

# Fiscal Note & Local Impact Statement

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

Ohio Legislative Service Commission  
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BILL: **Sub. S.B. 306** DATE: **December 15, 2008**

STATUS: **As Reported by House Ways & Means** SPONSOR: **Sen. Schuler**

LOCAL IMPACT STATEMENT REQUIRED: **No — No local cost<sup>1</sup>**

CONTENTS: **Extends the homestead exemption to units in housing cooperatives with fewer than 250 units, and to settlors of irrevocable *inter vivos* trusts holding title to homesteads occupied by the settlors; changes other laws pertaining to real estate and the lodging tax**

## State Fiscal Highlights

STATE FUND	FY 2009	FY 2010	FUTURE YEARS
<b>General Revenue Fund</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Increase of \$0.9 million or more	Increase of approximately \$1 million or more	Increase of approximately \$2 million or more
<b>Other State Funds</b>			
Revenues	- 0 -	- 0 -	- 0 -
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 state GRF could incur additional costs to reimburse local governments for revenues forgone as a result of making cooperative housing in complexes with fewer than 250 units eligible for the homestead exemption and the 2.5% rollback. Costs could range around \$1 million per year but a paucity of data on numbers of cooperative housing units and valuations imply that the cost estimates are approximate.
- The state could also incur added costs to reimburse local governments for revenues forgone as a result of expanding the definition of the owner of a homestead to include the settlor of an irrevocable *inter vivos* trust. The cost of this change might range around \$1 million per year but is very uncertain.
- State base cost funding for one JVSD will increase by \$0.9 million in FY 2009, and the state share of funding for special education and career-technical education will also increase. Any changes in future years will depend on changes to school district membership of Ohio JVSDs.

<sup>1</sup> LSC initially made a local impact determination, as required under Revised Code section 103.143, of No for S.B. 306. However, previous fiscal notes for S.B. 306 inappropriately showed the local impact determination to be Yes.



## *Local Fiscal Highlights*

LOCAL GOVERNMENT	FY 2009	FY 2010	FUTURE YEARS
<b>School Districts</b>			
Revenues	Gain of \$0.9 million or more	Possible gain or loss	Possible gain or loss
Expenditures	- 0 -	- 0 -	- 0 -

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

- Butler County Technology and Career Development JVSD will receive \$0.9 million in additional base cost funding, plus additional state share of that JVSD's special education and career-technical educational funding, in FY 2009 only. Effect in future years of the change in law resulting in these payments will depend on any future changes in school district membership in JVSDs.
- Real property tax revenue to school districts and other units of local government could be reduced by expansion of eligibility for the homestead exemption and the 2.5% rollback under the bill, and by expanding the definition of the owner of a homestead to include the settlor of an irrevocable *inter vivos* trust, but this loss would be offset by increased reimbursements from the state.
- Under current law, counties, at the option of county commissioners, may forgo investment earnings on deposits to fund below-market loans from depository institutions to elderly or disabled homeowners to pay property taxes on their homesteads. By adding residents of cooperative housing in complexes with fewer than 250 units to those eligible for this assistance, the bill could increase the number of homeowners qualifying for such help. Any fiscal effects of this change are likely to be small.
- Elimination by the bill of a requirement in current law that county auditors issue certificates of reduction for the homestead exemption may result in cost savings for county auditors.
- Certain county commissioners, currently only those in Montgomery County, may raise the lodging tax by up to 4%, for financing or leasing a project including an arena or convention center. At the discretion of the board of county commissioners in that county, lodging taxes there may rise by \$6.1 million per year, or possibly more or less than this amount, as a result.

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## *Detailed Fiscal Analysis*

### Summary

By making residents of cooperative housing complexes with fewer than 250 units eligible for the homestead exemption and the 2.5% rollback, the bill could increase the amount of taxes forgone by local governments, which are reimbursed by the state. The annual cost could range around \$1 million but is fairly uncertain. By adding to those eligible for the homestead exemption, 2.5% rollback, linked deposit program, and manufactured home tax a settlor of an irrevocable *inter vivos* trust holding title to the homestead occupied by the settlor, the bill could further raise the amount of taxes forgone by local governments and reimbursed by the state. The cost of this provision is also estimated at \$1 million per year but is highly uncertain. The bill also changes the way state base cost funding and other payments to JVSDs are determined when school district membership in a JVSD changes, estimated to result in additional payments from the state to one JVSD of \$0.9 million or more in FY 2009; eliminates a requirement that county auditors issue certificates of reduction for the homestead exemption; and makes other changes affecting county linked deposit programs and lodging taxes.

