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S.B. 74
135th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the Senate

Primary Sponsor: Sen. Gavarone

Local Impact Statement Procedure Required: No

Ruhaiza Ridzwan, Senior Economist

Highlights

- The bill creates a new fund in the state treasury, the Treasurer's Information Technology Reserve Fund, consisting of unexpended amounts transferred from either or both of the following: (1) the Securities Lending Program Fund (Fund 4E90), and (2) a custodial account established under section 3366.05 of the Revised Code. The new fund is to be used to acquire or maintain computer hardware, software, or contract services. The proposed transfer of funds from the lending program to the new fund may decrease GRF funding.
- Provisions related to the Treasurer's administrative responsibilities associated with the Uniform Depository Act may increase the Treasurer's administrative costs. Any increase in such costs would be paid from Treasurer's operations and administration line items.
- Provisions related to removal from the Treasurer of certain administrative duties may minimally decrease the Treasurer's administrative costs, but may minimally increase administrative costs of other state agencies, the Registrar of Motor Vehicles, and county clerks of courts.
- Provisions allowing the Department of Taxation to send notices using ordinary mail or electronic means, instead of the currently required certified mail, would reduce departmental administrative costs. LBO staff think the cost savings would likely be minimal.
- The bill creates the Financial Responsibility Custodial Fund for the Registrar to use to hold monetary deposits made to satisfy financial responsibility law.

Detailed Analysis

The bill makes various changes to the authority of the Treasurer of State (TOS). Provisions with a significant fiscal effect are listed below; please see the bill analysis for information on other provisions with no fiscal effect. Some of the provisions involve shifting administrative responsibilities to other state agencies, raising administrative costs in most cases, though LBO believes most such cost increases would be minimal.

Treasurer of State

Treasurer's Information Technology Reserve Fund

The bill creates a new fund in the state treasury, the Treasurer's Information Technology Reserve Fund (TITRF). The bill specifies that the fund must consist of unexpended amounts transferred from either or both of the following: (1) the Securities Lending Program Fund created under section 135.47 of the Revised Code and (2) the account created under section 3366.05 of the Revised Code that is in the custody of the Treasurer of State (TOS) and not part of the state treasury. Under existing law, the account is created for the "issuing authority" (TOS), while acting as an eligible not-for-profit servicer of certain student loans owned by the federal government, to use for paying administrative costs of the authority. The bill specifies that moneys credited to the TITRF must be used only to acquire or maintain hardware, software, or contract services for the efficient operation of the Treasurer's Office. Any unexpended amounts are to be retained in the Fund and reserved for future technology needs.

Currently, net income generated from the securities lending program, not to exceed a rate of one quarter of one percent of the total average daily par value of assets in the securities lending program, is deposited into the Securities Lending Program Fund (Fund 4E90), and used for the operations of the Office of the Treasurer. All other such income from the program is credited to the state GRF. Transfers from Fund 4E90 to TITRF may reduce money that could otherwise go to the state GRF. Unexpended amounts that were initially credited to the account that is created for an issuing authority are deposited in the state treasury and credited to the Treasurer's Administrative Fund (Fund 6050), a dedicated purpose fund in the Treasurer's budget. The bill specifies that the unexpended amounts that must be deposited to Fund 6050 or the TITRF will be determined by the Treasurer.

Linked deposit programs

The bill creates the Home Improvement Linked Deposit Program, administered by the Treasurer of State, to provide reduced rate loans to homeowners for maintenance or improvements for their homes. The bill eliminates the SaveNOW Linked Deposit Program, Business Linked Deposit Program, Housing Linked Deposit Program, Assistive Technology Device Linked Deposit Program, and the Short-term Installment Loan Linked Deposit Program.[1] The bill

[1] The bill also modifies the statutes governing the existing Adoption Linked Deposit Program, Agricultural Linked Deposit Program, and Small Business Linked Deposit Program to consolidate the administrative requirements in the statutes.

authorizes specified credit unions[2] and the Ohio Housing Finance Agency to be eligible lending institutions under the linked deposit programs.

