



# OHIO LEGISLATIVE SERVICE COMMISSION

*Tom Wert and other LSC staff*

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## Fiscal Note & Local Impact Statement

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**Bill:** H.B. 463 of the 131st G.A.

**Date:** December 8, 2016

**Status:** As Passed by the Senate

**Sponsor:** Rep. Dever

**Local Impact Statement Procedure Required:** No

**Contents:** Requires health insurance policies to include coverage for autism spectrum disorder treatment and makes various other changes

### State Fiscal Highlights

- **Autism spectrum disorder coverage.** The Department of Insurance would incur costs to conduct an actuarial study of all health care mandates under state law that apply to individual and group health insurance plans that are not subject to the "Employee Retirement Income Security Act of 1974."
- **Housing discrimination cases.** There may be a shift in housing discrimination cases from the Ohio Civil Rights Commission to courts of common pleas. The potential effects on the Commission may be: (1) a workload and related expenditure reduction, and (2) a possible loss in federal fair housing program reimbursement money for cases that the Commission would otherwise have investigated. The state's General Revenue Fund may gain money from the Commission's assessment of a civil penalty in housing discrimination cases.

### Local Fiscal Highlights

- **Autism spectrum disorder coverage.** The autism coverage requirements of the bill may increase costs to counties, municipalities, townships, and school districts of providing health benefits to employees and their beneficiaries. LSC staff could not determine the precise magnitude of the fiscal impact due to lack of information on the number of individuals who have been diagnosed with an autism spectrum disorder (ASD) under their health benefit plans. Very rough estimates suggest that the statewide cost for political subdivisions could be in the range of several millions.
- **Housing discrimination cases.** Courts of common pleas are expected to absorb any additional civil actions filed alleging housing discrimination with little, if any, discernible effect on their daily cost of operations.

- **Real property foreclosures.** Local taxing authorities and courts of common pleas could suffer a loss of revenue in cases where unpaid taxes and court costs are discharged because real estate subject to a foreclosure auction is sold at a price less than the total of unpaid taxes owed on the property and court costs levied on the sale.
  - **Community Reinvestment Area – remodeling tax-exempt values.** A change in how tax-exempt value is calculated for a remodeling in a Community Reinvestment Area may result in loss of local property tax revenue.
  - **Brownfield remediation exemption.** Valuing the partial tax exemption on remediated brownfield property from the beginning of the year in which environmental remediation began to each of the ten years for which the tax exemption lasts may increase local property tax revenue loss.
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## Detailed Fiscal Analysis

### Coverage for autism services

The bill requires any insurance plan issued by a health insurer that provides basic health care services to provide coverage for the screening, diagnosis, and treatment of autism spectrum disorder (ASD). The bill also prohibits an insurer from terminating an individual's coverage, or from refusing to renew coverage to an individual, solely because the individual is diagnosed with or has received treatment for an ASD. The bill's requirements apply to health insuring corporations, sickness and accident insurers, and multiple employer welfare arrangements.<sup>1</sup>

The bill specifies the minimum coverage for the following benefits for enrollees under the age of 14: (1) for speech and language therapy or occupational therapy that is performed by a licensed therapist, 20 visits per year for each service, (2) for clinical therapeutic intervention for enrollees under the age of 14 that is provided by or under the supervision of a professional who is licensed, certified, or registered by an appropriate agency of this state to perform such services in accordance with a health treatment plan, 20 hours per week, and (3) for mental or behavioral health outpatient services for enrollees under the age of 14 that are performed by a licensed psychologist, psychiatrist, or physician providing consultation, assessment, development, or oversight of treatment plans, 30 visits per year. The bill also specifies that the required ASD coverage must not be subject to dollar limits, deductibles, or coinsurance provisions that are less favorable to an enrollee than the dollar limits, deductibles, or coinsurance provisions that apply to substantially all medical and surgical benefits under the policy, contract, or agreement.

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<sup>1</sup> The bill does not apply to nongrandfathered plans in the individual and small group markets or to Medicare supplement, accident-only, specified disease, hospital indemnity, disability income, long-term care, or other limited benefit hospital insurance policies.

The bill provides that a policy, contract, or agreement must stipulate that the required ASD coverage be contingent upon both of the following: (a) the covered individual receiving prior authorization for the services in question, and (b) the services in question being prescribed or ordered by either a developmental pediatrician or a psychologist trained in autism. The bill allows an insurer to review a treatment plan for an enrollee who is receiving ASD treatment, except for inpatient services, annually unless the insurer and the enrollee's treating physician or psychologist agree that a more frequent review is necessary. The bill specifies that insurers must cover the cost of obtaining any review or treatment plan.

Under current law, no mandated health benefits legislation enacted by the General Assembly may be applied to sickness and accident or other health benefits policies, contracts, plans, or other arrangements until the Superintendent of Insurance determines that the provision can be applied fully and equally in all respects to employee benefit plans subject to regulation by the federal Employee Retirement Income Security Act of 1974 (ERISA) and employee benefit plans established or modified by the state or any political subdivision of the state. The bill includes provisions that exempt its requirements from this restriction.

