OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

S.B. 102
136th General Assembly

Fiscal Note & Local Impact Statement

Click here for S.B. 102's Bill Analysis

Version: As Passed by the Senate

Primary Sponsor: Sen. Patton

Local Impact Statement Procedure Required: Yes

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Highlights

- The bill directs net proceeds of electing subdivision property sales to the electing subdivision, rather than to reimburse taxing districts charged foreclosure or forfeiture costs, for electing subdivisions other than county land reutilization corporations (CLRCs).
- The bill exempts CLRCs from all state and local taxes. This change may reduce tax revenues of the state and political subdivisions, thereby reducing state revenue sharing with local governments. Reductions in revenue to the state, if any, would be borne primarily by the GRF.
- The bill allows a board of county commissioners to adopt a resolution that exempts up to 50% of property taxes owed on a property conveyed by a CLRC and requires the same amount owed to be paid to the CLRC as a payment in lieu of taxes (PILOT) for up to five years.
- The bill extends tax-exempt status of properties owned by CLRCs or electing subdivisions to the last day of the tax year in which the title is transferred from the corporation or subdivision. This change will reduce tax revenues of the state and political subdivisions in the year following the transfer of such properties but may increase future tax revenues if it incentivizes a faster rate of property transfer to otherwise nonexempt property owners.

Detailed Analysis

The bill makes numerous changes to the laws pertaining to county land reutilization corporations (CLRCs) and to foreclosure and forfeiture for failure to pay property taxes and assessments. CLRCs are exempted by the bill from paying state taxes, which would reduce GRF revenue by an amount which might exceed $1 million in some years and would minimally reduce revenue sharing with political subdivisions. Other fiscal effects of the bill affect political

subdivisions. Law changes with fiscal effects on the state or political subdivisions are enumerated below. The bill includes numerous other provisions that appear to have minimal or no fiscal effects, for which the reader is referred to the LSC bill analysis.

CLRCs and other electing subdivisions

An electing subdivision is a municipal corporation, township, or county that has adopted an ordinance or resolution pursuant to R.C. 5722.02 to implement procedures that facilitate effective reutilization of nonproductive land within its boundaries. When an electing subdivision sells land reutilization program property, the bill directs that after the electing subdivision's expenses to acquire, maintain, and dispose of the property are reimbursed, the sale proceeds are to go to the electing subdivision for land reutilization, public purposes, and related purposes. Current law, for an electing subdivision other than a CLRC, directs that these sale proceeds are instead to be used by the county treasurer to reimburse taxing districts that were charged for the costs of foreclosure or forfeiture.

Under the bill, electing subdivisions would no longer be required to keep informed all taxing districts with an interest in the land under the bill. These changes would result in loss of revenue to affected taxing districts, gains for electing subdivisions, and possibly reduction in costs for these subdivisions. The bill eliminates a requirement that an electing subdivision other than a CLRC obtain the consent of taxing authorities for release of any claims on delinquent taxes and costs. This may facilitate such transactions.

If a CLRC acquires property in a transaction that is not a tax foreclosure procedure, in current law a municipal corporation or township has a priority right of acquisition for 30 days to indicate its intent to acquire that property, and subsequently to do so. The bill repeals this right. This change may result in ownership of some properties by CLRCs that under current law would instead be acquired by municipal corporations or townships.

The bill eliminates requirements that (1) property sold by an electing subdivision other than a CLRC be sold for at least fair market value, or (2) approval of the legislative authorities of those taxing districts entitled to share in sale proceeds be obtained before property is sold for less than fair market value. These changes may promote sale of properties and realization of proceeds from these sales. Additionally, revenues of local taxing authorities would increase when such properties are transferred to owners that are not exempt from property taxation.

The bill adds exemptions from sales and use taxes for (1) building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property under a contract with a CLRC or its wholly owned subsidiary, and (2) sales to or by a CLRC or its wholly owned subsidiary. These exemptions may tend to reduce GRF tax revenues as well as sales tax revenues of counties and regional transit authorities. The total revenue loss might exceed $1 million in some years.

