Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Am. Sub. S.B. 288 of the 130th G.A. **Date**: December 11, 2014

Status: As Passed by the House **Sponsor**: Sen. Eklund

Local Impact Statement Procedure Required: Yes

Contents: To create the Volunteer Peace Officers' Dependents Fund, to provide death benefits to survivors of volunteer peace officers killed in the line of duty and disability benefits to disabled volunteer peace officers, to make insurance-related changes, to establish requirements regarding controlled substances containing buprenorphine, and to specify the use of certain video lottery terminal revenue

State Fiscal Highlights

STATE FUND	FY 2015	FY 2016	FUTURE YEARS
Department of Commerce – Division of Administration Fund (Fund 1630)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase
Volunteer Peace Officers' Dependents Fund (established by the bill)			
Revenues	Potential gain	Potential gain	Potential gain
Expenditures	Potential increase	Potential increase	Potential increase

Note: The state fiscal year is July 1 through June 30. For example, FY 2015 is July 1, 2014 – June 30, 2015.

- The bill creates a new fund, the Volunteer Peace Officers' Dependents Fund, in the state treasury to pay for death benefits to survivors of volunteer, part-time, and reserve peace officers and sheriffs' deputies killed in the line of duty and disability benefits to such officers if they become disabled. The bill requires each county, municipality, township, township police district, and joint police district with a police or sheriff's department that employs volunteer peace officers to become a member of the fund and contribute certain amounts toward the fund, based on the member's assessed property valuation.
- The bill may minimally increase the Department of Commerce's administrative cost related to requirements associated with contributions toward the Volunteer Peace Officers' Dependents Fund.
- The provision that lowers the age limit for unmarried dependent child coverage under a health care plan or insurance policy from age 28 to 26 would reduce the state personal income tax (PIT) deduction for amounts paid for health insurance coverage for qualifying adult children. This provision would yield a PIT revenue gain to the state beginning in FY 2016 of up to $3.6 million in the first year. The state

GRF would benefit from 96.68% of the revenue gain or $3.5 million. The remaining 3.32% of PIT revenue gain, $0.1 million, would benefit the Local Government Fund (LGF) and the Public Library Fund (PLF) equally.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2014	FY 2015	FUTURE YEARS
Counties, municipalities, and townships			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase	Potential increase	Potential increase

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 requires each county, municipality, township, township police district, and joint police district with a police or sheriff's department that employs volunteer peace officers to establish a Volunteer Peace Officers' Dependents Fund board to administer claims for certain benefits from the fund. The bill specifies that the five members of each board would not be compensated.
- The bill requires such entities that employ volunteer peace officers to become a member of the Volunteer Peace Officers' Dependents Fund and contribute certain amounts toward the fund based on the member's assessed property valuation. The fund will be used to provide death benefits to survivors of volunteer, part-time, and reserve peace officers and sheriffs' deputies killed in the line of duty and disability benefits to such disabled officers.
- Initial premiums and possible assessments to the fund will increase the costs to provide such benefits for those jurisdictions that employ volunteer peace officers. LSC staff could not determine the magnitude of the fiscal impact due to lack of information on the number of volunteer peace officers and the number of entities employing such officers in Ohio. However, it is likely to increase costs by more than $100,000 statewide.
- The bill requires the legislative authority of each fund member to provide sufficient meeting space and supplies for its board to carry out its duties.
- The provision that lowers the age limit for unmarried dependent child coverage from age 28 to 26 would reduce the PIT deduction for amounts paid for health insurance coverage for qualifying adult children. This provision would yield a PIT revenue gain to the state beginning in FY 2016 by up to $3.6 million in the first year. Of this amount, 3.32%, or $0.1 million, would benefit the LGF and the PLF. Any revenue gain to the LGF and PLF will increase distributions to counties, municipalities, townships, and public libraries.

