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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 111
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 111's Bill Analysis](#)

Version: As Passed by the House

Primary Sponsors: Sens. Blessing and Brenner

Local Impact Statement Procedure Required: No

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Highlights

- The bill appropriates \$422.0 million in FY 2022 under DPF item 042526, Coronavirus Local Fiscal Recovery, for the Office of Budget and Management (OBM) to provide additional federal emergency relief funds to nonentitlement units of local government (NEUs) to mitigate the fiscal effects stemming from the public health emergency with respect to the Coronavirus Disease (COVID-19).
- The bill explicitly includes townships as NEUs that must receive funding from OBM.
- These payments from the Local Fiscal Recovery Fund (Fund 5CV4) cover NEUs' costs incurred by December 31, 2024, and must be expended to cover those obligations no later than December 31, 2026.
- The bill prohibits certain mandatory vaccinations and other activities related to an individual's vaccination status. The fiscal effect of this provision is uncertain.

Detailed Analysis

Coronavirus Local Fiscal Recovery Fund

The bill appropriates \$422.0 million in FY 2022 supplied by the federal "Coronavirus Local Fiscal Recovery Fund" for the Office of Budget and Management (OBM) to provide additional relief in response to the COVID-19 pandemic to NEUs. Nonentitlement units of local government, defined in section 603(g)(5) of the Social Security Act, as added by section 9901 of the American Rescue Plan Act of 2021 (ARPA), are local governments typically serving populations of less than 50,000. NEUs include cities, villages, towns, townships, or other types of local governments.

ARPA distributes Coronavirus Local Fiscal Recovery Fund payments to NEUs through their respective state governments rather than directly from the federal government. The U.S.

Department of the Treasury (Treasury) previously designated a specific allocation of funds for each state. Ohio was allocated \$843,726,939, and the state government must distribute these funds to NEUs based on guidance provided by Treasury.¹

U.S. Treasury requirements

OBM must allocate and distribute the total Coronavirus Local Fiscal Recovery Fund payment received from Treasury to each NEU in an amount that bears the same proportion as the population of the NEU relative to the total population of all the NEUs in Ohio. However, the total amount distributed to an NEU may not exceed an amount equal to 75% of its most recent budget as of January 27, 2020. Treasury gives states 30 days to distribute these funds to NEUs, but it may provide extensions of this deadline.

Treasury will make payments to states from the Coronavirus Local Fiscal Recovery Fund for distribution to NEUs in two tranches, with the second tranche payment to be made no earlier than 12 months after the date on which the first tranche payment is paid to the state. For this reason, the bill appropriates about half of the overall allocation in FY 2022. The remaining portion will be available from Treasury sometime in FY 2023.

OBM is designated by the bill as the lead agency for disbursing these funds. Therefore, OBM will implement the guidance issued by Treasury. Several steps must be observed before distributing funds to NEUs. OBM must request payment from Treasury, identify eligible NEUs within Ohio (using the policy parameters of S.B. 111), calculate allocations, and collect certain documents from NEUs.

The state of Ohio, inclusive of the legislature and executive agencies, maintains some discretion in identifying eligible NEUs within Ohio. Treasury has provided on its website a list with names and population estimates for each local government, categorized by state, and based on data from the U.S. Census Bureau, albeit with some clarifications by Treasury. The list includes both “incorporated places” and “minor civil divisions” (MCDs). The U.S. Census Bureau regards Ohio’s MCDs as “weak-MCDs” because they generally play less of a governmental role but are still active governmental units. Every Ohio township is categorized as an MCD by Treasury. Although Treasury grants states discretion as to whether it excludes weak-MCDs, Section 3 of S.B. 111 directs OBM “to disburse funding to nonentitlement units of local government in Ohio, including cities, villages, and townships.” Therefore, the state of Ohio is utilizing its discretion to include townships rather than exclusively disbursing the \$422 million to cities and villages.

As a weak-MCD state, Treasury directs Ohio to undertake a facts-and-circumstances test to determine whether the MCD: (1) has the legal and operational capacity to accept ARPA funds, and (2) provides a broad range of services that would constitute eligible uses under ARPA. Before making initial distributions to NEUs, OBM must identify on the state’s website the names of MCDs that it removed (if any), accompanied by an explanation of OBM’s determination, which must reflect state policy enacted by the bill.

Both Treasury’s guidance and the bill require OBM to disburse funds to NEUs on a population basis. The boundaries of some NEUs overlap with or encompass other NEUs within

¹ <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-fund/non-entitlement-units>.

the state, typically resulting in overlapping populations between the larger “parent” NEU and the subsidiary NEU. An example is a township that encompasses a city. In this circumstance, OBM has the discretion to divide the population of overlapping NEUs in a number of ways for the purpose of the allocation.

Treasury requires that OBM establish a process that will allow NEUs to provide OBM with information and documentation necessary to disburse funds to NEUs. The information and documentation collected by OBM prior to initiating payment must include certain content required by Treasury. Under the bill, OBM will open up a registration process through the “Funding Opportunities” section of its Ohio Grants Partnership website.² Eligible NEUs may register for funds and provide the required documentation and information. OBM will subsequently disburse payments directly to the eligible recipient.

Each NEU is required to meet compliance and reporting responsibilities. Treasury requires each NEU to submit a “Project Expenditure Report” by October 31, 2021, and then annually thereafter.³ ARPA specifies the federal payments must be obligated within the statutory period between March 3, 2021, and December 31, 2024, and expended to cover such obligations by December 31, 2026.

Vaccinations

To the extent permitted by federal law and notwithstanding any conflicting provision of the Revised Code, the bill prohibits a private or public entity from:

1. Requiring an individual to receive a vaccine for which the U.S. Food and Drug Administration (FDA) has not granted full approval;
2. Requiring an individual, who has not received a vaccine with full FDA approval, from engaging in or refraining from activities or precautions that differ from the activities or precautions of an individual who has elected to receive such a vaccine.

These prohibitions do not apply to a private residence. The fiscal effect of the bill’s vaccine provision is uncertain.

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² <https://grants.ohio.gov/fundingopportunities.aspx>.

³ If OBM receives notification from an NEU that it would like to decline its funding allocation and transfer funds to the state, Treasury will consider this action as a cancellation of the award on the part of the eligible NEU and a modification of the award to Ohio. OBM will not be required to transfer the amount of the payment to the NEU just for the NEU to transfer it back to the state.