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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

**H.B. 285**  
**134<sup>th</sup> General Assembly**

## **Fiscal Note & Local Impact Statement**

[Click here for H.B. 285's Bill Analysis](#)

**Version:** As Introduced

**Primary Sponsor:** Rep. Seitz

**Local Impact Statement Procedure Required:** No

Robert Meeker, Budget Analyst, and other LBO staff

### **Highlights**

- The costs for the General Assembly will depend on the frequency of legislative interventions, as well as their complexity and duration.
- The Attorney General may incur costs to litigate certain legal actions further than might otherwise have been the case under current law and to participate in the legislative approval process.
- The bill's fiscal effect on the state's trial courts, courts of appeals, and Supreme Court will depend on the frequency and manner in which the legislature uses its rights to intervene in and approve of certain legal actions.
- The bill's effect on the compromise or settlement costs that the state might otherwise have incurred under current law is unpredictable.

### **Detailed Analysis**

#### **Legislative intervention in statutory challenges**

The bill allows the House of Representatives and the Senate, acting singularly or jointly, to intervene in any action in state or federal court challenging a statute. Examples of challenges in which the legislature is authorized to intervene include those based on alleged conflicts between federal and state law, and those related to reproductive rights, home rule, redistricting, or scope of executive orders.

The bill allows the House, the Senate, or General Assembly as a whole to obtain legal counsel other than the Attorney General for such actions, and requires the costs of counsel to be paid from funds appropriated for that purpose. Those costs will depend on the frequency of legislative interventions, as well as their complexity and duration.

## **Legislative approval in certain legal actions**

### **Legislative committees**

Under the bill, if a legislative body intervenes in any action against the state for injunctive relief or for which there is a proposed consent decree, the Attorney General is prohibited from compromising or settling without the approval of the intervening party. If there is no intervening party, in all cases, the Attorney General is required to submit a proposed plan to the finance committees of the House and Senate for approval. If the Attorney General does not receive notice within 14 business days that committee meetings on the matter are scheduled, the Attorney General is permitted to compromise or settle the action.

In cases where the proposed plan concedes the constitutionality or other validity of statute or concedes that a statute violates or is preempted by federal law, the Attorney General is also required to submit the proposed plan to each chamber's government oversight committee. The Attorney General is prohibited from compromising or settling these cases until joint approval of both government oversight committees. The bill does not provide a similar 14-business day exception that permits the Attorney General to compromise or settle an action.

Presumably, the legislative committees generally will use existing staff and resources to review plans submitted by the Attorney General. The degree to which a committee may need to contract for specialized services is unclear.

### **Attorney General**

The Attorney General provides legal representation, either directly or through the appointment of special counsel, to the state of Ohio in matters related to the constitutionality of state statutes. Cases challenging the constitutionality of laws are typically complex and time-consuming. Each side in the litigation may incur thousands of hours of billable legal time, and some cases may take years to be fully resolved. If the plaintiff(s) prevail, the court may order the state to pay for their legal expenses, which can be in the hundreds of thousands of dollars.

The bill contains two potential cost points for the Attorney General: legislative intervention and legislative approval. If the legislature's intervention in a legal action results in more motions and information for a court to consider than the Attorney General presumably expends additional time and effort to close the case and litigation costs continue to mount. The costs that the Attorney General may incur in the legislative approval process depends on the amount of time and effort required to participate in a committee's deliberations.

### **Ohio courts**

The bill's fiscal effect on the state's trial courts, courts of appeals, and Supreme Court will depend on the frequency and manner in which the legislature uses its rights to intervene in and approve of certain legal actions. Presumably, if circumstances created by the bill require a court to expend additional time and effort to adjudicate a compromise or settlement in a civil action relative to current law, the court incurs costs. Such costs, including those related to motions filed and information submitted by additional parties and their counsel, are not readily quantifiable.

### **Compromise or settlement costs**

The bill's effect on the compromise or settlement costs that the state might otherwise have incurred under current law is unpredictable.