Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: S.B. 88 of the 129th G.A. **Date**: March 31, 2011

Status: As Introduced **Sponsor**: Sen. Jordan

Local Impact Statement Procedure Required: Yes

Contents: Authorizes nonrefundable tax credits for donations to nonprofit entities providing scholarships to certain students in chartered nonpublic schools

State Fiscal Highlights

STATE FUND	FY 2011	FY 2012	FUTURE YEARS
General Revenue Fund			
Revenues	Potential loss of several millions	Potential loss of several millions	Potential loss of several millions
Expenditures	- 0 -	- 0 -	- 0 -

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

- The bill authorizes nonrefundable tax credits against the income tax, corporation franchise tax, dealers in intangibles tax, public utility excise tax, kilowatt-hour tax, and insurance premiums taxes. Thus, the bill reduces revenue from those taxes, which are distributed, in varying shares, to the GRF.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2011	FY 2012	FUTURE YEARS
Counties, municipalities, and public libraries			
Revenues	Potential loss	Potential loss	Potential loss
Expenditures	- 0 -	- 0 -	- 0 -
School District Property Tax Replacement Fund			
Revenues	Potential loss	Potential loss	Potential loss
Expenditures	- 0 -	- 0 -	- 0 -
Local Government Property Tax Replacement Fund			
Revenues	Potential loss	Potential loss	Potential loss
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1through June 30.

- The bill reduces revenue from the income tax, corporation franchise tax, dealers in intangibles tax, public utility excise tax, kilowatt-hour tax, and insurance premiums taxes. Receipts deposited in the GRF from those taxes are distributed, in part, to the

Local Government Fund (3.68%) and to the Public Library Fund (2.22%). Therefore, the bill reduces revenue to these two local government funds.

- The bill also authorizes credits against, and reduces receipts, from the natural gas distribution tax. Receipts from the natural gas distribution tax are distributed to the School District Property Tax Replacement Fund (68.7%) and the Local Government Property Tax Replacement Fund (31.3%). These two funds also receive, respectively, 25.4% and 11.6% of revenue from the kilowatt-hour tax.

Detailed Fiscal Analysis

The bill authorizes a nonrefundable credit for individuals or businesses that donate to a nonprofit organization that provides scholarships to students attending chartered nonpublic schools. The donor may claim the credit against the individual income tax, corporation franchise tax, dealers in intangibles tax, public utility excise tax, kilowatt-hour tax, natural gas distribution tax, or insurance premiums taxes on domestic or foreign insurance companies. Taxpayers may receive a credit by making an authorized donation to an educational scholarship organization (ESO) certified by the Department of Development. Such organizations would be federally tax-exempt nonprofit 501(c)(3) organizations that provide qualified scholarships to eligible students attending chartered nonpublic schools in Ohio. For details regarding the certification of an ESO, please read the LSC bill analysis.

The bill allows credits of $1,000 per individual, $2,500 per married filing joint return, and up to $300,000 for businesses, estates, and trusts. Pass-through entity owners who are taxed based on each owner's distributive share of the pass-through entity's income may claim a distributive or proportionate share of the credit. If the amount of a credit exceeds the taxpayer's liability in the year it is first claimed, the remaining amount of the credit may be carried forward for up to three years. The bill authorizes the Department of Development to grant up to $20 million of credits in fiscal year 2010. In every fiscal year after 2010, if the credit ceiling was reached in the preceding year, the credit limit for the current year increases by 20%.

The distribution of tax receipts (to various funds) depends on the tax source. Receipts from the income tax, the corporate franchise tax, and the public utility excise tax are credited to the GRF. Dealers in intangible taxes paid by "qualifying" dealers[1] are also fully credited to the GRF. Receipts from "nonqualifying" dealers are credited to the GRF (37.5%) and to the county undivided local government fund where the firm's capital was employed (62.5%). Sixty-three percent of receipts from the kilowatt-hour tax are distributed to the GRF. The remainder is shared by the School District Property Tax Replacement Fund (25.4%), and the Local Government Property Tax Replacement Fund (11.6%). Under current permanent law, of state tax receipts credited to the GRF, the GRF retains 94.1%, the Local Government Fund (LGF), 3.68%, and the Public Library Fund (PLF), 2.22%. Natural gas distribution tax receipts are not distributed to the GRF; they are distributed to the School District Property Tax Replacement Fund (68.7%), and the Local Government Property Tax Replacement Fund (31.3%).

[1] A "qualifying" dealer is a dealer that is a member of a controlled group of which a financial institution or insurance company is also a member.

Though actual revenue losses, totaling up to $20 million for the first year, would be shared by the GRF, LGF, PLF, and the tangible property replacement funds, the distribution of losses would depend on the amount of credit claims against each tax. However, it is likely the GRF would bear the largest amount of the yearly revenue loss, potentially several millions of dollars. Future yearly losses may grow if the credit ceiling is reached in any particular year. In granting a credit, the Department of Development is required to determine that it may be granted without exceeding the annual credit ceiling.

To be eligible for an ESO scholarship, the student's household must have an annual income at or below 300% of the income eligibility guidelines for reduced-price school lunches published by the Department of Agriculture's Food and Nutrition Service. Income eligibility for reduced-price school lunches vary with the size of the household and also generally change each year.[2] The student also may not simultaneously receive a scholarship from another ESO or through the existing Educational Choice Scholarship Program, Autism Scholarship Program, or Pilot Project Scholarship Program. The scholarship amounts vary with student grade level. For students in kindergarten through 8th grade, the limit is $4,200 or the cost of the school's tuition, whichever is less. Students in grades 9 through 12 may receive up to $7,000 or the cost of tuition, whichever is less. The bill states that, beginning in fiscal year 2012, these respective scholarship amount limits must be increased by the same percentage by which the General Assembly increases the adequacy amount from the previous fiscal year.

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[2] For example, school children in a family of four with household income up to $40,793, are eligible for reduced-price lunches in FY 2011, according to data from the National School Lunch Program. To qualify a student for scholarship under the bill, income in a four-member household may not exceed $123,379 ($40,793 times 300%).