Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. S.B. 243 of the 130th G.A.

Date: December 10, 2014

Status: As Reported by House Finance and Appropriations

Sponsor: Sen. Bacon

Local Impact Statement Procedure Required: Yes

Contents: Creates a three day sales tax holiday in August 2015 for sales of specified clothing and school supplies, and makes various other changes, including appropriations increases for FY 2015

State Fiscal Highlights

STATE FUND	FY 2015	FY 2016	Future fiscal years
General Revenue Fund			
Revenues	- 0 -	Loss up to $13.5 million or more from the sales tax holiday	Potential losses from other tax changes
Expenditures	Increase of $7.2 million	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2014 is July 1, 2013 – June 30, 2014.

- The bill exempts from the sales tax sales occurring on August 7, 8, and 9 in 2015 of clothing (up to $75), school supplies (up to $20 per item), and school instructional materials (up to $20).
- The sales tax holiday is estimated to decrease state sales tax receipts by up to $14 million in FY 2016. Sales tax revenue is distributed to the state GRF, the Local Government Fund (LGF), and the Public Library Fund (PLF). Thus, the bill would reduce the amounts distributed to all three funds, and the reduction to the GRF may be up to $13.5 million.
- Other tax changes in the bill may add to the GRF, LGF, and PLF revenue losses.
- The Department of Education's Lake County incubator project will increase GRF expenditures by $200,000 in FY 2015.
- The bill appropriates an additional $3.0 million from the GRF in fiscal year 2015 within the Department of Job and Family Services' budget and earmarks those funds for specific purposes.
- The bill creates the Economic Gardening Technical Assistance Pilot Program in the Development Services Agency and appropriates $500,000 from the GRF in FY 2015 to operate the program. The program expires two years after the effective date of the bill.

- In addition, the bill appropriates another $3,518,821 from the GRF in FY 2015 within the Development Services Agency's budget and earmarks those funds for other specific purposes.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2015	FY 2016	FUTURE YEARS
Counties, municipalities, townships, and libraries (LGF and PLF)			
Revenues	Loss of up to $0.5 million from the sales tax holiday	Potential losses from other tax changes	Potential losses from other tax changes
Expenditures	- 0 -	- 0 -	- 0 -
Counties and transit authorities			
Revenues	Loss of up $3.2 million from the sales tax holiday	- 0 -	- 0 -
Expenditures	- 0 -	- 0 -	- 0 -
Townships			
Revenues	Gain of $10 million from GRF transfer to LGF	- 0 -	- 0 -
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.

- The sales tax holiday will reduce revenue from county permissive and transit authority sales taxes by up to $3.2 million in August 2015. Those local permissive taxes share the state sales and use tax base.
- A share of GRF tax revenues is distributed under permanent law to the LGF and the PLF. LGF revenues are distributed to counties, municipalities, and townships, while PLF revenues are distributed to libraries. Thus, any reduction to GRF sales tax receipts would also reduce the amount distributed to the LGF and PLF.
- The bill transfers an additional $10 million in cash from the GRF to the LGF in FY 2015. Half of the $10 million is to be divided among the counties so that each township in the state receives the same amount, and half is to be apportioned to townships based on road miles.

Detailed Fiscal Analysis

One-time sales tax holiday

S.B. 243 exempts from the sales tax sales occurring on August 7, 8, and 9 in calendar year 2015 of the following items: clothing (up to $75), school supplies (up to $20 per item), and school instructional materials (up to $20). The bill is estimated to reduce state revenue from the sales and use tax by up to $14 million in FY 2016. Under permanent law, the GRF receives 96.68% of the revenue from the sales and use tax, while 1.66% of the receipts are transferred each to the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065) for distribution to counties, municipalities, townships, and libraries. Thus, sales tax revenue to the GRF would decline by up to $13.5 million in FY 2016 and, distributions to the LGF and PLF would be reduced by a total of about $0.5 million in FY 2016.

The bill will also reduce the tax base for county permissive and transit authority sales taxes. Those local permissive taxes share the state sales and use tax base. The potential revenue loss to local governments from local sales taxes, at approximately 23% of state sales tax revenues, would roughly be up to $3.2 million in August 2015. Thus, total revenue reductions for local governments, including reduced LGF and PLF distributions, may be up to $3.7 million.

