OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

H.B. 66
134th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Reported by Senate Ways & Means

Primary Sponsor: Rep. Hoops

Local Impact Statement Procedure Required: No

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Highlights

- **New capital appropriations.** The bill appropriates $35.0 million under the budget of the Ohio Facilities Construction Commission (OFCC) for the FY 2023-FY 2024 biennium in Cultural and Sports Facilities Building Fund (Fund 7030) line item C230FM, Cultural and Sports Facilities Projects, to support two new capital projects: (1) $30.0 million for Gateway Economic Development Corporation Infrastructure, and (2) $5.0 million for Dayton Dragons Improvements.
- **Taxation.** The bill authorizes an income tax credit for employers, with a total cost to the GRF over six years of $6 million, to train employees to obtain commercial driver's licenses. The GRF revenue loss would start in FY 2025.
- Exemptions from sales tax for certain filing fees and documentary service charges may result in revenue losses ranging to low tens of millions of dollars to the state and high single digit millions of dollars to counties and transit authorities.
- The bill makes various other changes to tax law. For provisions that reduce GRF tax revenue (personal income tax and sales and use tax), under codified law, the revenue loss would be shared by the state GRF (96.68%), the Local Government Fund (LGF, 1.66%) and the Public Library Fund (PLF, 1.66%).
- Adding real property tax exemptions to subject matter to be reviewed in the Tax Expenditure Report may increase costs for the Department of Taxation, likely by no more than a minimal amount.
- **Department of Job and Family Services.** Income tax withholding from unemployment compensation payments is delayed by the bill for two years, to 2025.

- **Department of Development**. The bill appropriates $30.0 million in FY 2023 under State Fiscal Recovery Fund (Fund 5CV3) appropriation item 1956E6, Minor League Relief, and requires the Department of Development to award grants to certain eligible minor league baseball and hockey teams in the state.

Detailed Analysis

Bill provisions discussed below are listed according to subject area.

New capital appropriations

The bill appropriates $35.0 million in the FY 2023-FY 2024 biennium in Cultural and Sports Facilities Building Fund (Fund 7030) line item C230FM, Cultural and Sports Facilities Projects, and makes the following earmarks from that item: (1) $30.0 million for Gateway Economic Development Corporation Infrastructure, and (2) $5.0 million for Dayton Dragons Improvements. It also authorizes the Treasurer of State to issue and sell $35.0 million in new bonds deposited to the credit of Fund 7030 to support the projects. Item C230FM provides funding for a variety of cultural and sports facilities projects under the capital budget of the Ohio Facilities Construction Commission (OFCC).

Tax provisions

The bill makes various changes to tax law. For provisions that reduce personal income tax and sales and use tax, under codified law, GRF tax revenue loss would be shared by the state GRF (96.68%), the Local Government Fund (LGF, 1.66%), and the Public Library Fund (PLF, 1.66%). Funds deposited into the LGF and PLF are distributed to counties, municipalities, townships, and public libraries according to statutory formulas and decisions by county budget commissions.

Income tax provisions

Scholarship organization donation credit

The bill specifies that the maximum amount of an existing income tax credit for donations to scholarship granting organizations that can be claimed by spouses filing jointly is $1,500. Current law limits the credit to $750 per taxpayer; it does not include specific language regarding the treatment of joint returns.

The bill's fiscal effect will depend on taxpayer behavior. By clarifying that both filers on a joint return are entitled to a $750 credit, the provision may result in more credits being claimed, and so potentially reduce income tax revenue.

Credit for commercial vehicle operator training expenses

The bill authorizes a temporary nonrefundable personal income tax credit for one-half of training expenses, other than wages, paid by employers to train employees to obtain a commercial driver's license or operate a commercial vehicle. It requires employers to apply to the Director of Development with an estimate of the training expenses that the employer expects to pay in the upcoming year. It authorizes the Director to certify up to $50,000 of expenses as eligible for the credit, limiting the credit amount to no more than $25,000. It allows the credit to be carried forward for up to five years.

