Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 23 of the 131st G.A.

Date: February 17, 2015

Status: As Introduced

Sponsor: Rep. Amstutz

Local Impact Statement Procedure Required: No

Contents: To use one-half of any income from oil and gas leases on state land to fund temporary income tax reductions, to modify the law governing the use of new Ohio use tax collections from remote sellers for income tax reductions, and to require the Director of Budget and Management to recommend whether or not income tax rates should be permanently reduced

State Fiscal Highlights

STATE FUND	FY 2016	FY 2017	FUTURE YEARS
Income Tax Reduction Fund (Fund 4R80)			
Revenues	Potential increase	Potential increase	Potential increase
Expenditures	- 0 -	- 0 -	- 0 -
State Land Royalty Fund			
Revenues	Potential decrease	Potential decrease	Potential decrease
Expenditures	- 0 -	- 0 -	- 0 -
Forestry Mineral Royalties Fund (Fund 5LB0)			
Revenues	Potential decrease	Potential decrease	Potential decrease
Expenditures	- 0 -	- 0 -	- 0 -
Parks Mineral Royalties Fund (Fund 5KB0)			
Revenues	Potential decrease	Potential decrease	Potential decrease
Expenditures	- 0 -	- 0 -	- 0 -
Wildlife Habitat Fund (Fund 81B0)			
Revenues	Potential decrease	Potential decrease	Potential decrease
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2016 is July 1, 2015 – June 30, 2016.

- The bill earmarks one-half of the income from signing fees, rentals, and royalty payments with respect to certain oil and gas leases on state land to the Income Tax Reduction Fund (ITRF, Fund 4R80). The potential increase in revenue to the ITRF is contingent upon state agencies entering in oil and gas leases.
- The diversion of income from signing fees, rentals, and royalty payments to the ITRF would reduce revenue to the State Royalty Fund, and three funds in the budget of the Ohio Department of Natural Resources: the Forestry Mineral Royalties

Fund (Fund 5LB0), the Parks Mineral Royalties Fund (Fund 5KB0), and the Wildlife Habitat Fund (Fund 81B0).

- The bill clarifies the definition of "remote seller" for purposes of earmarking use tax collections from remote sellers for the ITRF. The bill also states that these specified use tax collections will not occur unless Congress enacts the "Marketplace Fairness" legislation. The fiscal impact of this provision is likely minimal.
- The bill authorizes the Director of the Office of Budget and Management (OBM) to recommend whether and to what extent income tax rates should be proportionately and permanently reduced based on revenue credited to the ITRF.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

The bill makes changes to the funding and operation of the Income Tax Reduction Fund (ITRF, Fund 4R80) which is used to temporarily reduce personal income tax rates.

State land oil and gas lease income

Generally, income received by state agencies from an oil or gas lease entered into on or after September 30, 2011, on lands owned by the agency is credited to the State Land Royalty Fund (created in Am Sub. H.B. 133 of the 129th General Assembly). This fund is used to pay capital costs, including equipment and renovations and repairs of facilities to those contributing state agencies. However, if the land is owned by the Division of Forestry, Wildlife, or Parks and Recreation of the Department of Natural Resources, that revenue is credited, respectively, to one of the following funds: (1) the Forestry Mineral Royalties Fund (Fund 5LB0), (2) the Wildlife Habitat Fund (Fund 81B0), or (3) the Parks Mineral Royalties Fund (Fund 5KB0).

The bill earmarks one-half of the income from signing fees, rentals, and royalty payments from certain oil and gas leases on state land to the ITRF. The bill credits the revenue initially to the GRF, and then the Director of OBM, every January and June, is required to transfer six-months' worth of that revenue from the GRF to the ITRF. The remaining one-half of the income from oil and gas leases on state land is credited to the funds to which all such revenue is credited under current law.

Earmarking revenue from oil and gas leases will reduce revenues to the State Royalty Fund, Fund 5LB0, Fund 81B0, and Fund 5KB0, and increase revenue to Fund 4R80. However, the timing of the reductions and, alternatively, increases in revenue to the ITRF, potentially several millions of dollars, is uncertain. As of this writing, state agencies may not currently enter into oil and gas leases because the members of the Oil and Gas Leasing Commission (also created in H.B. 133 of the 129th

General Assembly) have not been appointed, and thus, the relevant funds have not received any income from oil and gas leases. As of January 2015, the State Royalty Fund, Fund 5LB0 and Fund 5KB0 have zero cash balances; Fund 81B0 has a cash balance of $2.9 million from transfers of investment earnings from the Wildlife Habitat Trust Fund (a custodial fund held by the Treasurer of State).

Remote seller use tax collections

Under current law, use tax collections are credited to the GRF, but a portion of those collections attributable to remote sellers is subsequently transferred to the ITRF. Current law specifies that a seller is not legally required to collect use tax if the seller has $1 million or less in annual sales for which the remote small seller is not required to collect and remit any state's use tax. Voluntary Ohio use tax collections by an out-of-state seller not legally required to collect the tax, in excess of the amount the seller remitted in FY 2013, are earmarked for deposit in the ITRF, on a semiannual basis. Use tax remitted due to the Streamlined Sales and Use Tax Agreement is not to be included in the calculation of new remote seller use tax receipts, thereby precluding collections made as required by that agreement from being counted as "new" collections to be credited to the ITRF.

The bill clarifies the scope of who is a "remote seller" for the purpose of earmarking use tax collected by those sellers for the ITRF. The bill specifies that a person is a remote seller if all of the following apply: (1) the person did not have nexus with Ohio before the bill's effective date, (2) the person is required to collect and remit use tax pursuant to federal "Marketplace Fairness" legislation, and (3) the person was not a voluntary use tax remitter before the effective date of the federal legislation.

The modification of the definition of remote seller means the state will not collect use taxes from anyone qualifying as a remote seller under the bill until Congress enacts "Marketplace Fairness" legislation, which has not yet been enacted by Congress. The bill also specifies that use tax receipts collected by voluntary remote sellers and those sellers participating in the Streamlined Sales and Use Tax Agreement will continue to be credited to the GRF. The fiscal effect of this provision is likely to be minimal.

Report on income tax reductions

After the Director of OBM certifies that the ITRF has a substantial enough balance to temporarily reduce income rates, the bill requires the Director to issue a report to the Governor, Speaker of the House of Representatives, and President of the Senate containing the amounts credited to the ITRF in the preceding fiscal year. The bill also authorizes the Director to recommend whether and to what extent income tax rates should be proportionately and permanently reduced based on revenue credited to the ITRF.

Under current law, the ITRF receives surplus revenue that is available after the balance in the state's Budget Stabilization Fund equals 5% of annual GRF expenditures and certain inter-year fund carryovers and reserves are made, and use tax collected and remitted by remote sellers. The bill would add revenue from oil and gas royalties as a third source of revenue to the ITRF, as described above.

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