Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Am. Sub. H.B. 48 of the 128th G.A. **Date**: April 2, 2010

Status: As Enacted **Sponsor**: Rep. Ujvagi

Local Impact Statement Procedure Required: No — Minimal cost

Contents: Makes an appropriation for specified veterans benefits, changes election laws, and creates a new type of employee leave benefit

State Fiscal Highlights

Veterans' Compensation Program

- **Persian Gulf, Afghanistan, and Iraq Conflicts Compensation Program.** The bill appropriates $100 million for the FY 2010-2011 biennium. These funds are derived from the issuance of bonds as authorized under the Ohio Constitution and are to be used to support the Persian Gulf, Afghanistan, and Iraq Conflicts Compensation Program.
- **Tax effects.** The bill allows taxpayers to deduct from income any state bonus payments not already excluded from income, for service during the Persian Gulf, Afghanistan, or Iraq conflicts. This deduction would likely reduce personal income tax revenue. During the current biennium, revenue to the GRF would be reduced by 94.35% of this loss and revenue to the local government funds would be reduced by 5.65% of this loss. State revenue losses resulting from taxpayer deduction of the portion of these payments not already excluded from income are assumed to begin in FY 2011.

Military and Overseas Voters Empowerment Act Implementation

- **Military and overseas absent voter ballot access.** To comply with provisions of the federal Military and Overseas Voters Empowerment (MOVE) Act, the bill requires the Secretary of State to develop a free access system that allows eligible uniformed and overseas voters to determine the status of the person's absent voter's ballot. This system must be in place for the general election in the fall of 2010. The Secretary of State costs for developing the system would be paid primarily from GRF appropriation item 050321, Operating Expenses, but available funding in the Uniform and Commercial Code Filing Fund (Fund 5990) could also be used.

Military Family Leave

- **Administrative Costs.** The bill would entitle eligible employees to up to two weeks of unpaid "military family" leave. As a result, the bill could generate some increased costs to state employers for rescheduling staff and paying overtime to cover employees who have taken military family leave. Because the leave benefit is the lesser of ten days or 80 hours and is unpaid, any new expenses related to staffing adjustments would likely be quite small.

Local Fiscal Highlights

- **Tax effects – Counties, municipalities, and libraries.** Payments to counties and municipal corporations from the Local Government Fund and to libraries from the Public Library Fund would likely be reduced by the state personal income tax deduction in the bill.
- **Tax effects – School districts.** The reduction in Ohio taxable income under the bill would likely reduce school district income tax revenues to those districts that use Ohio taxable income as the basis for calculation of taxes owed.
- **Public employee leave benefit.** Political subdivisions could incur some additional costs for making staffing adjustments to provide unpaid leave benefits to qualifying employees.

Detailed Fiscal Analysis

Overview

The bill establishes new statutes and makes several changes to existing law dealing with veterans' benefits, the elections calendar, absent voter ballots for members of the uniformed services and overseas voters, and employee leave benefits for employees whose family members serve in the uniformed services. The provisions of the bill with fiscal effects that are described in this analysis include the following:

- Appropriations for the Persian Gulf, Afghanistan, and Iraq Conflicts Compensation Program, as authorized under the Ohio Constitution, and language governing its implementation;
- An exemption of the amounts received under the program from Ohio taxes;
- A requirement that the Secretary of State develop a system that allows eligible uniformed or overseas voters to determine the status of his or her absent voter's ballot in order to comply with federal law; and
- An unpaid leave benefit as it applies to public employees, including spouses, parents, or legal guardians of members of the uniformed services who are called to active duty or who are injured while on active duty.

Details concerning these items are described below.