The estimates are based on data primarily from surveys from the National Retail Federation (NRF) on back-to-school shopping, and also on personal consumption expenditures from the U.S. Bureau of Economic Analysis. Estimated Ohio spending was obtained by adjusting national data using an index of Midwest spending patterns (relative to national average spending) from the U.S. Bureau of Labor Statistics (Consumer Expenditure Survey for 2012). Though this Fiscal Note utilizes school enrollment data for 2010 by age from the U.S. Census (American Community Survey) both for K-12 and college age students, please note that the sale of tax-free items is not limited to households with school age or college age children.

Consumers are expected to shift their purchases by delaying or accelerating their purchases into the tax holiday period. The estimates include temporal substitution effects of up to two weeks (based on previous NRF surveys on the timing of back-to-school purchases). If the temporal substitution is less, then the revenue loss from the bill would be less than estimates. If these effects are larger than presumed the revenue loss could be greater.

The Department of Taxation will incur additional expenses associated with the implementation of this tax exemption. These expenses will be informational bulletins explaining the exemption. There may also be an increase in auditing costs, as more information will need to be verified. Costs associated with the implementation of the bill may be absorbed as part of the normal operations of the Department of Taxation. Businesses, in particular small retailers, may experience additional costs due to the need to reprogram cash registers and train staff to deal with the tax exemption.

As noted above, most additional sales during the tax holiday weekend will be delayed or accelerated purchases to take advantage of the exemption. However, other economic factors are at play. They include price and income substitution effects, cross-border sales effects and a shift of some sales from remote to store sales during the holiday weekend. The lack of precise empirical data regarding the magnitude of such factors makes this fiscal analysis more complex, and revenue loss estimates may be somewhat overstated.

Price and substitution effects

The temporary sales tax exemption would effectively decrease prices of the tax-exempt items by a percentage equal to the combined state and local sales tax rates. A share of those savings will result in added purchases. Also, lower prices enhance consumer "real" income or purchasing power. This additional income from the sales tax exemption is likely to be spent on both taxable and nontaxable items, and some additional tax revenues may be collected. Also, demand for certain goods would rise during the sales tax holiday weekend, and some research had found evidence that retailers may respond by raising prices, and curtailing their customary "sales prices."[1]

Cross-border sales

Two cross-border effects are likely to take place with this bill. It is probable that some Ohioans already purchase clothing in other states and most do not pay Ohio use tax on those purchases. Such cross-border sales may remain in Ohio during the sales tax holiday. Also, Ohio stores may increase sales to residents of neighboring states that do not provide a similar tax holiday. Therefore, cross-border effects are present, although impossible to quantify. However, the total cross-border effect on tax revenues is expected to be minimal.

Shift from remote sales to store sales

A number of consumers purchase clothing and footwear through mail order and the Internet, in part as a tax avoidance strategy. Therefore, the bill would reduce the appeal of such remote purchases, and thus transfer some of the remote sales to store sales in Ohio. This effect is assumed to be small and would probably have a negligible impact on sales tax revenue.

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[1] Richard Harper, and al. (2003): *Price Effects Around a Sales Tax Holiday: An Exploratory Study*, 23 Public Budgeting and Finance, 108-113.

All the factors enumerated above, although important, are difficult to quantify and may slightly reduce the fiscal cost of the sales tax holiday.

Computer data center sales and use tax exemption

The bill modifies the requirements for a computer data center[2] to be eligible for sales and use tax exemption under current law. Existing law requires that one or more taxpayers operating a computer data center business at a project site will, in the aggregate, make payments for a capital investment project of at least $100 million at the project site during a period of three consecutive calendar years. The bill modifies this requirement and specifies one of the following cumulative periods: for projects beginning in 2013, five consecutive calendar years; for projects beginning in 2014, four consecutive calendar years; for projects beginning in or after 2015, three consecutive calendar years. This modification is likely to increase the sales and use tax revenue loss from this exemption, though the amount is indeterminate.

Financial institutions tax

Current law prescribes a tax rate adjustment mechanism if revenue from the financial institution tax (FIT) for TY 2014 reports is more than 110% or less than 90% of $200 million (first target amount). If revenue exceeded 110% of the first target tax amount or $220 million, the Tax Commissioner would decrease the tax rates for 2015 and subsequent years to the rates that would have provided $200 million in receipts for TY 2014 reports; alternatively, if FIT revenue were 110% above the first target tax amount, rates for the subsequent years would be decreased. The financial institution tax produced $197.8 million in FY 2014 (generally for reports for TY 2014).[3] Separately, existing law also provides for another test period in TY 2016, a second target tax amount of $212 million (106% of the TY 2014 target amount), with an adjustment mechanism similar to the one for TY 2014, if the revenue for TY 2016 reports deviated from the 2016 target tax amounts. If revenue exceeded 110% of the second target tax amount, the Tax Commissioner would decrease the tax rates for 2017 and subsequent years to the rates that would have provided the second target tax amount; alternatively, if FIT revenue were 110% above that tax amount, rates for the subsequent years would be decreased.

