Ohio Legislative Service Commission

www.lsc.ohio.gov

Office of Research and Drafting

Legislative Budget Office

S.B. 259

133rd General Assembly

Fiscal Note & Local Impact Statement

Click here for S.B. 259's Bill Analysis

Version: As Reported by House State and Local Government

Primary Sponsor: Sen. Sykes

Local Impact Statement Procedure Required: No

Philip A. Cummins, Senior Economist, and other LBO staff

Highlights

- The provision requiring public entities to allocate a federal income tax deduction for the design and installation of energy-efficient commercial building fixtures to the designer of a public building upon request may reduce revenue to the GRF, the Local Government Fund, and the Public Library Fund. The federal deduction would reduce federal taxable income, and therefore state taxable income for those designers. The amount of the revenue loss is uncertain, but may be limited by the business income deduction in current law.
- The bill lengthens the time period for county boards of revision to resolve property tax complaints.
- The bill allows for the creation of airport development districts to fund certain operating costs and improvements at airports with commercial passenger service. Under the criteria in the bill, such districts could be created for five airports across the state, listed in the detailed analysis below.
- The bill may increase construction costs for new state-assisted public school facilities by prescribing minimum drinking fountain and water bottle filling station requirements, or any new costs may be accounted for in the project's design so as not to increase overall project costs.
- The bill may increase costs for building departments in political subdivisions that implement installation or operational requirements for battery-charged fences in nonresidential zones. Any cost likely would at least be partially offset by additional permit fee revenue.
- The Department of Higher Education's (DHE) reimbursements to institutions of higher education under the Ohio Safety Officer's Memorial Fund (OSOMF) Program may

increase due to the bill's extension of residency status to certain individuals for tuition waiver purposes and inclusion of certificate programs as an eligible educational option. The overall amount that reimbursements increase will depend on (1) the number of newly eligible individuals who take advantage of the provisions in a fiscal year, (2) the type of institution in which the individual enrolls, and (3) the maximum amount DHE authorizes for reimbursement.

- State institutions of higher education that enroll newly eligible students under the bill's extended tuition waiver policy may receive less revenue under the bill since they will no longer be able to apply an out-of-state surcharge for these individuals. Conversely, the tuition waiver offered under the bill may incentivize some of these students to enroll in state institutions, which would increase state reimbursement revenues as well as instructional costs at those institutions.

Detailed Analysis

Extension of deadline for filing property tax complaints

The bill extends the deadline, from 90 days to 180 days, in which county boards of revision must resolve property tax complaints, and delays the start of that period from the day the complaint is filed to the last day a complaint may be filed for that tax year. (Under continuing law, the last day to file a complaint is March 31 or, if later, when the collection of the first half of property taxes closes.) Applies to complaints filed for a tax year beginning on or after the provision's effective date.

This provision of the bill may help county boards of revision stay within statutory requirements for resolution of property tax complaints. To the extent that the current deadline leads to expenditure of additional funds to try to resolve complaints in a timely fashion, the increased length of time for complaint resolution may reduce costs.

Airport development districts

The bill allows qualifying airport operating entities to create an airport development district (ADD) as a way to generate revenue for infrastructure improvements and other expenditures meant to attract airlines or increase the volume of scheduled flights. One of three sets of criteria (see LSC bill analysis) in the bill pertaining to population or airport operation must be met in order to create an ADD. These criteria would appear to qualify the following airports for which an ADD may be created: (1) the Akron-Canton Airport, (2) the Youngstown-Warren Regional Airport, (3) the Dayton International Airport, (4) the Lunken Municipal Airport of Cincinnati, and (5) the Akron-Fulton International Airport.

Revenues for ADD projects would be generated through development charges assessed on real property located within the district. The amount of the development charge would be set in accordance with a development plan for the ADD approved by the owners of at least 60% of the property in the district. The board of directors of an ADD may spend this revenue only for the specific costs set forth in the bill, including costs of creating and operating the district, planning and designing costs, and other infrastructure costs. The bill also specifies that any ADD created under the bill is subject to the same competitive bidding thresholds and prevailing wage rules and procedures as the entity that created the ADD.

