Ohio Legislative Service Commission

Russ Keller

Fiscal Note & Local Impact Statement

Bill: H.B. 390 of the 131st G.A.

Date: March 10, 2016

Status: As Passed by the House

Sponsor: Reps. Schaffer and Retherford

Local Impact Statement Procedure Required: Yes

Contents: To exempt the sale of natural gas by a municipal gas company from the sales tax and to apply the exemption retroactively, and to provide a limited abatement to a qualifying metropolitan housing authority for its unpaid property taxes

State Fiscal Highlights

STATE FUND	FY 2016	FY 2017	FUTURE YEARS
General Revenue Fund			
Revenues	Loss of $6.7 million	Loss up to $2.1 million	Loss up to $2.1 million
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2016 is July 1, 2015 – June 30, 2016.

- Exempting the sale of natural gas by a municipal gas company will reduce GRF tax receipts by up to $2.1 million per year, depending on the sales volume and future commodity prices.
- Applying the sales tax exemption retroactively would require the state to forgo at least 48 months of state sales tax collections resulting from tax enforcement, which would reduce GRF receipts, on a one-time basis, by approximately $6.7 million.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2016	FY 2017	FUTURE YEARS
Counties with a municipal gas utility			
Revenues	Loss of $1.1 million	Loss up to $327,000	Loss up to $327,000
Expenditures	- 0 -	- 0 -	- 0 -
Local Government Fund and Public Library Fund			
Revenues	Loss of $232,000	Loss up to $72,000	Loss up to $71,000
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- All 88 counties levy a local option sales tax, but municipal gas utilities are domiciled in only six counties. Authorizing the sales tax exemption in H.B. 390 will reduce future sales tax receipts in these six counties by up to $327,000 per year.

- Applying the sales tax exemption retroactively would require the six affected counties to forgo any potential local sales tax receipts resulting from tax enforcement, which would reduce local receipts by approximately $1.1 million.
- The Local Government Fund (LGF) and Public Library Fund (PLF) receive 1.66% and 1.70%, respectively, of GRF taxes during FY 2016 and FY 2017. The PLF share will revert to 1.66% beginning in FY 2018 under current law. Based on the uncollected amounts from prior periods assumed to be discharged in FY 2016 and the foregone revenue in future years, the LGF and PLF will each lose hundreds of thousands of dollars under H.B. 390.
- Under specific conditions, the bill authorizes a property tax abatement for property owned by a metropolitan housing authority that would otherwise be tax exempt except for procedures not completed by the housing authority. LSC is aware of three parcels in Mahoning County that may fit these criteria, and the bill's abatement could reduce local receipts in that county by up to $2.3 million.

Detailed Fiscal Analysis

H.B. 390 exempts from state and local sales and use taxes natural gas sold to customers by a municipal gas utility. The exemption applies to sales occurring before or after the bill's effective date, which is assumed to be June 1, 2016 for the purposes of this analysis. In practice, the retroactive provision would likely only apply to the previous 48 months of state and local sales tax collections.[1]

U.S. Energy Information Administration (EIA) data identify six municipal gas utilities in Ohio. For each municipal gas utility, the EIA-176 form specifies revenues and the corresponding volume of natural gas sold to residential and commercial customers. EIA information was current through calendar year 2014, so LSC projections were used for successive years. The actual revenue loss under H.B. 390 is dependent on future volumes of natural gas sold by the municipal gas utilities as well as the future prices at which it is sold.

Of the six municipal gas utilities in Ohio, the two largest municipalities publicly disclosed they do not collect or pay sales tax on their natural gas sales. The revenue losses assumed by LSC to occur in FY 2016 represent the past 48 months of sales tax collections. Because these amounts were largely (if not completely) uncollected by state and local authorities, the FY 2016 revenue losses represent foregone revenue rather than refunds paid by the taxing authorities.

[1] See R.C. 5739.07, 5739.104, and 5739.16.

State fiscal effect

The state sales and use tax rate is currently 5.75%, and it was raised from 5.50% on September 1, 2013. Table 1 details the state fiscal effect based on the estimated receipts for the six municipal gas utilities. The GRF would bear 96.64% of the state revenue loss during FY 2016 and FY 2017.

Table 1. State sales tax collections under H.B. 390

County	Municipality	Estimated Tax Liability – past 48 months	Foregone Revenue – next 12 months
Butler	Hamilton	$4,000,382	$1,222,815
Fairfield	Lancaster	$2,568,306	$817,441
Hancock	McComb	$104,795	$30,014
Henry	Deshler	$146,114	$55,784
Pickaway	Williamsport	$52,664	$15,457
Preble	Verona	$19,005	$6,043
	Totals	$6,891,266	$2,147,553

Local fiscal effect

The LGF and PLF receive 1.66% and 1.70%, respectively, of GRF taxes during FY 2016 and FY 2017. The PLF share will revert to 1.66% beginning in FY 2018 under current law. Based on the state revenue losses identified in Table 1, the LGF and PLF would lose hundreds of thousands of dollars during the biennium.

All 88 counties levy a local option sales tax, so the six counties with municipal gas utilities will lose revenues because of H.B. 390. The local sales tax rate for the affected counties ranges from a low of 0.75% to a high of 1.50% as of January 2016. Table 2 details the bill's impact on local sales tax collections for the six applicable counties.

Table 2. Local sales tax collections under H.B. 390

County	County Rate	Estimated Tax Liability – past 48 months	Foregone Revenue – next 12 months
Butler	0.75%	$536,431	$159,498
Fairfield	1.00%	$458,910	$142,164
Hancock	1.00%	$18,755	$5,220
Henry	1.50%	$39,026	$14,552
Pickaway	1.50%	$14,127	$4,032
Preble	1.50%	$5,093	$1,576
	Totals	$1,072,342	$327,042

Property tax abatement

H.B. 390 permits, for a limited time, the abatement of unpaid property taxes, penalties, and interest owed on property owned by a metropolitan housing authority that would have been tax exempt except that certain tax-exemption procedures were not completed. In order to benefit from the abatement, the current owner of the applicable property must file an application with the Tax Commissioner no later than 12 months after the effective date of this provision. The bill specifies the required contents of the application and the qualifications under which the Tax Commissioner must approve the application.

Although Ohio has 75 public housing authorities, LSC only researched parcels in Mahoning County owned by the Youngstown Metropolitan Housing Authority (YMHA). The tax liabilities of YMHA were the subject of a recent newspaper article. Based on the parcels owned by that entity (refer to Table 3), the amendment could reduce up to $2.3 million of YMHA's outstanding obligations. LSC does not know whether certain tax-exemption procedures should have been completed for these parcels.

Table 3. Unpaid Taxes, Penalties, and Interest for Youngstown Metropolitan Housing Authority

Parcel ID Number	Property Description	First Year of Unpaid Amount	Amount Owed
53-078-0-003.02-T	Arlington Gardens	2009	$351,652.28
53-102-0-029.00-T	Rockford Village	2003	$1,864,861.71
53-102-0-029.02-T	Rockford Village	2004	$103,596.16
		TOTAL	$2,320,110.15

Source: LSC telephone call on January 25 to Mahoning County Treasurer's office

It is possible that other housing authorities will qualify for abatement described in this provision. If that is the case, there could be more revenue losses affecting other political subdivisions.

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