Ohio Legislative Service Commission

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Office of Research and Drafting

Legislative Budget Office

H.B. 95
134th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the Senate

Primary Sponsors: Reps. Manchester and Lightbody

Local Impact Statement Procedure Required: Yes

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Highlights

- Providing nonrefundable income tax credits that could be claimed by (1) persons who intend to farm or began farming within the last ten years for the cost of participation in an approved financial management program and by (2) owners of agricultural property sold or rented to these newer farmers would reduce state income tax revenue.
- State revenue losses are limited by the bill to a total of $10 million. Tax credit certificates could be issued by the Director of Agriculture through 2026, if the bill goes into effect this year. Credits would be nonrefundable but could be carried forward.
- The GRF would bear most of the loss. Revenue to the Local Government Fund (LGF, Fund 7069) and Public Library Fund (PLF, Fund 7065) would each be reduced by 1.66% of the revenue loss under codified law.
- The Department of Agriculture would likely need to hire at least one new program administrator to oversee the new tax credit.
- The Ohio State University and Central State University may incur additional administrative costs to certify individuals as beginning farmers for purposes of qualifying an individual for the tax credit; any such costs would be permissive.
- Two separate property tax provisions temporarily affect local revenue in the Cincinnati area and in Franklin County, and possibly in other areas of Ohio.
- The bill increases the FY 2022 appropriation for Federal Fund 3L60 line item 200617, Federal School Lunch, by $338.0 million to allow the Ohio Department of Education to pay federal reimbursement to school districts and other providers operating school lunch programs.

Detailed Analysis

Overview of the beginning farmer income tax credit

The bill allows a beginning farmer to be issued a tax credit certificate against the farmer's state personal income taxes equal to the cost of participating in an approved financial management program. It also would allow an owner of agricultural assets who sells or rents the assets to a beginning farmer to be issued a tax credit certificate. The credit must be claimed in the year that the certificate is issued. The bill limits issuance of tax credit certificates under this program to a total of $10 million during the period through the fifth full calendar year following the bill's effective date. Requirements for beginning farmers and for agricultural asset owners are summarized in the bill analysis. An individual previously certified as a beginning farmer would no longer be considered for the program if that person ceases to meet the criteria for certification.

The Department of Agriculture and land grant colleges that elect to participate may incur additional administrative costs to certify an individual as a beginning farmer under the requirements prescribed by the bill. Eligible land grant colleges are the Ohio State University and Central State University. A beginning farmer may also be someone who has received substantially equivalent certification from the U.S. Department of Agriculture. The Department, in consultation with the participating colleges, is required to establish procedures for certifying financial management programs that would qualify a beginning farmer for the tax credit. The Department is to maintain a list of certified programs on its website.

Under the bill, the credit for the farmer would be nonrefundable but could be carried forward up to three years.[1] The owner of agricultural assets who sells or rents to a beginning farmer would be issued a tax credit certificate against the owner's state personal income taxes equal to 3.99% of (1) the sale price of the asset, (2) the cash equivalent of the gross rental income of a rental agreement entered into on or after the first day of the second preceding calendar year, or (3) the cash equivalent of the gross rental income of a share-rent agreement entered into on or after the first day of the second preceding calendar year. The credit for the asset owner would be nonrefundable but could be carried forward up to seven years.

Fiscal effect of the new income tax credit

The tax revenue loss from the bill is capped at $10 million, the limit on issuance of tax credit certificates under this program. If the bill is enacted and goes into effect this year, the credits could be issued in the remainder of 2022 and in the five full calendar years 2023 through 2027. No new tax credit certificates could be issued after that. Potential demand for such certificates appears substantial, and plausibly most or all of the $10 million maximum amount of certificates would be issued.

The nonrefundable credit is to be claimed for the tax year in which the certificate is issued. Revenue losses could begin as soon as FY 2023. With three-year carryforward for farmers and

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[1] The amount of a nonrefundable credit that a taxpayer may claim is limited to the amount of his or her tax liability before consideration of the credit. If there are unused amounts because the taxpayer's liability is less than the total credit for which he or she is eligible, the taxpayer may carry forward the unused amount, meaning use it in a subsequent tax year.

seven-year carryforward for asset owners, state income tax revenue might be reduced through FY 2035.

For GRF revenue foregone, distributions to each of the Local Government Fund and Public Library Fund (PLF) would be reduced by 1.66% of that revenue loss under codified law; during FY 2022 and FY 2023, the PLF bears 1.7% of any reduction in GRF tax revenue under an uncodified provision of H.B. 110 of the 134th General Assembly. The GRF would bear the rest of the revenue loss.

