



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** H.B. 131 of the 131st G.A. **Date:** November 16, 2015

**Status:** As Re-referred to Senate Rules & Reference **Sponsor:** Rep. Pelanda

**Local Impact Statement Procedure Required:** No

**Contents:** Includes diseases of concern within the scope of the Animal Diseases Law and makes other changes

### State Fiscal Highlights

- The Department of Agriculture's (AGR) Division of Plant Health may incur minimally increased costs to conduct licensure examinations for pesticide applicator licensees who have not renewed their licenses within 180 days of expiration. The Division's Pesticide, Fertilizer, and Lime Program is supported by the Pesticide Program Fund (Fund 6690).
- AGR's Division of Animal Health, specifically the Animal Disease Program, could incur additional costs to regulate "diseases of concern." Any new costs could vary greatly depending on the nature of a disease of concern and the necessary steps taken by AGR to control it. The program is largely supported by the GRF.
- The Division of Weights and Measures will incur some new GRF costs for registering service persons who are employed by a commercially used weighing and measuring device service agency.
- The Division of Weights and Measures may also incur a minimal cost to verify retail prices and the accuracy of point-of-sale (POS) register systems as required under the bill. Currently, POS systems are verified by municipal and county offices responsible for weights and measures. If AGR utilizes the municipal and county inspection apparatus already in place by using local inspectors, any new costs would likely be minimal at most.

### Local Fiscal Highlights

- Convictions for violating the bill's prohibition concerning the installation and repair of commercially used weighing and measuring devices by unauthorized individuals could result in a minimal increase in fines collected by municipal and county common pleas courts.

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## **Detailed Fiscal Analysis**

The bill makes three changes affecting the Department of Agriculture (AGR) that may have some fiscal effect on operations for the Division of Plant Health, the Division of Animal Health, and the Division of Weights and Measures. Of the various provisions of the bill affecting AGR, the provisions with fiscal effect include (1) altering timeframes pertaining to pesticide applicator license renewal and reexaminations of individuals that have allowed their applicator license to expire, (2) including "diseases of concern" within the scope of the Animal Diseases Law, and (3) changing laws concerning retail point-of-sale register systems and commercially operated weighing and measuring devices. The bill also prohibits the Ohio State University (OSU) Extension from charging 4-H program volunteers for any background checks. Details concerning the fiscal effects are discussed under the headings below.

### **Division of Plant Health**

#### **Pesticide applicators license**

The bill revises the deadlines related to the renewal of commercial pesticide applicator and private applicator licenses. Under the bill, pesticide applicator licensees that have allowed their license to expire must renew the license within 180 days of expiration. If the license is not renewed within the 180-day time period, the licensee must take another licensure examination. Under current law, the deadline for commercial pesticide applicators to renew without reexamination is one year, and for private pesticide applicators, the deadline is determined by the Director of Agriculture. As a result, there could be an increase in the number of licensees that require reexamination. If so, AGR's Division of Plant Health Pesticide, in particular the Fertilizer and Lime Inspection Program, may incur a slight increase in costs to conduct the additional exams.

Currently, there are approximately 14,000 commercial pesticide applicators and 14,600 private applicators licensed by AGR. The program is funded by license fees deposited to the credit of the Pesticide Program Fund (Fund 6690). The Division of Plant Health's pesticide examinations are also conducted by various community colleges and OSU Extension offices.

### **Division of Animal Health**

#### **Diseases of concern**

The bill includes diseases of concern within the scope of the Animal Diseases Law, which under continuing law addresses dangerously contagious and infectious diseases. The bill defines a disease of concern as any disease, including any foreign animal disease, or vector that the Director of Agriculture determines may have an adverse impact on the animal or poultry industry or to the public health in Ohio, but that is not a disease reportable to the U.S. Department of Agriculture (USDA). Under

the bill, the Director's authority to create and enforce rules regulating a disease of concern is the same as that provided under current law to create and enforce rules regulating a "dangerously contagious or infectious disease," including having access to any premises, vehicle, or means of conveyance when there is reasonable suspicion an animal has been infected with or exposed to a disease of concern, investigating potential cases of diseases of concern, and the authority to order the destruction of any animal found to be infected with or exposed to a disease of concern. Examples of "diseases of concern" include canine parvovirus, canine influenza, and equine herpes.

The new responsibility for regulating diseases of concern could result in additional workload for the Division of Animal Health's Animal Disease Program. If so, there could be a corresponding increase in costs which could vary greatly depending upon the nature of a particular disease of concern and the actions taken by the Division to control it. Costs for the Division's Animal Health Program are largely paid from the GRF.

