Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: S.B. 263 of the 129th G.A.

Date: February 15, 2012

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

Sponsor: Sen. Coley

Local Impact Statement Procedure Required: No

Contents: Removes the requirement that certain telecommunications equipment used in direct marketing sales must be purchased by a direct marketing vendor to be exempt from the sales and use tax

State Fiscal Highlights

STATE FUND	FY 2012	FY 2013	FUTURE YEARS
General Revenue Fund			
Revenues	Potential loss	Potential loss	Potential loss
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 reduces the sales and use tax base and decreases GRF tax revenue.
- The state GRF would bear the entire revenue loss due to the Local Government Fund (LGF) and the Public Library Fund (PLF) "freeze" in this biennium. Beginning in FY 2014, any reduction to GRF tax receipts would also reduce the amount distributed to the LGF and PLF.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2012	FY 2013	FUTURE YEARS
Counties, municipalities, townships, and public libraries (LGF and PLF)			
Revenues	- 0 -	- 0 -	Potential loss
Expenditures	- 0 -	- 0 -	- 0 -
Counties and transit authorities			
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 1 through June 30.

- The bill will reduce revenue from local county permissive and transit authority sales taxes.
- A share of GRF tax revenues is distributed under permanent law to the LGF and PLF. In this biennium, the state GRF would bear the entire revenue loss due to the

LGF and PLF "freeze." Beginning in FY 2014, any reduction to GRF tax receipts would also reduce the amount distributed to the LGF and PLF.

Detailed Fiscal Analysis

Under current law, sales of certain items, if purchased by a direct marketing vendor,[1] are exempt from the sales and use tax. Items exempted include telecommunications equipment (such as telephones, computers, and fax machines) that will be used to accept orders for direct marketing retail sales. The bill removes the requirement that such telecommunications equipment be purchased by a direct marketing vendor in order to qualify for the sales tax exemption. Thus, sales of telecommunications equipment that will be "primarily used to accept orders for direct marketing retail sales" would be exempt, regardless of whether the person qualifies as a direct marketing vendor.

The bill would make exempt purchases of telecommunications equipment that were previously taxable. Therefore, the bill reduces the sales and use tax base and creates a revenue loss, though LSC is unable to estimate its size. LSC has been unable, from publicly available data, to determine the current value of purchases that may be subject to the proposed exemption. In addition, it is possible that certain purchases of telecommunications equipment by persons not involved in direct marketing, or for purposes other than to accept orders for direct marketing retail sales, may also become tax-exempt as a consequence of S.B. 263.

The bill will also decrease receipts from county permissive and transit authority sales taxes because those local sales taxes share the same tax base as the state sales and use tax. The yearly revenue loss to the GRF and to counties and transit authorities from the sales tax exemption is uncertain.

Receipts from the sales and use tax are deposited into the GRF. Under permanent law, a portion of GRF tax receipts are subsequently transferred to the Local Government Fund (LGF) and the Public Library Fund (PLF). Am. Sub. H.B. 153 (the operating budget act for FYs 2012 and 2013) fixed the LGF and PLF transfer amounts at predetermined levels so that any increase (or decrease) in tax receipts during the biennium will affect the GRF only. For FY 2014 and subsequent years, transfers to the LGF and PLF will resume based on a fixed percentage, but the applicable percentage is not yet known. The Tax Commissioner will determine, by July 5, 2013, the ratio of FY 2013 transfers to the respective funds to total FY 2013 GRF tax revenues. Subsequent transfers to the LGF and PLF will be based on those respective ratios.

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[1] A direct marketing vendor sells products that customers generally order by mail, telephone, and the Internet then the vendor ships the products to the buyer.