OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

H.B. 467
133rd General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 467's Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Scherer

Local Impact Statement Procedure Required: Yes

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Highlights

Fund	FY 2021	FY 2022	Future Years
State General Revenue Fund			
Revenues	Possible $20.1 million loss	$0	$0
Expenditures	$0	$0	$0
Local Government and Public Library funds (counties, municipalities, townships, and public libraries)			
Revenues	Possible $0.7 million loss	$0	$0
Expenditures	Commensurate reduction	$0	$0

Note: The state or school district fiscal year runs from July 1 through June 30 and is designated by the calendar year in which it ends. For other local governments, the fiscal year is identical to the calendar year.

- The bill reduces the withholding tax rate for certain pass-through entities to 4%.
- Taxpayer liabilities would be unchanged. However, the rate reductions are estimated by the Department of Taxation to give rise to a one-time revenue loss of $20.8 million in FY 2021, due to the timing of payments during the fiscal year.
- Lower GRF tax revenues in the fiscal year would reduce distributions through the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065), by an estimated $0.7 million. The balance would be retained by the GRF.

Detailed Analysis

The bill reduces withholding tax rates to 4% on certain pass-through entities (PTEs). PTEs include partnerships, S corporations, and limited liability companies. PTEs "pass through" the liability to pay tax on their income to their investors, thereby avoiding a second layer of taxes at the business entity level. Although income taxes are not owed by the PTEs themselves but are due instead from the investors in the PTEs, payments referred to as withholding taxes are made by PTEs for which the investors in those entities can claim refunds or credits against taxes owed. This withholding tax helps reduce tax avoidance.

For certain out-of-state investors in PTEs that are not individuals or are various financial institutions and some others, the withholding tax rate falls from 8.5% to 4%.[1] For out-of-state investors in PTEs who are individuals and for trusts with beneficiaries who are out-of-state individuals, the withholding tax rate falls from 5% to 4%. The 4% rate is between the rate on taxable business income, 3%, and the top rate on nonbusiness income, 4.797%.

No state personal income taxpayer's tax liability is changed by the bill. However, the Department of Taxation estimates that timing differences between the tax and fiscal years will result in a one-time tax revenue loss of $20.8 million in FY 2021. State tax revenue from the withholding tax on PTEs is treated as individual income tax revenue and so is part of GRF tax revenues. Consequently, the Local Government Fund (LGF) and Public Library Fund (PLF) would also lose revenue in that fiscal year. The LGF and the PLF each receive monthly distributions of a portion of GRF tax revenues in the previous month. Provisions of H.B. 166 of the 133rd General Assembly set the percentages at 1.68% for the LGF and 1.70% for the PLF in FY 2020 and FY 2021, or a total of $0.7 million on the estimated revenue loss in FY 2021.[2] All revenues to each fund are distributed in the month received to local governments, primarily municipalities, counties, and townships, and public libraries. The balance, $20.1 million, would be retained by the GRF.

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[1] This part of the bill, amending R.C. 5733.41, applies to financial institutions; financial holding companies; bank holding companies; savings and loan holding companies; persons directly or indirectly owned by one or more financial institutions, financial holding companies, bank holding companies, or savings and loan holding companies; persons that solely facilitate or service securitizations by these entities; certain affiliates of insurance companies; and estates and trusts subject to the personal income tax. There may be some question whether the wording of this section of the As Introduced bill applies an additional 4% withholding tax (total of 8%) to certain individuals.

[2] The LGF and the PLF each receive monthly distributions of 1.66% of GRF tax revenues under codified law.