

# Fiscal Note & Local Impact Statement

127<sup>th</sup> General Assembly of Ohio

Ohio Legislative Service Commission  
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BILL: **H.B. 398** DATE: **April 14, 2008**  
 STATUS: **As Introduced** SPONSOR: **Rep. Bacon**  
 LOCAL IMPACT STATEMENT REQUIRED: **No — Minimal cost**  
 CONTENTS: **To license radiologist assistants**

## State Fiscal Highlights

| STATE FUND  | FY 2009   | FY 2010  | FUTURE YEARS   |
|---|---|--|--|
| <b>General Revenue Fund (GRF)</b>                   |   |  |  |
| Revenues  | - 0 -   | - 0 -  | - 0 -  |
| Expenditures  | Potential minimal increase for incarceration costs  | Potential minimal increase for incarceration costs   | Potential minimal increase for incarceration costs   |
| <b>Victims of Crime/Reparations Fund (Fund 402)</b> |   |  |  |
| Revenues  | Potential negligible gain   | Potential negligible gain  | Potential negligible gain  |
| Expenditures  | - 0 -   | - 0 -  | - 0 -  |
| <b>Fee Supported Programs (Fund 470)</b>            |   |  |  |
| Revenues  | Potential gain dependent upon the number of radiologist assistants applying for licensure   | Potential gain dependent upon the number of radiologist assistants applying for licensure          | Potential gain dependent upon the number of radiologist assistants applying for licensure          |
| Expenditures  | Potential increase for rule promulgation and other start-up costs, as well as administration, oversight, and enforcement of radiologist assistant program | Potential increase for administration, oversight, and enforcement of radiologist assistant program | Potential increase for administration, oversight, and enforcement of radiologist assistant program |

Note: The state fiscal year is July 1 through June 30. For example, FY 2007 is July 1, 2006 – June 30, 2007.

- **Incarceration for violations.** As a result of violations of the bill's felony prohibition, there could be a very small number of additional offenders sentenced to prison. This could increase the Department of Rehabilitation and Correction's GRF-funded incarceration expenditures. However, the magnitude of any such increase would likely be no more than minimal because the number of persons who might violate the bill's prohibition in any given year appears likely to be small at most.
- **Fines for violations.** As a result of violations of the bill's prohibition, additional revenue, in the form of state court costs, may be collected locally and forwarded for deposit in the state treasury to the credit of the GRF and the Victims of Crime/Reparations Fund (Fund 402). The state court costs for a felony offense total \$45, of which the GRF receives \$15 and Fund 402 receives \$30. Given the expectation that there



would likely be a relatively small number of new cases in which individuals are charged with violating the bill's prohibitions, the additional state revenue will likely be negligible.

- **Implementation and enforcement.** The bill would require the Public Health Council to adopt rules to implement the licensure of radiologist assistants through the Ohio Department of Health (ODH). LSC staff assumes that ODH would incur costs due to rule promulgation and for other start-up costs in the first year. Costs for administration, oversight, and enforcement, relating to the licensure of radiologist assistants, would also likely increase. ODH would also realize a gain in revenues from application fees for radiologist assistants. The total revenue gain would be dependent upon the number of radiologist assistants applying for licensure. Fee revenue would be deposited in Fund 470.

### *Local Fiscal Highlights*

| LOCAL GOVERNMENT                     | FY 2008                    | FY 2009                    | FUTURE YEARS               |
|--------------------------------------|----------------------------|----------------------------|----------------------------|
| <b>County and Municipal Courts</b>   |                            |                            |                            |
| Revenues                             | Potential minimal gain     | Potential minimal gain     | Potential minimal gain     |
| Expenditures                         | Potential minimal increase | Potential minimal increase | Potential minimal increase |
| <b>County Courts of Common Pleas</b> |                            |                            |                            |
| Revenues                             | Potential minimal gain     | Potential minimal gain     | Potential minimal gain     |
| Expenditures                         | Potential minimal increase | Potential minimal increase | Potential minimal increase |