- The provisions related to bona fide volunteer firefighters may reduce local government expenditures to provide health benefits to such volunteers and their dependents. The estimated savings to local governments of not providing health insurance coverage to volunteer firefighters and their dependents could be up to $210 million annually.

Detailed Fiscal Analysis

Volunteer Peace Officers' Dependents Fund

The bill requires each county, municipality, township, township police district, and joint police district with a police or sheriff's department that employs volunteer peace officers to become a member of a newly created fund, the Volunteer Peace Officers' Dependents Fund. The bill also requires each entity to establish a Volunteer Peace Officers' Dependents Fund board to administer claims for benefits from the fund. The bill defines "volunteer peace officer" as any person who is employed as a police officer or sheriff's deputy constable, or deputy marshal in a part-time, reserve, or volunteer capacity by a county sheriff's department or the police department of a municipal corporation, township, township police district, or joint police district and is not a member of the Public Employees Retirement System (PERS), Ohio Police and Fire Pension Fund (OP&F), State Highway Patrol Retirement System (SHPRS), or the Cincinnati Retirement System (CRS). The bill also specifies that the provisions related to volunteer peace officers would have no impact on the Public Employees Retirement System, Ohio Police and Fire Pension Fund, or State Highway Patrol Retirement System.

The bill creates a new fund, the Volunteer Peace Officers' Dependents Fund, in the state treasury to pay for benefits, to volunteer peace officers who are totally and permanently disabled as a result of discharging the duties of a volunteer peace officer, except to a volunteer peace officer who is receiving the officer's full salary during the time of the officer's disability, or to pay death benefits to survivors of such officers killed in the line of duty. The bill specifies the benefit amounts that must be paid from the Fund: (1) to surviving spouses, a lump-sum award of $1,000, plus a $300 benefit per month, (2) to dependent children, a benefit of $125 per month, and (3) to disabled volunteer peace officers, a disability benefit of $300 per month.

Under the bill, each fund member is required to contribute an initial premium to the fund as specified in Table 1, depending on each member's assessed property valuation. A member's initial premium would be between $300 and $500.

Table 1. Initial premiums	
Member's assessed property valuation	**Initial premium amount**
Less than $7 million	$300
$7 million or more, but less than $14 million	$350
$14 million or more, but less than $21 million	$400
$21 million or more, but less than $28 million	$450
$28 million or more	$500

The total of all initial premiums would be the basic capital account for the fund and no further contributions are required from fund members until claims against the fund have reduced its balance to 95% or less of its basic capital account. In that event, the Director of Commerce is required to certify additional premiums as specified in Table 2, based on current property valuation, to the legislative authority of each member of the fund. A member's additional premium would be between $90 and $150.

Table 2. Additional premiums	
Member's assessed property valuation	**Assessment amount**
Less than $7 million	$90
$7 million or more, but less than $14 million	$105
$14 million or more, but less than $21 million	$120
$21 million or more, but less than $28 million	$135
$28 million or more	$150

If a member of the fund fails to pay an initial premium, the bill requires the Director of Commerce to certify the failure as an assessment against the fund member to the auditor of the county within which the member is located. The county auditor must withhold the amount of the assessment, together with interest at the rate of 6%, from the next ensuing tax settlement due the member and pay the amount to the Treasurer of State to the credit of the fund.[1] The bill also provides that if a member of the fund fails to pay the additional premium within 45 days after receiving a notice of the assessment, the Director must proceed with collection as indicated above (for collecting initial premiums that have not been paid).

The bill provides that each Volunteer Peace Officers' Dependents Fund board would consist of five members. The bill specifies that such members will not receive any compensation. The bill requires the legislative authority of each fund member to provide sufficient meeting space and supplies for the board to carry out its duties. Each board may adopt necessary rules related to handling and processing claims for benefits. The bill also requires each board to perform other duties as necessary to implement the law governing the fund.

