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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 228  
(with AM1014 and  
AM1141)

134<sup>th</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 228's Bill Analysis](#)

**Version:** In House Ways and Means

**Primary Sponsor:** Rep. Roemer

**Local Impact Statement Procedure Required:** No

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### Highlights

- Allowing pass-through entities to deduct certain retirement benefit payments for municipal income tax purposes would reduce income tax revenue to some municipalities that levy an income tax. The magnitude of the revenue loss is uncertain. The deduction is available for taxable years starting after January 1, 2020.

### Detailed Analysis

The bill makes several changes to the manner in which the state collects and administers municipal net profits taxes, and to municipal taxation of retirement benefits. Most of the bill's provisions apply to municipal taxable years beginning on or after January 1, 2022, but a provision related to a retirement payment deduction applies to taxable years beginning on or after January 1, 2020.

#### Municipal net profit tax

Under continuing law, a business subject to municipal income taxes on net profits may remit these taxes separately to each taxing municipality or elect to remit all municipal net profits taxes to the Department of Taxation, which ultimately directs the revenue to the appropriate taxing municipality. In FY 2020, state-administered municipal net profits taxes remitted to the Department of Taxation amounted to \$45.0 million, of which \$0.2 million was retained for administrative fees.

Among various provisions, the bill requires the Department of Taxation to develop and maintain a web portal that will be used by the Department and municipalities to securely share information for the purpose of administering the net profits tax. The Department already has such a web portal, so the bill codifies current practice. The bill also modifies several deadlines and reporting requirements related to state-administered municipal net profits taxes, and

modifies the procedures for refunds and the distribution of revenue from such taxes. The bill repeals a provision authorizing the Tax Commissioner to retain 0.5% of all municipal net profits taxes the Commissioner collects; this provision codifies a recent Ohio Supreme Court decision. In November 2020, the Ohio Supreme Court invalidated the administrative fee and the Department stopped collecting it.

The bill also requires any municipal net profits tax revenue collected by the Department of Taxation and owed to a municipality, but withheld due to the municipality's failure to timely report certain information to the Tax Commissioner, to be paid to that municipality when it complies with those reporting requirements. Under continuing law, municipal corporations must submit to the Commissioner certain information for business taxpayers who elect to file with the Department, including any net operating loss carryforwards, credits, and overpayments.

The bill's provisions related to the municipal net profits tax would have minimal, if any, fiscal effect on the state and are expected to have minimal fiscal effect on municipalities. Any additional state costs for implementing the bill are likely to be paid for by existing appropriations of the Department of Taxation.

### **Municipal taxation of retirement benefits**

The bill allows a pass-through entity (PTE) to deduct any pension or retirement benefits paid to a retired partner, retired shareholder, or retired member, and applies this provision to municipal taxable years beginning on and after January 1, 2020. Under continuing law, such benefits are exempt from municipal income tax in computing an individual's tax liability. This provision increases (for tax purposes) PTE expenses and correspondingly decreases net profits subject to municipal net profits tax. This is likely to result in an undetermined statewide revenue loss to municipalities.