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Office

H.B. 305
135th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the Senate

Primary Sponsors: Reps. Stewart and Brown

Local Impact Statement Procedure Required: Yes

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Highlights

- The bill makes several changes to the manner that pleadings are filed with certain courts and changes the collection and use of certain computerization fees. Any court not currently accepting electronic filing through an approved method will see increased expenses to implement such a system, to be offset somewhat by computerization fees. Municipal and county courts which raise the amount of such a fee will see a gain in revenue, but it is uncertain if the revenue would be sufficient to cover all the costs associated with the technological upgrades for any given court.
- The bill replaces two part-time judges in the Ashtabula County County Court with one full-time judge. The change will result in savings to both the state and Ashtabula County beginning in CY 2031. The bill's changes to certain geographical jurisdictions for the Ashtabula County County Court and the Conneaut Municipal Court are expected to have only minimal effects for each court.
- The bill adjusts the fines associated with failing to maintain financial responsibility. The Indigent Defense Support Fund (Fund 5DY0) will experience a \$40 or \$90 gain in revenue for each second or subsequent conviction, respectively, for failing to maintain financial responsibility within five years of a first conviction.
- The bill specifies that any fees collected by a clerk serving as a third-party administrator for the standard motor vehicle skills test are required to be deposited into the county's existing Certificate of Title Administration Fund along with any fees that were collected by a clerk serving as a third-party administrator between April 12, 2021, and the bill's effective date.

- Annually adjusting the existing \$250 car dealer documentation fee for the cumulative percentage change in inflation since 2006 would increase the fee that is charged by car dealers. However, the documentation fee was no longer part of the auto sales and use tax base, as of May 1, 2023. Thus, there will be no direct tax revenue effect.
- The Ohio Elections Commission (ELC) would incur costs to investigate and enforce the campaign finance prohibitions pertaining to foreign national contributions established in the bill. The Attorney General (AGO) would also incur costs for prosecuting cases referred to that office by the ELC.
- The ELC may potentially offset these costs through any fines collected from the campaign finance violations established in the bill. The fine for each infraction is three times the amount involved or \$10,000, whichever is greater, and would be paid to the Ohio Elections Commission Fund (Fund 4P20).
- The AGO would incur additional costs for prosecuting Campaign Finance Law violations that would otherwise be prosecuted by the Franklin County Prosecutor. Franklin County would concurrently see a reduction in costs related to prosecuting these cases.
- The AGO could incur further additional prosecution costs if the agency uses the discretionary authority granted in the bill to take over prosecution of other Campaign Finance Law cases in other counties.
- County boards of elections and the Secretary of State (SOS) could incur some minimal administrative costs for processing additional political action committee (PAC) filings from ballot issue committees.

Detailed Analysis

Electronic filings

The bill makes several changes to the manner that pleadings are filed with certain courts and changes the collection and use of certain computerization fees. More specifically, the bill: (1) expands requirements for the electronic filing of pleading with the local courts, (2) allows elected clerks of court to disburse technology fee revenue, and (3) allows municipal and county courts to increase the maximum amount of the permissive additional fee for the computerization of the court from \$10 to \$20 to cover the computerization of the clerk's office.

Fiscal impact

Electronic filing – implementation costs

Under current law, courts of common pleas are required to accept the filing of pleadings in either electronic or paper format. The bill expands this requirement to include municipal and county courts no later than 270 days after the bill's effective date. The electronic format includes either an online filing system or filing by email, but not filing by facsimile.¹ The bill also specifies

¹ Under procedural rules adopted by the Supreme Court [Civ.R. 5(E), Crim.R. 12(B), and Juv.R. 8] courts are required to provide for the filing of documents by electronic means which includes filing by facsimile.

that these provisions, in current law and under the bill, do not apply to probate or juvenile courts (which are under the purview of courts of common pleas).

This requirement may generally codify current practice for many courts. However, any court not currently accepting filings electronically or in an approved electronic format will see increased costs to implement such a system. Costs will vary by court and depend on the current system in use by the court and what upgrades would be needed, the electronic system chosen (if new or replaced), and the volume of filings. These costs may be offset by an increase in the computerization fee authorized under the bill, as described in more detail below. However, it is uncertain if the revenue would be sufficient to cover all the costs associated with the technological upgrades for any given court.

