Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Am. H.B. 387 of the 129th G.A.

Date: December 4, 2012

Status: As Passed by the House

Sponsor: Reps. Sears and Ashford

Local Impact Statement Procedure Required: No

Contents: Authorizes a board of county commissioners to enter into agreements for the sale and leaseback of county buildings, and makes other changes

State and Local Fiscal Highlights

- The bill permits counties to enter into sale and leaseback agreements for county buildings. Presumably, this authority would be exercised in cases where it would be more cost effective for a county to divest itself of buildings that are either too costly to maintain or too expensive to renovate. Under the sale-leaseback arrangement permitted in the bill, the new owner would be responsible for making these improvements.
- Current law does not seem to prohibit the use of state historic building rehabilitation tax credits for public use or mixed use buildings under a sale-leaseback arrangement. If so, it is possible that some county buildings may qualify for the tax credit under the leaseback provisions of the bill.
- The bill expands the allowable out-of-pocket premiums that are reimbursable by a township to include not only those incurred by a township employee or officer, but also an employee's or township officer's dependents. This could increase costs to townships that issue these reimbursements.

Detailed Fiscal Analysis

Leaseback agreements

The bill permits a board of county commissioners to enter into a sale and leaseback agreement under which the board conveys county-owned buildings to a purchaser. Under this arrangement, the purchaser would then be obligated, immediately upon closing, to fully or partially lease the building back to the board. The only limitation that the bill imposes on the agreement is that it must obligate the purchaser to make public improvements to the building, including renovations, energy conservation measures, and other measures necessary to improve functionality and reduce the building's operating costs. Counties would use the sale-leaseback option as an alternative to undertaking cost-prohibitive renovations on county buildings using public funds. For example, this would include circumstances where county offices occupy buildings that have older energy heating and cooling systems or have inefficient layouts that would be too costly for the county to alter. In these situations, it could be advantageous for a private operator to buy the building and make the necessary changes to accommodate the county's needs. As part of the leaseback arrangement defined in the bill, the county retains the authority to approve any renovations or other improvements undertaken by the owner.

Although any county would be authorized to explore the potential for sale and leaseback opportunities, LSC is aware that Lucas and Lorain counties are interested in potential sale-leaseback arrangements involving some of their county-owned buildings. As a specific example, the Lucas County Commissioners are faced with costly renovations to the building housing the Lucas County Department of Job and Family Services, which has been occupied since 1971. An engineering study conducted by the county in 2008 estimated that the building required between $6 million and $10 million in renovations and upgrades. Under the bill, the buyer would be responsible for making the needed improvements, and Lucas County would be responsible for making rental payments as the lessee.

Potential tax implications

Current law appears not to prohibit the use of state historic building rehabilitation tax credits for public use or mixed use buildings (when a building is both for private and public uses) under a sale-leaseback arrangement. Therefore, a private entity that has acquired a public building in a sale-leaseback deal could potentially receive state historic building rehabilitation tax credits, if all conditions for the credit under R.C. 149.311 are met. A number of county buildings throughout the state could qualify as historic buildings. Because the bill potentially increases the number of properties and taxpayers that may qualify for the state historic building rehabilitation tax credit, there could be additional revenue losses under this credit after FY 2013.

Am. Sub. H.B. 153 (the operating budget act for the current biennium) extended perpetually the tax credit for rehabilitating a historic building, and changed the aggregate limit on issuance of credits from $60 million per "application period" to $60 million per fiscal year. Under previous law, the application period from July 1, 2010, to June 30, 2011, for the historic building rehabilitation credit was to be the last. The budget act made the credit available to taxpayers under the domestic and foreign insurance taxes. It was previously available only under the personal income tax, the corporate franchise tax, or the dealers in intangibles tax. The budget act also required the Director of Development to conduct a cost-benefit analysis of proposed rehabilitation projects to determine whether each project would result in a net revenue gain or loss in state and local taxes once the building is used, and to consider the results of the cost-benefit analysis in determining whether to approve an application for a credit.

Insurance reimbursements for township employees

Current law states that any township officer or employee that is denied coverage under a health care plan, or any township officer or employee that elects to not participate in the plan, may be reimbursed by the township for each out-of-pocket premium attributable to the coverage provided for the officer or employee for insurance benefits. The bill extends this provision to include the dependents of these employees. So, it is possible that this provision could increase costs to townships in those instances in which the township is issuing reimbursements to officers or employees. The total cost increase would depend on the number of reimbursements issued relating to dependents of the employee. It is not clear how many of the 1,308 townships statewide have adopted resolutions authorizing these reimbursements for their current employees and officers, and thus might incur additional reimbursement costs for dependents of employees or officers under the bill.

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