www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research and Drafting

Legislative Budget Office

S.B. 210
(with AM1905)
133rd General Assembly

Fiscal Note & Local Impact Statement

Click here for S.B. 210's Bill Analysis

Version: In Senate Finance

Primary Sponsor: Sen. Roegner

Local Impact Statement Procedure Required: Yes

Philip A. Cummins, Senior Economist

Highlights

Fund	FY 2022	FY 2023	Future Years
State General Revenue Fund			
Revenues	$215 million loss	$354 million loss	Larger losses
Expenditures	$0	$0	$0
Local Government and Public Library funds (counties, municipalities, townships, and public libraries)			
Revenues	$7 million loss	$12 million loss	Larger losses
Expenditures	Commensurate reduction	Commensurate reduction	Commensurate reduction

Note: The state or school district fiscal year 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 would replace the current state income tax joint filer credit (JFC) with a new nonrefundable credit that would reduce taxes owed by husbands and wives filing jointly to the combined amount they would owe filing separately.
- Most joint filers during an initial phase-in period could elect the larger of a percentage of the new credit or the current JFC.
- For couples with one or both spouses totally and permanently disabled, the new credit would go into full effect in tax year 2021.

- Use of the credit would be at the option of taxpayers, and those couples whose combined tax would be higher if they filed separately could elect not to take this credit.
- The net revenue loss with the bill is estimated at $653 million when fully phased in (in tax year 2024), consisting of $11 million to each of the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065), and $631 million to the GRF.

Detailed Analysis

The bill would allow husbands and wives filing jointly to claim a nonrefundable state income tax credit that would reduce their taxes owed to the combined amount due if they filed separately. For the calculation of how much they would owe if they filed separately, adjustments or credits that could be taken or claimed by either spouse on their separate returns would be used in the way that would minimize their combined tax due. The bill is permissive; taxpayers who would owe more if they filed separately would not be required to claim the credit. This could happen, for example, as a result of a taxpayer with more than $125,000 of business income being able to deduct up to $250,000 filing jointly but only $125,000 filing separately.[1] On any business income over those amounts, tax before credits is figured at a 3% rate.

If either spouse is permanently and totally disabled, the new credit would become fully available in tax year (TY) 2021; otherwise, it would phase in over four years. The bill defines permanently and totally disabled as having an impairment in body or mind that makes the person unable to work at any substantially remunerative employment that the person reasonably is able to perform and that will, with reasonable probability, continue for an indefinite period of at least 12 months without any present indication of recovery. A person would also be considered permanently and totally disabled who has been certified by a state or federal agency that so classifies persons.

For married couples with neither spouse permanently and totally disabled, each year's credit would equal 25%, 50%, or 75% of the credit under the new formula, respectively, in TY 2021, TY 2022, or TY 2023, or the amount under the current formula, whichever is greater. The new credit would be fully available in TY 2024. The current credit would be repealed by the bill and would no longer be available in TY 2024 and thereafter.

The revenue loss from taxing separately, rather than jointly, the incomes of spouses who filed jointly for TY 2016 is estimated to total $847 million on an all funds basis. In this calculation, TY 2019 tax rates were employed, and a portion of nonbusiness income is attributed to each spouse, while taxation of business income is held unchanged. Because of the latter and other simplifying assumptions, estimated revenue losses are only approximations. The revenue loss from the joint filer credit (JFC) in current law is estimated at $194 million. The bill repeals the current JFC, implying a net revenue loss of $653 million.

[1] R.C. 5747.01(A)(31), unchanged by the bill.

