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# OHIO LEGISLATIVE SERVICE COMMISSION

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S.B. 331  
136<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Sens. Wilson and Blackshear

Chris Edwards, Attorney

### SUMMARY

- Authorizes a public employee working in certain hospitality settings to accept, in addition to the employee's regular compensation, a gratuity in recognition of services the employee performs in the course of the employee's public employment.

### DETAILED ANALYSIS

#### Gratuities for public hospitality employees

The bill authorizes a public hospitality employee, in addition to the employee's regular compensation, to accept a gratuity in recognition of services the employee performs in the course of the employee's public employment.<sup>1</sup> A "public hospitality employee" is any public employee who performs the employee's primary duties at any of the following facilities:

- A publicly owned combined park-camp, recreation camp, recreational vehicle park, or temporary park-camp;
- A publicly owned facility containing a public swimming pool, spa, or special use pool;
- A publicly owned golf course or hotel;
- A publicly owned theater, concert hall, entertainment venue, convention center, or similar space for hosting performances or events;
- A refuge harbor or marine recreational facility operated by the Division of Parks and Watercraft in the Department of Natural Resources;
- A retail establishment located in a publicly owned facility;
- A retail food establishment or food service operation located in a publicly owned facility;

<sup>1</sup> R.C. 102.10(B).

- Any other publicly owned facility similar to those described above.<sup>2</sup>

The bill exempts its gratuity authorization for public hospitality employees from the continuing law prohibition against any public official or employee soliciting or accepting anything of value that is of such a character as to manifest a substantial and improper influence on the official or employee with respect to that person's duties. It also exempts its gratuity authorization from the continuing law prohibition against any public servant soliciting or accepting supplemental compensation for performing the servant's public duties.<sup>3</sup>

The Ohio Constitution also prohibits extra compensation for officers, public agents, and contractors.<sup>4</sup> If challenged, a court may examine whether this constitutional prohibition would limit a public hospitality employee's ability to accept a gratuity under the bill.

## Prohibitions

The bill prohibits any public agency that employs a public hospitality employee who accepts a gratuity under the bill from doing either of the following:

- Paying the employee less than the regular compensation customarily paid to other public hospitality employees performing substantially the same services in similar positions;
- Claiming the gratuity as a credit toward the minimum wage rate required under the Minimum Wage Amendment (MWA) to the Ohio Constitution and Ohio's Minimum Fair Wage Standards Law (the MWA allows an employer to claim a gratuity that an employee receives as a credit toward the state minimum wage rate, thus lowering the wage amount the employer must pay the employee).<sup>5</sup>

## Retirement contributions

A gratuity accepted by a public hospitality employee under the bill is considered earnable salary for purposes of the Public Employees Retirement System or compensation for purposes of the School Employees Retirement System or an alternative retirement plan (ARP).<sup>6</sup> Thus, a public hospitality employee who accepts a gratuity, and the employee's employer, must make contributions based on the gratuity amount to the retirement system or ARP to which the employee belongs. Continuing law prescribes the required employer and employee contribution rates. The employee contribution rate is a percentage of the employee's compensation. The employer contribution rate is an amount equal to a percentage of the employee's compensation. Employee and employer contributions and investment earnings fund retirement and other benefits. For more information regarding retirement system contributions, see page 3 of LSC's *Members Brief on [Funding Public Retirement Benefits \(PDF\)](#)*, available on the LSC website: [lsc.ohio.gov](http://lsc.ohio.gov).

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<sup>2</sup> R.C. 102.10(A), by reference to R.C. 1547.72, 3717.01, 3729.01, 3731.01, and 3749.01, not in the bill.

<sup>3</sup> R.C. 102.10(B), by reference to R.C. 102.03 and 2921.43, not in the bill.

<sup>4</sup> Ohio Constitution, Article II, Section 29.

<sup>5</sup> R.C. 102.10(C); see also Ohio Const., art. II, sec. 34a, and R.C. Chapter 4111.

<sup>6</sup> R.C. 102.10(D), by reference to R.C. Chapters 145, 3305, and 3309.

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## HISTORY

Action	Date
Introduced	11-25-25

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