OHIO LEGISLATIVE SERVICE COMMISSION

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Fiscal Note & Local Impact Statement

Bill: H.B. 173 of the 132nd G.A. **Status:** As Introduced

Sponsor: Reps. LaTourette and Patton **Local Impact Statement Procedure Required:** No

Subject: Job creation tax credit for work-from-home employees

State & Local Fiscal Highlights

STATE FUND	FY 2018	FY 2019	FUTURE YEARS
General Revenue Fund			
Revenues	Potential loss	Potential loss	Potential loss
Local Government and Public Library Funds (counties, municipalities, townships, and public libraries)			
Revenues	Potential loss	Potential loss	Potential loss

Note: The state fiscal year is July 1 through June 30. For example, FY 2017 is July 1, 2016 – June 30, 2017.

- The bill expands the existing job creation tax credit to work-from-home employees and would reduce GRF tax revenues from the commercial activity tax (CAT), financial institutions tax (FIT), petroleum activity tax (PAT), domestic or foreign insurance company premiums taxes, or personal income tax (PIT).
- The revenue loss would be shared by the state GRF (96.68%), the Local Government Fund (LGF, 1.66%), and the Public Library Fund (PLF, 1.66%). Funds deposited into LGF and PLF are distributed to counties, municipalities, townships, and public libraries according to statutory formulas and decisions by county budget commissions.

Detailed Fiscal Analysis

The bill allows employers that apply for a job creation tax credit (JCTC) to count compensation paid to qualifying "work-from-home" employees for the purposes of qualifying for and complying with the terms of a JCTC agreement. The credit may be claimed against the CAT, the FIT, the PAT, domestic or foreign insurance company premiums taxes, or the PIT. If the amount of the credit exceeds the tax otherwise due, the excess is refundable. Current law allows employers to receive a JCTC based on workers at a project site and also "home-based employees," but special conditions and reporting requirements apply to the latter category of workers. For example, all of the employees must reside in Ohio and be paid at least 131% of the federal minimum wage. Current law also requires applicants for the JCTC that have both onsite and home-based employees to submit separate applications for separate tax credit agreements (one for onsite employees and one for home-based employees). An official at the Development Services Agency stated that no firm has applied for the JCTC on the basis of home-based employees (though this provision has been in law since the 129th General Assembly).

The bill creates a new category of "work-from-home" employees. They are treated the same as employees who work at a project location as long as they reside in Ohio and are supervised from a project location. Thus, the bill expands the potential number of employees that could be counted for the calculation of the tax benefits of a firm applying for a JCTC and potentially reduces state GRF tax revenues.

LSC is unable to determine the extent of the potential increase in revenue foregone as the actual revenue loss from the bill will be dependent on the number and the size of JCTC tax credits which include "work-from-home" employees awarded by the Ohio Tax Credit Authority. According to the Tax Expenditure Report for the FY 2018-FY 2019 biennium, the revenue loss to the GRF from the JCTC as provided in current law is estimated at $113.0 million and $117.3 million, respectively, for FY 2018 and FY 2019.

Data from the United States Bureau of Labor Statistics (BLS) suggest that less than 2.7% of private wage and salaried workers worked exclusively from home in 2010 nationwide; and in the Midwest region, about 2.4% of employees work from home and do not report to a worksite. Applying the latter percentage to the estimated total state revenue loss in FY 2018 from the tax credit implies the bill could potentially reduce tax receipts by between $1.3 million and $2.7 million per year, depending on the number of "work-from-home" employees and the share of those employees whose wages would be above or below the 131% of federal minimum wage requirement. The minimum wage requirement in existing law applies to "home-based employees," and not the newly created "work-from-home" category. However, the bill states that an employee can be both, as an employer can designate a "work-from-home" employee as a "home-based employee." If an employee is designated as a "home-based employee," LSC assumes then the 131% minimum wage requirement would apply and fewer workers would qualify for the JCTC. If the larger proportion of "work-from-home" employees is constituted of "home-based employees," then the potential revenue loss from the bill would be closer to the lower bound of the range presented above.

Under permanent law, the revenue loss from the bill would be shared by the state GRF (96.68%), the Local Government Fund (LGF, 1.66%), and the Public Library Fund (PLF, 1.66%). Also, under current law, the GRF receives 75.0% of CAT revenues. The remaining CAT receipts are used by the state to reimburse school districts and other local governments for the reductions and phase-out of local taxes on tangible personal property. Reimbursements for such purposes are deposited into the School District Tangible Property Tax Replacement Fund and the Local Government Tangible Property Tax Replacement Fund. The GRF is required to subsidize the required reimbursements if CAT receipts are insufficient. As a result, the GRF may bear additional revenue loss.

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