Department of Agriculture and participating land grant universities

The Department of Agriculture would be responsible for approving applications and issuing tax credit certificates for the beginning farmer income tax credit and approving financial management programs that beginning farmers must take in order to qualify for the tax credit. The Department anticipates that it would need to hire at least one new program administrator to oversee the new tax credit. Based on the state's employee classification plan, if a program administrator is hired at the starting annual salary of approximately $45,000, it will bring the Department's potential payroll costs to between approximately $60,500 and $76,800. This includes $6,300 (14% of annual salary to cover the employer's share of retirement) and the employer's share of health insurance ($9,200 for single coverage or $25,500 for family coverage under the state's traditional health plan). The state's annual health benefit costs would be slightly higher if the employee is enrolled in the state's high deductible health care plan.

As described above, the bill also allows participating land grant universities to certify beginning farmers for the tax credit under the bill. Consequently, the Ohio State University and Central State University could incur new administrative costs for overseeing the program if these universities choose to be involved with the program.

Change in tax increment financing (TIF) provisions

The bill allows a municipal corporation to exempt improvements to the same parcel concurrently through both an incentive district TIF arrangement and a subsequent individual parcel TIF or urban redevelopment TIF, if the ordinances authorizing the concurrent exemptions were adopted before March 1, 2022. The change may result in TIF exemptions entered into by Cincinnati, and perhaps other political subdivisions, being granted under amended law that were denied under current law. It may result in improvements being exempted under more than one TIF arrangement, referred to as TIF layering. This may increase or extend reductions in revenue to political subdivisions with territory in the TIF, while also increasing or extending the payment to Cincinnati (and perhaps others) of payments in lieu of taxes.

The bill also creates an alternative way to file TIF obligations that apply to current and future owners of affected properties. It allows either the subdivision or the property owner to file with the county recorder, in lieu of the "notice" required by current law, an agreement, a declaration, or covenant binding current and future owners of the property to such service payments or service charges. This change appears to have no fiscal effect.

Background on TIFs: a TIF is an economic development tool available to Ohio local governments to finance public infrastructure improvements and, in certain circumstances, residential rehabilitation. In general, a TIF temporarily exempts from property taxes a portion, up to 100%, of the increase in value of real property that results from improvements made to the property by the owner. TIFs are either parcel TIFs, with terms applicable to specified parcels, or incentive district TIFs, applicable to parcels within a contiguous area of no more than 300 acres. A TIF may be created by a municipal corporation, township, or county. Service payments in lieu of taxes, and equal in amount to the taxes that would otherwise be charged, on the increased assessed value of improvements to real property are directed to a separate fund to finance the construction of public infrastructure defined in the TIF legislation.

Temporary tax abatement for Lockbourne and possibly other municipal corporations

The bill provides a 12-month period for a municipal corporation that acquired property from the state of Ohio in 2020 to apply to the Tax Commissioner for abatement of unpaid taxes, penalties, and interest on the property and for the property to be placed on the tax-exempt list. Continuing law generally exempts municipal property from taxation, but such property may not be exempted if more than three years' worth of taxes remain unpaid.

This provision is intended to allow the village of Lockbourne to avoid tax liability for a parcel deeded to the village in 2020, on which taxes of $9,792.31 are owed, most of which is delinquent, according to the county auditor's website. The provision would reduce taxes due to Hamilton Local School District, Hamilton Township, Franklin County, and a few other entities. Under current law the delinquency prevents the village from receiving a tax exemption on the property. Although the provision is narrowly stated, LBO cannot rule out the possibility that similar situations may exist elsewhere in the state and that other municipal corporations might benefit from it.

Sales of certain motor vehicles

The bill changes the authorization for sales of motor vehicles at major livestock shows. It authorizes motor vehicles that have a gross vehicle weight rating of 6,800 pounds or more to be purchased at a motor vehicle show, held in connection with a major livestock show. The bill also removes the current authorization for sales at such shows of towing vehicles that are trucks and have a gross vehicle weight of more than three-quarters of a ton. These changes, apparently affecting transactions at Ohio's Quarter Horse Congress, are not expected to have a fiscal effect.

Federal school lunch program appropriation increase

The bill increases the FY 2022 appropriation for Federal Fund 3L60 line item 200617, Federal School Lunch, by $338.0 million. The Ohio Department of Education (ODE) uses this line item to pay federal reimbursement for meals served by participating districts, schools, and other providers through the National School Lunch Program (NSLP). In general, the program provides federal assistance on a per-meal basis that allows providers to offer free or reduced-price meals to students from low-income families. Currently, the FY 2022 appropriation for item 200617 is $605.8 million. With the appropriation included in this bill, that amount will increase to $943.8 million.

According to ODE, the Department needs the increased appropriation to pay school lunch reimbursement claims, which have increased substantially in FY 2022 for three reasons: (1) the United States Department of Agriculture (USDA) extended into the 2021-2022 school year child nutrition program waivers that allowed all students to receive a free lunch regardless of income status during the 2020-2021 school year, (2) the federal reimbursement rate per free lunch increased from $3.68 to $4.46, and (3) participation in NSLP has grown, as the number of school lunches served has increased by 6% from the 2018-2019 school year (the year before the COVID-19 pandemic) to the 2021-2022 school year.

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