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

- **Misdemeanor costs.** As a result of potential misdemeanor violations, it is possible that county and municipal court costs and county jail costs could increase. It is also possible that any court costs could be partially offset by fine revenue. LSC estimates the number of violators to be small.
- **Felony costs.** As a result of the felony penalty for violating the bill's prohibitions, it is possible that court costs could increase for county courts of common pleas. As noted, it appears unlikely that the bill will create many, if any, new cases for county criminal justice systems to process. Any resulting increase in a county's criminal justice system expenditures is likely to be no more than minimal because such violations would likely be rare. Furthermore, the bill could result in an increase in court costs and fine revenue collected by counties from offenders. However, given that the number of cases is likely to be small, the amount of additional court cost and fine revenue that counties may collect is likely to be no more than minimal at most.

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## *Detailed Fiscal Analysis*

The bill creates licensure requirements for radiologist assistants.

### **Radiologist assistants**

The bill creates a process for licensing radiologist assistants. The bill specifies the duties a radiologist assistant may perform. The bill also specifies the minimum qualifications needed for licensure. The bill requires a licensed radiologist assistant to practice under the direct supervision of a radiologist. The supervising radiologist may authorize a radiologist assistant to perform only those radiologic procedures that the radiologist assistant is allowed to perform under the bill. The bill requires a supervising radiologist to be present at the location where the radiologist assistant performs the radiologic procedures. The supervising radiologist must consult with the assistant and direct the assistant's performance of the radiologic procedures. The bill specifies, however, that the supervising radiologist is not required to observe each radiologic procedure the assistant performs. The bill prohibits a licensed radiologist assistant from interpreting images, making diagnoses, or prescribing medications or therapies.

### **Prohibitions against unlicensed practice**

The bill prohibits a person from practicing as a radiologist assistant without holding a radiologist assistant license. The bill exempts from this prohibition persons who are engaging in their scope of practice or performing a task as part of an advanced academic program encompassing the curriculum necessary to obtain a radiologist assistant license.

The bill also prohibits a person from holding himself or herself out in any manner as a radiologist assistant without a radiologist assistant license. Specifically, the bill prohibits an unlicensed person from using any sign, advertisement, card, letterhead, circular, or other writing, document, or design, the evident purpose of which is to induce others to believe the person is authorized to practice as a radiologist assistant.

Under the bill, whoever violates either prohibition is subject to criminal penalties. On a first offense the person is guilty of a misdemeanor of the first degree, on each subsequent offense a felony of the fifth degree.

### **License application and issuance procedures**

The bill requires each person seeking to practice as a radiologist assistant to apply in writing to the Department of Health (ODH) for a radiologist assistant license. The application must be made on a form prescribed by the Department and be accompanied by the license fee established in rules to be adopted by the Public Health Council. The Department must issue a license to each applicant who meets the qualifications for licensure specified in the bill and pays the required fee.

The bill requires the Public Health Council to adopt rules to implement and administer the licensure of radiologist assistants. The bill requires the rules to be consistent with guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists, where applicable. The rules are to establish all of the following:

- (1) Standards and fees for issuing and renewing radiologist assistant licenses, including the length of time a license is valid;
- (2) Procedures and grounds for denying applications for licensure;
- (3) Procedures and grounds for revoking or suspending licenses or taking other disciplinary actions;
- (4) Continuing education requirements for radiologist assistants;
- (5) Any other requirements the Council considers appropriate to the licensure and regulation of radiologist assistants.

### **Radiologist assistant background information**

According to the American Society of Radiologic Technologists (ASRT), there are currently 11 states that have some form of licensure or certification process for radiologist assistants. The ASRT developed a curriculum for education programs for radiologist assistants in 2002 and 2003. In the fall of 2003, Loma Linda University in Loma Linda, California began the first educational program for radiologist assistants. According to ASRT's web site, educational programs for radiologist assistants are also at the following locations: University of Medicine and Dentistry of New Jersey in Newark, New Jersey; Midwestern State University in Wichita Falls, Texas; Virginia Commonwealth University in Richmond, Virginia; University of Arkansas for Medical Sciences in Little Rock, Arkansas; University of North Carolina at Chapel Hill; Bloomsburg University in Pennsylvania; Quinnipiac University in Hamden, Connecticut; Wayne State University in Detroit, Michigan; the Massachusetts College of Pharmacy and Health Sciences; and Weber State University in Ogden, Utah.

