Ohio Legislative Service Commission

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Office of Research and Drafting

Legislative Budget Office

**H.B. 133 (with AM0376-3)**
**136th General Assembly**

# Fiscal Note & Local Impact Statement

Click here for H.B. 133's Bill Analysis

**Version:** In House Ways and Means

**Primary Sponsor:** Rep. Craig

**Local Impact Statement Procedure Required:** Yes

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## Highlights

- Authorizing a nonrefundable credit against the state personal income tax (PIT) for any employer that meets certain requirements and provides to some or all employees an individual coverage health reimbursement arrangement (HRA) could decrease PIT receipts by tens of millions of dollars per year, as early as FY 2027 when tax year 2026 PIT returns are filed.
- PIT receipts are deposited in the GRF. Thus, 96.6% of revenue losses from the PIT would be borne by the GRF, while the remaining will be borne by the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065), each of which receives 1.7% of GRF tax revenue under the statutory formula.
- The Department of Insurance may realize minimal administrative costs regarding responsibilities associated with the unfair and deceptive practice of insurance in the state. Any increase in such costs would be paid from the Department's Operating Fund (Fund 5540). The bill allows the Superintendent of Insurance to impose a civil penalty for violations related to the bill. Any penalties collected would be deposited into Fund 5540 and be used to defray the costs.

## Detailed Analysis

### Health reimbursement arrangement contribution tax credit

The bill authorizes a nonrefundable credit against the state personal income tax (PIT) for any employer that employs between two and 50 total employees, provides to some or all employees an individual coverage health reimbursement arrangement (HRA), and contributes at least $400 per employee to that arrangement during a taxable year. The owner of a direct or indirect interest in such an employer that is a pass-through entity (PTE) is also eligible for the tax credit. The credit equals $400 multiplied by the number of the employer's employees who were provided benefits under an HRA, cumulatively and regardless of an employee's length of tenure, during the taxpayer's taxable year.

The credit would begin in the first taxable year that ends on or after the bill's effective date, which LBO assumes to be tax year (TY) 2026. The bill allows the Tax Commissioner to request that a taxpayer claiming the credit under the bill to furnish necessary information supporting the claim for the credit, and credit will not be allowed unless the requested information is provided.

### Fiscal effect

Information on the number of employers that employ between two and 50 employees in Ohio that provide and contribute to an HRA for their employees are undetermined. However, the potential cost of the tax credit could be in the tens of millions of dollars per year, depending on the number of employers that meet the eligibility requirements and the number contributing to an HRA for their employees. The information and assumptions below illustrate the potential PIT revenue loss.

According to 2022 County Business Patterns data, published by the U.S. Census Bureau, about 155,000 businesses (i.e., their legal form is either an S-corporation, sole proprietorship, or partnership) that employed between one and 49 employees were in Ohio. Those businesses employed approximately 1.1 million people. HRAs are relatively new, so statistics are sparse, but it is plausible that HRAs are offered by about 4% of all firms that offer employer-sponsored health insurance.[1] Assuming those employers provided and contributed up to $400 to HRAs to 4% of such total employees and claimed the PIT credit, the estimated revenue loss would be about $17.6 million per year (i.e., [1.1 million x 4%] x $400 = $17.6 million). Annual revenue losses could begin as soon as FY 2027 when TY 2026 PIT returns are filed.

Currently, PIT receipts are deposited in the GRF. Thus, 96.6% or about $17.0 million of revenue losses from the PIT would be borne by the GRF, while the remaining 3.4% or about $0.6 million will be borne by the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065). Currently, each fund receives 1.7% of GRF tax revenue under the statutory formula.

## Unfair and deceptive practices of insurance

The bill expands the current list of unfair and deceptive practices in the business of insurance to include the following: (1) induce or steer individuals away from an employer-provided health benefit plan and (2) offer employers or individuals financial or other benefits as incentives for individuals to not enroll in, or to terminate enrollment in, an employer-provided health benefit plan, including by offering individuals an alternative to an employer-provided health benefit plan. The bill specifies that neither of the following are unfair or deceptive practices: (1) providing information on tax credits available under the bill for individual coverage health reimbursement arrangements and (2) assisting an employer in setting up an individual coverage HRA. The bill also authorizes the Department of Insurance to impose a civil penalty up

[1] According to Figure 8.1 of the Kaiser Family Foundation's 2024 Employer Health Benefits Survey, files.kff.org/attachment/Employer-Health-Benefits-Survey-2024-Annual-Survey (PDF).

to $25,000 plus administrative costs for unfair and deceptive practices that may induce or steer individuals away from an employer-provided health benefit plan.

## Fiscal effect

The bill may increase the Department of Insurance's administrative costs regarding responsibilities associated with the unfair and deceptive practice of insurance in the state. Currently, the Superintendent of Insurance has oversight authority over the business of insurance in the state. If there is any increase in such costs, and any offsetting revenue, they are likely to be minimal. Any general administrative costs would be paid from the Department of Insurance Operating Fund (Fund 5540). The bill allows the Superintendent to impose fines and penalties for committing unfair or deceptive acts in the business of insurance, as specified under the bill. Any penalties collected for such violations under the bill would be deposited to the credit of Fund 5540 and be used to defray the costs.

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