

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **H.B. 223** DATE: **October 2, 2007**

STATUS: **As Introduced** SPONSOR: **Rep. Hughes**

LOCAL IMPACT STATEMENT REQUIRED: **No — Offsetting revenues**

CONTENTS: **Establishes licensing requirements and standards of care for certain dog breeding kennels and dog intermediaries**

State Fiscal Highlights

STATE FUND	FY 2008	FY 2009	FUTURE YEARS
General Revenue Fund			
Revenues	Negligible gain from state court cost fees	Negligible gain from state court cost fees	Negligible gain from state court cost fees
Expenditures	- 0 -	- 0 -	- 0 -
Regulated Dog Breeding Kennel Control License Fund (New Fund) – Department of Agriculture			
Revenues	Potential gain in the hundreds of thousands of dollars from license fees	Potential gain in the hundreds of thousands of dollars from license fees	Potential gain in the hundreds of thousands of dollars from license fees
Expenditures	Increase in the hundreds of thousands of dollars, up to available revenues	Increase in the hundreds of thousands of dollars, up to available revenues	Increase in the hundreds of thousands of dollars, up to available revenues
General Reimbursement Fund (Fund 106) – Attorney General			
Revenues	Offsetting gain from background check fees	Offsetting gain from background check fees	Offsetting gain from background check fees
Expenditures	Increase corresponding to background checks performed	Increase corresponding to background checks performed	Increase corresponding to background checks performed
Victims of Crime/Reparations Fund (Fund 402) – Attorney General			
Revenues	Negligible gain from state court cost fees	Negligible gain from state court cost fees	Negligible gain from state court cost fees
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2008 is July 1, 2007 – June 30, 2008.

- **Kennel license fee revenue.** The bill establishes a graduated state license fee structure for breeding kennels with nine or more adult breeding dogs. LSC does not have any specific data suggesting how many dogs are housed or maintained at each kennel currently registered with county auditors, making an accurate prediction of revenue difficult. However, depending on the number of regulated dog breeding kennels and how many dogs they contain,



revenue to the Regulated Dog Breeding Kennel Control License Fund may be in the hundreds of thousands of dollars or more annually.

- **State expenses.** Staffing expenses for the newly created Dog Breeding Kennel Control Authority are likely to be in the hundreds of thousands of dollars annually, up to available revenues. There would also be a number of overhead costs associated with performing the functions required by the bill, such as for computers, phones, and other office overhead as well as ongoing maintenance, travel, and other miscellaneous expenses.
- **Bureau of Criminal Identification and Investigation (BCII) background checks.** The bill directs the Director of Agriculture to adopt rules establishing requirements and procedures for conducting background investigations of applicants. Thus, the Attorney General's General Reimbursement Fund (Fund 106) may realize a gain in revenue corresponding to the number of background checks conducted in order to offset the additional costs such additional background checks would present for BCII.
- **State court cost revenue.** It is also possible that the state may gain a negligible amount of state court cost revenue to the GRF, which receives \$15 per misdemeanor case, and the Victims of Crime/Reparations Fund (Fund 402), which receives \$9 per misdemeanor case.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2007	FY 2008	FUTURE YEARS
Counties			
Revenues	Potential gain from dog license fees; potential gain from court cost and fine revenue	Potential gain from dog license fees; potential gain from court cost and fine revenue	Potential gain from dog license fees; potential gain from court cost and fine revenue
Expenditures	Potential negligible decrease in administrative expenses; Potential increase in adjudication costs	Potential negligible decrease in administrative expenses; Potential increase in adjudication costs	Potential negligible decrease in administrative expenses; Potential increase in adjudication costs
Municipalities			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase in adjudication costs	Potential increase in adjudication costs	Potential increase in adjudication costs

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

- **Dog license replacement revenue.** Under the bill, \$50 of each regulated dog breeding kennel license application fee, or an amount equal to the county's kennel registration fee as of January 1, 2006, whichever is greater, is returned to the county where the state-licensed breeding kennel is located. This mechanism would offset any revenue lost from a kennel sending licensing fees to the state. Some counties that have kennel registration fees of less than \$50 will gain revenue to their county dog and kennel fund.
- **Dog license revenue.** It may be that owners of state-licensed kennels must also register each adult breeding dog with the county auditor, resulting in additional revenue to the dog and kennel fund in each county over the \$50 or more portion of a state kennel license applicant's application fee that is diverted to the appropriate county auditor. It is uncertain what the magnitude of this gain in revenue may be.