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[2] "Computer data center" means a facility used or to be used primarily to house computer data center equipment used or to be used in conducting one or more computer data center businesses, as determined by the Ohio Tax Credit Authority.

[3] Tax filings for TY 2014 were due January 31, March 31, and May 31, 2014, with possible extensions to October 2015. Adjustments to earlier tax filings for a tax year may be made in later months under financial institutions tax. These adjustments for a prior tax year may result in additional taxes paid or refunds in the following fiscal years.

The bill modifies the definition of "amount of taxes collected" for purposes of rate adjustments for FIT and specifies that those collections should include the total amount of the tax credit authorized by section 5726.57 of the Revised Code. This nonrefundable tax credit is available for TY 2014 only to a qualifying dealer in intangibles that is a member of a qualifying controlled group of which a financial institution is also a member. As of this writing, LSC does not have the amount of the tax credits referenced above and does not know whether any of the credits were claimed on tax year reports for 2014. It is however possible that those credits would reduce FIT collections in FY 2015, though the initial tax filings for TY 2014 report occurred earlier in 2014. The bill also specifies how the potential adjusted new rates for FIT would be calculated by the Tax Commissioner. The fiscal effects of these changes to FIT are uncertain.

The bill also changes the definition of exempted financial institutions for purposes of the FIT. It specifies that the following entities are not included for purposes of this tax: a bank organization owned directly or indirectly by an entity that was a grandfathered unitary savings and loan holding company on January 1, 2012; any entity that was a grandfathered unitary savings and loan holding company on January 1, 2012; and any entity that is not a bank organization or owned by a bank organization and that is owned directly or indirectly by an entity that was a grandfathered unitary savings and loan holding company on January 1, 2012. The effect of this provision is uncertain, though it is possible it could have a limited fiscal impact.

Development Services Agency

Technology Programs and Grants

The bill appropriates an additional $2,290,500 to GRF appropriation item 195532, Technology Programs and Grants, and earmarks the entirety of the added appropriation for two commitments:

(1) $1,510,000 to Connect Ohio to support the Digital Works initiative; and

(2) $780,500 to Connect Ohio to provide broadband mapping and economic development consultation services.

Am. Sub. H.B. 59 of the 130th General Assembly, the main operating budget for the FY 2014-FY 2015 biennium, appropriated $13,547,321 in each fiscal year under line item 195532. Consequently, when adding the appropriations in this bill, the total FY 2015 appropriation for line item 195532 is $15,837,821.

According to Connect Ohio's website, the nonprofit is a subsidiary of Connected Nation, and works to provide universal broadband access to all parts of the state. The website describes the Digital Works initiative as a digital skills training program that provides mentoring and training to workers seeking employment and places them in quality teleworking jobs.

Travel and Tourism appropriation increase and earmarks

The bill appropriates $1,228,321 in FY 2015 under GRF appropriation item 195407, Travel and Tourism, and earmarks that entire amount for three purposes:

(1) $500,000 for the 2015 Major League Baseball All-Star Game in Cincinnati;

(2) $428,321 for the Chagrin Valley Little Theater; and

(3) $300,000 for the James Kilbourne Library Building in Worthington.

These additional GRF earmarks will not reduce DSA's funding for tourism promotion. Under a funding arrangement currently in place and running from FY 2014 through FY 2018, funding for tourism promotion comes from a portion of sales tax revenue that can be attributed to tourism-related businesses. That funding is appropriated under Fund 5MJ0 line item 195683, TourismOhio Administration.

Economic Gardening Technical Assistance Pilot Program

The bill creates the Economic Gardening Technical Assistance Pilot Program. Under the two-year program, DSA may provide technical assistance to eligible businesses, including assistance in market research, marketing, and the development of connections with trade associations, academic institutions, business advocacy groups, peer-based learning sessions, mentoring programs, and other businesses. Eligible businesses must have between six and 99 employees and follow other requirements, described in more detail in the LSC Bill Analysis.

