OHIO LEGISLATIVE SERVICE COMMISSION

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S.B. 293
133rd General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsors: Sens. Manning and Blessing

Local Impact Statement Procedure Required: No

Robert Meeker, Budget Analyst

Highlights

- The Court of Claims expects its operating expenses to increase by approximately $705,000 annually to implement an Open Meetings Law dispute resolution process with an additional $34,000 in one-time costs.
- There is likely to be a net minimal annual effect on the operating expenses of the courts of common pleas.
- The one-time costs that a public body could incur to litigate and settle a dispute under the bill's complaint procedure may be less than otherwise may have been the case under current law.
- The amount of filing fee revenue that may be generated for the state and counties annually will be minimal at most.

Detailed Analysis

The bill creates a procedure through which a complaint may be filed with the Court of Claims alleging a violation of the Open Meetings Law[1] similar to the process for Public Records violations created by S.B. 321 of the 131st General Assembly. The Court of Claims estimates that the volume of cases may be similar to the volume of cases filed through the process created in S.B. 321. From calendar years 2017 through 2019, 282 cases alleging violations of the Public Records Law were filed with the Court of Claims, with an annual average of 94 cases.

[1] Ohio law generally requires public officials to take official action and to conduct all deliberations upon official business only in open meetings unless the subject matter is specifically exempted by law.

Under current law, a person may bring an action to enforce open meetings law in a court of common pleas. Under the bill, a person may either bring an action for injunction in the court of common pleas in the county where the public body is located, or file a complaint to be adjudicated by the Court of Claims.

Violations

Under continuing law, if a complaint of a violation of open meetings law is filed with a court of common pleas, and the court issues an injunction, the court is required to order the public body to pay a civil forfeiture to the complainant of $500 and to award to complainant all court costs and reasonable attorney's fees. Under the bill, if a case is filed with the Court of Claims, and the court determines that a violation has occurred, the public body must comply with the remedy that the court requires, and the aggrieved person is entitled to recover from the public body the $25 filing fee and any other costs associated with the action that the aggrieved person incurred, but is generally not entitled to recover attorney's fees. This suggests that the costs that a public body could incur to litigation and settle a dispute may be less than otherwise may have been the case under current law.

Additionally, under current law, any action taken by a public body while that body is in violation of the Open Meetings Act is invalid and a member of the public body who violates an injunction imposed for a violation of the Open Meetings Act may be subject to a court action removing that official from office. Under the bill's process in the Court of Claims, no injunction is ordered and these provisions of current law do not apply.

Court of Claims

Under the bill, except for a court that hears an action for injunction, the Court of Claims is the sole and exclusive authority in Ohio that adjudicates or resolves complaints based on alleged violations of the Open Meetings Law. The clerk of the Court of Claims is required to designate one or more current employees or hire one or more individuals to serve as special masters to hear complaints. The clerk may assign administrative and clerical work associated with complaints to current employees or may hire such additional employees as may be necessary to perform such work.

The Court of Claims expects to adjudicate approximately 100 additional cases annually. To handle that workload, the Court plans to hire an additional six employees, including two special masters, two staff attorneys, one assistant clerk, and one part-time judge, for a total additional payroll expense of just under $565,000 annually. Adding an additional estimated $140,000 in personal services, equipment, supplies, and maintenance costs, the Court of Claims projects the total annual expense to be approximately $705,000 with an additional $34,000 in one-time costs for office furniture and IT equipment. It is unclear as to whether the Court will need additional funds to be appropriated for this purpose should the bill become effective during the current FY 2020-FY 2021 biennium.

Courts of common pleas

Courts of common pleas generally are expected to see some decrease in the number of filings related to open meetings law as individuals file with the Court of Claims to take advantage of the expedited process and lower cost. The potential savings effect on any given court's annual operating expenses will not be readily discernible in terms of dollars and cents.

The bill's requirement that the clerks of courts of common pleas serve as the clerk of the Court of Claims in their respective county creates another duty in the adjudication of open meetings law-related disputes that presumably generates new work and some associated cost. The net fiscal effect of these two factors on any given clerk and court of common pleas will be minimal annually.

- Filing fee
- Under the bill, the cost for an aggrieved person to file a complaint is $25, to be retained as follows:
- If the complaint is filed with the clerk of the court of common pleas, the fee will be deposited into the county general fund.
- If the complaint is filed directly with the Court of Claims, the fee will be deposited in the state treasury to the credit of the General Revenue Fund (GRF).

If approximately 100 complaints are filed each year then the amount of filing fee money that will be generated annually statewide will be $2,500. Thus, the amount of money that the state or any given county may gain from the filing fee will be minimal at most annually.

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