



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

**Bill:** Sub. H.B. 126 of the 128th G.A.      **Date:** December 14, 2009  
**Status:** As Reported by House State Government      **Sponsor:** Rep. S. Williams

**Local Impact Statement Procedure Required:** No — No local cost

**Contents:** Alters the payment process for unclaimed funds amounts identified by registered finders and makes other changes to the Unclaimed Funds Law

### State Fiscal Highlights

STATE FUND	FY 2010 – FUTURE YEARS
<b>Unclaimed Funds Trust Fund (Fund 5430) – Department of Commerce</b>	
Revenues	Potential offsetting gain from processing and delivery fee paid by finder
Expenditures	Approximate annual increase of between \$600 - \$800 for processing and mailing fee to OBM
<b>Accounting and Budgeting Fund (Fund 1050) – Office of Budget and Management</b>	
Revenues	Potential offsetting gain from processing and mailing fee from COM
Expenditures	Approximate annual increase of between \$600 - \$800 to issue additional payments
<b>General Reimbursement Fund (Fund 1060) – Office of the Attorney General</b>	
Revenues	Negligible gain from records check fees
Expenditures	Corresponding increase to conduct additional records checks

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

#### Finder withholding

- The Department of Commerce would incur negligible additional costs, around \$600 to \$800 annually, to pay fees to the Office of Budget and Management for processing and mailing two checks instead of just one, since there would be two payees: the claimant and the finder.
- The bill establishes a fee to cover processing and delivery costs associated with payment to registered finders that would be deposited into the Unclaimed Funds Trust Fund (Fund 5430).

#### Criminal background checks – Attorney General

- This bill requires criminal background checks to be conducted on applicants for registration as an unclaimed funds finder. Applicants would be required to pay a fee to offset these costs. These fees would be deposited into the General Reimbursement Fund (Fund 1060).

## Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.
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## Detailed Fiscal Analysis

### Overview

The bill makes a number of changes to the Unclaimed Funds Law. First, the bill requires the Office of Budget and Management (OBM) to withhold the portions of unclaimed funds payments due to registered finders. In addition, the bill subjects new applicants for a certificate of registration as a finder to state and federal criminal records checks and makes a change to out-of-state unclaimed funds holder notification requirements to reflect current practice. Finally, the bill conforms the Unclaimed Funds Law to recent court decisions requiring the payment of interest on unclaimed funds claims, and changes the term "unclaimed funds" throughout the Unclaimed Funds Law to "property presumed abandoned" in order to avoid the notion that unclaimed funds become property of the state.

### Finder withholding

This bill requires the Director of Budget and Management to withhold from an unclaimed funds payment any legal amount in an agreement to compensate a registered unclaimed funds finder and to pay that amount directly to the finder, less any fee the Director of the Department of Commerce (COM) establishes for the processing and delivery of any payment. This would mean that two payments would be issued by the Office of Budget and Management (OBM), one each to the finder and the claimant.

According to COM, under the current process, the finder sends the original agreement between the finder and the owner of the funds to the Division of Unclaimed Funds for review and approval. After the agreement is approved, the Division creates a claim form and sends the claim form to the finder. The finder returns the claim form with the documentary evidence needed to pay the claim. If the evidence shows that the finder's customer is entitled to the funds, the claim is approved for payment, and the Division requests a warrant from OBM to be mailed directly to the owner of the unclaimed funds. The claimant receives the entire amount of the claim and is responsible for paying the finder his or her portion, per the finder agreement, which may be up to 10% of the amount the claimant recovers.

Because the claimant receives the entire amount, some registered finders have had difficulty receiving proper payment from the claimant for the finder's services. In these circumstances, the finder must attempt to recover the amount owed through legal proceedings. The Division does not get involved in disputes over whether the owner has paid the finder since the Division is not a party to the agreement between the finder

and the claimant. According to COM, there are 33 finders currently registered with the Department. In FY 2008, 517 (1.2%) claims were paid through the assistance of finders. This figure rose to 899 (2.0%) of all claims in FY 2009 and accounted for approximately \$3.2 million.

COM would incur the additional administrative cost to provide two vouchers to OBM for processing instead of just one, since there would be two payees involved: the claimant and the finder. There is a 65-cent fee charged by OBM for processing and mailing each check, increased recently from 61 cents. Such fees paid for finder claims in FY 2009 amounted to approximately \$550. Since the bill will double the number of warrants issued in these circumstances, COM's cost may increase by \$600 to \$800 per year, depending on the number of claims assisted by finders. Finder activity may increase as a result of the bill, given that finders would no longer face the prospect of having to attempt legal action for nonpayment.

To offset these costs, the bill allows COM to establish a reasonable fee for the costs incurred in processing and delivery of any payment made to a registered finder. As a result, the Unclaimed Funds Trust Fund (Fund 5430) would gain revenue, the amount of which would offset Commerce's costs in these circumstances.

### **Finder background checks**

The bill requires that applicants for registration as unclaimed funds finders be subject to a state and national criminal records check. The applicant would pay a fee to cover these costs. The Bureau of Criminal Identification and Investigation (BCII), within the Office of the Attorney General, charges \$22 and \$24 for state and national background checks, respectively. The fees for background checks performed by BCII are deposited into the Attorney General's General Reimbursement Fund (Fund 4020).

### **Out-of-state owner notification**

Under current law, COM is required to publish the name and last known address of each person reported in the last year to be a holder of unclaimed funds with a value of \$50 or more. The names and addresses are published in a newspaper of general circulation in the county in which is located the last known address of the holder. If the holder's address is outside of the state, a notice is to be published in a newspaper of general circulation in the county or parish of any state in which such last known address is located.

The bill eliminates the requirement that notices be published in out-of-state newspapers and instead requires that these notices be made on the Department's web site for a reasonable period of time. Since this information is already posted on line, and according to officials, the Division of Unclaimed Funds has never advertised the names of owners of unclaimed funds in out-of-state newspapers, this change in the notification process has no fiscal effect.