The bill appropriates $500,000 in FY 2015 from the GRF to operate the pilot program, under line item 195530, Economic Gardening Pilot Program. The bill also requires that DSA produce a report one year after the effective date of the bill which assesses the program and recommends any changes to be made to the program. Additionally, DSA may contract or coordinate with outside agencies or business to administer and operate the program.

Economic gardening is an economic development strategy generally recognized as first being initiated by the city of Littleton, Colorado, in the early 1990's. Economic gardening programs are aimed at providing business assistance to small businesses ready to grow to the "second stage" of the business level. At least two multi-county regional organizations operate economic gardening programs in Ohio: the Northwest Ohio Economic Gardening Network Program in Ottawa County and Sandusky County, and the Rural Ohio Economic Gardening Initiative, which assists businesses in rural counties across the state.

Ohio Healthier Buckeye Advisory Council recommendations extension

Currently, the Ohio Healthier Buckeye Advisory Council may, among other things, submit to the Director of Job and Family Services by December 1, 2014, recommendations for the following: coordinating services across all public assistance programs to help individuals find employment, succeed at work, and stay out of poverty; revising incentives for public assistance programs to foster person-centered case management; standardizing and automating eligibility determination policies and processes for public assistance programs. The bill changes the date that the recommendations are to be submitted to December 1, 2015. There should be no fiscal impact associated with this change.

University Hospital capital appropriation transfer

The bill amends H.B. 497 of the 130th General Assembly to transfer capital appropriation item C230H5, University Hospital Seidman Center Proton Therapy Center, under Facilities Construction Commission, for $500,000 to C26071, under Cleveland State University.

Lake County incubator project

The bill appropriates $200,000 in FY 2015 under the Department of Education's GRF appropriation item, STEM Initiatives, for building and equipment costs associated with a Lake County incubator project designed to increase the number of students participating in STEM fields of study.

Department of Job and Family Services' appropriations

The bill appropriates an additional $3.0 million in fiscal year 2015 within the Department of Job and Family Services' budget. Of this amount, $1.8 million is appropriated to GRF line item 600521, Family Assistance – Local, and is earmarked in the following manner: $1.5 million to the Putnam County YMCA in the city of Ottawa and $300,000 to the Jewish Federation of Cincinnati to provide operating funds for the Mayerson Jewish Community Center, Jewish Family Service of Cincinnati, and Dream Homes, Inc. The remaining $1.2 million is appropriated in GRF line item 600523, Family and Children Services, and is earmarked for the Child Placement Level of Care Tool Pilot Program.

Transfer from the GRF to the LGF in FY 2015

The bill requires the Director of Budget and Management to transfer an additional $10 million in cash from the GRF to the Local Government Fund in FY 2015 and to determine amounts to be distributed to each county undivided local government fund. The bill specifies that half of the $10 million is to be divided among the counties so that each township in the state receives the same amount, and half is to be apportioned based on township road miles. The Tax Commissioner is to distribute these amounts, and separately identify to each county treasurer the amount to be divided equally among townships in the county and the amount to be divided among the townships based on road miles. The bill requires each appropriate county officer to transfer cash from the county undivided local government fund to townships in the county based on this division of funds.

Tax exemption for real property

The bill would change the requirements for qualifying for a tax exemption for historic structures used for charitable purposes. Under current law, an otherwise qualifying property, used for a charitable, educational, or other public purpose, may continue to be tax exempt even if conveyed to an entity that is not a charitable or educational institution or the state or a political subdivision, provided that the property has been listed as exempt for ten years, and meets other requirements. The bill changes this time period to one year. The change is expected to allow a CAPA theater to qualify for the Federal Historic Preservation Tax Credit. Other properties in the state could be affected. The change will reduce revenue to units of local government.

Expansion of permitted uses of credit cards by counties

The bill expands the work-related expenses that may be paid for by use of a credit card held by a board of county commissioners or the office of another county appointing authority. It adds to the expenses that may be paid in this manner webinar expenses and the purchase of automatic or electronic data processing equipment, software, or services. The bill also allows a county law library resources board to accept payment of fees for services, and allows for the receipt of gifts to the county law library resources board, by financial transaction devices including credit cards and certain other electronic forms of payment, under certain circumstances. This change appears to facilitate transactions but otherwise have no fiscal effect.

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