[1] If a board secretary fails to submit to the Director a certificate of the member's current assessed property valuation, the Director must use the highest assessed property valuation ($28 million or more) as a basis for the assessment. Thus, the member will be required to pay an initial premium of $500.

Fiscal effect

The required initial premiums and possible future assessments would increase costs of providing certain benefits to volunteer peace officers, by certain counties, municipalities, townships, township police districts, and joint police districts with a police or sheriff's department that employs such officers. As of this writing, LSC staff could not determine the magnitude of the fiscal impact due to lack of information on the number of volunteer peace officers and the number of entities employing such officers in Ohio. Under the bill, the contributions toward the fund will be used to provide death benefits to survivors of volunteer, part-time, and reserve peace officers and sheriffs' deputies killed in the line of duty and disability benefits to such officers who are totally and permanently disabled as a result of discharging their duties.

The existing Volunteer Firefighters' Dependents Fund (Fund 7085), which provides similar benefits, but related to volunteer firefighters, has experienced actual expenditures ranging between a low of $223,000 in FY 2011 and a high of $239,000 (in FY 2013), over the last five years. Based on the experience with Fund 7085, the bill is likely to increase costs to those local government entities that employ volunteer peace officers by more than $100,000 statewide, though it would likely be less during the first few years of implementation because the benefits are not retroactive. The bill may also increase such local governments' costs associated with meeting space and supplies for the board to carry out its duties.

Insurance

The bill lowers the age limit for unmarried dependent child coverage under a health care plan or insurance policy from age 28 to 26.[2] The insurers subject to this provision are sickness and accident insurance policies, health insuring corporation (HIC) plans, multiple employer welfare arrangements (MEWAs), and public employee benefit plans. Under existing law, all of these health care plans must offer to provide coverage for an unmarried child that meets certain conditions, upon the request of the subscriber when an unmarried child has attained the limiting age for dependent children as specified in such plans, until the dependent child reaches 28 years of age.

The bill modifies the definition of "eligible employee" for the purposes of the law governing small employer benefit plans. Under the bill, an eligible employee means an employee who works a normal work week of 30 or more hours. The new definition would conform Ohio law to provisions in the federal Affordable Care Act (ACA) that relate to mandatory health insurance coverage. Under current law, an eligible employee works a normal work week of 25 or more hours. The bill also increases the duration of one-time-limited-duration health insurance policies from six months to twelve months.

[2] The federal Affordable Care Act requires plans and issuers that offer dependent coverage to make the coverage available until the adult child reaches the age of 26.

The bill also specifies that volunteer firefighters employed by municipalities or townships are not employees for purposes of the ACA, if the firefighter receives certain benefits in connection with their volunteering.

The bill specifies that the cost-sharing limit of $100 per prescription fill related to the chemotherapy parity law[3] is applied to a high deductible plan, as defined in 26 U.S.C. 223, or a catastrophic plan, as defined in 42 U.S.C. 18022, only after the deductible has been met.

Fiscal effect

The provision that lowers the age limit for unmarried dependent child coverage under a health care plan or insurance policy from age 28 to 26 would reduce a state personal income tax (PIT) deduction, for amounts paid for health insurance coverage for qualifying adult children between age 26 and 28. This would result in a PIT revenue gain to the state. Under existing law, Ohioans are allowed to deduct the portion of payments for employer-sponsored health insurance that would normally be excluded from federal adjusted gross income (FAGI) but is not because it relates to a person who is not a "qualifying dependent" for federal income tax purposes.

The bill applies to policies, contracts, agreements, and plans that are delivered, issued for delivery, or renewed in Ohio on or after January 1, 2016. Thus, any such revenue gain would begin in FY 2016. In the Ohio Department of Taxation's Tax Expenditure Report for fiscal years 2014 and 2015, the estimated PIT revenue loss to the state related to the current deduction for amounts paid for health insurance coverage for qualifying adult children and other dependents is about $3.8 million for FY 2015. This estimate would have been based on income tax rates prior to rate reductions enacted in Am. Sub. H.B. 59 of the 130th General Assembly. Adjusting for the lower state income tax rates for all brackets in tax year 2015 (FY 2016) due to those PIT rate reductions, the estimated PIT revenue gain would be up to $3.6 million.

