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Office

H.B. 228
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 228's Bill Analysis](#)

Version: As Passed by the House

Primary Sponsor: Rep. Roemer

Local Impact Statement Procedure Required: No

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Highlights

- Allowing pass-through entities to deduct certain retirement benefit payments for municipal income tax purposes would reduce income tax revenue to some municipalities that levy an income tax. The magnitude of the revenue loss is uncertain. The deduction is available for taxable years starting after January 1, 2020.

Detailed Analysis

The bill makes several changes to the manner in which the state collects and administers municipal net profits taxes, and to the municipal taxation of retirement benefits. Most of the bill's provisions apply to municipal taxable years beginning on or after January 1, 2022, but a provision related to a retirement payment deduction applies to taxable years beginning on or after January 1, 2020.

Municipal taxation of retirement benefits

The bill allows a pass-through entity (PTE), e.g., a partnership, S-corporation, or limited liability company, to deduct any pension or retirement benefits paid to a retired partner, retired shareholder, or retired member, and applies this provision to municipal taxable years beginning on and after January 1, 2020. Under continuing law, such benefits are exempt from municipal income tax in computing an individual's tax liability. This provision increases (for tax purposes) PTE expenses and correspondingly decreases net profits subject to municipal net profits tax. This is likely to result in an undetermined statewide revenue loss to municipalities.

Municipal net profit tax

Under continuing law, a business subject to municipal income taxes on net profits may remit these taxes separately to each taxing municipality or elect to remit all municipal net profits taxes to the Department of Taxation, which ultimately directs the revenue to the appropriate

taxing municipality. In FY 2020, state-administered municipal net profits taxes remitted to the Department of Taxation amounted to \$45.0 million, of which \$0.2 million was retained for administrative fees.

Among various provisions, the bill requires the Department of Taxation to develop and maintain a web portal that will be used by the Department and municipalities to securely share information for the purpose of administering the net profits tax. The Department already has such a web portal, so the bill codifies current practice. The bill also modifies several deadlines and reporting requirements related to state-administered municipal net profits taxes, and modifies the procedures for refunds and the distribution of revenue from such taxes. The bill repeals a provision authorizing the Tax Commissioner to retain 0.5% of all municipal net profits taxes the Commissioner collects; this provision codifies a recent Ohio Supreme Court decision. In November 2020, the Ohio Supreme Court invalidated the administrative fee and the Department stopped collecting it.

Under continuing law, a municipality that levies an income tax is required to submit its tax rate to the Tax Commissioner along with specified information about any taxpayers that have elected to file their municipal tax return with the state, including any net operating loss carryforwards, credits, and overpayments. If the information is not submitted on time, the Tax Commissioner is required to withhold 50% of the payment of tax revenue due to the municipality.

The bill makes changes to the information that a municipality is to submit, and gives the Tax Commissioner discretion to withhold a lesser percentage of the tax revenue due the municipality. It also makes explicit that any withheld municipal net profits tax revenue collected by the Department of Taxation should be paid to that municipality when it complies with those reporting requirements.

The bill's provisions related to centralized state collection of the municipal net profits tax would have minimal, if any, fiscal effect on the state and are expected to have minimal fiscal effect on municipalities. Any additional state costs for implementing the bill are likely to be paid for by existing appropriations of the Department of Taxation.

Attorney General collections

The bill specifies that the Attorney General's Office may charge and deduct its collection costs from any state-administered municipal net profits tax it collects. The Attorney General's Collections Enforcement Section is responsible for collecting all delinquent debt owed to over 150 state agencies, institutions, universities, and other government entities for taxes, fines, penalties, service fees, loans, and any other debt due.

Under continuing law, the Attorney General may charge the costs of collecting taxes, interest, and penalties owed by such a taxpayer for failing to file a return, filing a late return, or underpaying the tax owed to that taxpayer. Collections are credited to the Attorney General Claims Fund (Fund 4190) to pay the Attorney General's expenses.