



OHIO LEGISLATIVE SERVICE COMMISSION

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Fiscal Note & Local Impact Statement

Bill: H.B. 602 of the 132nd G.A.

Status: As Introduced

Sponsor: Reps. Duffey and Lanese

Local Impact Statement Procedure Required: Yes

Subject: To penalize a municipal corporation for engaging in certain actions related to its provision of water and sewer services outside of its territory by reducing or withholding payments the municipal corporation receives from the Local Government Fund and rendering the municipal corporation ineligible for state water and sewer development funds

State & Local Fiscal Highlights

- Local Government Fund (LGF) payments would be reduced or withheld from municipal corporations deemed to be "noncompliant" or "predatory" municipal corporations as those terms are defined in the bill. Generally the terms are associated with municipalities that engage in certain practices associated with providing sewer and water services outside of their territories. The amounts withheld are to be distributed to political subdivisions affected by such municipal corporations' practices.
- The bill would decrease LGF funding to some municipalities and increase such funding to other municipalities by corresponding amounts. LGF funding statewide would be unaffected.
- The bill would make noncompliant and predatory municipalities ineligible for certain state grant and loan programs related to improving sewer and water services.
- No direct fiscal effect on the state.

Detailed Fiscal Analysis

The bill would reduce Local Government Fund (LGF) payments for certain municipal corporations that operate a municipal water or sewerage system serving nonresidents and residents of the municipal corporation and engage in certain practices associated with providing such services outside their municipal territories. The bill specifies that 20% of the monthly LGF revenue would be withheld from a "noncompliant municipal corporation," and all LGF revenue would be withheld from a "predatory municipal corporation," as the bill defines those terms.

The bill defines a "noncompliant municipal corporation" as a municipality that operates a municipal water or sewerage system serving nonresidents and residents of the municipal corporation and that does either of the following: (1) fails to publish a

plan, if the bill requires it to and by the deadline under the bill, and charges higher rates for water and sewerage services to a ratepayer for property located outside the municipal corporation than are charged to ratepayers for property located in the municipal corporation, unless the excess is reasonably related to the cost of providing the service to the property located outside the municipal corporation, or (2) on or after January 1, 2022, charges higher rates for water and sewerage services to a ratepayer for property located outside the municipal corporation than are charged to ratepayers for property located in the municipal corporation (again, unless the higher rate is reasonably related to the cost of providing the services to such property). The bill defines a "predatory municipal corporation" as a municipality that operates a municipal water or sewerage system serving nonresidents and residents of the municipal corporation if it does any of the following on or after January 1, 2022: (1) requires, as a condition of providing water or sewerage services to territory outside of the municipal corporation, that such territory be annexed to the municipal corporation, (2) requires, as a condition of providing water or sewerage services to territory outside of the municipal corporation, that a township or municipal corporation in which that territory is located provide direct payments in excess of those reasonably related to the cost of providing the services in that territory to the municipal corporation that operates the water or sewerage system, (3) requires a township or another municipal corporation to comply with any requirement not reasonably related to the cost of providing water or sewerage services in the territory of the township or other municipal corporation as a condition of providing water or sewerage services in such territory, or (4) withdraws water or sewerage service or threatens to withdraw such service from any territory of a township or another municipal corporation for failure of that township or municipal corporation to comply with any condition or make any direct payment not reasonably related to the cost of providing water or sewerage services in that territory.

Under the bill, a noncompliant or predatory municipal corporation must notify the Tax Commissioner within ten days after the date on which the municipal corporation becomes a noncompliant or predatory municipal corporation. Upon receiving such notice, or upon discovery on the basis of information in the Tax Commissioner's possession, the Commissioner must (1) reduce or stop any payments to such municipal corporations that receive direct distributions from the LGF and reduce or stop payments to the appropriate county undivided local government fund (CULGF), beginning with the next required payment, and (2) notify the county auditor and county treasurer that payments from the CULGF for such municipal corporations must be reduced or suspended until further notice from the Commissioner indicating that payments can be resumed. The bill requires the county treasurer to suspend payments from the CULGF to such municipal corporations beginning with the payment specified by the Commissioner.

The bill requires the Commissioner to notify the Director of the Environmental Protection Agency (EPA), the Director of the Ohio Public Works Commission (OPWC), the Chairperson of the Ohio Water Development Authority (OWDA), and the Director

of the Development Services Agency (DSA) that such municipal corporations are noncompliant or predatory municipal corporations and are not eligible to be awarded certain funding from such agencies. The bill also provides that the directors of EPA, OPWC, and DSA, and the Chairperson of OWDA may not award any loan, grant, or other form of financial assistance to a noncompliant or predatory municipal corporation for the purpose of improving that municipal corporation's water or sewerage system, except for awards of federal funds required by federal law or guidelines to be awarded to the municipal corporation for that purpose. The bill provides that a noncompliant or predatory municipal corporation may requalify for such financial assistance only if it is part of a qualifying areawide waste treatment management plan and no longer qualifies as a noncompliant or predatory municipal corporation.

Fiscal effect

The criteria for classifying a municipality as noncompliant or predatory are based on future actions taken by municipalities, implying that the amount of LGF payments that would be withheld from such municipal corporations under the bill is undetermined. LGF payments that would be withheld from noncompliant or predatory municipal corporations are to be distributed to political subdivisions affected by such municipal corporations' practices. Any decrease in LGF funding to such municipal corporations would have the effect of increasing LGF revenue of other political subdivisions by corresponding amounts.

Under existing law, 1.66% of total GRF tax revenue received in a month is credited to the LGF the following month. Subsequently, the state allocates monthly distributions from the LGF to each CULGF. Moneys in a CULGF are distributed to each political subdivision in the county, including county government itself, based on the county's own determination. In addition, each municipality levying an income tax in the preceding year receives direct distributions from the LGF. LGF distributions to each county and municipality are currently made by the Department of Taxation through an electronic funds transfer (EFT).

In calendar year 2016, LGF allocations to a county, township, or municipal corporation ranged between several hundred dollars to a number of small villages and townships, to over \$10 million for each of Cincinnati, Cleveland, and Columbus, and Cuyahoga, Franklin, and Hamilton counties. The bill may also increase the Department of Taxation's administrative expenses related to LGF distributions. If there is any increase in such costs, it would likely be minimal.