Generally speaking, linked deposit programs offer eligible depository institutions deposits of state funds at a below market rate, under an agreement by which the depository institution will lend out the funds to eligible loan recipients at below market rates. Typically, the fiscal effect is therefore a reduction in investment earnings for the state. The magnitude of any such revenue loss for the state depends on the scale at which TOS implements the program. In the context of the bill's provisions, any revenue losses from the new linked deposit program may be offset in whole or in part by a reduction in revenue losses from the linked deposit programs that the bill would repeal. Also, the bill retains a limit in current law that the Treasurer may not invest more than 12% of the state's total average investment portfolio in linked deposits.

Uniform Depository Act changes

The bill expands the ways TOS is authorized to invest inactive or interim deposits in the state treasury (i.e., public funds not needed to meet current demands), and modifies corresponding reporting requirements. The bill makes changes to eligibility of financial institutions that may hold warrant clearance accounts with active deposits (i.e., public funds needed to meet current demands), as well as corresponding reporting requirements. And it expands the definition of such accounts to include the deposit of custodial moneys from an account in TOS custody to facilitate settlement of obligations of the custodial fund.

The bill requires the State Board of Deposit, whenever the Board views that the actual amount of active deposits is insufficient to meet the anticipated demands on such active deposits, to direct TOS to sell investments or to redeem negotiated deposits in an amount sufficient to meet such demands. The bill provides that the Treasurer has the discretion in selecting the instruments to be sold or redeemed.

The bill makes various changes to deadlines and to reporting requirements related to a financial institution applying to be a public depository. Among the more notable changes, the bill requires the Board, beginning in 2025, to designate public depositories every four years, rather than every two years as under current law, and it removes the Board's newspaper publication requirement that is currently a part of the process of a political subdivision designating public depositories. And it modifies certain requirements related to the Board's required reports.

The bill specifies that moneys of metropolitan housing authorities are excluded from the Ohio Pooled Collateral Program. This program allows local governments to have access to information regarding the collateral pledged by their participating financial institutions on a daily basis.

Provisions related to TOS operations and administrative duties may increase the Treasurer's administrative costs, and some may decrease them. Any increase in such costs would

[2] Unlike banks and savings and loans, credit unions do not pay the state's financial institutions tax. The bill defines the term "Treasurer of state's assessment rate" as a number, up to 10%, calculated by the Treasurer to compensate for the difference in tax treatment between different types of financial institution, and authorizes the Treasurer to require eligible credit unions to adjust the interest rate at which they make a loan using that rate.

be paid from the following Treasurer's line items: GRF line item 09321, Operating Expenses and dedicated purpose line items 090603, Securities Lending Income (Fund 4390) and 090609, Treasurer of State Administrative Fund (Fund 6050). The provisions related to the Treasurer's investment authority may increase or decrease the state's investment income by an undetermined amount, and may affect the risk profile of the state's investments.

State of Ohio coupon bond

The bill specifies that state of Ohio coupon bonds held by any person, business, or state or other government, political subdivision, agency, or instrumentality, and all proceeds thereof, must be presumed abandoned in this state and constitute unclaimed funds if both of the following apply: (1) the owner of the bond or interest coupon is unknown to the Treasurer of State, and (2) the bond's principal or interest has remained unclaimed and unredeemed for three years after final maturity, call date, interest payment date, or other payment date. Once presumed abandoned and to constitute unclaimed funds, such coupon bonds, must escheat to the state after three years, and ownership of such bonds or interest coupons and proceeds from them then vest solely in the state.

The bill specifies that within 180 days after the three year period and if no claim has been filed as specified under the bill, the Director of Commerce must commence a civil action in a court of competent jurisdiction for a determination that the bond escheats to the state; the Director may postpone the commencement of an action until a sufficient number of bonds have accumulated to justify the expense of the proceedings. The bill requires a notice provided by publication prior to the civil action. Under specified circumstances, the court must enter a judgment that the bonds have escheated to the state. The bill requires the Director to redeem the bonds escheated to the state by judgment of the court. When the proceeds that have escheated have been recovered, the Director must pay all costs incident to the collection and recovery of the proceeds from the redemption of the bonds and disburse the remaining balance of the proceeds in the manner provided under the existing unclaimed funds law.

The bill specifies that any person claiming a state of Ohio coupon bond that has escheated to the state under the bill, or for the proceeds from the bond, may file a claim with the Director of Commerce. Upon specified conditions, the Director may pay the claim less any expenses and costs incurred by the state.

