Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Am. S.B. 88 of the 129th G.A.

Date: May 2, 2011

Status: As Reported by Senate Ways & Means & Economic Development

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 2012	FY 2013	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 couple filing a 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 2012. In every fiscal year after 2012, 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 intangibles 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%).

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[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 tax 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 varies with the size of the household and also generally changes 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 $4,250 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 2013, 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. The scholarship amount limits would not decrease if the General Assembly decreases the formula amount for any fiscal year.

Potential indirect effects of the bill

The tax-credit scholarships would lower the price of private schools for students who receive them and increase the demand for private schooling, which would include demand from students in private schools, those currently in public schools, and children not yet in schools. Students in private schools who might have been priced out because of cost may remain in private schools, and others may transfer to more expensive schools. Also, as the demand for private schooling increases due to lower prices, the enrollment at chartered nonpublic schools would rise and enrollment at public schools would decrease. In addition, the supply of private schooling may increase to meet the newly created demand.

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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%).

The bill requires that ESOs award at least 50% of new qualified scholarships to students who did not attend an Ohio chartered nonpublic school in the previous year. Presumably, without a scholarship, some of these students would attend an Ohio public school. Historically, a major determinant of state funding for public schools has been public school enrollment. Therefore, a decrease in public school enrollment would have decreased state funding for public schools – a decrease in both state expenditures and school district revenues. However, in recent years, state funding has not been very responsive to changes in enrollment. That is because most school districts (94% in FY 2011) are receiving state funding under the guarantee or cap in the current formula. For these school districts, a change in enrollment generally does not change state funding. Therefore, if the bill were currently in effect, its impact on state funding for public schools would likely be negligible. This is not to say that the impact of the bill would be the same in the future because the state funding system for public schools has changed over the years and is also likely to change in future years.

Senate Bill 88 does not directly affect property taxes or school district income taxes which generally fund the local share of public school funding. Thus, the bill does not affect revenues to the public schools. A decrease in enrollment in public schools as a result of the transfer of students to private schools is unlikely to affect either the revenues, or the spending level of public schools, at least in the short-term. The level of resources available to public school districts may be spread over a smaller number of students and may increase the per-pupil revenue in the public schools that experience a decrease in enrollment. This in turn potentially may allow school districts to decrease the frequency with which they otherwise would go to the ballot for property tax levies. Also, as a consequence of the bill, if two or three students would leave a public school, costs would drop negligibly because a large percentage of the costs of the public schools are fixed costs (e.g., buildings). But, if 20 or 30 students left year after year, there would be more of an effect after a certain period of time. Therefore, it is possible that having fewer students in a public school district may eventually reduce spending as the school recalibrates its fixed and variable costs (e.g., staff) to the newer enrollment levels, though the timing of the reduction in expenditures is uncertain and such reductions might also be the result of factors unrelated to the bill.

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