According to an ASRT spokesperson in December of 2007, the recently created Master of Science in Imaging Assistant Program at The Ohio State University would likely meet the educational standards of a radiologist assistant program.

### **State fiscal effects**

#### **Department of Health**

The Department of Health currently licenses general x-ray machine operators, radiographers, nuclear medicine technologists, and radiation therapists. This program is funded through license application fees, renewal fees, continuing education provider fees, and educational accreditation fees. The costs for initial applications for these individuals are \$65, while renewal applications are \$45.

The bill would require the Public Health Council to adopt rules to implement the licensure of radiologist assistants through ODH. LSC staff assumes that ODH would incur costs due to rule promulgation and for other start-up in the first year. Costs for administration, oversight, and enforcement would also increase after the program got up and running. ODH would also realize a gain in revenue from application fees for radiologist assistants. The total revenue gain would be dependent upon the number of radiologist assistants applying for licensure. ODH has expressed concern regarding administering the licensure of radiologist assistants. Under the bill, a person holding a license to practice as a radiologist assistant may, among other things, assess and evaluate the physiologic and psychological responsiveness of patients undergoing radiologic procedures. According to ODH, the agency does not currently have staff who are trained to evaluate this. The current licensure of other radiologic professions, such as radiographers, by ODH focuses on oversight in terms of verifying that licensed individuals are trained to use the equipment properly.

### **Department of Rehabilitation and Corrections**

The bill prohibits a person from practicing as a radiologist assistant without holding a radiologist assistant license. The bill also prohibits a person from holding himself or herself out in any manner as a radiologist assistant without a radiologist assistant license. Under the bill, whoever violates either prohibition is subject to criminal penalties. On a first offense the person is guilty of a misdemeanor of the first degree, on each subsequent offense a felony of the fifth degree. Although most violations are likely to be handled administratively, there could be a very small number of additional offenders sentenced to prison for the felony offense. This could increase the Department of Rehabilitation and Correction's GRF-funded incarceration costs. However, the magnitude of any such increase would likely be no more than minimal because the number of persons who might violate the bill's prohibition in any given year appears likely to be small at most.

As a result of violations of the bill's prohibition, additional revenue, in the form of state court costs, may be collected locally and forwarded for deposit in the state treasury to the credit of the GRF and the Victims of Crime/Reparations Fund (Fund 402). The state court costs for a felony offense total \$45, of which the GRF receives \$15 and Fund 402 receives \$30. Given the expectation that there would likely be a small number of new cases, if any, in which individuals are charged with violating the bill's prohibitions, the additional state revenue will likely be negligible.

### **Local fiscal effects**

#### **Court costs**

On a first offense of practicing without holding a radiologist assistant license or holding oneself out in any manner as a radiologist assistant without a radiologist assistant license, the person is guilty of a misdemeanor of the first degree; on each subsequent offense, a felony of the fifth degree. As a result of the misdemeanor penalty, it is possible that county or municipal court costs and county jail costs could increase. It is also possible that any court costs could be partially offset by potential fine revenue.

As a result of the felony penalty, it is possible that court costs could increase for county courts of common pleas. As noted, it appears unlikely that the bill will create many, if any, new

cases for county criminal justice systems to process. Any resulting increase in a county's criminal justice system expenditures is likely to be no more than minimal because such violations would likely be rare. Furthermore, the bill could result in an increase in court costs and fine revenue collected by counties from offenders. Given that the number of cases is likely to be small, the amount of additional court cost and fine revenue that counties may collect is likely to be no more than minimal at most.

**Other local governmental entities**

It does not appear that the bill would have any other direct effects on local governmental entities. However, the Ohio Hospital Association (OHA) has expressed the concern that licensing could have the indirect effect of increasing labor costs. According to OHA, licensed professionals tend to demand more money and licensure also tends to reduce supply, thus increasing labor costs.

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