Finally, the Development Services Agency might incur some small cost for reviewing a petition and other documentation to create an ADD as required under the bill. No eligible entity may start the process of creating an ADD after December 31, 2023.

Federal energy-efficient buildings tax deduction

The bill requires a public entity to allocate the federal income tax deduction for the design and installation of energy-efficient commercial building fixtures to the designer of a public building upon request. It prohibits the entity (or its agents or employees) from seeking, soliciting, or accepting fees, payments, or other consideration for allocating the deduction.

If a public entity does not respond within 15 days to an allocation request from the building designer for allocation of the deduction, the bill requires the Tax Commissioner to provide any documentation necessary to formally allocate the deduction.

The deduction would reduce the federal taxable income of designers that are allocated the federal tax deduction. For designers that are pass-through entities and pay the state personal income tax (PIT), this provision would reduce revenue to the GRF, the Local Government Fund (LGF), and the Public Library Fund (PLF), because federal taxable income is the starting point for calculating Ohio Adjusted Gross Income. The amount of revenue loss is uncertain, but the fiscal impact of the provision is likely to be limited by the business income deduction available under the PIT in ongoing law. Under current law, any PIT revenue loss occurring after July 1, 2021, would be borne by the GRF (96.68%), the LGF (1.66%), and the PLF (1.66%).

Special assessment procedures

The bill allows a municipal corporation to publish notice for certain special assessments on the municipal corporation's website and increases from $250 to $500 the estimated cost of certain special assessments for which a municipal corporation must provide notice directly to affected property owners.

Allowing publication of certain notices on municipal corporations' websites is expected to result in cost savings. Increasing the threshold for special assessments above which direct notice must be provided to property owners may also result in cost savings for municipal corporations.

Water bottle filling stations in schools

The bill establishes requirements regarding drinking fountains and water bottle filling stations for new classroom facility construction projects administered by the Ohio Facilities Construction Commission (OFCC). It specifies that OFCC must require that the design plans for each facility in a state-funded project provide:

- a minimum of two water bottle filling stations in each building;
- a minimum of one filtered drinking fountain or water bottle filling station on each floor and wing of each building; and
- a minimum of one filtered drinking fountain or water bottle filling station for every 100 students projected to attend the building.

The new requirements are in addition to existing building code requirements. Under the building code, school buildings must have one drinking fountain per 100 occupants. The drinking fountains are not required to be filtered. The bill's requirements may increase public school construction project costs beyond a minimal amount, depending on the size and configuration of new school buildings and the equipment selected. There are a wide variety of drinking fountains and water bottle filling stations available. An internet search suggests that the lowest prices for a filtered drinking fountain with a water bottle filling station may be roughly $500 to $600 more than an unfiltered drinking fountain and a stand-alone filtered drinking fountain may be roughly $50 to $100 more than one that is not filtered. Ultimately, the cost of any additional equipment made necessary by the bill will depend on the brands, styles, and features of the equipment chosen. However, it is also possible that any such costs may be accounted for in the design phase of the project so as not to increase the overall cost of the project. How these costs are incorporated into the total cost for state-assisted projects will ultimately be determined by negotiations between OFCC and the school district.

An increase in new construction costs in state-assisted school facilities projects will be shared by the state and school districts. OFCC's main program, the Classroom Facilities Assistance Program (CFAP), is designed to provide each city, exempted village, and local school district with partial funding to address all of the district's classroom facilities needs. It is a graduated, cost-sharing program where a district's portion of the total cost of the project and priority for funding are based on the district's relative wealth. Lower wealth districts receive a greater share of state assistance and are also served sooner. A similar program, the Vocational Facilities Assistance Program (VFAP), provides assistance to joint vocational school districts (JVSDs). Other smaller programs address the particular needs of certain types of districts and schools. These too are cost-sharing programs.