Veterans' Compensation Program

Issue 1 on the November 2009 statewide ballot, approved by voters, authorized issuance of up to $200 million of bonds to provide compensation to Ohioans who served on active duty during the Persian Gulf, Afghanistan, and Iraq conflicts, and to family members of qualified deceased Ohio veterans, and to pay administrative costs of this program. Ohio veterans who served in the Persian Gulf, Afghanistan, and Iraq conflicts would each be eligible for stipends of $100 for every month of such service, up to a maximum of $1,000. Ohioans medically discharged or medically retired due to combat-related disabilities during such service would be eligible for compensation of $1,000. Other Ohioans on active duty service, domestic or foreign, during these conflicts would be eligible for $50 per month of such service, up to $500. A surviving spouse, child, or parent of a deceased eligible Ohio veteran would be eligible to receive the payment that the veteran would have been eligible to receive. If the Ohio veteran's death resulted from injuries or illness sustained in the Persian Gulf, Afghanistan, or Iraq conflicts, the person's survivors would be eligible to receive $5,000. Bonds to fund these payments could be issued through December 2013.

The constitutional amendment specified the time period of the Persian Gulf Conflict as August 2, 1990 to March 3, 1991. The Afghanistan Conflict began October 7, 2001 and the Iraq Conflict began March 19, 2003. The Afghanistan and Iraq conflicts are still ongoing. Because of the length of the current two conflicts, many of the Ohioans who served on active duty during these conflicts plausibly would be eligible for the larger payment, up to $1,000.

The bill appropriates $50 million in each of FYs 2010 and 2011 for the payments required by Issue 1. It also provides that if the Director of Veterans Services determines that additional appropriations are needed to pay this compensation, the needed amounts are appropriated.

State and local tax effects

The bill permits Ohio personal income taxpayers to deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income, the amount received by the taxpayer as a veteran's bonus. Under federal law, a state bonus payment is excludable from taxable income to the extent that it is paid for service in a combat zone.[1] The excludable amount for combat zone pay may be limited for commissioned officers. Because Ohio taxable income is based on federal adjusted gross income, with further adjustments specific to this state, the portion of the state bonus payments not excluded from federal taxable income would also be included in Ohio taxable income, in the absence of this provision of the bill.

Deduction of the amount of the veterans' bonus not otherwise excluded from income was not specified in Issue 1. It appears therefore to be a revenue loss resulting from this bill. LSC fiscal staff does not have an estimate of the portion of the state bonus payments that will be excluded from federal taxable income, or of the portion that will be included in federal income but excluded from Ohio taxable income because of this provision. This exclusion from Ohio taxable income would likely create a revenue loss, most of which would be a revenue loss to the GRF. The balance is a loss to the state's local government funds, which receive a portion of total tax revenues from certain state taxes including the state income tax. A reduction in total tax revenues reduces receipts of the Local Government Fund (Fund 7069) by 3.68% of the decline in total tax revenues. During the current biennium, receipts of the Public Library Fund (Fund 7065) are reduced by 1.97% of the decline in total tax revenues. In permanent law, the percentage is 2.22%. LSC fiscal staff does not have an estimate of the amount of the loss of revenue to the GRF or the local government funds.

School district income taxes are based on either Ohio taxable income of taxpayers residing in the school district or on the portion of that income that is earned income, generally limited to wages and self-employment income. School boards and voters of individual school districts choose whether to enact income taxes in their districts and which of these two tax bases to use. For school districts in which Ohio taxable income serves as the starting point for calculation of school district income taxes, exclusion from Ohio taxable income of state bonus payments not excluded from federal taxable

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[1] IRC 134(b)(6) and 112(c)(2).

income will likely reduce school district income tax revenues. LSC fiscal staff does not have an estimate of the amount of this reduction.

The following calculations are illustrative only, indicative of possible orders of magnitude, and are not intended as estimates of the fiscal effects of this bill. If yearly payments under the bill are assumed to be equal to the appropriation of $50 million, and if none of this amount is assumed to be excluded from federal taxable income as state bonus payments for service in a combat zone, then the fiscal effect on the state of the exclusion of the payments from taxable income would be the reduction in state tax revenues associated with $50 million of income. The tax loss would depend on the marginal tax brackets of the recipients. If, for example, their average tax rate on the additional income is 3%, state income tax revenue would be reduced by $1.5 million, resulting in a loss to the GRF of about $1.415 million (for payments made in FY 2011). The loss to the state's local government funds, and consequently to units of local government, would be about $85,000. The associated loss of school district income tax revenue would be about $39,000. The losses could be higher than these amounts, if Issue 1 payment obligations exceed the appropriation, but would be reduced by exclusion of part of the state bonus payments from federal taxable income because they are payments for service in a combat zone. Other information or assumptions would yield different amounts for these losses.

