



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

**Bill:** H.B. 124 of the 128th G.A.

**Date:** June 24, 2009

**Status:** As Introduced

**Sponsor:** Reps. Hagan and Weddington

**Local Impact Statement Procedure Required:** No — Offsetting revenues

**Contents:** Establishes licensing requirements and standards of care for certain dog breeding kennels, dog intermediaries, and animal rescues for dogs

### State Fiscal Highlights

#### STATE FUND

#### FY 2010 – FUTURE YEARS

##### General Revenue Fund

Revenues Negligible gain from state court cost fees

Expenditures - 0 -

##### Regulated Dog Breeding Kennel Control License Fund (New Fund)

Revenues Potential gain of hundreds of thousands or more from license fees

Expenditures Increase in hundreds of thousands or more, dependent upon available revenues

##### General Reimbursement Fund (Fund 1060) – Attorney General

Revenues Offsetting gain from background check fees

Expenditures Increase in background check costs, dependent upon the number of background checks performed

##### Victims of Crime/Reparations Fund (Fund 4020) – Attorney General

Revenues Negligible gain in state court cost fees

Expenditures - 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- **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 know how many dogs are housed or maintained at kennels currently registered with county auditors, making a 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 costs.** Staffing expenses for the newly created Dog Breeding Kennel Control Authority (Authority) are likely to be in the hundreds of thousands of dollars annually. There would also be a number of overhead costs associated with performing the functions required by the bill, such as buying computers, phones,

and other office needs as well as ongoing maintenance, travel, and other miscellaneous expenses.

- **BCII background checks.** The bill directs the Authority to adopt rules establishing requirements and procedures for conducting background investigations on applicants. The Attorney General's Bureau of Criminal Identification and Investigation (BCII) would be required to perform these background checks. The fees for doing so would be deposited in the Attorney General's General Reimbursement Fund (Fund 1060).
- **State court cost revenue.** Because of the new penalty provisions, the state could 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 4020), which receives \$9 per misdemeanor case.

## Local Fiscal Highlights

### LOCAL GOVERNMENT

### FY 2010 – FUTURE YEARS

#### Counties

Revenues

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

#### Municipalities

Revenues

- 0 -

Expenditures

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 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 costs.** Most counties use 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 penalties.** 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. 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 breeding kennels with eight or fewer adult dogs. Establishments that keep, house, or maintain nine or more adult dogs in any given year for breeding are termed "regulated dog breeding kennels" and required to be licensed at the state level by the Dog Breeding Kennel Control Authority.

### State fiscal effects

#### Dog Breeding Kennel Control Authority

##### Dog Breeding Kennel Control Authority creation

The bill creates the Dog Breeding Kennel Control Authority 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 Kennel Control Authority Board 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.

##### Staffing and operating expenses

Staffing and overhead expenses for the Authority are likely to be in the hundreds of thousands of dollars annually. The director of the Authority would likely be compensated in the range of \$18 to \$22 per hour, depending on the director's classification. This means that payroll and fringe benefit costs (assumed to be 30% of pay) for the director could be in the range of \$48,000 to \$60,000 or so annually. The Authority will also need inspectors in order to carry out the biennial kennel inspection requirements. How many inspectors will be needed 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 also be a number of new overhead costs. Start-up costs for such things as a system to track licensees and applicants; equipment such as computers, phones, and other office needs; and maintenance, travel, and other miscellaneous expenses may be in the tens of thousands of dollars. There are likely to be 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.

#### **Kennel Control Authority Board**

The bill also creates the nine-member Kennel Control Authority Board. The Board is to provide oversight and evaluation of the administration of the state kennel program including the operation of the Dog Breeding Kennel Control Authority. Members must serve without compensation, but are to be reimbursed for actual and necessary expenses included in the performance of their official duties. The Board is to meet at least four times per year in Columbus or other locations selected by the chairperson. Assuming that each member would be reimbursed approximately \$200 for expenses for each meeting attended, and all nine members attend the four required meetings, board member expense costs out of the Dog Breeding Kennel Control License Fund for the Board would be approximately \$8,000 annually.

#### **Licensing**

Kennel operators that keep, house, and maintain nine or more adult dogs would be required to 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, would be required to obtain a license from the Department as well.

The bill directs the Director of the Authority to adopt rules establishing requirements and procedures for conducting background investigations of applicants for the commercial dog breeding kennel license. The Attorney General's Bureau of Criminal Identification and Investigation (BCII) 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 1060) may realize a gain in revenue corresponding to the number of background checks conducted, thereby offsetting those costs.

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.

<b>Regulated Dog Breeding Kennel and Intermediary License Application Fees</b>	
<b>License Type</b>	<b>Annual Application Fee</b>
Regulated Dog Breeding Kennel (9-15 dogs)	\$150
Regulated Dog Breeding Kennel (16-25 dogs)	\$250
Regulated Dog Breeding Kennel (26-35 dogs)	\$350
Regulated Dog Breeding Kennel (36-45 dogs)	\$500
Regulated Dog Breeding Kennel (45+ 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. An important aspect of the bill, designed to support county kennels, requires 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, 2009, whichever is greater, 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**

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.

County auditors have indicated that the average number of tags requested with each kennel registration does not exceed 10 to 15, meaning that 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 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 Authority. 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 the Authority to enter into contracts with various groups to keep impounded dogs. The bill also requires a licensee to submit a surety bond to pay for the maintenance and care of the dogs that are seized or impounded from the licensee.

### **Civil penalties**

The bill permits the Director of the Authority 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 after having been convicted of 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.

### **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 2006 and 65 responded with their kennel registration fee. The average county responding to the survey registered 159 dog kennels in 2006.

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, 2009, 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. Indeed, 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 use 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 seek injunctions against violators. Such actions would be filed in the Environmental Division of the Franklin County Municipal Court, to which the bill grants exclusive jurisdiction to grant injunctive relief. According to the Franklin County Municipal Court 2007 Annual Report, the Environmental Division of the court handled 5,969 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.

### **Other 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. Court cost and fine revenue may help 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 4020), which receives \$9 per misdemeanor case.