As a point of reference, 141 (21%) school districts, including 119 school districts and 22 JVSDs, had not yet been offered funding under CFAP or VFAP as of the end of FY 2020. An additional 111 (17%) of districts, including 100 traditional districts and 11 JVSDs, have been offered funding but have either deferred the offer or allowed it to lapse because they were unable to secure the required local share. However, some work may have been completed under another of OFCC's programs. These districts are eligible for CFAP or VFAP funding in the future. The remaining districts have either completed their master facilities plans projects (290 districts or 44%) or have been funded but the projects are not complete (117 districts or 18%). According to OFCC, the Commission reviews an average of 50 design plans for classroom facility construction projects each year across all of its programs. On average, OFCC reports that it completes classroom facilities projects for about 12 school districts and one JVSD each year.

Safety standards for battery-charged fences

The bill creates safety standards for battery-charged fences in nonresidential zones. It also permits political subdivisions to regulate battery-charged fences in nonresidential properties, including (1) imposing installation or operational requirements, and (2) requiring a permit or fee for the installation or use of a battery-charged fence. Lastly, the bill prohibits the installation or use of a battery-charged fence in a nonresidential zone that does not meet the standards specified in the bill. The bill may increase costs for building departments in political subdivisions that implement installation or operational requirements for battery-charged fences in nonresidential zones. Any cost likely would at least be partially offset by additional permit fee revenue.

Higher education tuition and fee waivers

The bill extends permanent Ohio residency status to qualify for a waiver of postsecondary tuition and fees for the child, spouse, or qualified former spouse of a public service officer or U.S. armed services member killed in the line of duty, if the child or spouse was an Ohio resident when the public service officer or service member was killed. Under current law, a recipient must be a current Ohio resident. In addition, the bill qualifies an eligible child, spouse, or qualified former spouse of a public safety officer or U.S. armed service member killed in the line of duty for a waiver of postsecondary tuition and fees for a certificate program at a state institution of higher education or a participating private educational institution and limits the waiver on a per-student basis to two total certificate programs, a total number of academic credits or instructional hours equivalent to four academic years, and $8,000 worth of tuition and fees in a particular academic year. The following discusses the potential fiscal effects of the bill, beginning with some background on the Ohio Safety Officers Memorial Fund (OSOMF) Program.

Program background

Continuing law provides an eligible child, spouse, or qualified former spouse of a qualified public service officer or U.S. armed services member killed in the line of duty with a waiver of undergraduate tuition and fees at state institutions of higher education and reduced tuition and fees at participating private nonprofit and for-profit educational institutions. In addition to the residency requirement noted above, a child must also be either under 26 years old or, if honorably discharged from the armed forces, under 30 years old. Eligible students can receive a waiver or reduction in tuition for up to five years (ten semesters or 15 quarters) or until a bachelor's degree is obtained, whichever comes first. The Department of Higher Education (DHE) provides reimbursement to institutions for the tuition and fees that are waived.

Participation

According to DHE, approximately 40 students per year received tuition and fee waivers from FY 2016 through FY 2020, the latest year for which this data is available. Table 1 below shows the number of recipients by each institutional sector from FY 2016 through FY 2020. As the table shows, approximately 83% of the qualifying students over this time were enrolled at public universities and community colleges.

Table 1. OSOMF Recipients by Institutional Sector, FY 2016-FY 2020

Institutional Sector	FY 2016	FY 2017	FY 2018	FY2019	FY 2020
Public universities and colleges	35	32	31	33	40
Private, nonprofit	7	8	7	6	6
Private, for-profit	1	0	0	0	0
Total	**43**	**40**	**38**	**39**	**46**

The number of individuals newly eligible that will participate under the bill is uncertain. Nevertheless, the number will likely be less than the current enrollment numbers reported, most notably due to the unique circumstances of a family member moving out of state and then returning to the state to enroll at a university or college in Ohio.