### Change in definition of a homestead

S.B. 306 changes the definition of a homestead, for purposes of the homestead exemption, the 2.5% real property tax rollback, and the county property tax payment linked deposit program, to include a housing cooperative with two or more units. Currently a unit in a housing cooperative may be included in these tax reduction programs only if the cooperative has 250 or more units. In addition, the bill adds as an owner of a homestead, for purposes of the homestead exemption, 2.5% rollback, the linked deposit program, and the manufactured home tax, a settlor of an irrevocable *inter vivos* trust holding title to the homestead occupied by the settlor. Under current law, a settlor of a revocable, but not an irrevocable, *inter vivos* trust is included as an owner of a homestead for these purposes if that trust holds title to the homestead occupied by the settlor. The bill eliminates a requirement in current law to report changes in or revocation of a revocable *inter vivos* trust. Under current law, unaltered by the bill, the state reimburses local governments for real property taxes forgone as a result of the homestead exemption and the 2.5% rollback.

Linked deposit programs are at the discretion of county commissioners, and have no direct fiscal effect on the state or on units of local government other than counties. Counties may elect to forgo a portion of investment earnings on deposits to fund below-market loans from depository institutions to elderly or disabled homeowners to pay property taxes on their homesteads.

### Numbers of cooperative housing units and of homes held by trusts

Data are scanty on which to base an analysis of the cost of expanding the homestead exemption by reducing the number of units in a housing cooperative needed to qualify from 250 or more to 2 or more. Department of Taxation data do not break out this information. Census

Bureau data, from infrequent surveys of housing characteristics in metropolitan areas, show that the Cleveland metropolitan area, for 2004, had 1,000 housing units in housing cooperatives. The metropolitan area data are rounded to the nearest 100 units. The Columbus metropolitan area had 2,000 cooperative housing units in 2002. The Cincinnati metropolitan area had 300 cooperative housing units in 1998. No data are published in this series for the entire state of Ohio or for other metropolitan areas in the state.

An Internet search identified three housing cooperatives in Ohio, two in Cincinnati with a total of 514 units and one in Dayton with 100 units. There is, in addition, a housing cooperative in Cleveland and one in Columbus. Other housing cooperatives may operate in the state but not appear on the Internet or as members of trade groups.

If the units in housing cooperatives identified in the Census Bureau surveys are assumed still to be in use as co-op housing units, then the number of co-op housing units in the state would be at least 3,614, consisting of 1,000 in Cleveland and 2,000 in Columbus, plus the 514 units identified on the Internet in Cincinnati and 100 in Dayton. This number is rough as it is based on outdated information. The Census Bureau surveys covered areas with about 44% of the state's population, and if they are indicative of the number of co-op housing units elsewhere in the state, proportional to population, then the total number of such units statewide could be roughly double the above figure. Alternatively, co-op housing could be mainly concentrated in large urban areas, and the smaller figure may be closer to the actual total. Some residents of co-op units in at least one of the buildings in the state providing co-op housing are thought currently to be eligible for the homestead exemption, because the number of units in the cooperative, at 600, exceeds the 250-unit requirement of current law and the residents are otherwise qualified.

Data on numbers of homes held by irrevocable *inter vivos* trusts are also very limited. In an informal survey, county auditors were asked how many applications for the homestead exemption were denied because the homes in which the applicants resided were owned by an irrevocable *inter vivos* trust. The survey identified 423 such applications in 26 counties, including both large and small counties. Other auditors did not keep track of this, and the comment was made that homes owned under such arrangements were well known not to qualify for the homestead exemption, so otherwise qualified residents did not apply. Based on these results for 26 counties, not necessarily representative of the state, the number of homes held by irrevocable *inter vivos* trusts in all 88 counties statewide, and occupied by persons otherwise qualified for the homestead exemption, is plausibly in excess of 1,000, perhaps well in excess of this number. This compares with approximately 788,000 applications for the homestead exemption in 2007, including homeowners already receiving the exemption.

