years after the holder filed a report with the Department, potentially reducing the number of unclaimed funds held by the state.

In addition to these changes, the bill requires the Department to set up and maintain an online platform for both the reporting and claiming of unclaimed funds within one year of the bill's effective date. While the online "Treasure Hunt" platform currently facilitates the claiming of unclaimed funds, the Department is now in the process of gathering proposals from developers to build an online platform for reporting unclaimed funds. It plans to spend $1.0 million for this purpose under Fund 5430 appropriation item 800602, Unclaimed Funds – Operating. Finally, the bill requires state and local government agencies to share information relating to unclaimed funds with the Department and requires the Department to share information with those agencies and with federal agencies. The extent of any costs the state and local governments might incur for this data sharing is uncertain.

Synopsis of Fiscal Effect Changes

Below is a summary of the fiscal effect changes made in the substitute bill (l_133_0398-5).

- **Tax refund warrants**. Lowering the threshold for unclaimed funds from $100 in the As Introduced version of the bill to $25 in the sub bill will result in more uncashed tax refund warrants going to unclaimed funds instead of the GRF or other fund.
- **Unclaimed fund definition.** The As Introduced version of the bill defined unclaimed funds as only items with a value of $100 or more. The substitute bill reduces this threshold amount to include items with a value of $25 or more. For context, there are presently just over 6.8 million unclaimed properties totaling $59.1 million under the $25 threshold.

- **Unclaimed fund delivery.** The substitute bill requires a holder retaining any item of unclaimed funds regardless of value to deliver each item to the Department of Commerce not later than one year following the bill's effective date. Under the As Introduced version, this requirement was only for unclaimed funds valued at $100 or more. This will increase the amount needed to be transferred to the state under the bill. In total, $961.9 million of all unclaimed funds are retained by holders under the current process, which includes unclaimed funds valued at the current threshold of $50 or more.
- **Penalties.** The substitute bill could increase the amount of penalties collected under the Unclaimed Funds Law. It establishes the following penalties: (1) for negligently failing to report or deliver unclaimed funds, up to 5% of the funds or $5,000, with a cap of the lesser of 25% of the funds or $5,000, and (2) for knowingly failing to report or deliver unclaimed funds, including when requested by the Department, up to 5% of the funds or $10,000, with a cap of the lesser of 50% of the funds or $10,000.
- **Statute of limitations.** Finally, the bill prohibits the Department from commencing an action or proceeding against a holder more than five years after the holder files a report with the Department.

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