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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Legislative Budget
Office

S.B. 41
135th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 41's Bill Analysis](#)

Version: As Passed by the House

Primary Sponsor: Sen. Roegner

Local Impact Statement Procedure Required: No

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Highlights

Building appeals

- The Board of Building Appeals, and county and municipal boards could establish fees to offset additional administration and processing costs of the expedited appeal process outlined in the bill. These fees cannot exceed \$500 for each day the appeal is pending or \$1,000 in total.

Sales and use tax exemption

- The bill exempts certain trailers, utility vehicles, compact tractors, and all-purpose vehicles from state and local sales and use tax. The estimated revenue loss from the exemption is between \$7 million and \$22 million annually, of which the GRF share is 96.6% while the remaining loss is split between the Local Government Fund and Public Library Fund.

Waste energy recovery system

- The bill expands the definition of a waste energy recovery system (WERS) to include facilities' use of steam from waste heat generated by a manufacturing process to power another manufacturing process.
- The expanded definition allows some steam-producing facilities to certify renewable energy credits (RECs) for sale to electric distribution utilities (EDUs) and competitive retail electric service (CRES) providers seeking to comply with Ohio's renewable portfolio standard (RPS).
- Minimal impact is expected to the overall price of RECs from the increased supply resulting from the bill. Therefore, the bill has a negligible effect on state and local expenditures for electricity.

Broadband Pole Replacement and Undergrounding Program

- The Department of Development will incur negligible costs to update the reimbursement formula for the Broadband Pole Replacement and Undergrounding Program. H.B. 33 appropriated \$50.0 million during the FY 2024-FY 2025 biennium for the program under appropriation line item (ALI) 1956G9, Broadband Pole Replacement and Undergrounding Program.

Department of Commerce

- The Department of Commerce could see a small increase in costs to investigate complaints of situations where employers are not providing pay stubs as required under the bill.

Detailed Analysis

Building appeals

Any additional costs incurred through the expedited appeals process would likely be offset through appeal fees permitted under the bill. The bill permits the request of an expedited appeal of an order issued by the Board of Building Appeals, or county and municipal boards of building appeals. The bill allows the administration and processing costs of an expedited appeal to be offset by additional fees. Those fees may be established by the Board of Building Appeals, and county and municipal boards. Fees for an expedited appeal cannot exceed \$500 for each day the appeal is pending or \$1,000 in total. Under continuing law, the Board of Building Appeals is permitted to establish reasonable fees for appeals, based on actual costs for administration of filing and processing and not exceeding \$200 (the current fee is \$200). County and municipal boards of building appeals are also permitted to establish reasonable, cost-based fees for appeals that do not exceed \$100. At the state level, the Board of Building Appeals used to conduct three in-person hearings each month. However, since 2020, these hearings have been held remotely through electronic means, reducing administrative costs.

Waste energy recovery system definition

This provision of the bill expands the definition of a waste energy recovery system (WERS) to include facilities' use of steam from waste heat generated by a manufacturing process to power another manufacturing process. The expanded definition allows some steam-producing facilities to certify renewable energy credits (RECs) for sale to electric distribution utilities (EDUs) and competitive retail electric service (CRES) providers seeking to comply with Ohio's renewable portfolio standard (RPS).

The RPS requires specific annual benchmarks that EDUs and CRES providers must meet regarding the proportion of electricity generated from renewable energy resources. For calendar year (CY) 2024, this proportion is 7.5% of electricity supply.¹ In order to meet these requirements, EDUs and CRES providers often purchase RECs from facilities generating electricity from renewable sources, which are sold on a megawatt-hour (MWh) basis and represent the compliance currency for Ohio's RPS. This provision would allow RECs to be certified in the aforementioned steam-producing facilities as a result of the energy savings realized from the

¹ R.C. 4928.64(B)(2).

steam's utilization in another manufacturing process, rather than limiting certification solely to the direct production of electricity.

Minimal impact is expected to the overall price of RECs from the increased supply resulting from the provision's change in definition. As a result, this provision is expected to have a negligible effect on state and local expenditures for electricity.

Public utility cost recovery for use of right of ways

This provision requires the Public Utilities Commission of Ohio (PUCO) to authorize cost recovery, either as a regulatory asset or as a separate charge and collection, of costs directly incurred by a public utility as a result of a governmental entity's regulation of the utility's occupancy or use of a right of way; however, the cost must have occurred after the test year of the utility's most recent rate proceeding or the initial effective date of rates in effect.