## **Division of Weights and Measures**

### **Price verification**

The bill requires the Director of Agriculture to verify advertised prices, price representations, and point-of-sale (POS) systems, as necessary, to determine the accuracy of prices and computations, the correct use of the equipment, and the accuracy of prices printed or recalled from a database if a system utilizes scanning or coding in lieu of manual entry. Under the bill, the Director must adopt rules establishing requirements governing the accuracy of advertised prices and POS systems and procedures for enforcement of those rules. Additionally, the bill requires the Director to conduct necessary inspections.

Currently, price verification audits of POS systems are conducted by county and municipal offices of weights and measures. AGR already has the inspection apparatus and equipment in place to implement the POS verification responsibilities required under the bill, so there will not be new equipment costs related to this provision. There may be new costs resulting from the rules adopted by the Director or to conduct necessary inspections. However, these costs would likely be minimal if AGR establishes statewide price verification standards and continues to allow the local authorities to conduct inspections and carry out enforcement actions. County and municipal offices of weights and measures inspectors are licensed and trained by AGR's Division of Weights and Measures. Any additional state costs to regulate the price verification and POS equipment would likely be paid from the GRF.

### **Commercially used weighing and measuring devices**

The bill requires a service person who is employed by a commercially used weighing and measuring device servicing agency to register with AGR. According to AGR, the number of service people that would need to register is fairly small. As a result, AGR could incur minimal GRF costs to administer this registration requirement.

The bill also prohibits a person from installing, repairing, servicing, or placing into service a commercially used weighing and measuring device unless these actions are taken by a service person registered with AGR, by an AGR Division of Weights and Measures inspector, or a county or municipal weights and measures inspector. Under the bill, a person who violates this prohibition is guilty of a second degree misdemeanor on a first offense and a first degree misdemeanor on each subsequent offense within seven years of the first.

Although it is unlikely that very many cases would be prosecuted under this prohibition, municipal courts and county courts of common pleas could incur additional costs if the prohibition results in increased caseloads. Any new costs could be at least partially offset by fines collected from individuals found guilty of violating the prohibition. County sheriffs could also incur additional costs to incarcerate individuals convicted of violating the prohibition. Second degree misdemeanors are punishable by fines of up to \$750 and up to 90 days in jail. First degree misdemeanors are punishable by fines of up to \$1,000 and up to six months in jail.

### **Background checks for 4-H program volunteers**

OSU Extension is an educational entity within OSU's College of Food, Agricultural, and Environmental Sciences that interprets and disseminates knowledge and research developed by the Ohio Agricultural Research and Development Center, OSU, and other land-grant universities to benefit Ohioans. One of OSU Extension's four major program areas is 4-H youth development. Under current OSU Extension policy, 4-H program volunteers are responsible for paying for background check fees. The bill prohibits OSU Extension from charging 4-H program volunteers for any background checks. Presumably, OSU Extension would pay the costs of the background checks. If so, its administrative expenditures would increase depending on the cost of a background check and the number of volunteers applying for 4-H positions. Current base fees for background checks are \$22 for a state-only check and \$24 for an FBI-only check. Generally, background checks can be obtained at a BCI office for the base cost amount, while those obtained from one of the state's 88 county sheriff's offices contain surcharges above the base fee amounts. The average surcharge fee ranges from \$8 for an FBI-only check to \$13 for a combined state and FBI check.

### **Provisions with no apparent fiscal effect**

Other provisions in the bill appear to have no fiscal effect. Among these is a provision modifying the composition of the Farmland Preservation Advisory Board by removing a requirement that one member be a representative of the Ohio State University. Instead, the bill requires one member to be a representative of an Ohio university. The bill also prohibits a person who has been convicted of or pleaded guilty to a violation of the Livestock Dealers Law or rules adopted under it from acting as an owner, supervisor, employee, contractor, volunteer, or agent of a person licensed under the Law unless specifically authorized to do so by the Director of Agriculture. In addition, the bill also makes changes to the basis for standards for weights and

measures. The bill also revises recently enacted provisions of law transferring responsibility for agricultural pollution abatement to AGR by eliminating the requirement that an abatement program recommended by the Ohio Soil and Water Conservation Commission be based on air quality standards. It also eliminates the requirement that the Director of Agriculture coordinate the efforts of state and local governmental agencies to meet the minimum state air and water quality standards relating to agricultural pollutants. Finally, the bill provides an exemption from licensure under the Auctioneers Law for sales of real or personal property conducted via the Internet provided that they are not conducted in conjunction with a live auction. Please see the LSC Bill Analysis for additional details concerning these provisions.

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