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OHIO LEGISLATIVE SERVICE COMMISSION

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Office

S.B. 10
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 10's Bill Analysis](#)

Version: As Enacted

Primary Sponsor: Sen. Wilson

Local Impact Statement Procedure Required: No

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Highlights

- Because the bill enhances existing penalties for thefts in office based on the value of the property or services stolen, it is unlikely to result in any new felony cases. Consequently, any additional costs to county courts of common pleas would likely be minimal. Since 2011, 82 individuals have been convicted on theft in office charges statewide.
- Increasing the felony penalties for these offenses could allow county courts of common pleas to receive additional fine revenues associated with these cases if the offender is able to pay.
- Adding the costs of audits that political subdivisions or state agencies incur as a result of these theft cases to the restitution an offender must pay could potentially allow for some or all of these costs to be recouped. Auditor of State charges for audit services are \$41 per hour for political subdivisions and up to \$68 per hour for state agencies.
- The bill specifies that a county court must pay certain expenses when a county auditor issues a warrant for payment under protest. This ultimately has no net fiscal impact on county government expenditures, merely on the county entity paying the expenditure.

Detailed Analysis

Theft in office

Since the bill enhances existing felony penalties for theft of property or services in public office, escalating existing penalties based on the value of property or services stolen, it will not result in any additional criminal cases. Consequently, any additional costs for county courts of common pleas to hear cases where the enhanced penalties apply are likely to be minimal. Specifically, the bill makes it a third degree felony for thefts of property or services in office of between \$7,500 and \$150,000, a second degree felony for such thefts between \$150,000 and

\$750,000, and a first degree felony for thefts of \$750,000 or more. These penalty enhancements could increase fines imposed by the courts, possibly generating additional revenue. Ultimately, the amount of fines collected will depend on the ability of the offender to pay. As of this writing, the Auditor of State database of convictions for local officials shows that there have been 82 convictions of individuals for theft in office offenses since 2011.

The bill also adds the costs of audit expenses that a public entity incurs as a result of such theft cases to the amount of restitution that the offender must pay. The Auditor of State charges political subdivisions a rate of \$41 per hour to conduct audits. State agencies are billed a maximum hourly rate of \$68. Although this provision of the bill could allow impacted state agencies or political subdivisions to recoup their audit costs, the amount collected will, as with fines owed, depend on the ability of the offender to pay. Whatever restitution the offender is ordered to pay, the bill states that the amount cannot be discharged under Chapter 7 bankruptcy proceedings.

Statute of limitations

The bill makes some modifications related to the tolling of time for the statute of limitations of certain offenses. The bill specifies that the time period between March 9, 2020 and July 30, 2020, cannot be computed as part of the period of limitations and time limitations. The bill further specifies that this exception expires on July 30. There does not appear to be any direct fiscal impact associated with this provision.

Personal jurisdiction

The bill makes additional modifications of personal jurisdiction to expand the basis of a court's personal jurisdiction to include any such basis that is consistent with the Ohio Constitution and the United States Constitution. It is unclear as to what impact this expansion may have on a court in terms of caseloads.

Court orders for expenses

The bill specifies that a county court issuing an order for expenses under the bill must assume the financial liability for the expenditure if the county auditor questions the validity of the expenditure and issues the warrant for the expenditure under protest. The bill continues to specify that the county auditor has no liability in such a situation. While this provision would have no net fiscal impact on county government, it is possible, although likely infrequent, that some expenditures that would have been previously paid from the budget of the county auditor would have to be paid from the budget of the county court system.