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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 164
134th General Assembly

Final Fiscal Note & Local Impact Statement

[Click here for S.B. 164's Bill Analysis](#)

Primary Sponsors: Sens. Hottinger and Yuko

Local Impact Statement Procedure Required: No

Terry Steele, Senior Budget Analyst, and other LBO staff

Highlights

Animal Cruelty

- The bill makes several modifications to both the definitions and accompanying penalties associated with the cruel and inhumane treatment of companion animals. How these changes impact the overall number of such cases in the judicial system is unclear. However, certain felony penalties are classified as violent offenses, potentially leading to additional prison sentences under the bill.
- Animal shelters that need to update their practices to comply with the bill could incur recurring costs of \$120 every two years to be licensed by the State Board of Pharmacy. The license fees would be deposited into the Occupational Licensing and Regulatory Fund (Fund 4K90). Any facilities (county humane societies, dog pounds, or local animal shelters operated by a local governmental entity) that do not already euthanize domestic animals would incur ongoing costs to procure drugs for the euthanizing of domestic animals.

County cigarette tax

- The bill authorizes Cuyahoga County to convert the county's existing cigarette tax from a per-cigarette tax to a wholesale tax at the maximum rate of 9%. The bill also imposes a new levy on the wholesale value of nicotine vapors products sold in the county.

Detailed Analysis

Animal Cruelty

Animal cruelty penalties

County and municipal courts could see increases in costs due to the penalty revisions in the bill. The bill lowers the mental state from knowingly to recklessly, for the offense of depriving a companion animal of necessary sustenance or confining the animal without supplying it with sufficient quantities of food and water. The bill lowers the penalty for such reckless deprivation from a fifth degree felony to a first degree misdemeanor on the first offense, and a fifth degree felony for subsequent offenses.

The penalty for a first degree misdemeanor is up to six months in jail and a fine of up to \$1,000. The penalty for fifth degree felonies is up to 12 months in prison with a fine of up to \$2,500. It is unclear as to how many new cases will result from the penalty modifications in the bill. Any additional county court costs resulting from penalty modifications could be partially offset through court costs associated with those penalties. Additionally, state court costs imposed on felony cases is \$60 per case, with \$30 being deposited into the Indigent Defense Support Fund (Fund 5DY0) and \$30 to the Victims of Crime/Reparations Fund (Fund 4020). State court costs for misdemeanors total \$29, with \$20 being deposited into Fund 5DY0 and \$9 into Fund 4020.

The bill also contains a provision specifying that knowingly causing serious physical harm to a companion animal, which is currently a fifth degree felony, must be classified as a violent offense. Therefore, a judge is not required to sentence an offender to a community control sanction, but instead must impose a prison term on the first offense. These violations would also not be expungable in the same manner as other violations in this penalty class. As a result, it is possible that violations under the bill may result in additional offenders being sentenced to prison time. The cost per day of housing an offender in prison typically ranges from \$60 to \$80 per day.

Euthanizing of animals

The bill could result in a minimal increase in costs for animal shelters to comply with the bill's general prohibition against using a gas chamber to euthanize certain domestic animals.¹ As of this writing, the Erie County Dog Warden is the only entity that is known to use a gas chamber for euthanizing domestic animals. The Dog Warden has indicated that only (1) domestic dogs that cannot be placed for adoption due to illness, injury, or temperament, or (2) nuisance wildlife is euthanized using the gas chamber. Current law allows for the use of a gas chamber for nuisance wildlife; however, under the bill, the county would need to use an alternate method of euthanasia for domestic animals such as dogs.

The most commonly used and accepted alternative method of euthanasia is by injection. To carry out this process, dog wardens would incur a one-time cost to install a secure storage locker for the necessary injection drugs. There would also be some additional work to oversee biennial licensing under the State Board of Pharmacy. The estimated costs of a required storage locker could range from a few hundred to upwards of a few thousand dollars, depending on the

¹ Continuing law allows the use of gas chambers for the slaughtering of livestock and certain other nuisance wild animals.

model of locker acquired. Licensing costs related to administering these drugs would be deposited into the Occupational Licensing and Regulatory Fund (Fund 4K90) and would be \$120 every two years. There would also be some new recurring costs for training staff on this new method, as well as for buying the requisite euthanasia drugs.

Under the bill, violations of the prohibition of using gas chambers to euthanize domestic animals is a fourth degree misdemeanor, punishable by a fine of up to \$250, and a jail sentence of not more than 30 days. While certain municipal and county courts could incur additional costs related to this provision, there would appear to be very few new cases, and therefore any related costs would likely be negligible. Any new costs could be partially offset through fines imposed under the bill. Convictions that may result in jail time would appear to be extremely rare, and therefore, applicable county sheriffs would not likely incur new costs to house additional inmates.

Adulterated pet food

The bill prohibits pet food from containing remains from an animal that was euthanized by the use of any drug injected intravenously or through another nonvascular route and from containing any dog or cat remains. A person who violates these provisions is guilty of a misdemeanor of the fourth degree on a first offense and a misdemeanor of the third degree on each subsequent offense. Although this prohibition could result in increased criminal prosecutions and jail time for certain offenders, the number of cases is likely to be small and therefore would not increase caseloads or costs for county courts or county sheriff's by any significant amount.

Cuyahoga arts and cultural district cigarette and vapor taxes

Currently, only Cuyahoga County is authorized to levy a cigarette tax, at 34.5 cents per pack, 30 cents of which is dedicated to an arts and cultural district. During FY 2021, the Department of Taxation collected \$14.7 million in county cigarette taxes, and has been declining over the years. The bill authorizes a county with a population of more than 1,200,000 as of the 2000 census (Cuyahoga County) to do both of the following, beginning in the first month after the bill's 90-day effective date:

(1) Convert the county's existing cigarette tax benefiting a regional arts and cultural district from a per-cigarette tax to a wholesale tax. The wholesale tax may equal up to 9% of the wholesale price of the cigarettes. (2) Levy a new tax on vapor products to benefit a regional arts and cultural district. That tax may also equal up to 9% of the products' wholesale price.

The bill's provision is permissive. The net fiscal effect of this provision (compared to existing law) will depend on the tax rate imposed by the County Commissioners. The Tax Department is likely to incur additional costs to administer this local tax as this new scheme differs from the state cigarette and other tobacco products tax.