### **Cost of the change in definition of a homestead**

If all 3,614 co-op units identified above were occupied by the elderly and disabled, less the 600 units thought already to meet the 250-unit minimum for the benefit under current law, the cost of the expansion of the homestead exemption, at perhaps \$400 or more per unit on average statewide, could be in excess of \$1 million. If there are substantially more co-op housing units statewide, the cost could be higher. More plausibly, only some of the units are occupied by persons eligible for the expanded homestead exemption. Statewide, about 25% of owner-occupied housing units, of all types, belong to persons age 65 and older.

However, the redefinition in the bill of a homestead, adding cooperative housing in a housing complex with 2 to 249 units, applies to R.C. 323.151 to 323.159, which covers not only the homestead exemption for those age 65 and older and the disabled, but also the 2.5% rollback for all owner-occupied homes. Most or all of the additional units included in the broadened definition of homestead are likely occupied by persons qualifying for the 2.5% rollback, the cost of which would depend on the values and gross taxes levied on the cooperative housing complexes. This annual cost would equal 35% of market value, times the effective tax rate, times 2.5%. The annual cost of this change might be \$200,000 to \$600,000. Adding these cost ranges together, the total cost of this change might be around \$1 million, more or less, but the numbers are very rough.

The cost of extending eligibility for the homestead exemption, 2.5% rollback, and linked deposit programs to a settlor of an irrevocable *inter vivos* trust holding title to the homestead occupied by the settlor is uncertain. Based on the limited data cited above, the cost might range around \$1 million per year, but this is also a very rough number, and the cost could be considerably higher.

The bill does not specify when these changes would go into effect. Assuming that the changes would be implemented for tax year 2009, payable in 2010, the costs to the state GRF to reimburse local governments for revenues forgone would begin in the second half of FY 2010, with the full annual cost paid from the GRF in FY 2011.

#### **Elimination of certificates of reduction for the homestead exemption**

Elimination by the bill of a requirement in current law that county auditors issue certificates of reduction for the homestead exemption may result in cost savings for county auditors. These cost savings appear unlikely to be large.

#### **Change in state payments to JVSDs**

The bill specifies that a school district must have been subject to tax levies of a JVSD for both the current and preceding tax years for the school district's recognized valuation to be included in the JVSD's recognized valuation. This prevents the JVSD's local share of state foundation program funding from being increased before it begins to collect tax revenue from the residents of the school district. In FY 2009, this provision will have an effect on Butler County Technology and Career Development JVSD by decreasing its recognized valuation by about \$1,717.2 million. The local share of base cost funding for JVSDs is 0.5 mills (0.05%), so Butler County's base cost local share will decrease by about \$0.9 million in FY 2009. Butler County's local share for special education and career-technical education weighted funding will also decrease. These decreases in local share will be offset by increases in state share. This provision's effect in FY 2010 and future years will depend on any changes to school district membership of Ohio's JVSDs.

#### **Lodging tax**

The bill allows a board of county commissioners of a county with a population greater than 400,000 that levies a lodging tax at a rate of 3% for an arena or convention center, and that levies no other excise tax under section 307.695 of the Revised Code, to increase the rate of the tax by up to 4% by resolution adopted by a majority of the members of the board. Revenue from

the additional tax may be used for financing or leasing a project as defined in section 307.695 of the Revised Code, including paying debt charges. Such projects include an arena or a convention center. This provision currently applies only to Montgomery County. The five counties in the state with larger populations than that of Montgomery County already are permitted under current law to undertake similar projects. Future population changes could result in these provisions being applicable to other counties. The 3% lodging tax in Montgomery County raised \$2.4 million in 2006 for the county plus lesser amounts for other political subdivisions in the county, totaling \$2.2 million, for total lodging taxes in the county of \$4.6 million. Based on this amount, a 4% increase in the county's lodging tax could raise up to \$6.1 million annually. Growth or shrinkage in the tax base may result in more or less tax revenue. If some transient guests respond to any increase in the tax by not staying in hotels or motels subject to the higher tax rate, the tax increase might raise somewhat less additional revenue.

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