OHIO LEGISLATIVE SERVICE COMMISSION

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Fiscal Note & Local Impact Statement

Bill: H.B. 592 of the 131st G.A.

Date: December 5, 2016

Status: As Introduced

Sponsor: Rep. Merrin

Local Impact Statement Procedure Required: Yes

Contents: Exempts small business investment companies from the financial institutions tax

State Fiscal Highlights

STATE FUND	FY 2017	FY 2018	FUTURE YEARS
General Revenue Fund			
Revenues	Potential loss	Potential loss	Potential loss
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2017 is July 1, 2016 – June 30, 2017.

- Exempting small business investment companies (SBICs) from the financial institutions tax (FIT) and subjecting them to the commercial activity tax (CAT) would result in a net reduction to GRF tax revenue of unknown magnitude.
- This exemption would be retroactive to January 1, 2014, when the FIT became law. Thus, any SBIC that paid the FIT would be eligible for a refund.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2017	FY 2018	FUTURE YEARS
Counties			
Revenues	Potential loss	Potential loss	Potential loss
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- A decrease in GRF revenues will diminish revenue sharing distributions to local governments and libraries through the state's Local Government Fund (LGF, or Fund 7069) and Public Library Fund (PLF, or Fund 7065). Under permanent law, the LGF and the PLF each receive monthly distributions of 1.66% of GRF tax revenues.

Detailed Fiscal Analysis

The bill exempts small business investment companies (SBICs) from the financial institutions tax (FIT). SBICs are privately owned and managed investment funds licensed under federal law. An SBIC uses its own capital and, in most cases, securities guaranteed by the United States Small Business Administration (SBA) to lend to and make equity investments in qualifying small businesses.

The FIT is a tax on banks and other kinds of financial institutions, including SBICs. Under FIT law, both Ohio-based and non-Ohio-based SBICs are taxable entities. Tax liability is determined on the basis of the portion of a financial institution's equity capital attributable to its Ohio business, as measured by the relative amount of its gross receipts that arise from Ohio operations. The FIT tax rate is tiered according to an institution's Ohio equity capital: the rate is 0.8% on the first $200 million, 0.4% on the next $1.1 billion, and 0.25% for equity capital in excess of $1.3 billion. The minimum tax is $1,000. All revenue from the tax is credited to the General Revenue Fund.

The exemption in the bill applies both retrospectively back to January 1, 2014, when the FIT was enacted, and prospectively. This implies SBICs that previously paid the FIT would be eligible to receive refunds. Any financial institution that is subject to the FIT is exempted from the commercial activity tax (CAT), which is a general tax on the gross receipts of all businesses not expressly exempted from that tax. Thus, by operation of law, SBICs would become subject to the CAT at a rate of 0.26% of taxable gross receipts, if they are exempted from the FIT. However, SBICs are structured in such a way that the bulk of their income is investment income distributed to partners. Investment income generally is not subject to the CAT. SBICs may also have some income as management fees but, to be taxable under the CAT, fees received would have to be at least $150,000 per year. No information is publicly available on potential fee revenue to SBICs.

Data from the federal government indicates eight Ohio SBIC licensees (note that each licensee may create more than one investment fund, and several of the Ohio licensees manage more than one fund). However, the number of out-of-state SBICs which have invested in small businesses in Ohio, and thus would be taxable under the FIT, are unknown.

Fiscal impact

The exemption from the FIT will reduce revenues to the GRF by an uncertain amount. Assuming SBICs have paid the FIT tax for tax year (TY) 2014, TY 2015 and TY 2016, amounts refunded may be several millions of dollars. The exemption will also result in foregone GRF revenue in future years, depending on the level of equity capital of SBICs. Assuming gross receipts from SBICs are taxable under the CAT, revenue from this tax is likely to be relatively small, as most of the income to SBICs is typically excluded from the CAT tax base. Thus, on balance, the bill would result in a net reduction of GRF revenues of unknown magnitude.

The decrease in GRF revenues will diminish revenue sharing distributions to local governments and libraries through the state's Local Government Fund (Fund 7069) and Public Library Fund (Fund 7065). The LGF and the PLF will each receive monthly distributions of 1.66% of GRF tax revenues received the previous month beginning in FY 2018 under current law. H.B. 64 of the 131st General Assembly enacted a provision in temporary law, set to expire at the end of FY 2017, under which the PLF receives 1.70% of GRF tax revenue.

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