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OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 286
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 286's Bill Analysis](#)

Version: As Reported by Senate Judiciary

Primary Sponsor: Rep. Seitz

Local Impact Statement Procedure Required: No

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Highlights

- The number of administrative appeals heard in the Franklin County Court of Common Pleas and related administrative expenses will decrease, while the number of administrative appeals and related administrative expenses will increase for courts of common pleas in other counties. The likely annual magnitude of any decrease or increase is minimal.
- There are likely to be travel-related costs for state agencies and the Attorney General to appear in person at appeals hearings in counties outside of Franklin County.
- The Court of Claims may experience an increase in the number of cases filed related to state emergencies, the magnitude of which is unknown.
- The bill removes and replaces existing statutory provisions authorizing the referral of a case to the drug court judge of the Hamilton County Court of Common Pleas, with the expected result being a significant increase in the number of offenders served by the Drug Court. The associated costs for the Drug Court and potential savings effect for the referring courts are uncertain.
- The bill transfers Perry Township (Wood County) from the jurisdiction of the Tiffin-Fostoria Municipal Court to the territorial jurisdiction of the Bowling Green Municipal Court. As it appears that the number and types of cases shifting from the former court to the latter court are expected to be relatively small, with any change in expenditures or revenues for either court likely to be minimal at most annually.
- The bill provides a legislative right to intervene in statutory challenges. The costs for the General Assembly will depend on the frequency of legislative interventions, as well as their complexity and duration. The fiscal effect on the state's trial courts, courts of

appeals, and Supreme Court will depend on the frequency and manner in which the legislature uses its right to intervene.

Detailed Analysis

Appeals of administrative agency orders

The bill modifies current law by generally providing that a party adversely affected by an order of an agency may appeal the order to the court of common pleas of the county in which the place of business of the party is located or the county in which the party is a resident, eliminating current law that directs certain appeals to the Franklin County Court of Common Pleas (see attached table for comparison of current law provisions regarding appeal of administrative agency orders to the bill's proposed changes).

These changes will decrease, to some degree, the number of administrative appeals heard in the Franklin County Court of Common Pleas and increase the number heard in other courts of common pleas. The magnitude of the case shift is likely to be minimal relative to the total caseload of courts of common pleas generally.

There are likely to be increased costs for personnel of affected state agencies and the Attorney General to travel for in-person appeal hearings in counties outside of Franklin County. Any cost increases are dependent upon the volume of cases heard outside of Franklin County. Those costs could be minimized to the degree that the court has the capability to, and permits, video-conferencing rather than requiring that parties to the appeal appear in person.

Challenge of administrative order responding to state of emergency

The bill authorizes a person who challenges a state administrative order or rule issued or adopted in response to a state of emergency, in a civil action for damages or other appropriate relief, to do so in the Court of Claims, instead of the county where the person's residence or business is located as under current law. The number of civil actions that could be filed because of future state of emergencies in the Court of Claims instead of local trial courts is unforeseeable.

No claim preclusion in zoning appeals

The bill provides that, for zoning appeals, a final decision on the merits from a court does not preclude later claims for damages. The bill states that the change is intended to override the federal Sixth Circuit Court of Appeals' decision in *Lavon Moore v. Hiram Twp.*, 988 F.3d 353 (6th Cir. 2021). As this provision returns the appeal of decisions of certain local boards and commissions to the status quo before that court decision, it has no apparent direct fiscal effect on the state or political subdivisions.

Hamilton County Court of Common Pleas Drug Court

The bill repeals the statutory provisions that specify the types of cases that may be referred to the Drug Court of the Hamilton County Court of Common Pleas and replaces with the provisions described below. The expected result is that the number of offenders that can be served by the Drug Court will increase from 900 to 2,000. The attendant costs for the Drug Court and potential savings effect for the referring courts are uncertain. Also of note is that the new statutory provisions governing the Drug Court will permit it to be certified by the Supreme Court of Ohio as a specialty docket court and therefore eligible for certain state funds.

Specifically, the bill:

- Requires eligibility for admission of a case into the Drug Court be set forth in a local rule adopted by the Hamilton County Court of Common Pleas; and
- Prohibits the local rule from permitting the referral to the Drug Court of a case that involves a first or second degree felony, a violation of any third degree felony sex offense (R.C. Chapter 2907), or aggravated murder or murder.