Separately, the bill provides an exemption for a CLRC from all state and local taxes and assessments. The exemption applies to projects funded by the corporation, revenues or property acquired or used by the corporation, and the resulting income. To the extent that state GRF tax revenues are reduced by these changes, distributions to local governments and public libraries through the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065) will be reduced. These funds each receive 1.7% of GRF tax revenues in codified law.

For property forfeited to the state that an electing subdivision indicates it wants to acquire and that subsequently is offered for sale but does not receive the minimum bid, the property is deemed sold to the electing subdivision for no consideration. The bill clarifies that nonproductive land, land that is both tax delinquent and vacant, must only be offered for sale once.

Under continuing law, property unsold at a foreclosure sale under Chapter 5722 of the Revised Code, that would otherwise be forfeited to the state, may instead be transferred to a CLRC at the request of the CLRC. The bill amends R.C. 5722.04 to add that this transfer is to be without cost to the CLRC, possibly reducing costs for such entities.

In current law, abandoned land must be forfeited to the state or to a political subdivision, school district, or a CLRC if unsold after the first sale. The bill amends R.C. 323.28 to remove the option for abandoned land to be forfeited to a political subdivision, school district, or a CLRC. It repeals R.C. 323.74, which allows abandoned land not sold at public auction to be sold at a low price or transferred to a community development organization, school district, or local government. Instead, if not sold after the first sale, the bill requires that the abandoned land be forfeited to the state. The bill clarifies that both nonproductive and abandoned lands that have been foreclosed under the Executions Against Property Law, Expedited Foreclosure on Unoccupied Land Law, and Delinquent Land Law will forfeit to the state if not sold after one sale. These provisions will reduce administrative costs associated with holding multiple auctions and may improve efficiency in returning property to productive and tax-compliant use. However, they may also increase the costs of maintaining forfeited properties for the state.

The bill allows a board of county commissioners to adopt a resolution that exempts up to 50% of property taxes owed on a property conveyed by a CLRC and requires the same amount owed to be paid to the CLRC as a payment in lieu of taxes (PILOT) for up to five years. This provision would decrease property taxes collected for such properties conveyed to nonexempt owners and reduce GRF reimbursements of the homestead and tax rollback credits to local taxing authorities.

The bill extends tax-exempt status of properties owned by CLRCs or electing subdivisions to the last day of the tax year in which the title is transferred from the corporation or subdivision. This means that a nonexempt entity may take ownership of a property from a CLRC or electing subdivision and inherit the tax-exempt status on the property for a period of up to one year. The maximum benefit would be realized by such a nonexempt entity taking ownership on January 1 of a given year. This change may reduce tax revenues of the state and political subdivisions in the year following the transfer of such properties as property taxes are paid in arrears. However, the change may increase tax revenues in future years after the tax-exempt status expires, as the temporary benefit incentivizes private ownership of such properties and may increase the rate of such transfers.

Revenue increases and cost savings

The bill reduces from three to two years the time that a county treasurer must retain and separately account for any money owed to the former owner from sale of foreclosed property. This requirement applies only if the amount owed remains unclaimed by the former owner. After three years in current law, and two years under the bill, the money owed to the former owner is forfeited to the CLRC fund if the county has one, or to the county's delinquent tax and assessment

collection (DTAC) fund. Counties have two such funds, one each for the county auditor and prosecuting attorney. The shorter delay in forfeiture will tend to make additional money available to counties in the first year that this bill provision is in effect.

The bill authorizes a prosecuting attorney, before the filing of a foreclosure complaint on behalf of the board of revision under the Expedited Foreclosure on Unoccupied Land Law, to hire outside counsel to initiate a title search of property subject to foreclosure to identify persons having an interest in it. This change may increase efficiency for county prosecutors.

The bill authorizes a board of township trustees to contract with a CLRC to act as the board's agent in connection with the removal, repair, or securing of buildings that have been declared insecure, unsafe, or structurally defective by a fire department or a building department, or buildings that have been declared to be nuisance properties. This may allow municipalities to more efficiently recoup costs associated with abatement or reallocate the property for productive use.

