Ohio Legislative Service Commission

Jean J. Botomogno

Fiscal Note & Local Impact Statement

Bill: H.B. 491 of the 131st G.A.

Date: May 23, 2016

Status: As Introduced

Sponsor: Rep. Anielski

Local Impact Statement Procedure Required: Yes

Contents: Authorizes a nonrefundable credit against the commercial activity tax for businesses that have facilities located in active foreign-trade zones

State Fiscal Highlights

- The bill authorizes a nonrefundable credit against the commercial activity tax (CAT) for expenditures incurred for specified purposes by businesses in Ohio foreign-trade zones.
- The bill reduces revenue from the CAT by an uncertain amount. The potential revenue loss would be dependent on the level of qualifying expenditures, and thus could be sizable.
- CAT revenue is deposited into the GRF and two local government funds used to reimburse school districts and other units of local government for lost revenue from the phase-out in tangible personal property taxes. Under current law, the GRF receives 75% of CAT revenue. The School District Tangible Property Tax Replacement Fund (Fund 7047) and the Local Government Tangible Property Tax Replacement Fund (Fund 7081) receive 20% and 5%, respectively.
- A loss of GRF revenue would reduce distributions to the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065), which will receive 1.66% and 1.70%, respectively, of GRF revenue in FY 2017. The PLF share reverts to 1.66% in FY 2018 and thereafter under current law.

Local Fiscal Highlights

- The bill reduces revenue from the CAT. A share of CAT revenue is deposited into two local government funds used to reimburse school districts and other units of local government for lost revenue from the phase-out in tangible personal property taxes. Thus the bill reduces revenue to school districts and other local governments.
- A reduction in state distributions to the LGF and PLF would reduce revenues of units of local government and libraries.

Detailed Fiscal Analysis

The bill authorizes a nonrefundable credit against the commercial activity tax (CAT) for businesses that have one or more facilities located in active foreign-trade zones (FTZs) in Ohio.[1] FTZs are areas designated by the Foreign-Trade Zones Board (FTZ Board), pursuant to federal law, for the purpose of storing, exhibiting, assembling, manufacturing, and processing foreign and domestic goods. The credit equals expenditures incurred by the business during the tax period for any of the following purposes: (1) creating jobs at the FTZ facility, (2) providing training or continuing education to employees working at the FTZ facility, (3) making capital improvements to the FTZ facility including, specifically, installation of renewable energy resources, or (4) undertaking initiatives to increase exports to foreign nations of goods or services produced at the FTZ facility.

The credit would be claimed against the CAT due on the business's gross receipts derived from the FTZ facility, but expenditures exceeding the tax due cannot be claimed as a credit in future tax periods. The bill requires businesses claiming the credit to file records of the commitments and expenditures upon which the credit is based with the Tax Commissioner. If the Commissioner and the Director of Development Services determine that a business has failed to comply with the reporting requirement, the Commissioner may make an assessment against the business proportionate to the compliance failure. The assessment may include applicable penalty and interest.

LSC is unable to determine the commitments and expenditures of firms that may be used as the basis of the CAT credit. Therefore, LSC is unable to estimate the potential revenue loss from the bill. Though the revenue reduction is undetermined, it could be sizable depending on the level of qualifying expenditures incurred by firms in the FTZs and their current CAT payments, none of which can be ascertained by LSC.

CAT revenue is deposited into the GRF and two local government funds used to reimburse school districts and other units of local government for lost revenue from the phase-out in tangible personal property taxes. Under current law, the GRF receives 75% of CAT revenue; the School District Tangible Property Tax Replacement Fund (Fund 7047) and the Local Government Tangible Property Tax Replacement Fund (Fund 7081) are credited 20% and 5% of CAT receipts, respectively.

A portion of GRF tax revenue is distributed to the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065), with the balance retained by the GRF. The LGF and PLF shares are 1.66% each under permanent law, but the PLF instead receives 1.70% during the current biennium. Reduced distributions to these two state funds would lower revenues of units of local government and public libraries.

HB0491IN.docx/lb

[1] The U.S. Foreign-Trade Zone Board reports eight active foreign-trade zones in Ohio with merchandise received and shipments between $10 billion and $25 billion in 2014.