

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **S.B. 254** DATE: **April 15, 2008**
STATUS: **As Introduced** SPONSOR: **Sen. Faber**
LOCAL IMPACT STATEMENT REQUIRED: **No — No local cost**
CONTENTS: **To waive fines or penalties for paperwork violations that are first-time offenses committed by small businesses**

State Fiscal Highlights

| STATE FUND | FY 2009 | FY 2010 | FUTURE YEARS |
|-----------------------------|----------------------------------|----------------------------------|----------------------------------|
| Various Agency Funds | | | |
| Revenues | Potential loss in fees and fines | Potential loss in fees and fines | Potential loss in fees and fines |
| Expenditures | - 0 - | - 0 - | - 0 - |

Note: The state fiscal year is July 1 through June 30. For example, FY 2009 is July 1, 2008 – June 30, 2009.

- The bill waives administrative fines or civil penalties on small businesses for first-time "paperwork" violations and could result in minimal revenue losses for state agencies, boards, and commissions that regulate small business. The bill would work in combination with a February 12, 2008 executive order that requires agencies, boards, and commissions, where appropriate, to forgive first-time paperwork infractions committed by any business regulated in Ohio.
- Ohio Department of Development statistics from April 2008 show that there are 889,600 entities in Ohio that meet the bill's definition of small business.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.



Detailed Fiscal Analysis

Waiver for first-time paperwork violations

The bill generally provides that, for any small business that is found to have made a first-time paperwork violation, the state agency or regulatory authority that regulates the field of operation in which the business operates must waive any and all administrative fines or civil penalties on the small business for the violation. The exemption would not apply in situations where the violation:

- Has the potential to cause serious harm to the public interest;
- Involves a small business knowingly or willfully engaging in conduct that results in a felony conviction;
- If not cited, would impede or interfere with the detection of criminal activity;
- Is of a law concerning the assessment or collection of any tax, debt, revenue, or receipt; or
- Presents a direct danger to the public health or safety, or presents the risk of severe environmental harm, as determined by the head of the agency or regulatory authority.

Since the bill would waive fines or assessments for minor infractions, the bill would most likely cause a limited loss in fine revenue for state agencies, boards, and commissions that regulate small business. Agencies and regulatory authorities would have to determine on a case-by-case basis situations where the exemption for first-time violations would apply.

Small businesses operating in Ohio

The bill defines small business using criteria established by the U.S. Small Business Administration and set out in Title 13, Chapter 1, Part 121 of the Code of Federal Regulations. This definition uses business revenue or the number of employees to determine what qualifies as a small business. For example, most crop production businesses qualify as small businesses if their annual revenue is \$750,000 or less, whereas many food manufacturing businesses are determined to be small businesses if they have 500 or fewer employees. As of April 2008, the Small Business Development Centers (SBDC) of Ohio report that there are 889,600 small businesses in the state.

Fiscal impact of the bill and Executive Order 2008-04S

The bill would appear to work in conjunction with Executive Order 2008-04S, "Implementing Common Sense Business Regulation," signed into effect on February 12, 2008. Item 5(f) of that order instructs state regulatory authorities to ". . . when appropriate, waive penalties for first-time or isolated paperwork or procedural regulatory noncompliance." Given this existing process, regulatory agencies, boards, and commissions would most likely follow procedures similar to those outlined in the Executive Order to determine when fine and penalty waivers would be granted.

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