- **County auditor expenses.** Most counties utilize a combined staff to perform all dog, kennel, vendor, and cigarette licensing functions. Therefore, it appears that any savings with regard to performing fewer kennel registrations would be limited.
 - **New penalty.** A first-degree misdemeanor (M1) penalty is established for any violation of the bill. Therefore, an increase in local criminal justice expenditures could occur if additional persons are prosecuted and sanctioned as a result of the bill. Yet, court cost and fine revenue may help to offset any such increase.
 - **Franklin County Municipal Court.** The bill grants exclusive jurisdiction to grant injunctive relief under the bill's provisions to the Franklin County Municipal Court. While it is uncertain how many additional cases the court may handle as a result of the bill, any increase in expenses would likely be mitigated through court cost and filing fee revenue.
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Detailed Fiscal Analysis

Background

This bill establishes licensing requirements and standards of care for certain dog breeding kennels and dog intermediaries. Specifically, the bill would establish a two-tiered system of regulating dog kennels. County auditors would still issue dog licenses and kennel registrations for kennels with eight or fewer adult dogs for the purpose of breeding the dogs for a fee or other consideration. Establishments that keep, house, or maintain nine or more adult dogs in any given year for the purpose of breeding in return for a fee or other consideration are termed "regulated dog breeding kennels" and required to be licensed at the state level by the Dog Breeding Kennel Control Authority in the Department of Agriculture.

State fiscal effects

Department of Agriculture

Dog Breeding Kennel Control Authority. This bill creates the Dog Breeding Kennel Control Authority in the Department of Agriculture to establish licensing requirements and standards of care for certain dog breeding kennels and dog intermediaries. The Authority is also to ensure the welfare and humane treatment of dogs and their offspring. The Director of Agriculture is to designate a director as head of the authority and appoint kennel control enforcement inspectors. Enforcement inspectors are to inspect a commercial dog breeding kennel at least once biennially.

Staff and overhead expenses. Staffing and overhead expenses for the Authority are likely to be in the hundreds of thousands of dollars annually, up to available revenues. According to pay tables effective July 2007, the director of the Authority would likely be compensated in the range of \$18 to \$22 per hour, depending on the director's classification. Assuming an additional 30% for payroll and fringe benefit costs, the total cost for the director may be up to \$60,000 or so annually. The Authority will also need inspectors in order to carry out the bill's requirement that each kennel subject to licensure be inspected at least once every two years. The number of inspectors needed will depend on the

number of kennels licensed by the Department, which is uncertain. Hourly wages for many state inspector positions start at around \$16 per hour. Assuming the inspectors were hired around this pay rate, salary and fringe benefit costs for each inspector would likely be around \$43,000 annually.

There would be a number of overhead costs associated with performing the duties and responsibilities required by the bill. Start-up costs for such things as a system to track licensees and applicants; equipment such as computers, phones, and other office overhead; and maintenance, travel, and other miscellaneous expenses may be in the tens of thousands of dollars. The Authority may also incur ongoing maintenance expenses for supplies as well as charges for network access, telephone, fax, and other information technology services. Such maintenance expenses may be several thousand dollars or so annually.

Regulated Dog Breeding Kennel Oversight Commission. This bill also creates the Regulated Dog Breeding Kennel Oversight Commission in the Department of Agriculture. The Commission is to provide oversight and evaluation of the administration of the state kennel program including the operation of the Dog Breeding Kennel Control Authority. The Commission consists of ten members. Members of the Commission must serve on the Authority without compensation, but are to be reimbursed for actual and necessary expenses included in the performance of their official duties. The Commission is to meet at least four times per year in Columbus or other locations selected by the chairperson. If it is assumed that each member would be compensated approximately \$200 for expenses for each meeting attended and all ten members attend the four required meetings, board member expense costs for the Commission would be approximately \$8,000. If the board meets more often, expenses would be increased accordingly.