### **Fiscal effect**

The bill would have no impact on the state's self-insured health benefit plan because the plan currently provides ASD coverage due to the Executive Order signed by the Governor in December 2012.<sup>2</sup> All health insurance plans offered through the federal Exchange also provide coverage related to autism as the result of an Executive Order.

In the case of local governments, it is not clear that the bill would apply to local governments that self-insure their health plans,<sup>3</sup> since public employee benefit plans are not specifically required to provide the coverage. However, the bill would increase insurance premiums of some local governments' health benefit plans when they are provided by an insurance policy or an HIC. Any increase in insurance premiums would increase costs to local governments to provide health benefits to employees and their dependents. In addition, even if some of the treatments or therapies for ASD may already be fully or partially covered in some local governments' benefit plans, their future premium rates may also increase to reflect an increased level of utilization for those treatments, therapies, or visits that are not captured in their current rates. Some local governments may currently offer health plans that are fully compliant with the bill, and for those governments there would be no fiscal effect, just as with the state.

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<sup>2</sup> There is the potential for a future fiscal effect, though, in the case that the Executive Order was repealed under a new Governor.

<sup>3</sup> According to the 2015 Report on the Cost of Health Insurance in Ohio's Public Sector, prepared by the State Employment Relations Board, approximately 70% of local public employers self-insured their health benefit plans in 2014.

LSC staff is unable to estimate the magnitude of the bill's fiscal impact on local governments statewide with any precision due to lack of information on the number of individuals who have been diagnosed with an ASD and the specific benefits offered under their employee health benefit plans.

### **Background Information**

The number of Ohioans who have been diagnosed with an ASD is undetermined. However, according to nationwide data from a Centers for Disease Control (CDC) report,<sup>4</sup> one in every 68 children aged eight years was diagnosed with autism in 2010. Based on 2014 estimated Ohio population published by the U.S. Census Bureau,<sup>5</sup> there were 1,715,337 Ohioans under the age of 12 in 2014. Assuming the CDC ratio, approximately 25,226 Ohioans aged 12 years or less in 2014 may have been diagnosed with autism.

In 2014, approximately 59.7% of Ohioans received their health insurance coverage through an employer, based on data derived from the Annual Social and Economic Supplement of the Current Population Survey (CPS), published by the U.S. Census Bureau. In addition, according to U.S. Bureau of Labor Statistics (BLS) annual average nonagricultural employment data for Ohio in 2014, 1.1% of the Ohio nonfarm workforce was employed by state government, 4.4% was employed by local government, and 5.2% was employed in local government education. Based on the 25,226 estimate above, and the 59.7% Census Bureau estimate, approximately 15,060 children diagnosed with autism are covered by an employer-provided health plan. The number of such children that are covered by the state health plan is estimated to be approximately 166, the number that are covered by a health plan sponsored by a county, municipality, or township is estimated to be approximately 663, and the number covered by a school district-sponsored health plan is estimated to be approximately 783.

The overall cost of the bill would depend not only on the number of children eligible for the coverage, but also on the cost of treating each child. Presumably most basic medical care is already provided by the vast majority of health plans. The major new cost from the bill is likely due to the minimum required coverage for clinical therapeutic intervention.

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<sup>4</sup> Source: Autism and Developmental Disabilities Monitoring Network Surveillance Year 2010, CDC's Autism and Developmental Disabilities Monitoring (ADDM) Network, March 28, 2014.

<sup>5</sup> Annual Estimates of the Resident Population by Single Year of Age and Sex for the United States, States, and Puerto Rico Commonwealth: April 1, 2010 to July 1, 2014, published by U.S. Census Bureau, Population Division, June 2015.

According to the CDC's website, *Autism Spectrum Disorder (ASD) Data & Statistics*,<sup>6</sup> the estimated costs for treating a child with ASD is about \$17,000 more per year compared to a child without ASD. Assuming all of the children estimated to have been diagnosed with autism and covered under local governments' health benefit plans above utilized ASD-related treatments, the estimated total costs to local governments to provide autism coverage could be about \$24.6 million per year statewide in total. The estimated costs for school districts could be about \$13.3 million per year. The estimated costs to counties, municipalities, and townships could be about \$11.3 million per year. To the extent that the benefits are already being provided under current plans, the actual costs would be lower than these estimates. Furthermore, if the local governments that self-insure their health benefit plans are not affected by the bill's requirements, the costs would likely be well below these estimates. The actual costs would depend on the number of children who may have been diagnosed with an ASD and the type of ASD treatments that may be used for such children.

The above estimates are based on children under age 12. Some published research has concluded that intensive autism treatment at young ages, with some studies defining this as up to age 12, may be helpful to improve the health and well-being of the study participants in the long term.

### **Housing discrimination cases**

Under current law, a complainant may be awarded punitive damages in housing discrimination cases before the Commission. Current law also permits a court of common pleas to assess punitive damages in such cases. The bill eliminates the authority of the Commission to award punitive damages to a complainant and instead permits the Commission to assess a civil penalty. The bill also allows the respondent to recover attorney's fees if the Commission finds that the person did not engage in an unlawful discriminatory practice.

