



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: [Sub. S.B. 6 of the 130th G.A.](#) (LSC 130 0533-9) **Date:** February 18, 2014

Status: In Senate Public Safety, Local Government & Veterans Affairs **Sponsor:** Sen. Schaffer

Local Impact Statement Procedure Required: Yes

Contents: Establishes procedures once an entity has been declared unauditible, creates alternate removal from office procedures for local fiscal officers, and modifies education requirements for local fiscal officers

State Fiscal Highlights

- The Auditor of State and Attorney General could incur additional GRF costs to process affidavits and evidence or to prosecute cases under the alternative procedures regarding the removal of local government fiscal officers.
- The Auditor of State could incur new costs to develop and conduct local fiscal officer education programs required by the bill. These costs could be at least partially offset by registration fees paid by participants.
- The Auditor of State would incur minimal new administrative costs to provide written notifications to entities that are declared unauditible and to state agencies providing funding to unauditible entities.

Local Fiscal Highlights

- Public offices and local school districts that have been declared unauditible could be subjected to a temporary withholding of all state funds, except benefits to individuals, until the Auditor of State is able to complete a financial audit.
- Counties, townships, and municipal corporations would be required to pay the cost to defend a county auditor, county treasurer, or local fiscal officer subject to alternative removal procedures established by the bill. If judgment is rendered against the official, the official would be required to reimburse the applicable entity for reasonable costs as determined by the court.
- Townships, cities, and villages would incur costs to reimburse fiscal officers for the costs of participating in the education and continuing education programs required under the bill.

- Counties, townships, and municipal corporations, school districts, community schools, STEM schools, and college-preparatory schools could incur administrative costs to prepare responses to the Auditor of State if their financial records are declared unauditible.

Detailed Fiscal Analysis

Potential withholding of state funding

Under the bill, school districts and public offices of counties, townships, and municipal corporations that have been declared unauditible by the Auditor of State could be temporarily subjected to a withholding of all state funding. Under the bill, state agencies are required to withhold all funding, except benefits to individuals, if the unauditible entity fails to make reasonable efforts to correct the unauditible condition within 90 days of being declared unauditible. State funding may resume following notification to applicable state agencies that the Auditor of State was able to complete a financial audit of the affected local public office or school district. As of February 7, 2014, the Auditor of State's list of unauditible entities included six villages, two community schools, one school district, two townships, and three other entities, as shown in the table below.

Unauditible Entities as of February 7, 2014			
Entity Name	County	Entity Type	Date Unauditible
Columbiana County Drug Task Force	Columbiana	Other	1/18/2014
Coventry Local School District	Summit	School District	10/25/2013
Franklin Township	Jackson	Township	10/9/2013
Greater Heights Academy	Cuyahoga	Community School	11/3/2010
Lion of Judah	Cuyahoga	Community School	11/3/2010
Sharon Township	Franklin	Township	2/6/2014
Village of Clarksville	Clinton	Village	8/13/2013
Village of Coldwater	Mercer	Village	9/11/2013
Village of Fairview	Guernsey	Village	7/26/2013
Village of Millville	Butler	Village	10/9/2013
Village of Mount Pleasant	Jefferson	Village	5/9/2012
Village of Smithfield	Jefferson	Village	4/10/2012
Warren Water Authority	Jefferson	Water and Sewer District	8/10/2012
Workforce Initiative Association Area 6	Stark	WIA Area Agency	1/18/2014

Unauditible public offices and school districts

The Auditor of State, the legislative authority of an unauditible public office, and the school board of an unauditible school district could incur some additional costs to prepare certain notifications and responses under the bill. The bill requires the Auditor

of State to post a notice on the Auditor's website and to provide to the legislative authority of an unauditible public office, or in the case of an unauditible school district, to the school board and the Ohio Department of Education (ODE), a written notice of a declaration that an entity is unauditible. Under the bill, the notified legislative authority or school district then has 45 days to provide a response to the Auditor of State detailing the process by which the unauditible entity will be made auditible. The bill requires the Auditor of State to provide additional notifications to state agencies that provide funding to unauditible entities in the event that the entity fails to make reasonable efforts and continuing progress to bring its records, accounts, files, or reports into an auditible condition after 90 days of being declared unauditible.