Reimbursements

H.B. 166, the current main operating budget act, requires DHE's reimbursements to institutions under OSOMF to be paid from GRF line item 235563, Ohio College Opportunity Grant (OCOG), prior to determining OCOG award grants for the academic year. According to its website, DHE is providing benefits to cover 100% instructional and general fee charges at public colleges and universities and $8,451 per year at private and proprietary postsecondary institutions in the 2020-2021 academic year.[1] As seen in Table 2 below, DHE reimbursed approximately $386,000 to institutions under the program in FY 2020. Like the number of participants described above, approximately 83% of the approximately $1.6 million reimbursed to the state's institutions of higher education from FY 2016 through FY 2020 was distributed to public universities and community colleges.

Table 2. OSOMF Reimbursements by Institutional Sector, FY 2016-FY 2020

Institutional Sector	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Public universities and colleges	$252,605	$211,314	$234,679	$261,206	$338,034
Private, nonprofit	$62,832	$66,273	$49,308	$36,670	$47,652
Private, for-profit	$9,020	$0	$0	$0	$0
Total	**$324,457**	**$277,586**	**$283,987**	**$297,876**	**$385,686**

As a result of the bill, DHE's reimbursements from item 235563 may increase. The amount of that increase and, accordingly, the payments received by institutions, will depend on the following factors: (1) the number of individuals who participate in a fiscal year, (2) the type of institution the individual enrolls at, and (3) the maximum amount DHE authorizes for reimbursement. As a point of reference, DHE's reimbursements to institutions for traditional programs averaged $8,384 per recipient ($385,686 / 46 recipients) in FY 2020.

Tuition revenues

State institutions generally can charge a higher tuition rate to out-of-state students than they can for in-state students. Under the bill, state institutions will receive less revenue for the newly eligible nonresident participant that would have otherwise attended the institution at out-of-state tuition rates because the student does not "reside" in Ohio. Table 3 below shows that, in FY 2021, the average in-state tuition and general fees for undergraduate students enrolled at the main campus of one of the state's 13 public four-year universities is $10,076,

[1] https://www.ohiohighered.org/safety-officers-college-fund.

while the average out-of-state undergraduate tuition and general fees charged to a student is $19,954. The difference, $9,878, represents the average amount of the annual revenue loss per traditional student at those locations due to the bill if it was in place in FY 2021. The difference would be less for students that attend community and technical colleges. The annualized in-state rate at those institutions averaged $5,012 while the out-of-state rate averages $10,246, for an average difference of $5,234.

Table 3. Average Annualized Undergraduate Tuition by Residency and Status, FY 2021

Sector	Average Out-of-State Undergraduate Tuition and General Fees	Average In-State Undergraduate Tuition and General Fees	Difference
University main campuses	$19,954	$10,076	$9,878
University regional branches	$16,708	$6,120	$10,588
Community colleges	$10,246	$5,012	$5,234

On the other hand, waiving tuition for these students may provide an incentive for them to attend Ohio institutions. That is, the proposal may attract some students to Ohio institutions that otherwise would not have enrolled. Ultimately, the proposal's fiscal impact on state institution revenues will depend on the type of institution the students attend and the mix of eligible students that (1) would have paid out-of-state tuition rates to attend an Ohio institution before establishing residency and (2) would not have attended an Ohio institution but for the bill's policy. Any increase in reimbursement revenue as a result of additional students will be offset, at least in part, by the cost to educate the new students.

Land conveyance in Trumbull County

The bill authorizes the Governor to convey all or part of approximately 63 acres of vacant land owned by Kent State University (KSU) located between Educational Highway and the Warren Outer Belt in Trumbull County. The bill requires the conveyance to be made at a price acceptable to the KSU Board of Trustees. The bill requires the net proceeds of the sale to be deposited into university accounts for purposes to be determined by the KSU Board of Trustees. The bill also requires the purchaser to pay the costs associated with the conveyance.

SB0259HR/zg