The bill limits the total amount of credits that may be awarded each year to $1.5 million, except if the amount of credits awarded is less than $1.5 million in any year, the difference may be carried forward and added to the limit for the following year. It applies the credit to training expenses paid on or after January 1, 2024, but before January 1, 2028. Consequently the total potential income tax revenue loss is $6 million starting in tax year 2024 (FY 2025), most of which would likely be realized for tax years 2024 through 2027. After FY 2028, any revenue losses would be due only to credit carryforwards.

Sales tax provisions

Sales tax: tax filing fees and documentary service charges

The bill exempts from sales and use tax all of the following: (1) electronic tax filing and payment services used in business to report or pay income tax, other than employee withholding, on behalf of an individual, (2) certain taxable services that might be provided incidentally or supplementally to those electronic tax preparation services, and (3) documentary service charges imposed by motor vehicle and manufactured home dealers.

Annual revenue losses to the state GRF from exempting documentary service charges might range in the low tens of millions of dollars, and to counties and transit authorities in high single-digit millions of dollars, depending mainly on motor vehicle sales. Exempting income tax electronic filing fees from sales and use taxation would result in state revenue losses of $8.3 million annually, the Department of Taxation estimates. That implies a revenue loss to counties and transit authorities of about $2.1 million.

Use tax: seasonally stored watercraft exemption

The bill exempts from state and local use tax certain watercraft that are seasonally stored or repaired in Ohio. The exemption includes watercraft purchased outside the state, watercraft purchased in Ohio but titled, registered, or used outside the state, even if the jurisdiction of titling or registration does not tax the sale, use, or ownership of the watercraft, and watercraft purchased by a nonresident who paid a portion of Ohio sales tax at the time of purchase. It specifies that the exemption does not apply to watercraft storage, repair, or installation services, which are subject to sales and use tax under continuing law.

The exemption will reduce state and permissive county and transit authorities' use taxes by an undetermined amount. However, this provision may have indirect effects, specifically, witness testimony indicates that some out-of-state boat owners, knowing that seasonal storage, maintenance, or repair of watercraft in Ohio may result in use tax charges for the value of the vessel, have chosen when possible to avoid having such services provided in this state. The bill may result in such owners instead having these services performed in Ohio. The extent of such behavioral changes and their impact on sales tax revenues are unknown.

Property tax provisions

Community school property tax exemption

The bill repeals a requirement that community schools file an annual statement with the Tax Commissioner after an initial property tax exemption application is approved, as a condition of retaining the property tax exemption for school property. It allows a community school that did not receive the tax exemption for school property for tax year 2021 or 2022 due to the failure to submit to the Tax Commissioner the annual statement to apply to the Commissioner for an abatement or refund of taxes on the property for that year.

Tax abatement and refunds: agricultural society property

The bill provides a 12-month period for a county agricultural society that acquired property from a county in March 2021 to apply to the Tax Commissioner for:

--The property to be placed on the tax exempt list;

--The abatement of unpaid taxes, penalties, and interest on the property for tax years 2021 and 2022, including those levied before the society acquired ownership; and

--The refund of paid taxes, interest, and penalties, for tax years 2021 and 2022.

Continuing law exempts county agricultural society property from taxation, provided it is used in furtherance of the society's purposes, but such property may not be exempted if it has unpaid taxes nor may taxes be abated if, in either case, the taxes were assessed prior to the property's transfer.

Tax abatement and refunds: enterprise zone property

The bill provides a 12-month period for an owner of property that qualifies for the enterprise zone property tax exemption, but that failed to properly apply for the exemption, to apply to the Tax Commissioner for the property to be placed on the tax exempt list, for the abatement of unpaid taxes, penalties, and interest on the property, including those assessed before the applicant acquired ownership, and for the refund of paid taxes, interest, and penalties that would have been exempt, including those paid by a prior owner.

Continuing law exempts qualifying enterprise zone property from taxation, but such property may not be exempted without a proper application and abatement cannot be given for more than three tax years or for unpaid taxes that have become a lien on the property from before the applicant acquired ownership. Similarly, under continuing law, an owner generally may not be refunded property tax overpayments made by a prior owner.