Military and Overseas Voters Empowerment Act implementation

To comply with mandates in the federal Military and Overseas Voters Empowerment Act (MOVE), the bill requires the Secretary of State to develop a free access system that allows any eligible uniformed or overseas voter to determine the status of his or her absent voter's ballot request or completed absent voter's ballot, and whether the person's absent voter's ballot was counted. The federal act requires that this system be in place in time for the November 2, 2010 general elections. Because the bill requires the system to show whether or not that ballot was sent and subsequently received, the system will require periodic transmission of information between county boards of elections and the Secretary of State.

The Secretary of State's office would incur some costs for system development and implementation, as well as additional costs for the necessary data entry of the status of these absent voter's ballots. However, the bill also permits the Secretary of State to delegate responsibilities under the MOVE Act to county boards of elections. This could shift some of the costs associated with implementing MOVE Act requirements from the Secretary of State to county boards of elections. Any state costs would be borne by the Secretary of State's Election's Division, which is primarily funded through GRF appropriation item 050321, Operating Expenses, which was appropriated $2.3 million in both FY 2010 and FY 2011. Supplementary funding for the Election's Division comes from the Uniform Commercial Code Filing Fund (Fund 5990). County boards of elections would also incur some costs for transmitting any required information. Ultimately, the costs for both the Secretary of State and the county boards of elections depend on the details of system implementation.

Military leave benefit

The bill requires employers of 50 persons or more to allow an employee to take the lesser of ten days or 80 hours of leave if that person is the spouse, parent, or legal guardian of a member of the uniformed services that is called into active duty or who is injured, wounded, or hospitalized while on active duty. Employees can only take this leave once annually, and are only eligible for the benefit if they have been employed for at least a year and if they have no leave other than sick or disability leave available. To use the leave, employees would be required to notify employers of their intention to use the leave at least two weeks in advance, except in the case of a member of the uniformed services who is wounded, in which case only two day's notice is required; if the wound is critical, no notice would be required. Also, the dates on which the employee takes leave can be no more than two weeks prior to or one week after the deployment date of the employee's spouse or child. Under the bill, employers would not be required to pay salary to employees on military family leave, but would be required to continue an employee's benefits. The employee's contribution towards the cost of those benefits would not change while on military family leave.

Upon returning from military family leave, the bill requires that an employee be restored to the same position at the same rate of pay. The bill also prohibits employers from taking any type of retaliatory action against employees taking such military family leave. Finally, the bill would not apply to collective bargaining contracts that are currently in effect. The bill does, however, permit collective bargaining agreements entered into on or after the effective date of the bill to provide similar or greater leave benefits to employees, and specifically prohibits these agreements from providing less. Any employers or employee that violated the provisions of the bill would be subject to civil litigation.

Effect on public employers

Because public employers do not generally track which employees have a child, legal ward, or spouse who is a member of the uniformed services, it is difficult to determine the actual number of public employees that could potentially be eligible for leave under the bill. However, active duty and national recruitment figures provided by the Department of Defense indicate that, in Ohio, there are 5,468 new recruits called to active duty in all branches of the military each year. There are three reasons why any new potential costs to state and local government employers are likely to be minimal. First, the benefit is unpaid. Secondly, the leave benefit is of short duration: the lesser of 80 hours or ten days. Thirdly, employees would be able to use the leave no more than once a year. So, although there may be some new costs for rescheduling staff and covering overtime pay, this would largely depend on the staffing requirements of the employer. It should also be noted that the employee benefit provisions only apply to entities that employ 50 or more persons.

There could possibly be some new costs related to any litigation brought about according to the new rights provided under the bill. These costs would be borne by municipal or common pleas courts and any public employer involved in the litigation. The fiscal impact would ultimately depend on the number of cases brought to trial, which would be difficult to project. Presumably, there would be few such cases involving public employers.

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