Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 18 of the 129th G.A.

Date: February 1, 2011

Status: As Introduced

Sponsor: Rep. Baker

Local Impact Statement Procedure Required: Yes

Contents: Authorizes nonrefundable personal income tax or commercial activity tax credits for a business that moves into a vacant facility and increases payroll

State Fiscal Highlights

STATE FUND	FY 2011	FY 2012	FUTURE YEARS
General Revenue Fund			
Revenues	Potential loss	Potential loss	Potential loss
Expenditures	- 0 -	Potential increase due to the reduction in CAT receipts	Potential increase due to the reduction in CAT receipts

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- The tax credits are likely to decrease revenue from the personal income tax (PIT) and the commercial activity tax (CAT). Revenue from the personal income tax is distributed to the GRF (94.35% in FY 2011 under H.B. 1, and 94.1% under permanent law). Starting in FY 2012, revenue from the CAT will be distributed, in various percentages, to the GRF.
- Revenues from the CAT are earmarked mostly for reimbursing school districts and other local governments for the reductions and phase-out of local taxes on most tangible personal property. If CAT receipts are insufficient, the GRF is required to subsidize the required reimbursements.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2011	FY 2012	FUTURE YEARS
Counties, Municipalities, Townships, and Libraries			
Revenues	Potential loss	Potential loss	Potential loss
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Receipts from GRF taxes are distributed in part to the Local Government Fund (3.68%) and the Public Library Fund (1.97% in FY 2011 under H.B. 1, and 2.22% under permanent law). Thus, the reduction in personal income tax receipts would decrease distributions to the two funds.

Detailed Fiscal Analysis

The bill proposes a nonrefundable tax credit against the personal income tax (PIT) or the commercial activity tax (CAT) for a business that relocates into a vacant facility and increases payroll.[1] To qualify for the credit, the taxpayer is required to lease or purchase a building unoccupied in the previous six-month period; the building must then become the location of at least 50% of the firm's total employment in Ohio. Generally, the tax credit equals the amount of income taxes withheld from employees' paychecks during the year the credit is claimed minus the product of such withholdings for the previous taxable year (for the PIT) or calendar year (for the CAT) multiplied by the payroll inflation factor as described in the bill. The calculation of the payroll inflation factor employs the employment cost index for total compensation for all workers in private industry as published by the U.S. Bureau of Labor Statistics. The tax credit may be claimed for the taxable year or the calendar year that includes the lease or purchase date and for the four ensuing taxable years or calendar years. If a taxpayer's credit exceeds the tax liability under the personal income tax or the commercial activity tax, the credit may be carried forward to the next three years.[2]

H.B. 18 will likely reduce, by an indeterminate amount, revenue from the PIT and the CAT. LSC is unable to estimate the potential revenue loss due to the lack of available data on Ohio businesses that would meet the criteria required by the bill and their potential tax liabilities under the PIT or the CAT.

The bill may induce the creation of new businesses or jobs in Ohio, or encourage out-of-state firms to locate or expand in Ohio. In such cases, the tax credits may be approximately revenue neutral for the first few years. There is a potential for revenue gains in subsequent years, but that would depend on employers continuing to employ workers in Ohio at the same rate without the benefit of the credit. Given the possibility that employers might scale back when the credit was no longer available, such potential revenue gains may or may not occur.

The tax incentive may also induce existing Ohio businesses to move out of their current buildings and relocate to new facilities within the state. For example, an expanding Ohio-based firm may move into a vacant commercial space to obtain the tax credit, which does not necessarily result in new job creation. In such cases, the tax credit would result in revenue losses. Expansions or relocations due to the tax credit would be difficult to ascertain because they cannot be distinguished from those that

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[1] To increase payroll, an existing firm may hike the pay of current workers, increase the total number of employees, or both.

[2] Current law provides taxpayers with a refundable job creation tax credit (Revised Code section 122.17) and a nonrefundable job retention tax credit (Revised Code section 122.171). The job creation tax credit can be applied against the PIT, the CAT, and the domestic and foreign insurance taxes. The job retention tax credit can be applied against the PIT and the CAT.

would have occurred without the tax credit. On balance, it is more likely that revenue losses may be greater than revenue gains from new businesses or new jobs induced by the tax credit. The net revenue loss may be larger during periods of economic expansion because many firms would be adding to payroll rapidly and would have the potential to qualify for the credit.

Permanent law prescribes the distribution of receipts from GRF taxes, such as the personal income tax to the GRF (94.1%), the Local Government Fund (LGF, 3.68%), and the Public Library Fund (PLF, 2.22%). Under temporary law, for FY 2011, 94.35% of such receipts are to be distributed to the GRF and 1.97% to the PLF. Thus, reduction in receipts from the PIT will decrease distributions to the three funds. Revenues from the CAT are earmarked mostly for reimbursing school districts and other local governments for the reductions and phase-out of local taxes on most tangible personal property (TPP). Under current law, the GRF is required to subsidize the required reimbursements to the School District Tangible Property Tax Replacement Fund and the Local Government Tangible Property Tax Replacement Fund, if CAT receipts are insufficient. The share of CAT receipts to school districts is 70%. The share of CAT receipts to local governments other than school districts, which is variable, is currently 30% for FY 2011. That share will decrease to 24.7% in FY 2012, and to 19.4% in FY 2013. The GRF share will rise from 0% in FY 2011 to 5.3% in FY 2012 and 10.6% in FY 2013. The tax credit is likely to reduce receipts from the CAT and distributions to the three funds.

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