Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 158 of the 130th G.A. **Date**: May 31, 2013

Status: As Introduced **Sponsor**: Reps. Brenner and Patmon

Local Impact Statement Procedure Required: Yes

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

State Fiscal Highlights

STATE FUND	FY 2014	FY 2015	FUTURE YEARS
General Revenue Fund			
Revenues	Potential loss of several millions	Potential loss of up to $24 million	Potential loss in the tens of millions per year, and growing over time
Expenditures	- 0 -	- 0 -	- 0 -
School District Property Tax Replacement Fund (Fund 7053)			
Revenues	Potential loss	Potential loss	Potential loss
Expenditures	- 0 -	- 0 -	- 0 -
Local Government Property Tax Replacement Fund (Fund 7054)			
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 2014 is July 1, 2013 – June 30, 2014.

- The bill authorizes nonrefundable tax credits against the income tax, financial institutions tax, the public utility excise tax, natural gas consumption tax, kilowatt hour tax, and insurance premiums taxes. Thus, the bill reduces revenue from those taxes. The revenue loss is capped at $20 million in FY 2014, but under certain conditions, the cap is permitted to increase in subsequent years.
- The state GRF, the Local Government Fund (LGF), and the Public Library Fund (PLF) would bear the revenue loss, unless credits are also claimed against the kilowatt hour tax. Receipts from this GRF tax source are also distributed to the School District Property Tax Replacement Fund (Fund 7053) and the Local Government Property Tax Replacement Fund (Fund 7054).
- The GRF would bear the largest amount of any yearly revenue loss, potentially several millions of dollars per year.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2013	FY 2014	FUTURE YEARS
Counties, municipalities, townships, and public libraries (LGF and PLF)			
Revenues	Potential loss	Potential loss	Potential loss
Expenditures	- 0 -	- 0 -	- 0 -
School District Property Tax Replacement Fund (Fund 7053)			
Revenues	Potential loss	Potential loss	Potential loss
Expenditures	- 0 -	- 0 -	- 0 -
Local Government Property Tax Replacement Fund (Fund 7054)			
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.

- Under permanent law, a share of GRF tax revenues is distributed to the LGF and PLF. Thus, any reduction to GRF tax receipts would also reduce the amount distributed to the LGF and PLF.
- A reduction in revenue from the kilowatt hour tax would decrease distributions to the School District Property Tax Replacement Fund (Fund 7053) and the Local Government Property Tax Replacement Fund (Fund 7054). Distributions to the two replacement funds are used to replace losses to local governments and school districts due to the reduction in tangible personal property tax assessment rates on public utilities.

Detailed Fiscal Analysis

The bill authorizes a nonrefundable tax credit for individuals or businesses that donate to a nonprofit organization that provides scholarships to students attending nonpublic schools. The donor may claim the credit against the individual income tax, financial institutions tax, public utility excise tax, kilowatt hour tax, natural gas distribution tax, or insurance premiums taxes on domestic or foreign insurance companies. The tax credits may not exceed the tax otherwise due, and any excess credit may be carried forward for the next three succeeding tax periods. Taxpayers may receive a tax credit by making an authorized donation to an educational scholarship organization (ESO) certified by the Development Services Agency. Such organizations would be federally tax-exempt nonprofit 501(c)(3) organizations that provide qualified scholarships to eligible students attending nonpublic schools in Ohio. For details regarding the certification of an ESO, please read the LSC bill analysis.

The bill allows credits of up to $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 Development Services Agency to grant up to $20 million of credits in FY 2014. In every fiscal year beginning in FY 2015, if 80% of the credit ceiling was reached in the preceding year, the credit limit for the current year increases by 20%. The bill also allows the Development Services Agency to impose a "reasonable" application and administration fee with an application for the tax credit.

Except for the kilowatt hour tax, receipts from the taxes against which the credits may be claimed are entirely deposited in the GRF. Most of the receipts from the kilowatt hour tax are deposited in the GRF (88%); the School District Property Tax Replacement Fund (Fund 7053) receives 9% of kilowatt hour tax receipts, while the remaining 3% are deposited in the Local Government Property Tax Replacement Fund (Fund 7054). Thus, any decrease in receipts from the kilowatt hour tax would reduce distributions to Fund 7053 and Fund 7054. Distributions to the two property tax replacement funds are used to replace losses to local governments and school districts due to the reduction in tangible personal property tax assessment rates on public utilities.[1]

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 fiscal years 2012 and 2013) fixed the LGF and PLF

[1] S.B. 3 and S.B. 287 (the 123rd General Assembly).

transfer amounts at predetermined levels so that any decrease in tax receipts during the biennium will affect the GRF only.[2] 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.[3]

Any tax credits claimed in FY 2014 and FY 2015, potentially totaling up to $20 million in the first year and up to $24 million in the second year, would reduce revenues to the GRF and the property tax replacement funds if certain credits are claimed against the kilowatt hour tax. The yearly revenue loss from the bill would be shared by the GRF, LGF, PLF, and the property tax replacement funds, though the distribution of the losses would depend on the amount of credit claims against each tax. However, the GRF would bear the largest amount of any yearly revenue loss, potentially several millions of dollars per year in the biennium. Future yearly losses may grow if 80% of the credit ceiling is reached in any particular year, to potentially reach tens of millions of dollars in future years and growing over time. In granting a credit, the Development Services Agency 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 150% 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.[4] 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 nonpublic 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. Beginning in FY 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.[5]

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[2] Section 757.10 of H.B. 153.

[3] R.C. 131.51.

[4] For example, school children in a family of four with household income up to $43,568, are eligible for reduced-price lunches in FY 2014, according to data from the National School Lunch Program. To qualify a student for a scholarship under the bill, income in a four-member household may not exceed $65,352 ($43,568 times 150%).

[5] Though Am. Sub. H.B. 1 of the 128th General Assembly established an "adequacy amount" for each school district for the allocation of school funding, it was eliminated as a component of school funding formula by Am. Sub. H.B. 153 of the 129th General Assembly.

Potential impact of the bill on state education spending

A decrease in public school enrollment may result from students moving from public education to private education as a result of the scholarship. Historically, the school funding formula used in Ohio has been based on enrollment, so that theoretically, state spending may decrease when public school enrollment decreases. However, the school funding formula has also been subject to guarantee provisions that have made it relatively unresponsive to changes in enrollment, thus preventing any state savings due to public school enrollment decreases. For example, the current funding formula for FY 2013 guarantees a set amount of state spending regardless of statewide enrollment. As a result, if H.B. 158 were to be in effect this year, any loss in state revenue due to the tax credits would not be offset by any reduction in state spending, so there would be little reduction, if any, in GRF expenditures on schools.

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