



OHIO LEGISLATIVE SERVICE COMMISSION

Joseph Rogers

Fiscal Note & Local Impact Statement

Bill: H.B. 301 of the 132nd G.A.

Status: As Introduced

Sponsor: Rep. Butler

Local Impact Statement Procedure Required: No

Subject: General Assembly approval of consent decrees

State & Local Fiscal Highlights

- The General Assembly and its affiliated Legislative Service Commission will be able to absorb the additional work created by the bill's "approval" requirement using already appropriated resources. There will be no direct cost to political subdivisions of the state.
- The bill may arguably create indirect fiscal effects on the state or political subdivisions if the General Assembly does not approve certain consent decrees or settlement agreements. Presumably, the matter(s) in dispute would continue to be litigated with an uncertain outcome in terms of whether the final judgment of the court will be more or less beneficial for the state or any affected political subdivisions than otherwise would have been the case had the decree or settlement been approved by the General Assembly.

Detailed Fiscal Analysis

The bill requires a state agency, public official, or public employee to apply to the General Assembly for approval of a consent decree or settlement agreement resulting from a civil action, which would alter or prohibit the enforcement of a state law. Under the bill, the General Assembly would have 90 days after the state agency or public official applies for approval to enact a bill approving the decree or settlement. If the General Assembly does not enact such a bill to approve the decree or settlement, or the decree or settlement is not submitted to the General Assembly for approval, the decree or settlement is void. The specific requirement to enact such a bill would not create any additional expense for the General Assembly and its affiliated Legislative Service Commission, only minimal additional time and work that would be absorbed into their respective daily costs of doing business.

Current law does not require the General Assembly to approve consent decrees or settlement agreements entered into by state agencies, public officials, or public employees. These state agencies, officials, or employees facing civil actions may choose, as a matter of legal strategy, to resolve the dispute and enter into a consent decree or

settlement agreement, and seek approval by the court of record, in order to avoid protracted litigation and risk a possible judgment against them that may be much more restrictive or costly.

The requirement that the General Assembly approve certain future consent decrees or settlement agreements would, in theory, create the ability to block such decrees or agreements. If such a decree or settlement is in effect blocked, the matter(s) in dispute would presumably continue to be litigated with an uncertain outcome in terms of whether the final judgment of the court will be more or less beneficial for the plaintiff and defendant than otherwise would have been the case had the decree or settlement been approved by the General Assembly. The fiscal effects on the state or any affected political subdivisions are uncertain. Arguably, what happens should a decree or settlement be voided can be viewed as an indirect, and not a direct, effect of the bill.

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