Court jurisdiction of Perry Township (Wood County)

For purposes of court case filings, including traffic cases, the bill transfers Perry Township from the jurisdiction of the Tiffin-Fostoria Municipal Court to the territorial jurisdiction of the Bowling Green Municipal Court. As it appears that the number and types of cases shifting from the Tiffin-Fostoria Municipal Court to the Bowling Green Municipal Court are expected to be relatively small, any change in expenditures or revenues for either court are likely to be minimal at most annually.

Legislature's right to intervene in statutory challenges

The bill allows the House of Representatives and the Senate, acting singularly or jointly, to intervene in any action in state or federal court challenging a statute. The costs incurred by the House, the Senate, or General Assembly as a whole will depend on the frequency of legislative interventions, as well as their complexity and duration.

The fiscal effect on the state's trial courts, courts of appeals, and Supreme Court will depend on the frequency and manner in which the legislature uses its right to intervene. Presumably, if circumstances created by the bill require a court to expend additional time and effort to adjudicate a civil action relative to current law, the court incurs costs. Such costs, including those related to motions filed and information submitted by additional parties and their counsel, are not readily quantifiable.

Right to legal counsel

The bill: (1) permits the Speaker of the House of Representatives and the President of the Senate to retain legal counsel, other than from the Attorney General to represent the General Assembly or either chamber in certain proceedings, and (2) permits the Governor to retain legal counsel in the same manner as deemed necessary and proper to protect the interests of the Office of the Governor. These provisions do not have any readily apparent direct fiscal effect on the state. However, to the extent that outside counsel costs are higher than those potentially incurred from using counsel employed by the Attorney General, those costs would be borne by the contracting agency (i.e., either chamber of the General Assembly or the Office of the Governor).

Appeal of Administrative Agency Order (as amended by the bill)		
Subject Matter	Current Law	Bill's Proposed Changes
Party generally appealing from an order denying an applicant admission to an examination, denying the issuance or renewal of a license or registration of a licensee, revoking or suspending a license, or allowing the payment of a forfeiture rather than suspending operations of a liquor permit holder by order of the Liquor Control Commission	"May" appeal to (1) court of common pleas of the county in which the place of business of the licensee is located or (2) court of common pleas of the county in which the licensee is a resident	"Requires" appeal to (1) or (2) as noted in cell to left
Party appealing from an order described in cell above issued by specified state agencies*	"Requires" appeal to Franklin County Court of Common Pleas (CCP)	"Requires" appeal to: (1) Franklin County CCP, (2) court of common pleas of the county in which the place of business of the licensee is located, or (3) court of common pleas of the county in which the licensee is a resident
Party appealing from orders of the Fire Marshal issued under the Fire Marshal and Fire Safety Law	"May" appeal to court of common pleas of the county in which the building of the aggrieved party is located	"Requires" appeal to court of common pleas as noted in cell to left
Party appealing administrative order is not a resident of, and has no place of business in, Ohio	"May" appeal to Franklin County CCP	"Requires" appeal to Franklin County CCP
Party appealing any other administrative order	"May" appeal to Franklin County CCP	"May" appeal to: (1) Franklin County CCP, (2) court of common pleas of the county in which the business of the party is located, or (3) court of common pleas in which the party is a resident

Appeal of Administrative Agency Order (as amended by the bill)		
Subject Matter	Current Law	Bill's Proposed Changes
Party appealing certain administrative orders of the Director of Agriculture related to dogs	"May" appeal only to Environmental Division of the Franklin County Municipal Court	"May" appeal to (1) Franklin County CCP, (2) court of common pleas of the county in which the place of business of the party is located, or (3) court of common pleas of the county in which the party is a resident
Party appealing certain administrative orders of the Director of Health, Superintendent of Insurance, or Department of Medicaid	"May" appeal to Franklin County CCP	"Requires" appeal to: (1) Franklin County CCP, (2) court of common pleas of the county in which the place of business of the party is located, or (3) court of common pleas of the county in which the party is a resident
Party appealing certain administrative orders of the Director of Job and Family Services	"May" appeal to: (1) court of common pleas of the county in which the person resides or (2) Franklin County CCP if the person does not reside in Ohio	"Requires" appeal to: (1) Franklin County CCP, (2) court of common pleas of the county in which the place of business of party is located, or (3) court of common pleas of the county in which the party is a resident

*The following are specified state agencies: Liquor Control Commission, Ohio Casino Control Commission, State Medical Board, State Chiropractic Board, Board of Nursing, Bureau of Workers' Compensation regarding participation in the health partnership program.