

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **S.B. 260** (with LSC amendments AM 5536 and AM 5522) DATE: **April 14, 2008**

STATUS: **In Senate State & Local Govt. & Veterans Affairs** SPONSOR: **Sen. Cates**

LOCAL IMPACT STATEMENT REQUIRED: **No — Permissive**

CONTENTS: **Rendering assistance to federal immigration officials**

State Fiscal Highlights

- The bill has no readily discernible fiscal implications for state revenues or expenditures.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008 – FUTURE YEARS
Certain Counties (those opting to assist federal officials with civil violations of federal immigration law)	
Revenues	Potential gain in federal contract payments for housing certain federal prisoners
Expenditures	(1) Potential increase for sheriff to render assistance to federal immigration officials; (2) Potential increase to house certain federal prisoners, offset wholly or in part by federal contract payments

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

- **Jails.** County sheriffs are, subject to authorization by the board of county commissioners, currently able to accept federal prisoners for criminal violations of federal immigration law, and are generally choosing not to do so because of cost and capacity concerns. Assuming these conditions remain the same, it seems unlikely that, as a result of the bill, many county sheriffs would receive federal prisoners who commit violations of federal immigration law or that their respective boards of county commissioners would authorize the sheriff to do so.
- **County sheriffs generally.** The bill permits a county sheriff to render assistance to federal immigration officials related to the investigation, apprehension, and detection of persons who violate civil provisions of federal immigration law. Based on a conversation with the Buckeye State Sheriffs' Association, it seems likely that county sheriffs generally would not expend their limited resources (time, moneys, and people) in rendering assistance to federal immigration officials in such matters on an ongoing basis, but might do so selectively subject to the circumstances present.



Detailed Fiscal Analysis

Overview of the bill

For purposes of this fiscal analysis, the bill most notably:

- Permits a county sheriff, at the direction of the board of county commissioners, to render assistance to federal immigration officials in matters related to the investigation, apprehension, detection, and detention of persons who violate civil violations of federal immigration law.

Local fiscal effects

According to an Ohio Attorney General Opinion (No. 2007-018), Ohio law generally authorizes a county sheriff to preserve the public peace as it applies to the enforcement of criminal federal immigration laws, including receiving prisoners into custody, but has not been construed to apply to the enforcement of civil federal immigration laws. The bill gives the board of county commissioners authority to contract with the federal government for the county sheriff to receive into custody persons being detained for deportation or charged with a civil violation of federal immigration law.

Jails

LSC fiscal staff contacted several sheriffs' departments to determine how their respective counties were using existing authority relative to the enforcement of criminal federal immigration laws, in particular receiving prisoners into custody. Most of the sheriffs' personnel contacted by LSC fiscal staff stated that their respective counties were not currently accepting any federal prisoners, though several had done so in the past; of those contacted, Franklin County was the only jurisdiction currently receiving federal prisoners into custody.

Based on LSC fiscal staff's research to date, some of the reasons that county sheriffs generally are not receiving federal prisoners into custody can be summarized as follows:

- **Reimbursement rate.** The per diem reimbursement rate for federal prisoners is lower, significantly so in some local jurisdictions, in comparison to the sheriff's average daily incarceration cost. According to information provided by the Buckeye State Sheriffs' Association, the per diem cost for county jails in Ohio runs in the approximate range of \$58 to \$140. This results in a situation where it can actually cost the county more money for the sheriff to receive federal prisoners into custody than it receives in federal reimbursement payments. As an example, Franklin County's current average daily incarceration cost is \$70 and the daily federal reimbursement rate for prisoners received into Franklin County's custody is \$60 (a relatively recent increase from \$48.77). Most of the counties contacted by LSC fiscal staff indicated that it was this type of cost disparity that caused the termination of

contracts for housing federal prisoners in relation to violations of federal criminal laws.

- **Timing of reimbursement payments.** It appears that the timing of federal reimbursement payments was somewhat uncertain and therefore problematic from a budgeting perspective.
- **Available bed space.** Generally, Ohio's jails, in particular what are termed full-service jails, are housing more than the state's recommended prisoner capacity. This suggests that certain counties simply may not have enough excess beds to contract for the housing of federal prisoners.

As noted, county sheriffs are, subject to authorization by the board of county commissioners, currently able to accept federal prisoners for criminal violations of federal immigration law, and are generally choosing not to do so because of cost and capacity concerns. Assuming these conditions remain the same, it seems unlikely that, as a result of the bill, many county sheriffs would receive federal prisoners who commit civil violations of federal immigration law or that their respective boards of county commissioners would authorize the sheriff to do so.

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