State of Ohio coupon bond means property, tangible or intangible, in the form of a coupon bond and its related interest coupons issued by the state prior to 1985 and to which all of the following apply: (1) it has matured, been called and defeased, or otherwise become due and payable, (2) either the Treasurer of State or the trustee bank is the paying agent, and (3) the owner has neither registered the bond or interest coupon nor claimed the bond's principal or interest.

According to a TOS official, currently there is a total of $700,000 in outstanding Ohio coupon bonds that may be considered as abandoned and may be subjected to the Unclaimed Funds Law. If all of the outstanding bonds were escheated to the state, it would increase the Unclaimed Fund by up to the corresponding amount.

Reporting requirements

Under current law, TOS is required to provide to the Governor and the Director of Budget and Management, upon request, the amount of funds available in inactive accounts, active accounts, and the amount of cash on hand. The bill requires TOS to make electronically available a daily ledger report of state funds, and modifies the type of information that must be included in the report.

The bill specifies that prior to sending any financial institution, issuer, or processor a copy of any bid request, the Treasurer of State must advertise its intent to request proposals for two consecutive weeks by electronic publication on a state agency web site made available to the general public, instead of in a newspaper of general circulation in the state.

Administration of certain taxes

The bill requires each county clerk of courts to forward to the Registrar of Motor Vehicles, instead of TOS, all sales and use tax collections resulting from sales of titled watercraft, outboard motors, motor vehicles, off-highway motorcycles, and all-purpose vehicles. The Registrar must forward the taxes to the Tax Commissioner.

The bill makes changes to electronic tax payments of certain taxes that must be sent to the Tax Commissioner, instead of to TOS under existing law. The bill also eliminates certain requirements related to electronic tax payments. The bill requires employers who withhold and remit employee income taxes on a partial weekly basis to file annual reconciliation returns starting in 2024 instead of filing quarterly as under current law. The bill authorizes the Department of Taxation to send certain tax notices currently required to be sent by certified mail, by ordinary mail or electronically. The bill modifies the deadline for renewing annual retail, wholesale, importer, and manufacturer cigarette tax licenses to June 1 of each year instead of the fourth Monday in May, and applies the extension to all current licenses. The bill eliminates a requirement that the Department of Taxation notify the Office of Budget and Management when it issues a refund of public utility excise taxes.

Some of these shifts in responsibilities may increase the Registrar of Motor Vehicles' and the Department of Taxation's administrative costs and decrease the Treasurer of State's administrative costs. The change to where county clerks of courts must remit sales tax collections may require a change to automated processes, with associated costs for counties. Allowing the Department of Taxation to send some notices by ordinary mail or electronically would reduce departmental administrative costs. LBO staff think such savings would likely be minimal.

Holding securities, collateral

The bill makes various changes to requirements that TOS hold securities for certain state agencies, including securities that serve as collateral, such that the agencies will hold such securities themselves. The agencies that will begin to hold such securities on their own include the departments of Commerce, Insurance, Job and Family Services, Natural Resources, and Public Safety. The bill also eliminates similar TOS security-holding responsibilities related to surety bonds filed and cash deposited for community schools. These provisions may minimally increase costs for affected departments while minimally decreasing costs for TOS. Details are provided below.

Department of Commerce

The bill removes the TOS role related to a trust company or a family trust company that is soliciting, engaging, or transacting in trust business in Ohio. The bill requires such company to make a pledge to the Superintendent of Financial Institutions, within the Department of

Commerce, instead of to TOS, prior to soliciting or engaging in trust business in the state. The bill also requires the Superintendent, instead of TOS, to permit substitution, withdrawal, and collection of interest on certain securities. This provision may minimally increase the Superintendent of Financial Institutions' administrative costs. These administrative costs are paid from Fund 4X20 ALI 800619, Financial Institutions.

Department of Insurance

The bill transfers responsibilities associated with securities deposited by title guarantee, trust companies, and any insurance companies to the Superintendent of Insurance, from TOS. The bill also removes TOS responsibilities related to resident and nonresident surplus lines broker's license renewal fee and deposits and withdrawals of securities for certain domestic insurance companies. These provisions may minimally increase Department of Insurance administrative costs, which are paid from the Department of Insurance Operating Fund (Fund 5540).

Department of Job and Family Services

The bill eliminates the ability of a nonprofit employer wishing to be a reimbursing employer under the Unemployment Compensation Law to deposit collateral securities, in lieu of a security bond. The bill also eliminates TOS custodial responsibility associated with any securities related to such employers. The former provision may minimally decrease Department of Job and Family Services' administrative costs.

