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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

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

## **Fiscal Note & Local Impact Statement**

[Click here for S.B. 331's Bill Analysis](#)

**Version:** As Introduced

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

**Local Impact Statement Procedure Required:** No

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### **Highlights**

- The bill may result in minimal increases in payroll-related costs for the state and for political subdivisions that operate publicly owned hospitality facilities.
- These costs arise from required employer retirement contributions and Medicare employer tax on gratuities accepted by eligible employees, to the extent gratuities are treated as taxable wages.
- Only a small share of public employees work in the types of facilities covered by the bill. Statewide, a few hundred state employees and low thousands of local employees may be eligible, though actual gratuity volume is expected to be low across most facilities.
- Hospitality operations on public property that are run by private concessionaires are unaffected, as those workers are not public employees and can already accept gratuities.

### **Detailed Analysis**

The state and political subdivisions could incur increased payroll costs under the bill. Any increase in costs for the state or political subdivisions would result from employer retirement contributions and the employer share of Medicare tax owed on gratuities that certain employees may accept under the bill.<sup>1</sup> Because gratuities in public-sector hospitality settings are likely to be low and infrequent, the associated payroll-related expenses are expected to be small.

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<sup>1</sup> The Ohio Public Employees Retirement System employer contribution rate for state employees is 14%, and contribution rates for local governments vary by employer. Employers also pay the 1.45% Medicare payroll tax on all gratuities.

Under the bill, certain public hospitality employees may accept gratuities in addition to their regular compensation, and these amounts must be treated as earnable salary or compensation for purposes of the Ohio Public Employees Retirement System, the School Employees Retirement System, or an alternative retirement plan. The bill also prohibits a public employer from reducing the regular compensation of a tipped employee or from counting gratuities as a credit toward the minimum wage. These restrictions may limit adjustments a public employer could otherwise make to employee pay but are not likely to impose additional costs beyond those described above.

The number of public employees who meet the bill's definition of a public hospitality employee is relatively small and includes workers whose primary duties occur at publicly owned parks and campgrounds, public swimming pools and similar aquatic facilities, publicly owned golf courses and hotels, theaters and entertainment or event venues, marina and harbor facilities, and retail or food service establishments located within publicly owned facilities. Within state agencies, only a few hundred employees, primarily at the Department of Natural Resources and the Ohio Expositions Commission, appear to fall within the bill's scope. For political subdivisions, U.S. Bureau of Labor Statistics data for local government lifeguards, amusement and recreation attendants, and recreation workers, scaled to Ohio's share of the national population, suggest that potentially affected workers number in the low thousands statewide, although only a portion work in the specific types of facilities covered by the bill.

Many hospitality type services provided on state or local property, such as in park lodges, restaurants, certain marina operations, and some recreation facilities, are operated by private concessionaires rather than public employees. Because concessionaire employees are not public employees they are already eligible to receive gratuities and the bill has no effect on their employment conditions.