Exemption and abatement of certain TIF property

The bill allows municipal corporations that adopted a tax increment financing (TIF) ordinance between June 1 and December 31, 2002, to temporarily file for tax exemption according to the terms of the ordinance, including terms allowing exemptions to commence and run on a parcel-by-parcel basis. State law did not specifically allow for parcel-by-parcel TIF exemption commencements in 2002. The application must be filed by the municipality granting the TIF with the Tax Commissioner within 12 months after the provision's effective date, but the provision may also apply to exemption applications pending on that date.

ADAMHS district taxing authority

The bill requires revenue from a property tax levied by a joint-county alcohol, drug addiction, and mental health services (ADAMHS) district formed after the bill's 90-day effective date to be expended for the benefit of the residents of the county from which it is collected. This limitation does not apply if membership in the joint district changes because a county joins or withdraws from a district or if a joint-county district merges with another joint-county district. A joint-county district encompasses two or more counties.

Similarly it requires property taxes levied by counties for the benefit of a joint-county district to be expended by the joint-county district for the benefit of county residents.

The bill requires a county withdrawing from a joint-county district to continue to levy a tax that had been for the benefit of the joint-county district, provided the withdrawing county immediately forms its own ADAMHS board or joins another joint-county district. The levy will fund the county's board or the newly joined joint-county district.

The bill authorizes a county ADAMHS tax submitted to voters on or after 100 days after its 90-day effective date to be the renewal or replacement levy of an expiring joint-county district levy after the county withdraws from that joint-county district.

Refund of 2021 property taxes paid on school property

The bill provides a 12-month period under which a local school district that acquired property in February 2021 may apply to the Tax Commissioner for the refund to whomever paid them of taxes, interest, and penalties paid for tax year 2021. If the application is approved by the Tax Commissioner, this provision would result in the repayment of any such amounts to the taxpayer by the county auditor of the county in which the property is located. In general, continuing law exempts school property from taxation if it is used for educational purposes and a property's exempt status is determined as of the applicable tax lien date, usually January 1 of the tax year for which the exemption is sought. In the case of a school district that acquired previously taxable property in February 2021, its tax-exempt status would not be updated until the next tax year without a petition to the Tax Commissioner. The provision is intended to address a timing issue with a tax exemption for donated land on which the Olentangy Local School District (Delaware County) constructed a school building before the district was eligible to apply for an exemption.

Combined school district property and income tax levies

The bill allows a school district to propose to renew an emergency property tax levy and a combination income and property tax levy in a single ballot question. Under current law, these renewals must occur as separate ballot questions. The change would likely result in minimal savings to the ballot advertising costs of school districts and the districts' proportional share of election printing costs in years in which they place such levies on the ballot.

Sales and property tax provision

Pollution control and energy conversion facility exemptions

The bill modifies property and sales and use tax exemptions authorized under continuing law for "exempt facilities," including facilities primarily devoted to industrial water pollution control, air pollution control, energy conversion, noise pollution control, solid waste energy conversion, and thermal efficiency improvement. The bill explicitly includes under the tax exemptions leased property, property that primarily benefits a business so long as the benefit also aligns with the exempt facility purposes described by current law, and property used to haul industrial waste to a point of disposal or treatment, or to store, filter, process, or dispose of such waste. The bill applies its changes to all changes to new exemption applications and applications pending before the Tax Commissioner, Board of Tax Appeals, or Ohio Supreme Court on the act's 90-day effective date.

These provisions can be expected to result in loss of sales and use tax revenue to the state and to counties and transit authorities, and in loss of property tax revenue to schools and local governments. The amount of these potential losses appears indeterminate.

Refunds of tax penalties

The bill allows taxpayers to apply to the Tax Commissioner or Superintendent of Insurance for a refund of any amount the taxpayer overpaid, including tax-related penalties and fees. In general, current law specifies that the Commissioner or Superintendent may only refund overpaid taxes, with interest. As with refunded taxes under current law, the bill awards interest on any overpaid tax-related penalty or fee. It provides that any refunded amount, not just taxes, may be intercepted by the Tax Commissioner and applied to a debt the taxpayer owes to the state, as authorized under continuing law.

