Ohio Legislative Service Commission

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Office of Research and Drafting

Legislative Budget Office

S.B. 147
134th General Assembly

Fiscal Note & Local Impact Statement

Click here for S.B. 147's Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Hottinger

Local Impact Statement Procedure Required: Yes

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Highlights

Fund	FY 2023	FY 2024	Future Years
State General Revenue Fund			
Revenues	Loss of between $10.4 million and $12.3 million	Loss of between $11.1 million and $13.1 million	Losses to increase up to 4% per year
Local Government and Public Library funds (counties, municipalities, townships, and public libraries)			
Revenues	Loss of between $180,000 and $220,000 each	Loss of between $190,000 and $225,000 each	Losses to increase up to 4% per year
Counties and transit authorities			
Revenues	Loss of between $2.6 million and $3.0 million statewide	Loss of between $2.8 million and $3.3 million statewide	Losses to increase up to 4% per year

Note: Estimated revenue losses presented in the table correspond with state fiscal year. For most local governments, the fiscal year is identical to the calendar year.

- The bill allows a sales and use tax exemption for membership dues paid to certain nonprofit fitness facilities and recreation clubs, and would reduce revenue to the GRF, Local Government Fund (LGF), and Public Library Fund (PLF). The exemption becomes effective for the month following the effective date of the bill.

- Revenue to the LGF is distributed to counties, municipalities, townships, and certain special districts across the state. Revenue to the PLF is distributed to public libraries across the state.
- Exempting such membership dues from the state's sales tax base also exempts them from permissive county and transit authority sales taxes, which share the same tax base. These moneys typically accrue to the general fund of those entities.

Detailed Analysis

The bill exempts membership dues paid for physical fitness facility services and recreation club services if the facility or club is operated by a 501(c)(3) nonprofit organization.[1] Under current Ohio law, membership dues paid for these services are considered taxable sales regardless of whether a given facility is owned by a for-profit entity or a nonprofit entity. The exemption would take effect on the first day of the month beginning after the bill's effective date.

Fiscal impact

Ohio nonprofits that provide physical fitness facility services and recreation and sports club services generated between $146 million and $173 million in membership dues during calendar year (CY) 2017, according to the most recent Economic Census.[2] LBO estimates the GRF revenue loss to be between $10.4 million and $12.3 million in FY 2023, assuming the bill's effective date is prior to July 2022. State collections of county and local permissive sales taxes are likely to decrease between $2.6 million and $3.0 million during CY 2023.[3] Transfers to the Local Government Fund (LGF) and Public Library Fund (PLF), which under codified law each receive 1.66% of GRF tax revenue, are anticipated to decrease between $180,000 and $220,000 each in FY 2023.

Data and assumptions

It should be noted that the above estimates reflect 2017 Economic Census data for "fitness and recreational sports center services" revenue for nonprofits in the state of Ohio, classified in North American Industry Classification System (NAICS) code 7139, "other

[1] "Physical fitness facility service" includes all transactions by which an individual is granted access to a "physical fitness facility," which includes an athletic club, health spa, or gymnasium, to use the facility for physical exercise. "Recreation and sports club" includes an aviation club, gun or shooting club, yacht club, card club, swimming club, tennis club, golf club, country club, riding club, amateur sports club, or similar organization.

[2] Based on upper bound of 2017 Economic Census revenue data and IHS Markit tabulations of year-over-year growth in consumer spending on recreation services. Consumer spending estimates reflect growth in both the for-profit and nonprofit sectors. IHS projects significant growth in consumer spending on recreation services in the coming years, having reached an 11-year low in CY 2020.

[3] Unlike the state fiscal year, county and local government fiscal years typically coincide with the calendar year. The estimate assumes the geographical distribution of nonprofit gyms and recreation service providers aligns with sales of other goods and services statewide.

amusement and recreation industries."[4] A search of the Ohio Attorney General's (AGO) website indicates numerous "recreation and sports club service" organizations with 501(c)(3) status; with a few exceptions, most report no operational revenue or very little operational revenue. LBO cannot rule out the possibility that some of these organizations will be affected by S.B. 147, and that the bill's fiscal effect might differ from the estimates provided above, particularly if AGO's excluded data categories significantly overlap "recreation and sports club services" as defined in the Ohio Revised Code.[5]

To project taxable industry revenue from the 2017 Economic Census to CY 2020, LBO economists multiplied the Economic Census revenue estimates[6] by year-over-year growth rates in consumer recreation spending, as provided by IHS Markit. To project taxable industry revenue from CY 2020 through the forecast period, LBO economists multiplied the previous year's revenue estimate by the forecasted year-over-year growth rate in consumer recreation spending.[7] State revenue losses were estimated by multiplying LBO's estimate of the market by 5.75%, the state sales and use tax rate. Permissive county and transit authority losses were about 25% of statewide sales tax losses.

Some caveats to the fiscal estimates above should be considered. Notably, the estimates exclude Economic Census data on "golf course and country club membership services," whose revenues by 501(c)(3) entities would be covered under the bill. According to filings with the Ohio Secretary of State, most nonprofit entities which offer golf services do not meet the bill's legal organization criteria, and thus would not qualify for the tax exemption. However, the actual fiscal impact will exceed the estimates provided to the extent 501(c)(3) golf courses generate membership revenue in Ohio. In addition, membership revenue growth at physical fitness facilities operated by 501(c)(3) nonprofit organizations could differ from growth in all recreation services as forecast by IHS Markit, thus actual revenue losses may be greater or less than estimated.

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[4] A residual category, "all other amusement and recreation industries," is also included in the calculation, though it represents just over 1% of the revenue total.

[5] R.C. 5739.01(NN).

[6] The upper and lower bound estimates were attained by adjusting the predicted membership revenue from "fitness and recreational sports centers" and "all other amusement and recreation industries" upward and downward using the standard error variables provided through the Economic Census.

[7] Annual growth is measured as the annual percent change in recreation spending each calendar year. Data are derived from the September 2021 release of the IHS national economic indicators.