Background

Under Ohio law, husbands and wives who file joint federal income tax returns must file joint Ohio income tax returns; if either spouse files a separate federal income tax return, they must file separate Ohio income tax returns.[2] For tax purposes, Ohio income of individuals is split into business and nonbusiness income. Tax before credits is calculated on the nonbusiness portion using the same tax table regardless of whether the taxpayer is married filing jointly; married filing separately; or single, head of household, or qualifying widow or widower. Ohio has no separate joint filing brackets. The tax table is progressive, with higher marginal tax rates in higher income brackets. Consequently, married taxpayers who can have their nonbusiness incomes taxed separately will tend to pay lower rates at the margin, hence have a lower combined tax liability. An exception is married taxpayers whose nonbusiness income is all or substantially all earned by one of the two spouses. Tax before credits for these latter taxpayers on their nonbusiness income could be higher if they file separately and in consequence are unable to use the full exemption amount of one of the spouses to reduce taxable income. Some income of married taxpayers can readily be attributed to one or the other of the spouses, for example, income from employment. Other income is joint, such as receipts from financial instruments owned by both.

The JFC in current law may be claimed by taxpayers who file a joint return, if each spouse has $500 or more of qualifying income, defined as any amount included in Ohio adjusted gross income (OAGI) other than interest, dividends and distributions, royalties, rent, and capital gains. Amounts deducted in computing OAGI, such as the business income deduction and Social Security benefits taxable at the federal level, are not qualifying income. For TY 2017, 59% of returns filed jointly claimed the JFC. The credit equals a percentage of the amount of tax owed after certain credits have been subtracted.[3] A provision of H.B. 166 of the 133rd General Assembly (the enacted budget) tied these percentages to modified adjusted gross income (MAGI) less exemptions, with MAGI defined as OAGI plus any business income deducted in computing OAGI. The percentages are shown in the following table.

MAGI Less Exemptions	Credit Percentage
$25,000 or less	20%
More than $25,000, not more than $50,000	15%
More than $50,000, not more than $75,000	10%
More than $75,000	5%

The current JFC is capped at a maximum of $650 per return.

[2] R.C. 5747.08(E).

[3] The credits taken before the JFC are as specified in R.C. 5747.98 and include the retirement and senior citizen credits, the $20 per exemption credit, and other less commonly claimed credits.

Data

The analysis reported here of the cost of the new credit when fully phased in was carried out on two samples, a sample of TY 2016 tax returns provided by the Department of Taxation[4] and a sample of Ohio households from the Census Bureau's American Community Survey (ACS).

The sample from the Department includes a limited number of line item entries from more than 140,000 returns, nearly 90,000 of which were filed jointly.[5] It does not show, for the joint returns, amounts of income earned by each of the two marriage partners, nor does it indicate how much of the business and nonbusiness income to attribute to each partner.

The ACS data used include incomes of Ohio married couples in the 12 months before the survey in 2017, the individual survey respondents' incomes, the incomes of their spouses, and weights with each set of sample values to use in estimating population values. Incomes of any other household members are excluded, as are data on married-couple households with an absent spouse. Values may be negative, indicating losses. Data generally are as reported by the survey respondents but are subject to maximums and minimums to prevent disclosure for high-income individuals in the sample or persons experiencing large losses.

Assessment of the fiscal effect of making the new credit fully available in TY 2021 for couples with at least one spouse permanently and totally disabled, and phasing it in for other couples, was informed by data from the ACS, the Social Security Administration (SSA), and the Bureau of Labor Statistics (BLS). The full ACS data set, for Ohio married couples in 2018, does not include a variable for permanently and totally disabled, but instead includes separate variables for difficulty with various disabilities. The SSA data cover persons nationwide receiving disability benefits in 2018. The BLS data on persons with a disability are for the nation in 2019.

Analysis

The tax savings from the JFC in TY 2016 were estimated to be about $195 million on an all funds basis. This is the calculated amount of additional tax liability if the JFC is set to zero for all 2016 joint filers, in a model built using the sample provided by the Department. This amount is somewhat less than the $199.4 million estimated for FY 2017 in the Tax Expenditure Report, which was on a GRF basis rather than all funds. Calculated tax savings from the JFC, using the tax rate table for 2019 in the recently enacted H.B. 166 and the 2016 sample data, totaled virtually the same amount, $194 million.

The 2017 ACS data indicate that the spouse with the higher income averaged about 75% of couples' combined incomes, and the spouse with the lower income averaged 25% of the total. These percentages, which relate to income from all sources, were used in combination with the taxpayer sample from the Department to generate a set of hypothetical nonbusiness income amounts for each spouse. As noted above, taxation of business income was held unchanged and not attributed to either spouse. The reduction in tax liabilities on the

[4] Please note that the sample provided does not include identifying information about the taxpayers in the sample.

