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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 121
135th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 121's Bill Analysis](#)

Version: As Introduced

Primary Sponsors: Reps. Robb Blasdel and Mathews

Local Impact Statement Procedure Required: Yes

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Highlights

- The bill would likely shift municipal income tax revenue between municipalities in the state and may potentially reduce total municipal income tax revenue statewide, assuming some companies opt for the bill's modified net profit apportionment formula. The revenue effects depend on such business decisions, making the revenue effects on specific municipalities (and statewide) uncertain.

Detailed Analysis

Under ongoing law, Ohio municipalities may levy a municipal income tax on wages, salaries, and other compensation earned by residents of the municipality and by nonresidents working in the municipality, and on the net profits of businesses attributable to their activities in the municipality. The bill makes changes to the law governing municipal taxation of the net profits of businesses.

Under current law, a business must allocate its net profits to municipalities using an "apportionment formula" consisting of three factors: (1) the share of the original cost of its property that is located in a municipality, (2) the share of employee payroll paid to its employees for services that employees provide in the municipality, and (3) the share of its gross receipts generated from the municipality. For these purposes, the determination of the location of payroll paid to its employees for their services is generally limited to services provided at a worksite

controlled by the employer or a site belonging to a vendor, customer, client, or patient of the employer.¹

The bill allows a business with remote employees to use a modified municipal income tax apportionment formula with respect to those employees. Instead of apportioning the three factors as described above, the employer may instead apportion those amounts to a designated “qualifying reporting location,”² as defined by the bill. The bill allows a business to change a remote employee’s designated reporting location at any time. If the business is a pass-through entity, e.g., a partnership or Limited Liability Company (LLC), it can also designate a reporting location for any of its equity owners who work remotely.

The bill includes a number of provisions governing the process a business must follow to elect to use the bill’s modified apportionment formula; please refer to the LSC bill analysis for an explanation of such administrative details. The bill applies to taxable years ending on or after January 1, 2022.

Fiscal effect

Assuming some businesses elect to use the modified apportionment formula, the bill would shift some income tax revenue from one municipality to another and could result in a decrease or an increase in municipal income tax revenue to individual municipalities statewide. In addition, the bill could potentially result in shifting the apportionment of net profits to a township or to a municipality that does not levy a municipal income tax, thus potentially decreasing statewide municipal income tax revenue. The revenue effects of the bill will depend on business decisions made by businesses about the use of a modified municipal income tax apportionment formula, which LBO staff economists cannot predict with certainty. LBO is therefore unable to quantify the bill’s revenue effects.

Based on the latest [municipal income tax data from the Ohio Department of Taxation](#), in calendar year (CY) 2020, 648 municipalities (246 cities and 402 villages) levied the tax. Municipal income tax collections statewide were estimated at \$5.79 billion.³

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¹ Under current law, a nonresident employee may work in a municipality for up to 20 days per year without the employer becoming subject to that municipality’s tax withholding requirements and the employee becoming subject to that municipality’s income tax. And if an employee does not exceed the 20-day threshold, that employee’s pay is not counted toward the business’s compensation factor.

² The bill defines a “reporting location” as either of the following: (1) a permanent or temporary place of doing business, such as an office, warehouse, storefront, construction site, or similar location, that is owned or controlled directly or indirectly by the taxpayer, or (2) any location in this state owned or controlled by a customer or client of the taxpayer, provided that the taxpayer is required to withhold taxes under section 718.03 of the Revised Code on qualifying wages paid to an employee for the performance of personal services at that location.

³ Net collections ranged from \$3,501 for the village of West Millgrove in Wood County to \$913.8 million for the city of Columbus in Franklin County.