



Ohio Legislative Service Commission

Terry Steele

Fiscal Note & Local Impact Statement

Bill: S.B. 339 of the 129th G.A.

Date: November 28, 2012

Status: As Introduced

Sponsor: Sen. Schaffer

Local Impact Statement Procedure Required: Yes

Contents: Establishes procedures for the removal of fiscal officers, county treasurers, and county auditors, establishes continuing education requirements for those positions, and makes other changes

State Fiscal Highlights

- The bill establishes education requirements for newly appointed and elected auditors, treasurers, and fiscal officers. The Auditor of State is responsible for establishing these requirements and conducting some continuing education programs. Since the Auditor currently does this, any additional costs to that office are likely to be minimal. These costs are paid from the Auditor of State's Training Program Fund (Fund 5840).

Local Fiscal Highlights

- The bill establishes procedures for the removal of auditors, treasurers, and fiscal officers of political subdivisions. County courts of common pleas and political subdivisions seeking to remove an officer will likely experience cost increases associated with these proceedings. Although these removal proceedings would happen infrequently, they could cost several thousands of dollars per occurrence.
- The bill establishes certain procedures and penalties for unauditible political subdivisions. Specifically, the bill requires the Auditor of State and other state agencies to withhold funding for unauditible political subdivisions that do not make a reasonable effort to make that political subdivision auditible in the future. The bill also requires that the fiscal officers of unauditible schools be suspended, with or without pay, and another individual selected to fulfill those duties until the audit of the school is completed.
- Political subdivisions are required to reimburse newly elected auditors, treasurers, and fiscal officers a reasonable amount for maintaining the continuing education requirements under the bill. The extent of these reimbursement costs would depend on the registration fees for the continuing education courses.

Detailed Fiscal Analysis

Overview

The bill makes several changes relating to county treasurer, county auditor, and fiscal officer positions at the county, municipal, township, and school district levels of government. These changes include provisions relating to the removal of these individuals from office, continuing education requirements, and funding restrictions that apply to unauditable political subdivisions. The main potential fiscal effect of the bill stems from the provision concerning the circumstances applying to the removal of county auditors, county treasurers, municipal auditors and treasurers, and village fiscal officers. School districts might also incur additional payroll costs in some situations under the procedures for handling state funding for unauditable school districts. In cases where a local jurisdiction must take the steps outlined in the bill, the resulting additional costs could be in the several thousands of dollars. These provisions and others that have a fiscal effect on the state or political subdivisions are discussed in more detail below.

Removal of individuals from office

Current law contains provisions for the removal of individuals from office in political subdivisions for misconduct, misfeasance, or malfeasance in office. The bill establishes removal procedures that specifically apply to county auditors, county treasurers, municipal auditors and treasurers, and village fiscal officers. Under the bill, if the specified officer fails to make a settlement or to pay over any moneys as required by law, the legislative authority of the political subdivision is required to initiate legal action against the officer and the officer's sureties for the amount of money due, plus a 10% penalty.

Under the procedure outlined in the bill, a legislative authority must file a complaint for removal of the individual in the applicable county court of common pleas. The court must then issue notice to the individual at least ten days before a hearing is held, and that hearing must be held within 30 days of the filing of the complaint. The judge is permitted to suspend the individual pending this hearing. The removal proceedings must be tried by the judge unless the offending officer requests a trial by jury. Under the bill, any costs incurred for subpoenas of witnesses or other expenses associated with the proceeding must be paid from the general fund of the political subdivision that filed the complaint. However, should a judge or jury find insufficient evidence to remove an officer, the bill requires the court to award reasonable attorney's fees to the defendant.

Unauditable political subdivisions

Declarations

The bill has several provisions pertaining to unauditable political subdivisions. First, the bill requires the Auditor of State to provide notice of unauditability to applicable entities and post a list of unauditable entities on the Auditor's web site. The Auditor of State currently does this. As of September 2012, there were five community schools, two townships, six villages, and one water and sewer district on the Auditor of State's unauditable list.

Suspension of officers and withholding of contracts and funding

The bill requires that an unauditable school district's treasurer or unauditable community school's fiscal officer be suspended, with or without pay, until an audit of that entity can be completed. The entity that suspends that employee must appoint someone to fill that position until the suspension is lifted. In situations where an employee is suspended with pay and another individual must temporarily fill that position, school districts will incur additional payroll costs. The bill also specifies that the sponsor of a community school that is unauditable is prohibited from entering into contracts with any additional community schools for a period of 90 days after the declaration and the date that an audit can be completed. As of September 2012, there were 372 community schools receiving funding in Ohio.

The bill also requires that a political subdivision, not later than 45 days from receiving notice of unauditability, issue a written response to the Auditor of State that includes information pertaining to the process, steps, and further plans the political subdivision will take to ensure that the political subdivision will become and continue to be auditable in the future. If the political subdivision fails to make reasonable efforts in this respect, the Auditor of State must contact the Office of Budget and Management, and all other applicable state agencies that issue funding to the political subdivision, and those agencies must withhold state funding until an audit can be completed.

Education programs and continuing education

Municipal and township fiscal officers

The bill requires township fiscal officers, auditors and treasurers of municipal corporations, and village fiscal officers and clerk-treasurers to successfully complete education programs and continuing education programs. The bill also requires that the Auditor of State conduct education programs for individuals elected for the first time, and to conduct biennial continuing education courses for individuals that continue to hold office. The Auditor, in conjunction with the Ohio Township Association and Ohio Municipal League, must determine the manner and content of these courses. The bill also requires each township and municipal fiscal officer who is newly elected or appointed to attend and successfully complete at least 16 hours of continuing education courses during the first year of the officer's term and at least another eight hours of continuing education courses by the end of the term. The legislative authority of the

municipality or township is required to approve a reasonable amount requested by the fiscal officer to cover the costs incurred to meet these requirements, including registration fees, lodging, and meal and travel expenses.

While the Auditor of State may incur some costs for developing and offering these courses, a portion of these costs would be recouped through registration fees paid by attendees. The Auditor of State currently offers training courses for newly elected fiscal officers. These courses are paid for through registration fees paid by attendees, which are deposited into the Auditor of State's Training Program Fund (Fund 5840). The majority of local government officials attend the Auditor of State's Annual Local Government Officials Conference, which generally has over 700 attendees.

County auditor certificates and notices

The bill makes revisions to continuing education requirements for certain fiscal positions. The bill requires that the Auditor of State, in place of the County Auditors Association of Ohio (CAAO), issue certificates of completion to each county auditor that completes continuing education courses. The Auditor must also issue notices for failure to complete these courses. There may be some additional costs to the Auditor's office to issue these certificates and notices, but these costs are likely to be minimal.

Other provisions

The bill contains several other provisions that have some minimal fiscal impact. The bill requires that community schools file a surety bond or deposit of cash in the amount of \$50,000 with the Auditor of State. The Auditor must deliver this deposit to the Treasurer of State to hold it in a trust. In the event that the community school closes and cannot pay for the cost of an audit, the deposit is forfeited. The bill also requires that college preparatory boarding schools have a designated fiscal officer which must be licensed by the Department of Education as a treasurer under continuing law. These requirements would likely result in some minimal administrative costs for the Auditor of State, Treasurer of State, and Department of Education, respectively.