Ohio Legislative Service Commission

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Office of Research and Drafting

Legislative Budget Office

H.B. 341
136th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsor: Rep. Williams

Local Impact Statement Procedure Required: Yes

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Highlights

- Authorizing a nonrefundable tax credit against the state personal income tax (PIT) for a qualifying employer that subsidizes employee insurance coverage for assisted reproduction pursuant to a qualifying health insurance plan would reduce PIT revenue by an undetermined amount, but could be in the tens of millions of dollars per year, potentially beginning in FY 2027.
- The state GRF would bear 98.25% of the total revenue loss, while the remining 1.75%, would be borne by the Local Government Fund (LGF, Fund 7069).

Detailed Analysis

The bill authorizes a nonrefundable credit against the state personal income tax (PIT) for a qualifying employer that subsidizes employee insurance coverage for assisted reproduction pursuant to a qualifying health insurance plan. A qualifying employer means a taxpayer who offered a qualifying health insurance plan to each of its employees during the employer's entire taxable year and paid all or a portion of the premiums for that coverage. A qualifying health insurance plan means a policy, contract, certificate, or agreement provided by an employer to provide, deliver, arrange for, pay for, or reimburse any of the costs of assisted reproduction, including limited benefit plans, plans marketed in the individual or group market by all associations, whether bona fide or non-bona fide, and coverage issued under 10 United States Code Chapter 55 or coverage issued as a supplement to that coverage. The credit applies to taxable years ending on or after the bill's effective date, which LBO assumes to be tax year (TY) 2026; thus, the estimated revenue loss would begin in FY 2027.

The bill limits the amount of the PIT credit to $50,000 if the qualifying employer employs fewer than 50 full-time equivalent employees (FTEs), and $500,000 if the qualifying employer employs 50 or more FTEs. If a taxpayer holds a direct or indirect equity interest in a qualifying employer, the taxpayer may claim the taxpayer's distributive or proportionate share of the credit for the taxpayer's taxable year that includes the last day of the entity's taxable year.

The bill requires qualifying taxpayers to provide, upon request of the Tax Commissioner, any necessary documentation to verify the taxpayer is entitled to the credit under the bill. Upon the request of a qualifying employer, the issuer of a qualifying health insurance plan must provide to the qualifying employer documentation sufficient to establish whether the plan meets the requirements for the tax credit under the bill.

Fiscal effect

Not all employers could claim the tax credit. Employers that are government or nonprofit entities owe no income tax, thus they could not claim the credit. The income of businesses organized as C corporations is not subject to the state PIT, thus those employers could not claim the credit, either. However, employers that are organized as sole proprietors could claim the credit. In addition, the individual owners of pass-through entities (i.e., businesses organized as S corporations or partnerships) could claim their shares of the credit.

Based on information derived from the Percent of Private Sector Establishments That Offer Health Insurance to Employees, by Firm Size in Ohio in 2023, published by KFF, in 2023 about 31.3% of firms with fewer than 50 employees in Ohio offered health insurance to their employees whereas about 90.5% of firms with 50 or more employees in Ohio offered health insurance. However, data on the number of employers, by number of employees, that offer health insurance to their employees and subsidizing coverage for assisted reproduction pursuant to a qualifying health insurance plan are not available. Additionally, based on data from the 2023 County Business Patterns, published by the U.S. Census Bureau, about 2.1 million employees worked for a total of about 162,700 employers that were organized as S corporations, proprietorships, and partnerships statewide.

Ohio Business Establishments with Legal Organizations that are Potentially Subject to PIT		
Establishment Size	**Establishments**	**Employees**
Fewer than 50 employees	155,033	1,106,532
50 employees or more	7,623	1,028,453
Total	**162,656**	**2,134,985**

Source: LBO tabulations of 2023 Ohio County Business Patterns data for Ohio

Using the percentages of firms offering health insurance to their employees and the proportionate distribution of data on employers subject to the PIT by the range of FTEs, the estimated number of employers subject to the PIT that offer health insurance to their employees that employ fewer than 50 employees, and 50 or more employees would be about 46,975 and 6,899, respectively. However, the number of employers subject to the PIT that offer health insurance to their employees and subsidizing coverage for assisted reproduction pursuant to a qualifying health insurance plan is undetermined, but could be estimated based on an example below.

For example, if 5% of employers subject to the PIT offer health insurance and subsidizing coverage for assisted reproduction, the estimated total credits that could be claimed would be roughly $290 million per year (i.e., [46,975 x 5% x $50,000] + [6,899 x 5% x $500,000] = $289.9 million). The estimated total credits that could be claimed by these employers could be lower when taking into account the existing business income tax deduction and the proportion of such employers that may still be able to apply the nonrefundable tax credit against their PIT liability.

Actual revenue losses under the bill could be higher or lower than the estimate, depending on the number of employers subject to the PIT, the size of their FTEs, and whether they are offering health insurance to their employees and subsidizing coverage for assisted reproduction pursuant to a qualifying health insurance plan, the amount of credit claims by such employers, and their associated tax liabilities. In general, business income is projected to represent no more than 15% of the estimated PIT tax receipts in FY 2027. Individuals and pass-through entities remitting tax payments on behalf of their business income do not specify whether their business offers health insurance. Given the aforementioned statistics about employers' health plans and the magnitude of the tax credit relative to the marginal cost[1] of subsidizing assisted reproduction costs, it is plausible that the credit could reduce PIT receipts by hundreds of millions of dollars per year.

The estimated annual revenue losses could begin as soon as FY 2027 when TY 2026 PIT returns are filed, if the bill were enacted in calendar year 2026. Currently, PIT receipts are deposited in the GRF. In addition, the Local Government Fund (LGF, Fund 7069) receives 1.75% of GRF tax revenue under the statutory formula. Thus, 98.25% of any revenue losses from the PIT would be borne by the GRF, while the remaining 1.75% will be borne by the LGF.

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[1] Based on a report, Mandated Fertility Benefits in Washington State (PDF), prepared by Milliman, June 30, 2023, a proposed infertility treatment insurance coverage, including assisted reproductive technologies, is estimated to increase total cost to commercial health plan market by up to $5.66 per member per month. The estimated cost in the commercial market in Ohio is undetermined but could be similar to the cost in the report.