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OHIO LEGISLATIVE SERVICE COMMISSION

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Legislative Budget
Office

S.B. 130
135th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the House

Primary Sponsor: Sen. Wilson

Local Impact Statement Procedure Required: No

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Highlights

- State institutions of higher education, if they chose to do so, will incur costs to directly compensate student-athletes for use of their name, image, or likeness (NIL). Costs will vary significantly based on several factors, including the number of student-athletes involved and the institution's existing administrative resources. These expenses could be offset, at least partially, by increased revenue from donations or other third-party sources.
- The bill eliminates the \$50 fee for a certificate of correction filed with respect to the registration or assumed name of a limited liability company (LLC). This would result in a minimal loss of fee revenue to the Business Services Fund (Fund 5990).

Detailed Analysis

Name, image, or likeness (NIL) changes

Background of NIL in Ohio

Since September 30, 2021,¹ the law has authorized intercollegiate athletes enrolled at an institution of higher education in Ohio to earn compensation from their name, image, or likeness (NIL). Generally, current law prohibits an institution of higher education, athletic association, conference, or other group or organization with authority over intercollegiate athletics from taking certain actions regarding an intercollegiate athlete who earns compensation from the athlete's NIL. Institutions must designate an official to review an NIL contract proposal and may establish reasonable policies or standards to address a student's failure to disclose to the official

¹ The NIL provisions in current law replaced similar provisions in Executive Order 2021-10D, signed by the Governor on July 28, 2021.

a proposed contract or any other failure to comply with NIL requirements. For example, an Ohio State University football player could receive a contract from a local car dealership to promote their vehicles on social media. This contract would be reviewed by the university's designated NIL officer for compliance with university policies.

On November 18, 2024, the Governor signed Executive Order 2024-08D, which permits any institution of higher education in Ohio to directly compensate an intercollegiate student-athlete for the use of their NIL, provided that no state funding is used for that purpose. The executive order expires once a pending settlement² between several athletic conferences and the National Collegiate Athletic Association (NCAA) goes into full effect.

The bill

The bill makes various changes to provisions governing how current and certain former intercollegiate student-athletes³ may earn compensation from their NIL. Most notably, the bill:

- Authorizes an institution of higher education in Ohio to directly compensate student-athletes for use of their NIL, provided the institution does not compensate the student-athlete using any fees paid to the institution by, or on behalf of, students attending the institution;
- Authorizes an institution to provide money, assets, resources, opportunities, services, or other benefits to an institutional marketing associate or third-party entity to incentivize it to facilitate opportunities for student-athletes to earn NIL compensation;
- Specifies that receiving compensation for NIL does not make student-athletes employees of the institution;
- Prohibits a student-athlete who is less than 18 years old from entering into an NIL-compensated contract unless the contract includes the written consent of the student-athlete's parent, guardian, or custodian; and
- Authorizes student-athletes, institutions, institutional marketing associates, and third-party entities to take legal action if the provisions of the bill are violated. However, institutions, associates, and entities are granted immunity from lawsuits related to a student-athlete's failure to secure NIL compensation.

For more information on all of the bill's provisions, please see the LSC bill analysis.

Ultimately, the costs to state institutions will vary, depending on the extent to which each chooses to participate in NIL arrangements as proposed by the bill. Any costs would likely depend on a number of factors, including the number of student-athletes involved and the institution's existing administrative resources. According to a spokesperson for the Inter-University Council (IUC), public universities may need to do a full analysis on staffing to determine if additional NIL management staff are needed to implement and manage a new NIL model. For example, universities may incur increased costs related to fundraising for NIL-related funds and ensuring

² [*In re College Athlete NIL Litigation*](#), No. 4:20-cv-0319-CW (N.D. Cal.).

³ The bill expands NIL provisions to include former intercollegiate student-athletes, if they are not playing professionally.

that funds raised through NIL are used in accordance with the requirements of the donor and NIL activity. Costs may also vary depending on the university's size and infrastructure. Larger universities may face higher administrative costs due to the greater number of student-athletes engaging in NIL deals, as well as the complexity of compliance monitoring. On the other hand, smaller institutions may need to add resources to operate under the bill's NIL provisions if they choose to participate. Any expenses could be offset, at least somewhat, by revenue received from donations or other third-party sources, as long as those funds are not from fees paid to the institution by, or on behalf of, students attending the institution.

LLC changes

The bill eliminates the \$50 fee charged by the Secretary of State (SOS) for a certificate of correction filed with respect to the registration or assumed name of a limited liability company (LLC). This would result in a loss of fee revenue to the SOS, based on the number of such filings made. Overall, any amount of revenue loss appears to be minimal. This fee revenue is deposited in the Business Services Fund (Fund 5990). The fund collected \$25.5 million in FY 2022 and \$25.7 million in FY 2023. The bill also makes some revisions pertaining to merger certificates for LLCs. However, these provisions appear to have no fiscal impact.

Notary Public Law

The bill makes several modifications to various provisions of the Notary Public Law. Overall, these changes appear to have little direct fiscal impact on the SOS, which is responsible for the registration of notaries. The bill specifies that a notary whose commission is revoked by the SOS for official misconduct or incapacity is ineligible for reappointment. The bill also modifies the procedures for notaries administering an oath of affirmation to document signers by specifying that a notary who fails to administer this oath when required is potentially subject to revocation of his or her commission, a suspension of the commission, or a letter of admonition to be placed in the notary's file. This is different from current law, which requires a three-year removal from office. The bill also specifies that a notary commission is not an occupation that is a professional license for the purpose of the laws pertaining to occupational regulations. Additionally, the bill makes various changes to the administrative procedures pertaining to violations of the notary law. Specifically, the bill eliminates the requirement that the SOS hold an administrative hearing before disciplining a notary. The bill also identifies the acts or omissions for which the SOS can revoke a commission. Finally, the bill delineates the information required to be contained in the notary database that is kept by the SOS. These changes are unlikely to have anything more than a negligible impact on the number of notaries registered with the SOS, and do not appear to result in any additional administrative costs to the SOS.

The costs of registering a notary public and issuing licenses is paid from the Notary Commission Fund (Fund 4120). This fund also collects the \$15 notary public license fee. Notary licenses are valid for five years, except for those held by practicing attorneys, which are valid as long as the attorney lives in Ohio. The fund collected \$412,000 in FY 2022 and \$413,000 in FY 2023. Expenses paid from Fund 4120 also fluctuate and have recently amounted to between approximately \$260,000 and \$475,000 annually. As of December 2023, the current cash balance of Fund 4120 is \$646,000.

The bill contains two provisions that do not appear to have any direct fiscal effects. The first of these is a provision that adds clerks of courts of record and deputy registrars to the list of

county government officials that are required to accept electronically notarized documents, if they contain an authenticator certificate. County auditors, engineers, and recorders are already required to accept these documents under current law. Requiring these entities to accept these documents appears to have no direct fiscal impact on these entities. The other provision with no direct fiscal effect is one that specifies that a notary commission is not an occupation or professional license for the purpose of the laws pertaining to occupational regulations.