Department of Natural Resources

The bill creates the Performance Cash Bond Refunds Fund in the state treasury. The fund must consist of money received by the Department of Natural Resources (DNR) from other entities as performance security. Upon the completion of work or satisfaction of terms for which the performance cash bond was required, the money must be refunded to the pledging entity. If the performance cash bond is forfeited, the money must be transferred to the appropriate fund within the state treasury. The bill also specifies that certain cash associated with DNR programs[3] must be deposited into the Performance Cash Bond Refunds Fund. The bill removes TOS's role related to depositing cash, surety bonds, and certificates of deposit associated with certain DNR programs. These provisions may minimally increase DNR's administrative costs.

Department of Public Safety

The bill modifies existing financial responsibility provisions and transfers the responsibility for receiving monetary deposits to maintain financial responsibility for a motor vehicle from the Treasurer to the Registrar of Motor Vehicles. The bill creates the Financial Responsibility Custodial Fund into which the money received by the Registrar must be deposited.

Community school closing audit bonds

The bill makes changes to the bond, cash deposit, or written guarantee required for a community school closing audit. The bill also specifies that when the Auditor of State conducts

[3] E.g., cash from leasing of public service facilities in state parks, Division of Forestry timber sale agreements, permits to operate or produce from an oil or gas well, brine transporter registration certificates, and permits for surface or instream mining.

an audit of a community school that has closed, the Auditor must certify the amount of forfeiture to the Attorney General who must assess the bond for the costs of the audit, instead of TOS under existing law, to reimburse the Auditor or public accountant for costs incurred in conducting audits of the school. This provision may minimally increase administrative costs to community schools and the Department of Education. The transfer of responsibility related to the assessment of the bond for the costs of the audit may minimally increase in the Attorney General's administrative costs and minimally decrease in the Treasurer of State's administrative costs.

Department of Administrative Services

The bill removes TOS from the Ohio Geographically Referenced Information Program Council and transfers the responsibility to develop and maintain a comprehensive and descriptive database of all real property under the custody and control of the state to the Department of Administrative Services (DAS). The bill requires each landholding state agency to collect and maintain a geographic information systems database of its respective landholdings, and to provide the database to the Council.

The bill requires DAS to create and administer an on-line computer network system that allows persons to electronically file business reply forms and tax information with state agencies or political subdivisions. In a related provision, the bill repeals a requirement that DAS implement a two-year pilot program in which it develops a business reply form for businesses to use to report information to state agencies.

These provisions may decrease TOS administrative costs.

Petroleum Underground Storage Tank Release Compensation Board

The bill authorizes the Petroleum Underground Storage Tank Release Compensation Board (PUSTRCB) to allow TOS to invest its surplus funds pursuant to the Uniform Depository Act. The authorization may minimally decrease the PUSTRCB's administrative costs and it may also increase or decrease PUSTRCB's future investment income. Currently, PUSTRCB receives no GRF funding; personal services costs are paid from line item 810632, Petroleum Underground Storage Tank Release Compensation Board – Operating. The line item receives cash transfers from the Petroleum Underground Storage Tank Financial Assurance Fund, an account in the custody of the Treasurer of State, but not part of the state treasury.

Other provisions

The bill makes various changes to definitions related to the above provisions, and includes some that modernize the law governing TOS. Among those provisions is one that updates the Treasurer's operations and administration associated with warrants drawn on the state treasury and statements and reports related to state funds, including requiring the Treasurer to provide certain electronic records and reports to the Director of Budget and Management. The bill also authorizes the Treasurer of State to use a variety of payment instruments, including stored value cards in disbursing funds to certain payees, upon an authorization from the Director of Budget and Management or an authorized person at a state entity holding a custodial account. The bill removes various obsolete provisions related to the Board of Commissioners of the Sinking Fund's responsibilities, including certain funds that were administered by the Board. Some of these provisions generally contribute to streamlining TOS operations, but have little to no other fiscal effect.

The bill also modifies the Treasurer's rulemaking authority related to the Pay for Success Contracting Program, giving TOS more flexibility in administering the program. This provision appears to have no other fiscal effect on this ongoing program, which provides incentive for businesses and nonprofits to test new social welfare increasing ideas and provide services which align with the state's goal of increasing the public well-being.

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