Any cost recovery authorized as a regulatory asset under this provision is not subject to any agreement establishing price caps, rate freezes, or rate increase moratoria, or any other provision of law. PUCO is also authorized to provide for retroactive adjustments as the Commission deems appropriate.

Negligible cost, from the charges incurred through the use of public utility products, to state and local governments is expected from the enactment of the provision.

Purchase agreements and workers' compensation

The bill states that an employer is not required to provide the Administrator of Workers' Compensation with a copy of a purchase agreement for the Administrator to complete a transfer of experience when an employer transfers a business to another employer if there is a family relationship or other similar connection between the predecessor and the successor. This provision has no fiscal impact on the state or political subdivisions.

Broadband Pole Replacement and Undergrounding Program

The Department of Development will incur negligible costs to update the reimbursement formula for the Broadband Pole Replacement and Undergrounding Program. The bill specifies that reimbursements to perform a pole replacement or mid-span pole installation are equal to the lesser of \$7,500 multiplied by the number of pole replacements and mid-pole installations in an application, or 75% of the total eligible costs therein. Reimbursement costs for undergrounding must not exceed 75% of eligible costs and are equal to the reimbursement if the applicant did a pole replacement or mid-span pole installation. To the list of eligible expenses for reimbursement, the bill adds costs incurred if the undergrounding is needed because the process for obtaining access to poles is causing, or reasonably anticipated to cause, a delay that will impact the ability of the provider to meet deadlines required by an agreement or terms of support to provide qualifying broadband service to an address within an unserved area.

Currently, the pole replacement or mid-span pole installation reimbursement is the lesser of \$7,500 or 75% of the total amount paid for each replacement or installation. The total reimbursement for undergrounding costs must not exceed what otherwise would be available if pole replacement or mid-span pole installation were done instead.

The Broadband Pole Replacement and Undergrounding Program was created in H.B. 33 of the 135th General Assembly and supported by a cash transfer of up to \$50.0 million from the

FY 2023 GRF ending balance. This appropriation line item (ALI) is used to provide reimbursements to providers of qualifying broadband service for utility pole replacements, mid-span pole installations, and undergrounding that accommodate facilities used to provide qualifying broadband service access under the new Broadband Pole Replacement and Undergrounding Program.

Agricultural sales and use tax exemption

This provision of the bill exempts certain trailers, utility vehicles, compact tractors, and all-purpose vehicles from state and local sales and use tax for farmers submitting copies of Schedule F from their federal tax return (Form 1040) to the Tax Commissioner.

LBO is unaware of any reliable public data sources needed to precisely estimate the provision's fiscal effect; however, a rough estimate of the total revenue loss from the exemption is between \$7 million and \$22 million annually. The state sales and use tax loss would be shared by the GRF (96.60%), the Local Government Fund (LGF), and the Public Library Fund (PLF), both receiving 1.70%. The state's portion of the sales and use tax loss from farmer purchases is estimated to be between \$6 million and \$18 million.

Counties and transit authorities are permitted to levy limited sales and use taxes in addition to the statewide 5.75% rate. As a result, these divisions of local government would incur added revenue losses, equal to about 25% of state sales tax revenue reductions stated on an all-funds basis.

Department of Commerce

The bill enacts the "Pay Stub Protection Act" and would require employers to provide each employee with a written or electronic statement or access to a statement of the employee's earnings and deductions for each pay period on the employer's regular paydays. Because providing pay stubs is a standard practice of public employers the bill has no effect on the revenues or expenditures of the state or political subdivisions. However, it is possible that the Department of Commerce would see some small increase in costs for investigating reports of situations where private sector employers may not have timely provided pay stubs to their employees. Although it is not mentioned specifically in the bill, these investigations would likely be carried out by the Bureau of Wage and Hour in the Division of Industrial Compliance.

Battery-charged fences

This provision will have minimal fiscal impacts on the state or local political subdivisions. Specifically, the bill eliminates state regulation of battery-charged fences installed on private, nonresidential property, and instead expressly authorizes the installation, operation, and use of such fences. Additionally, it prohibits a county, township, or municipal corporation from adopting or enforcing an ordinance, order, resolution, or regulation that expressly, implicitly, or functionally prohibits the installation of a battery-charged fence that meets all of the standards established in the bill. The bill, however, retains the authority for a county, township, or municipal corporation to require a permit or fee for the installation or use of a battery-charged fence or to prohibit or impose requirements on the installation, operation, or use of a fence that does not meet the standards described above.

Ohio Securities Law

The bill makes clarifying changes to Ohio Securities Law, including definition changes to “manipulative practices” and “disposition of equity securities of a corporation.” These provisions have no direct fiscal impact on the state or political subdivisions.