OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

H.B. 386
135th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 386's Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Mathews and Lampton

Local Impact Statement Procedure Required: Yes

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Highlights

Fund	FY 2025	FY 2026	Future Years
State General Revenue Fund			
Revenues	Loss of $0.7 billion	Loss of $2.1 billion	Increasing losses
Local Government and Public Library funds (counties, municipalities, townships, and public libraries)			
Revenues	Loss of $24 million	Loss of $75 million	Increasing losses

Note: The fiscal year for the state, school districts, and certain other local governments runs from July 1 through June 30 and is designated by the calendar year in which it ends. For other local governments, the fiscal year is identical to the calendar year.

- The bill's phase-out of the personal income tax (PIT) on nonbusiness income and termination of the commercial activity tax (CAT) would reduce state revenue by an estimated roughly $13.6 billion in FY 2031 when fully in effect, including $11.0 billion from the PIT and $2.7 billion from the CAT.[1]
- Losses would grow by FY 2031 to $13.2 billion to the GRF, and to $0.2 billion each to the Local Government Fund (LGF, Fund 7069) and Public Library Fund (PLF, Fund 7065).
- These estimates should be considered rough approximations in view of uncertainties regarding claiming of nonrefundable credits and the economic future.

[1] Totals in this memorandum do not in all cases equal the sum of parts because of rounding.

Detailed Analysis

Personal income tax

The bill would phase down the personal income tax (PIT) on nonbusiness income in tax years (TYs) 2025 through 2029, ending the tax in TY 2030. Data on which the analysis is based are for TY 2021, the most current detailed figures published for the PIT by the Department of Taxation (TAX). The 3% tax on the taxable portion of business income would remain. If the bill had been fully implemented in 2021, it would have cost the state about $8.6 billion in lost PIT revenue. With growth of incomes, and stated on a fiscal year basis, the estimated revenue loss in future years is shown in the following table.

Personal Income Tax Estimated Revenue Loss ($ in billions)	
Year	**PIT Revenue Loss**
FY 2024	$0.0
FY 2025	$0.7
FY 2026	$2.2
FY 2027	$3.8
FY 2028	$5.6
FY 2029	$7.5
FY 2030	$9.7
FY 2031	$11.0

The figures shown in the table above reflect an assumption that withholding is reduced starting at the beginning of calendar year (CY) 2025 by the amount necessary to equal the revenue loss in TY 2025. On this assumption, the revenue loss in FY 2025 would be about half of the loss for TY 2025, and this pattern would continue until the tax is fully phased out in TY 2030. A different assumption about the timing and amount of withholding rate changes would yield a different pattern of revenue loss.

Detailed annual data on state personal income taxes from TAX for TY 2021 shows tax liability after credits of about $9.4 billion. Nonbusiness tax liability before credits was $15.1 billion, and business tax liability before credits was $3.3 billion, so total tax liability before credits was $18.4 billion. Total nonrefundable credits claimed were $9.8 billion, which if subtracted from total tax before credits would equal tax due of $8.6 billion. Since the tax due was instead $9.4 billion, it implies that $0.8 billion of the credits were unused, which is to say, some taxpayers had more credits than their tax before credits, so they did not need all of their credits to reduce their tax due to zero.

If the tax on nonbusiness income is phased down to zero, personal exemptions would be claimed only against business income. Most credits would go unused. The amount of credits that would remain and could be claimed against taxes due on business income is uncertain. This amount is here estimated at about $2.5 billion, based on total nonrefundable credits times the share of tax liability before credits that arises from business income. Netting $2.5 billion of credits used against business tax liability before credits of $3.3 billion implies tax due on business income of about $0.8 billion.[2] This in turn implies a revenue loss of $8.6 billion, equal to actual tax liability after nonrefundable credits of $9.4 billion less the estimated tax due on business income of $0.8 billion. The loss could be higher or lower, because of uncertainty regarding estimated credits that would be claimed.

The bill phases out the tax on nonbusiness income over the six years to TY 2030. With growth of Ohio personal incomes, the $8.6 billion revenue loss estimated using 2021 data could grow to $11.0 billion by FY 2031.[3] In view of uncertainties regarding credits claimed as well as the economic future, this result should be considered a rough estimate. PIT revenue losses would reduce distributions to the Local Government Fund (LGF) and Public Library Fund (PLF).

Commercial activity tax

The bill would terminate the commercial activity tax (CAT) for tax periods ending in January 2030 or thereafter. The CAT raised $2.55 billion in FY 2023, of which $2.15 billion accrued to the GRF. If the CAT were to remain unchanged, collections would grow to an estimated $2.7 billion in FY 2031. The bill terminates the CAT beginning in CY 2030, which would reduce collections in FY 2030 by approximately 25% and eliminate all CAT receipts for FY 2031.

The GRF would bear almost all of these losses because of changes to the CAT made by H.B. 33 of the 135th General Assembly, the main operating budget. H.B. 33 eliminated distributions of portions of CAT revenue to the School District Tangible Property Tax Replacement Fund (Fund 7047) and the Local Government Tangible Property Tax Replacement Fund (Fund 7081), instead reallocating all CAT revenue after administrative costs to the GRF beginning in FY 2024. So virtually all revenue loss from terminating the CAT would be losses of GRF tax revenue, and would reduce distributions to the LGF and PLF.

Also, H.B. 33 excluded from the CAT businesses with taxable gross receipts of $3 million or less, beginning in CY 2024, and those with taxable gross receipts of $6 million or less, beginning in CY 2025 and thereafter. Gross receipts in excess of these exclusion amounts remain subject to the CAT's 0.26% tax rate. Based on the Office of Budget and Management's estimated GRF revenues for H.B. 33 as enacted, LBO estimates these exclusions would reduce all-funds CAT receipts to about $2.2 billion in FY 2025. Gross CAT revenue would grow to an estimated

[2] This amount of tax on business income does not include some portion of tax on the income of pass-through entities that is not claimed on TAX form IT-1040. The bill does not alter taxation of business income.

[3] This prediction is based on a forecast from S&P Global Market Intelligence issued in December 2023 for Ohio personal income.

$2.7 billion in FY 2031 under current law.[4] This amount is an estimate of the revenue that would be foregone as a result of the bill's termination of the CAT.

Fiscal year 2030 CAT revenues in current law would depend on business gross receipts from April 2029 through March 2030, and would be so reduced 25% by the bill for a business that receives its gross receipts at a uniform rate throughout the period. CAT revenues from gross receipts during January through March 2030 would be due in May 2030 under current law, but would be foregone if the bill is enacted. This revenue loss is assumed to be 25% of estimated FY 2030 CAT revenue in current law.

Revenue sharing

The all-funds tax revenue loss from the bill would total $13.6 billion in FY 2031 once the tax reductions had fully phased in. This revenue loss would reduce distributions through the LGF and PLF to units of local government and public libraries. Each fund receives 1.7% of GRF tax revenue under a provision of H.B. 33. At this percentage, revenue to each of the two funds would be reduced about $0.2 billion in FY 2031. The revenue loss to the GRF would be about $13.2 billion.

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[4] Predicted future CAT revenue is also based on the December 2023 forecast from S&P Global Market Intelligence, in this case the prediction for Ohio gross domestic product.