Computerization fees

Under current law, if a municipal or county court determines that additional funds are required to computerize the court, the court is permitted to charge an additional fee of up to \$10 for that purpose. The bill increases the maximum amount of their additional permissive fees from \$10 to \$20, an amount which mirrors the current maximum fee allowed for this purpose in the courts of common pleas. This fee increase is permissive, and any court that increases the fee will see an increase in revenue, all of which is required under continuing law to be used for the computerization of the court.

The bill prohibits all court clerks (common pleas, municipal, and county) from requiring (1) any fee for the filing of pleadings or documents in an electronic format to be paid before the filing, unless the clerk has provided for an electronic payment system for such filing, and (2) a fee for the filing of pleadings or documents in electronic format that is greater than the applicable fee for the filing of pleadings or documents in paper format.

Additionally, the bill permits elected court clerks to disburse funds for the computerization of the courts and removes the court authorization requirement. Under current law, clerks of the municipal, county, and common pleas courts are not permitted to disburse funds for the computerization of the courts and instead must be authorized by the court itself. Presumably, this change will create certain administrative efficiencies for the court clerks and the subsequent management of those funds.

Ashtabula County and Conneaut Municipal courts

The bill makes the following changes to the Ashtabula County County Court and the Conneaut Municipal Court:

- Beginning on January 1, 2031, the bill replaces the two part-time judges of the Ashtabula County County Court with one full-time judge to be compensated as a municipal court judge. Ahead of this change, the bill sets the terms for the judges to be elected in 2028 to two-year terms: January 1, 2029 through December 31, 2030.
- Related to the jurisdiction of the Ashtabula County County Court and the Conneaut Municipal Court, the bill (1) transfers jurisdiction for cases originating in the village of North Kingsville and the townships of Kingsville, Monroe, and Sheffield from the Ashtabula County County Court to the Conneaut Municipal Court beginning on January 1, 2025.

Ashtabula County County Court

Judicial salary

Under continuing Ohio law, a judge of a county court receives compensation from the state and the county:

- The county pays an amount equal to \$35,500 per year for each county court judge, and under the bill will pay \$61,750 per year for the full-time county court judge starting in 2031 – an amount equal to the local portion of a full-time municipal court judge salary.
- The state pays the remaining portion of the statutorily set judge’s salary through GRF appropriation to the Supreme Court. Barring any intervention by the General Assembly:
 - The full salary for a county court judge is set at \$93,403 of which the state is responsible for \$57,903 (after deducting the local portion of \$35,500); and
 - The full salary for a municipal court judge and the full-time judge of the Ashtabula County County Court beginning in 2031 is \$162,257 of which the state is responsible for \$100,507 (after deducting the local portion of \$61,750).

As the table below shows, the replacement of two part-time judges with one full-time judge saves the county \$9,250 annually and saves the state \$15,299 annually in base salary costs. The table also reflects a contribution to the Ohio Public Employees Retirement System (OPERS) which results in additional savings of 14% per year: \$2,142 to the state and \$1,295 to the county.

Cost Comparison of Ashtabula County County Court Judgeship(s) Part-time versus Full-time (2031)				
Compensation Cost	Compensation for Part-time Judge	Compensation for (2) Part-time Judges	Compensation for Full-time Judge	Savings*
Local base salary	\$35,500	\$71,000	\$61,750	\$9,250
14% OPERS contribution	\$4,970	\$9,940	\$8,645	\$1,295
Local Total	\$40,470	\$80,940	\$70,395	\$10,545
State base salary	\$57,903	\$115,806	\$100,507	\$15,299
14% OPERS contribution	\$8,106	\$16,213	\$14,071	\$2,142
State Total	\$66,009	\$132,019	\$114,578	\$17,441
Compensation Total	\$106,479	\$212,959	\$184,973	\$27,986

Note: 1.75% annual pay increases under S.B. 296 of the 132nd General Assembly end in 2028

*Reflects the savings generated from converting part-time judgeships to a single full-time judgeship

The county may also incur additional benefit costs, like health insurance, as well as other administrative costs.