The bill eliminates a requirement that a county auditor compile a delinquent vacant land tax list, in addition to the delinquent land list and delinquent tax list. Delinquent vacant lands, by statute, are lands with taxes delinquent at least a year and unimproved by any dwelling. This change may result in cost savings, likely modest, for county auditors.

The bill requires payment of all liens associated with nuisance abatement in establishing an owner's or interested party's burden of proof that not selling a property in receivership is more beneficial than selling the property. The increase in the cost of objecting to such a sale may reduce the number of objections and allow courts to approve sales of properties in receivership more efficiently. Insomuch as properties are sold at a faster rate than prior to the bill, delinquent taxes will be paid sooner.

DTAC funds

In a sale under the Expedited Foreclosure on Unoccupied Land Law, under the bill 10% of sale proceeds are to be deposited into each of the county treasurer and prosecutor's respective DTAC funds. This differs from current law, which requires 20% to be deposited into the county treasurer's DTAC fund and allows up to half of that 20% to be distributed to a CLRC. Under the bill, in counties that have established a CLRC, an additional 10% must be deposited into the county land reutilization fund. This change will reduce the distribution of such proceeds to the county treasurer, increase the distribution to the prosecuting attorney, and direct additional funds to CLRCs in some counties. The increase in the allocation of these proceeds from 20% to 30% in some counties reduces the balance available to distribute to political subdivisions and other taxing units in proportion to their claims for taxes, assessments, interest, and penalties on the land.

Similarly, under the Forfeited Land Law, R.C. 5723.18 of the bill provides for payment of an additional 10% of taxes and assessments to the county land reutilization corporation fund, if a CLRC exists in the county. The increase reduces amounts paid to political subdivisions that have claims against the property for unpaid taxes, assessments, or other charges.

In current law pertaining to nonproductive land, a county auditor charges costs incurred in a tax foreclosure proceeding under the Executions Against Property Law, the Expedited Foreclosure on Unoccupied Land Law, or the Delinquent Land Law to the taxing districts, including electing subdivisions, with an interest in the unpaid taxes or other charges. The bill directs that

costs retained by the auditor be deposited to the DTAC funds of the county treasurer and prosecutor. This change will tend to increase the amounts in those DTAC funds.

Other provisions

The bill includes a prohibition on the state or a political subdivision charging a fee, other than that set out in statute, to an owner or operator responsible for an asbestos demolition or renovation project, in connection with submitting notification required under the state's environmental protection laws. This change may reduce fee income of certain government entities.

The bill also specifies that the title of any building sold at a sale ordered under the Public Nuisance Law is free and clear of all liens and encumbrances, including liens for delinquent taxes, assessments, charges, penalties, and interest owed to the state or any political subdivision, except for federal tax liens, and the easements and covenants of record prior to the sale. Under current law, these owed charges would have been compensated for by the proceeds of the sale and the remaining funds in the receiver's possession pursuant to the distribution. As such, this change may marginally reduce state and local revenue.

The bill extends the period in which the owner of property under foreclosure for public nuisance may redeem the property by paying the minimum bid in the auction where the property did not sell. The bill extends the period from within ten days after the entry of the decree of foreclosure to the time it takes to journalize the confirmation of sale. This may allow more owners to redeem their property and increase the collection of abatement costs, court costs, and interest.

The bill requires the owners of forfeited land to pay the amount of taxes and related amounts that would have become due on forfeited land had it not been forfeited when redeeming the property before the state disposes of it. These payments are in addition to those required under current law. The provision will increase taxes collected for redeemed properties, but may decrease the number of properties redeemed as it increases the cost of doing so.

The bill allows an owner of delinquent or abandoned property to demand a public auction be held in place of a direct transfer. The provision may increase administrative costs associated with holding an auction and, in the case of a sale, increase the collections of taxes, fees, and interest owed.

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