



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** [S.B. 52 of the 129th G.A.](#)

**Date:** February 23, 2011

**Status:** As Introduced

**Sponsor:** Sen. Kearney

**Local Impact Statement Procedure Required:** No

**Contents:** Offer of judgment in a civil action

### State Fiscal Highlights

- No direct fiscal effect on the state.

### Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

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## Detailed Fiscal Analysis

### Direct state and local fiscal effects

Given the bill is a request by the General Assembly that the Supreme Court of Ohio consider making certain amendments to Ohio Civil Rule 68 regarding offers of judgment, it will not in and of itself have a direct fiscal effect on any state agency or political subdivision.

### Potential indirect state and local fiscal effects

If the Supreme Court decides to amend Ohio Civil Rule 68 to require the recipient of a settlement offer in a civil procedure to assume responsibility for the additional costs incurred if the offer is rejected and the resulting trial judgment is less favorable than the rejected offer, the possible state and local fiscal effects may include, but are not necessarily limited to, the following:

- **State as plaintiff.** The dynamics in civil actions where the state is the plaintiff may change, as the defendant is permitted to make a settlement offer to the state that if rejected potentially exposes the state to an additional financial liability. If the plaintiff (state of Ohio) rejects an offer by the defense and the court ultimately rules in a manner that is less favorable than the settlement offer, then the state would have to pay the costs incurred from the time the offer was made. Whether the net effect on the revenues and expenditures of the state will exceed minimal is uncertain.
- **Courts of common pleas.** By requiring the plaintiff to pay the costs incurred by the defendant if the court's judgment is less favorable than a previously rejected settlement offer, a cost savings could be generated for the courts by potentially facilitating more pre-trial settlements thus reducing the cases on the courts' dockets.
- **Political subdivisions.** There is the potential for both an increase in cost savings or expenditures, depending upon the mix of civil actions in which an affected local government is either a plaintiff or defendant. As a plaintiff, an affected local government may be awarded more or less money than might otherwise have been the case under current law and practice. Similarly, as a defendant, an affected government may expend more or less money than might otherwise have been the case under current law and practice. The net annual effect of these potentialities on any given local government is uncertain