Court operating costs

County officials suggest that there will be additional savings for the county because the county will no longer need to maintain two courts for two part-time judges. Currently, the Ashtabula County County Court maintains two divisions, one in Jefferson and one in Geneva. The county court reports that the county currently pays \$108,000 annually to maintain the court in Geneva. It is likely that the court can expect to save at least this amount annually, but the actual amount of any savings will depend on actions taken by the county and the court to consolidate judgeships leading up to CY 2031.

Conneaut Municipal Court

Under continuing law, each municipal corporation and each township within the territory of the municipal court shall be assigned a proportionate share of the current operating costs of the municipal court that is equal to the percentage of the total criminal and civil caseload of the municipal court that arose in that municipal corporation or township. County court costs are paid by the relevant county commissioners.

As described above, the village and townships moving from county court to the municipal court jurisdiction will be directly responsible for covering the costs of the Conneaut Municipal Court whereas currently relevant county court costs are paid by the county. However, the total number of cases arising from the relevant village and townships is likely to be relatively small annually. As reported by county officials, the number of cases originating from those locations totaled 31 in 2023. The loss of court cost revenue for the county court will be negligible as will the potential additional expenses for the village and townships, and resulting revenue for the Conneaut Municipal Court.

Public depositories

The bill removes the prohibition for certain financial institutions from serving as a public depository. Under existing law, a financial institution – or any of its directors, officers, employees, or controlling shareholders or persons – that is currently a party to an active final or temporary cease-and-desist order issued to ensure the safety and soundness of the institution is prohibited from serving as a public depository.

In its place, the bill requires financial institutions and certain credit unions, which are designated by a governing board as a public depository, to notify each governing board that made such designation, if the institution becomes party to an active prompt corrective action directive.²

The governing board may take either or both of the following actions when it receives such notice: (1) allow the public depository to continue to have active, interim, or inactive deposits awarded, placed, purchased, made, or designated for the remainder of the designation period, or (2) designate the institution as a public depository for additional succeeding designation periods. The bill specifies that if a governing board determines that one or both of the actions are in the public interest, and public moneys are lost due to the failure of the public

² Under the bill, “prompt corrective action directive” means a directive issued by a regulatory authority of the United States as authorized under 12 United States Code (U.S.C.) 1790d or 1831o.

depository subject to the directive, certain public officials of the board are relieved from any liability for the loss.

Allowing certain financial institutions to continue to have active, interim, or inactive deposits awarded, placed, purchased, made, or certain credit unions to serve as a public depository for additional succeeding designation periods when the institutions become party to an active prompt corrective action directive may increase potential loss to the state's and local governments' funds on deposits with such institutions.

Financial responsibility license reinstatement fees

The bill restores a provision from prior law by increasing the portion of the license reinstatement fee associated with failure to maintain proof of financial responsibility that is distributed to the Indigent Defense Support Fund (Fund 5DY0) from \$10 regardless of the number of prior convictions, to \$50 for a second conviction within five years (\$300 reinstatement fee) or \$100 for a third or subsequent conviction (\$600 reinstatement fee) within five years.

As a result, Fund 5DY0 will experience a gain in revenue of \$40 or \$90 for each offender who is convicted of a second or third or subsequent failure to maintain financial responsibility offense, respectively, within five years of the first conviction. The magnitude of revenue gain will depend on the number of individuals whose license is suspended for failure to maintain proof of financial responsibility that also have at least one prior conviction. In FY 2022, there were 95,868 Bureau of Motor Vehicles (BMV) noncompliance suspensions; the portion of repeat offenders is unknown.

Third-party driver's exam administrators

Under existing law, the Director of Public Safety can authorize a third party to administer the standard motor vehicle skills test. The bill specifies that a third-party administrator may be: (1) any person, (2) any Ohio agency, or (3) any agency, department, or instrumentality of local government including a clerk of the court of common pleas. The bill also specifies that any fees collected by a clerk serving as a third-party administrator are required to be deposited into the county's existing Certificate of Title Administration Fund along with any fees that were collected by a clerk serving as a third-party administrator between April 12, 2021, and the bill's effective date.