Licensing. This bill requires that operators of regulated dog breeding kennels, defined as establishments that keep, house, and maintain nine or more adult dogs for the purpose of breeding in return for a fee or other consideration, obtain a regulated dog breeding kennel license from the Department of Agriculture. Regulated dog intermediaries, meaning persons who sell, offer to sell, exchange, auction, or offer for adoption more than 24 dogs annually in Ohio, must obtain a license from the Department as well.

The bill directs the Director of Agriculture to adopt rules establishing requirements and procedures for conducting background investigations of applicants for the commercial dog breeding kennel license, including rules that require background investigations to be conducted solely by the Attorney General on behalf of the Department of Agriculture. The Bureau of Criminal Identification and Investigation (BCII), within the Office of the Attorney General, charges \$15 and \$24 for state and national background checks, respectively. Presumably, the rules adopted would require the applicant to pay the background investigation fees. Thus, the Attorney General's General Reimbursement Fund (Fund 106) may realize a gain in revenue corresponding to the number of background checks conducted in order to offset the additional costs such additional background checks would present for BCII.

Those applying for the kennel licenses noted above must pay an annual application fee based on the number of dogs housed or maintained. The fee schedule for kennels and intermediaries is summarized in the table below.

Regulated Dog Breeding Kennel and Intermediary License Application Fees	
License Type	Annual Application Fee
Regulated Dog Breeding Kennel (9-15 dogs)	\$150
Regulated Dog Breeding Kennel (16-25 dogs)	\$350
Regulated Dog Breeding Kennel (26-30 dogs)	\$500
Regulated Dog Breeding Kennel (30+ dogs)	\$750
Regulated Dog Intermediary	\$500

Application fee revenue from license application fees is to be deposited into a new fund named the Regulated Dog Breeding Kennel Control License Fund. However, the bill states that \$50 of each application fee for a regulated dog breeding kennel license or an amount equal to the fee charged by the county for kennel registration as of January 1, 2006, whichever is greater, must be transferred to the county where the kennel is or will be located and deposited by the county auditor into the county's dog and kennel fund.

Fee revenue. Data supplied by a sample of county auditors from across Ohio indicate that there are approximately 14,000 kennels registered by county auditors statewide (see the **Local fiscal effects** section below for more detail). Dog kennel owners, as defined by R.C. 955.02 under current law, are persons or firms professionally engaged in the business of breeding dogs for hunting or sale. Therefore, it is assumed that the dog kennel owners who have nine or more dogs housed or maintained will need to be licensed with the state as commercial dog breeding kennels.

LSC does not have any specific data suggesting how many dogs are housed or maintained at each kennel currently registered with county auditors, making it difficult to determine how many kennels would have up to eight adult dogs and would continue to be registered by the county. County auditors indicated that the average number of tags requested with each kennel registration did not exceed 10 to 15, indicating many state licensed kennels would pay the lowest license fee of \$150. Currently, kennel registrations with the county auditor include five tags while additional tags may be obtained for an additional fee. Depending on the number of regulated dog breeding kennels and how many dogs they contain, revenue to the Regulated Dog Breeding Kennel Control License Fund may be in the hundreds of thousands of dollars or more. For instance, if just 2,000 of the state's estimated 14,000 kennels house or maintain nine or more adult breeding dogs, and thus become subject to state licensure, revenue would be at least \$300,000 annually if all kennels paid the lowest license fee of \$150 per year.

Housing seized or impounded dogs

The Kennel Control Authority may impound a dog if there is probable cause to believe that the regulated dog breeding kennel or regulated dog intermediary is materially violating the standards and requirements of the bill or if the dog's health or safety appears to be in imminent danger. An adjudication hearing is to occur not later than five business days after the dog is taken to determine if the dog should be permanently relinquished to the custody of the Department of Agriculture. Those appealing such a determination must file with the Environmental Division of the Franklin County Municipal Court and must include an appeal bond to cover the costs of keeping, housing, and maintaining the dog.

The bill allows the Director of Agriculture to enter into contracts with various groups for the purpose of keeping, housing, and maintaining dogs that are impounded. However, the bill also requires a licensee to submit a surety bond to ensure compliance and pay for the maintenance and care of the dogs that are seized or impounded from the licensee.