As a result of these changes, it is possible that certain persons that otherwise would have filed a charge with the Commission will instead file a civil action in the appropriate court of common pleas, as the award of punitive damages will still be available in the latter but not the former. The number of housing discrimination allegations that may shift from the Commission to a court of common pleas is not expected to be significant. A court should be able to absorb any additional civil action filings into its caseload with little, if any, discernible effect on daily operations and related costs.

The bill also replaces the Commission's current authority to award punitive damages to complainants with a provision permitting the Commission to assess a civil penalty against the person who has been found to have engaged in unlawful housing

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<sup>6</sup> CDC website at [www.cdc.gov](http://www.cdc.gov), visited January 8, 2016. (The estimate is derived from: Lavelle TA1, Weinstein MC, Newhouse JP, Munir K, Kuhlthau KA, Prosser LA, *Economic burden of childhood autism spectrum disorders*, Pediatrics, March 2014.)

discrimination. Presumably, as the bill is silent on the matter, the money from the penalty will be deposited in the state treasury to the credit of the General Revenue Fund. Depending on the circumstances of the violation, the amount of a civil penalty cannot exceed \$10,000, \$25,000, or \$50,000.

The Commission receives, on average, 400 allegations of housing discrimination annually, and is reimbursed by the federal Department of Housing and Urban Development (HUD) to offset the cost of investigating these cases. For each complainant that decides to instead file a civil action in a court of common pleas, there are two potential effects for the Commission: (1) a possible workload and related expenditure reduction, and (2) a loss in federal HUD reimbursement money.

### **Real property foreclosures**

The bill makes changes relative to judicial foreclosure actions which appear to have little or no fiscal effect. These changes include modification to the manner in which property taxes are collected when real property is purchased in some kinds of court-ordered sales, changes involving who may pay excess private selling officer fees, and the priority of creditors seeking to redeem property in foreclosure sales of residential properties.

Two changes made by the bill may have fiscal effects for courts of common pleas and local taxing authorities. First, under the bill a court would be required to hold an oral hearing when deciding a motion to proceed in an expedited manner in a foreclosure action. If this results in additional workloads for courts of common pleas, the courts could incur a slight increase in costs. Second, the bill requires the minimum bid for a property sold at a court-ordered foreclosure auction to be equal to the total amount of unpaid taxes and court costs unless that amount is greater than the appraised value of the property. In that case, the bill requires the court to determine a minimum bid not to exceed the appraised value of the property. In the event that a property is sold for less than the unpaid taxes and court costs, the bill requires the court to order the county auditor to discharge all unpaid taxes and court costs. If unpaid taxes and court costs are discharged, local courts, school districts, and other entities that levy taxes against the property would suffer a loss of revenue.

### **Calculation of CRA remodeling exempt value**

The bill changes the determination of tax-exempt value for a remodeled structure in a Community Reinvestment Area, from the amount by which the remodeling increases the value, to the value increase after the start of remodeling regardless of the reason for the increase. This change has the potential to increase loss of local property tax revenue, by increasing the amount of property value that is tax exempt. The bill also extends the maximum period of real property tax exemption to 15 years, from ten years for one- and two-family unit dwellings and 12 years for dwellings with more than two units and for commercial and industrial property. This maximum may be exceeded by up to ten more years for certain historical and other structures, unchanged by the bill.

## **Brownfield remediation**

The bill amends law granting partial tax exemption for real property that is contaminated ("brownfield property") and is deemed to have successfully undergone remediation, by setting the starting point for measuring the increase in value to be exempt from tax as the beginning of the year in which environmental remediation began. The exempt value is determined as the increase in the value of the property from that in the year remediation began to that in each of the ten years for which the tax exemption lasts. This specification clarifies law on this subject, and may result in greater tax revenue loss for local governments, depending upon the interpretation attached by a county auditor to the wording being amended by the bill.

## **Health care mandate study**

The bill requires the Superintendent of Insurance to conduct an actuarial study on the costs of all health care mandates under state law that apply to individual and group health insurance plans that are not subject to the "Employee Retirement Income Security Act of 1974," 29 U.S.C. 1001, *et seq.* The bill requires the study to be delivered electronically to the Governor, the Senate President, and the Speaker of the House within two years of the bill's effective date. The Department of Insurance would incur costs of an unknown amount to conduct the study.

## **Provisions with little or no fiscal effect**

The bill contains several provisions that appear to have little or no fiscal effect. The provisions touch on a variety of topics including limitations on disbursements from escrow accounts, the Ohio Uniform Commercial Code laws on commercial paper and bank deposits and collections, prohibitions on the use of plywood in securing vacant and abandoned properties, procedures recalling municipal officials, requirements for invalidating local ballot initiative petitions, and reimbursement for expenses incurred by members of local child abuse/child neglect prevention councils. Please see the LSC Bill Analysis for details about the operation of these provisions.