Community schools, STEM schools, and college-preparatory boarding schools

The bill modifies current law allowing the governing authority of a community school to suspend the community school fiscal officer of an unauditible community school until the Auditor of State is able to complete an audit. If the school's fiscal officer is suspended, the bill requires the governing authority to appoint a person to assume the duties of the fiscal officer during the suspension. If that person is not licensed as a treasurer, the bill requires the Superintendent of Public Instruction to approve the replacement. The bill also grants the State Board of Education authority to suspend, revoke, or limit the license of a fiscal officer who has been suspended. Additionally, the bill creates new law requiring the governing authority of a community school to post a surety bond or cash in the amount of \$50,000 with the Auditor of State. In the event that the school closes, this surety would be used to cover any unpaid costs due to the Auditor of State for performing an audit.

For STEM schools and college-preparatory boarding schools declared unauditible, the bill contains similar provisions regarding notifications and responses required by the Auditor and school districts that have been declared unauditible. Specifically, the bill requires the Auditor of State to provide the operator with a written notification. In turn, the operator must respond with a plan detailing the process for correcting the unauditible condition. The Auditor of State and operator of a STEM school or college-preparatory boarding school would incur minor costs to prepare these notices and responses. State funding from the Department of Education could also be withheld from STEM schools and college-preparatory schools if they remain unauditible. In addition, the bill allows for the suspension of the fiscal officer responsible for the finances of the STEM school or college-preparatory boarding school. Finally, the bill requires that the fiscal officer of a college-preparatory school obtain a surety bond in an amount approved by the school's board of trustees to be filed with the county auditor. As a result, STEM schools, college-preparatory boarding schools, and county auditors may incur some minimal costs to process the bonds.

Removal of county auditors, county treasurers, and other local fiscal officers from office

The bill establishes procedures for removing county auditors, county treasurers, and other local fiscal officers¹ from office as an alternative to the removal procedures provided under current law. These alternate removal procedures, if employed, could have fiscal implications for the Auditor of State, the Attorney General, political subdivisions, and county courts of common pleas. However, it is unclear how frequently these alternative procedures would be employed. Consequently, it is difficult to determine how significant any new costs might be. Under these alternate removal proceedings, the most significant costs incurred by counties or other political subdivisions would be legal expenses to defend the accused officials. Under the bill, the applicable county or political subdivision must pay those expenses from their general fund budgets. If a judgment is rendered against the county auditor, county treasurer, or other fiscal officer, the bill requires the court to order the defendant to reimburse the applicable political subdivision for those expenses, up to a reasonable amount as determined by the court.

The Auditor of State could incur new costs to review submitted affidavits and evidence alleging that local officials have committed wrongdoing. Specifically, the Auditor of State would be required to determine if clear and convincing evidence exists to support the allegations, and to provide written notifications to specific parties based on these findings. Any such costs incurred by the Auditor of State would likely be paid from GRF appropriation item 070321, Operating Expenses. In turn, the Attorney General could incur new costs to investigate and prosecute cases forwarded by the Auditor of State. The costs that the Attorney General incurs would likely be paid from GRF appropriation item 055321, Operating Expenses. Finally, county courts of common pleas could incur new costs stemming from the additional caseload. For each of these entities, the costs will depend on the frequency in which the alternative removal procedures are employed and the nature of the individual cases.

Continuing education requirements for public fiscal officers

The bill establishes education and continuing education requirements for public fiscal officers including: (1) township fiscal officers, (2) the auditor or treasurer of a municipal corporation, (3) village fiscal officers, clerk-treasurers, or clerks, and (4) the appointed head of a municipal corporation finance department. Specifically, the bill requires the Auditor of State to provide courses and establish rules for completion and verification of education programs that meet criteria specified by the bill. The bill also requires the Auditor of State to issue certificates of completion to each fiscal officer who

¹ Under the bill this includes (1) township fiscal officers, (2) village fiscal officers, (3) village clerk-treasurers, (4) village clerks (5) city auditor, (6) city treasurer, or (7) in the case of a municipal corporation having a charter that designates an officer who, by virtue of the charter, has duties similar to those of the other officer previously mentioned.

completes the education programs and failure to complete notices to those who have failed to do so. In addition to the above offices, the Auditor of State would also be required to issue certificates of completion to county auditors that have completed all of their education requirements established in current law. As a result, the Auditor of State could incur new costs to adopt rules, provide required courses, and issue certificates. However, these costs could be at least partially offset by registration fees charged to participants in the education programs. These continuing education programs would be funded by registration fees and other conference proceeds deposited into the Auditor of State Training Fund (Fund 5840). The bill requires the legislative authority of an education program participant to reimburse the participant for any registration fees along with other reasonable travel, lodging, and meal expenses incurred while participating.

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