Tax Expenditure Report

The bill adds real property tax exemptions to the scope of subject matter required to be covered by the Tax Expenditure Report (TER). The TER is published by the Department every two years and is included in the Governor's Blue Book for each biennial main operating budget. Currently, the report covers tax exemptions that reduce the state's GRF revenue. It includes estimates of the magnitude of these fiscal effects in each fiscal year of the current and upcoming biennia. The bill adds to these reporting requirements (1) the aggregate true value of exempted real property in the previous tax year, and (2) GRF payments in the previous calendar year to reimburse political subdivisions for exemptions subject to reimbursement.

The Department already publishes the information required by the bill. A report called Valuation of Exempted Real Property by Class of Property, by County (Table PE-2) lists such exemptions for real property. Another report, Taxable Value of Real Property Exempted by Tax Abatements by Class of Abatement, by County (Table PE-3) shows additional detail on tax abatements. These two tables provide information responsive to requirement (1) above; though the information shown is taxable values of the property rather than true values, the Department could easily calculate the true values from the information provided. A third report, Real Property Tax Relief, by County (Table PD-1) includes the information required by (2) above. The cost of including this information in the TER would likely be negligible, and the timing required by the bill is in line with publication dates of recent reports. The bill requires disaggregation of real property tax exemptions by the following classifications: charitable or public worship, public or educational, local economic development, and other. Departmental costs arising from its role in overseeing property taxes in the state are paid from the Property Tax Administration Fund (Fund 5V80).

Technical correction

Sunset of Tax Expenditure Review Committee

The bill sunsets the Tax Expenditure Review Committee effective on its 90-day effective date. The Committee was discontinued by H.B. 110 of the 134th General Assembly, but due to a technical error, the sunset was delayed until September 30, 2024. This provision has no fiscal effect.

Health and human services

Department of Job and Family Services – income tax withholding from unemployment benefits

S.B. 18 of the 134th General Assembly allows individuals to elect to have state income tax withheld from their unemployment benefits. This was anticipated to result in potential administrative costs to ODJFS. However, withholding the tax itself would not have a net effect as income tax receipts would generally be received sooner than otherwise collected. H.B. 66 delays by two years, from 2023 to 2025, the date by which the Director of Job and Family Services must begin to accept these withholding requests from unemployment compensation recipients. As a result, any fiscal impacts would be delayed.

General government

Department of Development – Minor League Relief

The bill appropriates $30.0 million in FY 2023 under the State Fiscal Recovery Fund (Fund 5CV3) appropriation item 1956E6, Minor League Relief. The bill requires the Department of Development, in accordance with provisions of the federal American Rescue Plan Act, to award grants to all of the following eligible minor league teams: Akron Rubber Ducks, Dayton Dragons, Lake County Captains, Lake Erie Crushers, Mahoning Valley Scrappers, Toledo Mud Hens, Cincinnati Cyclones, and Toledo Walleye. The bill specifies that the grant amounts awarded are based on an eligible team's CY 2019 gross revenue; or, if the amount appropriated is insufficient to award grants in that manner, to award grants in the same manner as grants awarded under the federal Shuttered Venue Operators Grant Program.

Video service

The bill limits the definition of "video service" to "the provision by a video service provider of video programming" (a person granted video service authorization under Ohio's Video Service Law). It provides that direct-to-home satellite services, as defined under federal law, and video streaming content, are not video services. It is unclear how these provisions will impact the number of video service providers the Department of Commerce regulates. Currently, there are 53 authorized providers. One time license fees and annual assessments are deposited into the Video Service Authorization Fund (Fund 5X60) and used by the Department to regulate the industry. In FY 2022, fees and assessments deposited into Fund 5X60 amounted to over $339,000.

This provision appears to clarify current law regarding taxation of this service. Please see the bill analysis for a more detailed discussion of this subject.

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