Civil penalties and other remedies

The bill permits the Director of Agriculture to assess a civil penalty against a person violating the bill's provisions or the rules adopted under it under certain circumstances. The civil penalty amounts vary from two times the amount of the appropriate license fee for operating without a license to a maximum \$15,000 for operating a regulated dog breeding kennel or acting as an intermediary if one has been convicted of or plead guilty to various offenses relating to domestic animals. Additionally, persons violating any other provision or the standards of care and requirements established by the bill must pay \$25 with each day a violation persists constituting a separate violation. It is uncertain how many such civil penalties will be levied but the Regulated Dog Breeding Kennel Control License Fund may experience a gain in revenue from these civil penalties. The bill also allows the Attorney General, upon the request of the Director of Agriculture, to bring an action for injunction against violators of the bill's provisions. This may increase expenses for the Office of the Attorney General to carry out these and other related actions, however, the magnitude of any such increase is uncertain.

Local fiscal effects

County auditor dog kennel registration revenue

LSC coordinated with the County Auditors Association of Ohio (CAAO) to conduct a survey of county auditors in an effort to obtain data on dog kennel registrations. As noted above, dog kennel owners, as defined in current law, are persons or firms professionally engaged in the business of breeding dogs for hunting or sale. Out of Ohio's 88 counties, 55 responded to the survey with the number of registrations they processed in 2005 and 65 responded with their kennel registration fee. The average county responding to the survey registered 159 dog kennels in 2005.

According to the registration data provided by county auditors, there are approximately 14,000 kennels registered statewide. The average kennel registration fee is approximately \$57. Under the bill, \$50 of each regulated dog breeding kennel license application fee, or an amount equal to the county's kennel registration fee as of January 1, 2006, whichever is greater, is returned to the county where the breeding kennel is located (these kennels must apply every year for their license). It appears that counties will not lose any kennel registration revenue since the bill allocates back to counties the money they presumably would have lost from a kennel sending licensing fees to the state. Some counties that have kennel registration fees of less than \$50 will gain revenue to their county dog and kennel fund.

Dog registration revenue

Under current law, a county dog kennel registration comes with five tags. If additional tags are necessary, there is usually a small fee charged for each extra tag. There appears to be no similar

provision for tags in the state kennel licensing program under the bill. Therefore, it may be that owners of state-licensed kennels must also register each adult breeding dog with the county auditor at a fee of between \$6 and \$20 per dog, depending on the county. The revenue received by county auditors from such dog registration fees would be in addition to the \$50 or more portion of a state kennel license applicant's application fee that is diverted to the appropriate county auditor. It is uncertain what the magnitude of this gain in revenue may be.

County auditor dog kennel registration expenses

The CAAO noted that there is minimal cost to auditors to administer dog kennel registration programs, and therefore, there would be not much of an impact on staff. Presumably, most counties would utilize a combined staff to perform all dog, kennel, vendor, and cigarette licensing functions. Therefore, it appears that any savings with regard to performing fewer kennel registrations would be limited.

Franklin County Municipal Court

As noted above, the bill also allows the Attorney General, upon the request of the Director of Agriculture, to bring an action for injunction against violators of the bill's provisions. Such actions would be filed in the Environmental Division of the Franklin County Municipal Court, which the bill grants exclusive jurisdiction to grant injunctive relief under the bill's provisions. According to the Franklin County Municipal Court 2006 Annual Report, the Environmental Division of the court handled 6,383 total cases in that year. While it is uncertain how many additional cases the court may handle as a result of the bill, any increase in expenses would likely be mitigated through court cost and filing fee revenue.

Local criminal justice effects

Notwithstanding the above considerations, a first-degree misdemeanor (M1) penalty is established for any violation of the bill. An M1 carries a maximum sentence of six months and a maximum fine of \$1,000. Therefore, an increase in local criminal justice expenditures could occur if additional persons are prosecuted and sanctioned. Yet, court cost and fine revenue may help to offset any such increase. It is also possible that the state may gain a negligible amount of state court cost revenue to the GRF, which receives \$15 per misdemeanor case, and the Victims of Crime/Reparations Fund (Fund 402), which receives \$9 per misdemeanor case.

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