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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Legislative Budget
Office

H.B. 150
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 150's Bill Analysis](#)

Version: As Reported by House Criminal Justice

Primary Sponsors: Reps. Hillyer and Leland

Local Impact Statement Procedure Required: No

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Highlights

- The bill transfers \$1.5 million in FY 2022 and FY 2023 from the GRF to the Public Defender Loan Repayment Fund (Fund 5VY0), and appropriates those amounts in each fiscal year to provide loan repayments on behalf of eligible attorneys.
- The annual costs incurred by the State Public Defender to implement and administer the Ohio Public Defender State Loan Repayment Program will depend upon the number of participants.
- It is likely that the state agencies (LSC, the Supreme Court of Ohio, the Public Defender, and the Attorney General) participating in the indigent defense task force created by the bill will be able to more or less absorb any related work utilizing existing staff and appropriated resources.
- The bill allows an attorney to claim an income tax deduction for amounts repaid by the State Public Defender under the program. The net effect is no loss of tax revenue.
- The bill has no direct fiscal effect on political subdivisions.

Detailed Analysis

Loan repayment program

The bill creates the Ohio Public Defender State Loan Repayment Program under which the State Public Defender may repay an attorney's student loans if the attorney agrees to be a public defender for at least three years in a public defender shortage area. The bill establishes two state funds – the Public Defender Shortage Area Fund and the Public Defender Loan Repayment Fund – to be used to implement and administer the program. The bill authorizes the State Public Defender to accept gifts of money from any source for implementation and

administration of the program to the credit of the Public Defender Shortage Area Fund. All damages collected from program participants who fail to fulfill their service obligations are to be credited to the Public Defender Loan Repayment Fund.

The annual costs incurred by the State Public Defender to implement and administer the Ohio Public Defender State Loan Repayment Program will depend upon the number of participants. The bill transfers \$1.5 million in FY 2022 and FY 2023 from the GRF to the Public Defender Loan Repayment Fund (Fund 5VY0), and appropriates those amounts in each fiscal year for the purpose of providing loan repayments on behalf of eligible attorneys.

Under the program, the State Public Defender may repay up to \$50,000 of an educational loan taken by an attorney in exchange for the attorney's employment as a public defender in a "public defender shortage area." For a three-year service obligation, no repayment may exceed \$30,000. For one or two additional years, the attorney may receive an additional repayment not exceeding \$20,000.

State personal income tax

The bill allows repayments of participating attorneys' education expenses by the State Public Defender's Office to be deducted in figuring Ohio adjusted gross income, to the extent that these repayments are included in the attorneys' federal adjusted gross income (FAGI). Participating attorneys, law students, or recent graduates, commit to serve in the public defender program for three to five years, in exchange for repayment of up to \$30,000 to \$50,000 of qualifying expenses, depending on the term of the commitment. Qualifying expenses include tuition, fees, books, other educational expenses, and room and board.

There are two logical possibilities from this provision. In the first, the loan repayments are considered taxable income by the Internal Revenue Service (IRS), and would require the taxpayer benefitting from the loan repayments include the relevant amounts in the taxpayer's FAGI. In that case, the bill both provides the benefit of the loan repayments and allows the beneficiary of the loan repayments to deduct the income attributed to them by that benefit; in this scenario, the deduction would reduce personal income tax (PIT) revenue by up to \$72,000. However, since the bill also provides the attributed income in FAGI being deducted for purposes of the Ohio personal income tax, the net effect of the bill taken as a whole would be no change in PIT revenue. The second possibility is that the IRS does not consider the loan repayments to be taxable income to be included in the beneficiaries' FAGI. In that case, under the terms of the bill, no deduction is allowed. In this case, too, the net effect of the bill is no loss of tax revenue. A similar argument applies to school district income taxes, meaning that the bill as a whole has no effect on school district revenues.

Indigent defense task force

The bill:

- Creates a 16-member task force to study Ohio's indigent defense system and to provide recommendations to the General Assembly regarding the delivery, structure, and funding of indigent defense;
- Requires the task force to report its recommendations to the General Assembly not later than one year after the provision's effective date; and

- Requires LSC to assist the task force as needed and does not authorize task force members to be compensated or reimbursed for expenses incurred in the performance of their duties.

It is likely that participating state agencies, including LSC, the Supreme Court of Ohio, the Public Defender, and the Attorney General can more or less absorb task force-related work utilizing existing staff and appropriated resources.

Additionally, the bill permits the task force to reimburse the travel expenses of any experts invited to present to the task force, and earmarks \$9,100 in FY 2022 and \$900 in FY 2023 from the Ohio Public Defender Commission's operating budget (GRF appropriation item 019401, State Legal Defense Services) for that purpose.