Around ten clerks are currently offering these services and current law does not specify where fees collected for administering the standard motor vehicle skills test are to be deposited. By specifying that these fees are to be deposited into the Certificate of Title Administration Fund, the bill will allow clerks serving as a third-party administrator to deposit and subsequently use those fees.

Car dealer documentation fee

Currently, car dealers may charge a documentation fee of \$250 or 10% of the sales contract price, whichever is less. The sales contract price excludes tax, title, and registration fees. The bill increases the existing \$250 documentation fee by multiplying the fee with the cumulative percentage change in the consumer price index for urban wage earners and clerical workers (CPI-W) between July 1, 2006, and the bill's effective date. This documentation fee was no longer part of the auto sales and use tax base, as of May 1, 2023. Thus, there will be no direct tax revenue effect. The bill also requires the Registrar of Motor Vehicles to publish the maximum charge, as

adjusted annually for inflation, and the dates to which it applies on the Department of Public Safety's website.

LBO is not able to precisely determine the first actual CPI-W adjustment because it will be based on the bill's effective date. However, assuming the bill's effective date was in April 2024, the cumulative percentage change would be 54.52% (i.e., $[307.811 - 199.2] \div 199.2 \times 100 = 54.52\%$) and the documentation fee would be \$386 (i.e., $\$250 + [\$250 \times 54.52\%] = \$386.31$; rounding to the nearest dollar = \$386).

Criminal Sentencing Commission standing juvenile committee

The bill requires the Criminal Sentencing Commission to reestablish a standing juvenile committee and requires the Chief Justice of the Ohio Supreme Court to designate a person to serve as chairperson of the committee. The bill requires the Commission to review and assist in the implementation of statutes governing delinquent child, unruly child, and juvenile traffic offender dispositions in the state; to review state and local resources used for juvenile offenders; to develop juvenile justice policy for the state; to review all bills introduced in the General Assembly related to juvenile justice to determine if those bills are consistent with policy developed by the Commission; and to assist the General Assembly to make legislation consistent with Commission policy. In addition, the Commission is required to periodically report to the General Assembly on the operation and impact of juvenile justice statutes.

The state Criminal Sentencing Commission is a 31-member commission originally created by S.B. 258 of the 118th General Assembly which reviews sentencing statutes and sentencing patterns and makes recommendations on statutory changes to the General Assembly. It is likely that the Commission, which is funded through appropriation to the Supreme Court of Ohio, can utilize existing staff and appropriated funding to absorb any costs associated with establishing a standing juvenile justice committee and reporting as needed to the General Assembly.

Campaign finance law changes

Contributions from foreign nationals

The bill modifies campaign finance law to prohibit contributions from foreign nationals used for influence in state or local ballot issues. As a result of these changes, the Ohio Elections Commission (ELC) could incur costs to investigate and enforce the campaign finance prohibitions established under the bill. The magnitude of any such costs are uncertain and would presumably be in proportion to the frequency and complexity of potential campaign finance violations arising from the bill. The ELC may partially or fully offset the costs through fines collected as a result of these campaign finance violations. Much like any new investigative costs from the bill, any fine revenue collected is also uncertain, and will depend on the frequency and dollar amount of campaign finance violations. The fine for each infraction under this bill is three times the amount involved or \$10,000, whichever is greater. The fines would be deposited into the Ohio Elections Commission Fund (Fund 4P20). Finally, the bill permits the Attorney General (AGO) to prosecute certain violations referred to that office by the ELC. As with the ELC, the costs the AGO would incur for prosecuting these cases will depend on the frequency and complexity of the cases referred to the office.

In addition to the above prohibitions, the bill retains existing law penalties for violating the law regarding contributions and expenditures by foreign nationals, but the bill also requires a violator to return the contribution to the foreign national in addition to paying the fine levied.