The state GRF would retain 96.68% or $3.5 million of the revenue gain from the PIT. The remaining 3.32%, or $0.1 million, would be transferred to the Local Government Fund (LGF) and the Public Library Fund (PLF), with each fund receiving half of the total. The LGF is used to distribute money to counties, municipalities, and townships while the PLF is used to distribute money primarily to public libraries. Any revenue gain to the LGF and PLF will increase distributions to those political subdivisions.

The provision changing the definition of eligible employee for the purposes of the law governing small employer benefit plans and increasing the duration of one-time-limited-duration health insurance policies from six to less than twelve months

[3] Under the chemotherapy parity law (enacted under Am. S.B. 99 of the 130th General Assembly) certain insurers are deemed to be in compliance with the requirement, if the cost sharing imposed under its policy, contract, or agreement for orally administered cancer treatments does not exceed $100 per prescription fill.

would have no direct fiscal effect to the state and local governments. However, the provision related to bona fide volunteer firefighters would reduce local governments' expenditures related to health insurance coverage provided to volunteer firefighters and their dependents.

According to *The 20th Annual Report on the Cost of Health Insurance in Ohio's Public Sector (2012 Report)*, prepared by the State Employment Relations Board (SERB), the total employer costs per month (per employee per month) for medical and prescription coverage in 2012 ranged between $751 and $1,111. According to the National Fire Department Census Database, there were over 42,400 active firefighters statewide in 2009. Of the total number, approximately 15,743, or 37.1%, were active volunteer firefighters. The databases are administered by the U.S. Fire Administration (USFA), an entity of the Department of Homeland Security's Federal Emergency Management Agency. Using those data, the estimated savings to local governments of not providing health insurance coverage to volunteer firefighters and their dependents could be between $142 million and $210 million annually. To the extent that individual jurisdictions elect to provide such benefits despite this provision, this savings estimate should be reduced.

Controlled substances containing buprenorphine

The bill requires a license as a terminal distributor to possess or distribute controlled substances containing buprenorphine. According to the State Pharmacy Board, there would be approximately 450 applications for this license by providers that currently possess or distribute these medications.

The bill requires the State Medical Board to adopt rules that establish standards and procedures to be followed by physicians in the use of controlled substances in schedule III, IV, or V to treat opioid dependence or addiction. The bill permits the State Medical Board to limit the application of the rules to treatment provided through an office-based practice or other practice type or location specified by the State Medical Board.

Fiscal effect

The current fee for a terminal distributor license is $150. The State Pharmacy Board would experience a potential gain of up to $67,500 in license fee revenue (450 x $150). Revenue would be deposited into the Occupational Licensing and Regulatory Fund (Fund 4K90). There would be a minimal increase in administrative costs to the State Pharmacy Board to process the new licenses. In addition, there could be additional investigation and enforcement costs for the new licenses depending on the number of investigations.

There would be a cost to the State Medical Board to adopt the rules required by the bill.

Video lottery terminal revenue for thoroughbred or harness horsemen's health and retirement fund

The bill specifies that the percentage of a lottery sales agent's commission required by R.C. 3769.087 to be paid to the State Racing Commission for the benefit of breeding and racing in Ohio be exclusively deposited in the two existing health and retirement funds for the benefit of horsemen, and to finance benefits from each fund.[4] Ohio law provides for one such fund for each of thoroughbred and harness racing. A total of about $1.0 million in FY 2013 and $2.0 million in FY 2014 was distributed under this requirement.

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[4] The percentage required by R.C. 3769.087 is to be between 9% and 11%, and is to be agreed between the applicable horsemen's association and the video lottery sales agent at each track, or directed through rule by the State Racing Commission.