



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: [H.B. 110 of the 129th G.A.](#)

Date: March 8, 2011

Status: As Introduced

Sponsor: Rep. S. Williams

Local Impact Statement Procedure Required: No

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

Finder withholding

- The bill provides for direct payment of the amounts due to a registered unclaimed funds finder resulting from an unclaimed funds claim. The Office of Budget and Management's State Accounting operations would incur negligible additional costs annually to process and mail two checks instead of just one, since there would be two payees: the claimant and the finder. These costs would be paid out of the Accounting and Budgeting Fund (Fund 1050).
- The bill permits the Director of Commerce to establish a reasonable fee to cover the department's processing and delivery costs associated with payment to registered finders. This amount would be deducted from the amount due a finder and thus would be retained within the Unclaimed Funds Trust Fund (Fund 5430).

Criminal background checks – Attorney General

- This bill requires criminal background checks to be conducted on applicants wishing to register as unclaimed funds finders. Applicants would be required to pay a fee to offset these costs. These fees would be deposited into the General Reimbursement Fund (Fund 1060) administered by the Attorney General.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

Overview

The bill makes a number of changes to the Unclaimed Funds Law. The changes affect both the Department of Commerce (COM), which administers the state's unclaimed funds program, and the Office of Budget and Management (OBM), which handles check issuance for state agencies. First, the bill requires OBM to withhold the portions of unclaimed funds payments due to registered finders. The bill also subjects applicants who wish to register as certified unclaimed funds finders to state and federal criminal records checks. In addition, the bill makes a change to out-of-state unclaimed funds holder notification requirements to reflect COM's current holder notification process. 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

The 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 COM establishes for the processing and delivery of any payment. This means that OBM would issue two payments for each unclaimed funds transaction involving a finder: one to the claimant and the other to the finder.

Under the current process for handling unclaimed funds located by finders, the finder sends the original agreement between the finder and the owner of the funds to COM's 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 finders 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 according to the terms of the finder agreement, 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. There are 36 finders currently registered with the Department, though only 11 submitted claims for processing in FY 2010. The table below shows the

number and percentage of unclaimed funds claims paid through the assistance of finders each year from FY 2008 to FY 2010. As the table shows, claims paid through the assistance of finders spiked in FY 2009, with the 899 claims representing 2.0% of the total number of claims paid that year.

Unclaimed Funds Claims Paid Involving Finders, FY 2008-FY 2010			
	FY 2008	FY 2009	FY 2010
Claims Paid Via Finders	517	899	556
Total Claims	44,377	45,407	41,992
% of Claims Paid Via Finders	1.2%	2.0%	1.3%

As a result of the bill, OBM's State Accounting operations would incur negligible additional costs to process and mail two checks instead of just one, since there would be two payees. Currently, State Accounting's cost to process and mail a warrant is roughly 65 cents. Based on the volume of 517 to 899 claims involving finders over the past three fiscal years the applicable warrant processing and mailing costs thus ranged from \$336 to \$584. The bill will double the number of warrants issued for unclaimed funds transactions, and thus the costs to process and mail them. The actual increase in costs would depend on the number of claims assisted by finders. Indeed, one potential outcome of the bill could be increased finder activity, since finders would no longer face the prospect of having to sue unclaimed funds owners for the agreed upon finder's fee.

OBM's State Accounting operations are supported by an accounting and budgeting services payroll check-off paid by state agencies. The payroll check-off takes into account an agency's operating expenses (those for payroll, purchased personal services, maintenance, and equipment) to determine its equitable share of OBM accounting and budgeting services costs. The receipts are deposited into the Accounting and Budgeting Fund (Fund 1050). The bill also allows COM to establish a reasonable fee for the costs it incurs in processing and delivering any payment made to a registered finder. This amount would be deducted from the finder's portion of the claim and retained within the Unclaimed Funds Trust Fund (Fund 5430).

Finder background checks

The bill requires that applicants for registration as unclaimed funds finders be subject to state and national criminal records checks. 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 General Reimbursement Fund (Fund 4020) used by the Office of the Attorney General.

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 the holder's last known address is located. 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 the holder's 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 online, 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.