This provision does not appear to have any direct fiscal impact. The bill further requires the ELC, if it finds violation of this law, to either impose: (1) the maximum fine and, if applicable, order the violator to return the funds, or (2) refer the matter for prosecution. Because the ELC would typically already investigate these potential violations, the agency would not likely experience any additional costs as a result of this change. There could, however, be some additional costs to county courts of common pleas if there are additional cases referred for prosecution. Presumably, there would be very few such cases.

Enforcement of campaign finance law

The bill requires, when the ELC refers a violation of the Campaign Finance Law for prosecution, that the Attorney General prosecute most of these cases that would currently go to the Franklin County Prosecutor. The bill also allows the AGO, if the ELC refers a violation of Campaign Finance Law to a county prosecutor, to transfer the case to the AGO for prosecution upon the request of that prosecutor, or through the AGO's own initiative. In these instances, the costs of prosecuting these cases would shift from Franklin County, or from other applicable counties, to the AGO. It is unclear how many such cases would be shifted to the AGO under the bill. The bill also provides procedures for choosing a different prosecutor if the appropriate prosecutor is a victim or witness, or is otherwise involved in the case.

Ballot issue committees

The bill specifies that if the committee in charge of a statewide initiative or referendum petition receives a contribution or makes an expenditure for the purpose of achieving the successful circulation of the petition, the committee is then considered a political action committee (PAC). Those committees are then required to file periodic disclosures in the same manner as any other PAC under current law. This would result in some additional administrative costs to county boards of elections and the Secretary of State (SOS) for processing these filings.

Use of public funds by political subdivisions

The bill prohibits a chartered county or municipal corporation from (1) using public funds to publish communications with certain messages, including messages in support of or opposition to a candidate or a levy or bond issue, and (2) paying its employees to engage in activities to influence the outcome of an election regarding a candidate or a levy or bond issue. Under current law, these prohibitions apply to all other subdivisions. Political subdivisions will not incur any direct costs under this provision, and may see reduced expenditures if they currently use public funds in this fashion. There are 183 chartered cities, 51 chartered villages, and 2 chartered counties.

Use of memorials and other facilities

Under the bill, political subdivisions could see increased revenue stemming from rental fees for nonmemorial facilities and additional services. The bill authorizes the board of trustees of a political subdivision soldiers' memorial to (1) make rules and regulations for entertainment, retail, educational, sporting, social, cultural, or arts opportunities at the memorial, and (2) enter into contracts with political subdivisions or nonprofit organizations for the use of other facilities separate and apart from the memorial, and to provide other services.

Repairs of certain cemetery structures

Under the bill, the board of township trustees, the trustees or directors of a cemetery association, or the other officers having control and management of a cemetery or the officer of

a municipal corporation who has control and management of a municipal cemetery may incur costs if they elect to disinter and reinter remains to repair or replace a mausoleum or columbarium, subject to probate court approval. Under this process, a cemetery is not liable for damages under a civil action. Additionally, the bill allows the disinterment of the cremated remains of a decedent who died of a contagious or infectious disease without a permit issued by the local board of health.

Other provisions

In addition to the provisions discussed above, the bill also includes a number of provisions with limited or no fiscal effect on the state or political subdivisions. The bill:

- Creates a one-year deadline for counties to submit reimbursement requests to the state for the per-diem compensation paid to acting/assigned county or municipal court judges;
- Allows a court to order unmarried parents who are in a custody dispute to undergo conciliation with a magistrate, and requires a magistrate to issue an order regarding the allocation of parental rights and responsibilities, parenting time, or companionship or visitation upon resolution;
- Classifies an order that restrains or restricts enforcement of a state statute or regulation as a final order that may be reviewed on appeal;
- Clarifies that amendments to the judicial release and transitional control processes made in S.B. 288 of the 134th General Assembly apply only to prisoners serving prison terms on or after April 4, 2023 (the effective date of that act);
- Prohibits financial assistance received by a legal aid society from the Legal Aid Fund (Fund 5740) from being used for the provision of legal services in any criminal case or proceeding or in the provision of legal assistance in any fee generating case.