[5] The sample includes weights for converting sample values to population estimates.

nonbusiness income, net of nonrefundable credits and calculated using the 2019 tax table, totals about $847 million on an all funds basis. Tax reduction due to the current JFC totaled about $194 million, as indicated above. The reduction in income tax revenue from the JFC would be enlarged by the bill from $194 million to $847 million, a net revenue reduction of $653 million. In the analysis, this net revenue reduction is assumed to apply to each of TY 2021 through TY 2024, less reductions not realized in the first three years because of phasing in the credit. In reality, the revenue loss if the bill is enacted could be expected to vary from year to year, tending to rise over time along with growth of incomes. ACS data indicate that among Ohio married couples in 2018, at least one spouse had difficulty with the following activities in the indicated percentages of couples:

Estimates of Specific Disabilities among Ohio Married-Couple Households in 2018	
Type of Disability	Percent of Couples
Self-care difficulty	4.0%
Hearing difficulty	8.9%
Vision difficulty	4.0%
Independent living difficulty	7.3%
Ambulation difficulty	11.9%
Cognitive difficulty	5.7%

Nationwide SSA data for all beneficiaries, without regard for marital status, show 12.5 million persons aged 18 to 64 received disability benefits in 2018. This number is 6.2% of the U.S. population in that age range at mid-year as estimated by the Census Bureau. Based on this percentage, if the incidence of disability were wholly random between marital partners, the odds of one or both partners being disabled would be about 12%. To qualify for Social Security disability benefits, a person must be unable to engage in substantial gainful activity (SGA). A beneficiary whose earnings exceed an SGA threshold may be considered to no longer qualify for disability benefits. As of January 2019, the SGA maximum was $1,220 per month ($14,640 per year) for nonblind beneficiaries and $2,040 per month ($24,480 per year) for blind beneficiaries. The Social Security concept of SGA appears similar to that of substantially remunerative employment in the current bill. Whether similar thresholds would apply to implementation of the bill appears uncertain, as substantially remunerative employment is not further defined in the bill. A lower SGA threshold would tend to reduce the number of persons qualifying for benefits, and conversely.

BLS, through the Census Bureau, conducts surveys including questions about persons with physical, mental, or emotional conditions that cause serious difficulty with daily activities, including deafness or serious difficulty hearing; blindness or serious difficulty seeing even with

corrective lenses; serious difficulty concentrating, remembering, or making decisions; serious difficulty walking or climbing stairs; difficulty dressing or bathing; or difficulty doing errands without assistance. These data indicate that 12% of persons age 16 or older were disabled in 2019, based on these criteria, including 7% of persons age 16 through 64, and 29% of persons age 65 and older. Of these disabled persons, 19% were employed. Some persons counted as disabled by BLS might not be considered permanently and totally disabled for state income tax purposes under the bill if enacted.

In this analysis, based on the foregoing information, 12% of Ohio married couples are assumed to qualify on the basis of disability for 100% of the new credit in TY 2021, the rest are assumed to qualify over the four-year phase-in period, and the revenue loss for the latter is assumed to be based on the phase-in percentages rather than the credit determined under current law. On these assumptions, the tax revenue loss is $222 million in TY 2021, $366 million in TY 2022, $509 million in TY 2023, and $653 million in TY 2024. No withholding rate changes are assumed, and these revenue losses flow through to fiscal years 2022 through 2025.

The Local Government Fund (LGF) and Public Library Fund (PLF) each receive 1.66% of GRF tax revenue under codified law. The higher percentages (1.68% and 1.70%, respectively) provided in uncodified law by H.B. 166 of the 133rd General Assembly will expire after June 2021. A $653 million all funds revenue loss from the bill implies about an $11 million revenue loss to each of the LGF and PLF, and a $631 million revenue loss to the GRF, when the credit is fully phased in.

SB0210S1/th