Ohio Legislative Service Commission

Terry Steele

Fiscal Note & Local Impact Statement

Bill: S.B. 197 of the 129th G.A. **Date**: November 29, 2011

Status: As Introduced **Sponsor**: Sen. Wagoner, Jr.

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

State Fiscal Highlights

- No direct fiscal effect on the state.

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.
- The bill could potentially lead to increases in property tax revenue to political subdivisions if a county sells a property to a private interest and leases it back. Section 5709.08 of the Revised Code exempts "public property used exclusively for a public purpose" from property taxes. Upon the sale of county property to a private company, the property would no longer be public property. However, it is unclear whether or not this property would be exempt from taxation under section 5709.121 of the Revised Code.

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 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 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 mechanism as an alternative to undertaking cost-prohibitive renovations 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, however, the county would still approve any renovations or other improvements.

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. A 2008 engineering study conducted by that county estimated that the building would need between $6 million and $10 million in renovations. Under the bill, the buyer would be responsible for making the needed renovations, and Lucas County would be responsible for making rental payments as the lessee.

Property tax implications

It is unclear whether or not this property would be exempt from taxation under section 5709.121 of the Revised Code. There are cases in which property was held to be taxable when a private party owns property and leases it back to a public entity for public purposes because the lease itself represents a source of income for the property owner. The magnitude of revenue gains for political subdivisions, assuming this property was subject to taxation, would depend on decisions made at the county level. LSC staff do not know of a reliable way to predict the decisions that would be made if the bill were enacted. But to illustrate the potential magnitude, the Franklin County offices located at 369 through 375 South High Street in Columbus are shown on the Franklin County Auditor's web site with a market value of $77.83 million. Applying the 35% assessment rate for property yields a taxable value of $27.24 million. The tax levies in effect in 2010 for Columbus Public Schools (CPS) reported on the Auditor's web site total 75.50 mills, and those for the city of Columbus total 3.14 mills. The implied property tax revenue gain from sale and leaseback of the Franklin County property would thus be approximately $2.1 million total, with $1.6 million in 2011 for CPS, $60,000 for public libraries, $380,000 to the county, and about $70,000 for the city.

SB0197IN / lb