OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

S.B. 98
134th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsor: Sen. Antani

Local Impact Statement Procedure Required: Yes

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Highlights

- The bill authorizes sales and use tax exemptions for sales of certain tangible personal property (TPP) to qualified businesses that use it to transport products to a retail facility, or to a final consumer.
- The bill would reduce by an undetermined amount state sales tax revenue and revenue from permissive county and transit authority sales taxes. Those local taxes share the state's sales tax base.
- The size of the revenue decrease, which will be dependent on the number of qualified businesses and their expenditures on qualified TPP, is likely to be several millions of dollars annually. LBO cannot rule out that the revenue loss from the bill could exceed $10 million annually.
- In the FY 2022-FY 2023 biennium, the state sales tax revenue loss would be shared by the General Revenue Fund (GRF, 96.64%), the Local Government Fund (LGF, 1.66%), and the Public Library Fund (PLF, 1.70%). Funds deposited into the LGF and PLF are distributed to counties, municipalities, townships, and public libraries according to statutory formulas and decisions by county budget commissions.

Detailed Analysis

The bill exempts from sales and use tax items purchased by a qualified business or its affiliates to transport completed manufactured products from the manufacturing facility to a retail facility or consumer. It also exempts items purchased by a logistics business or its affiliates to transport general merchandise and grocery products from one location in a distribution facility to the point from which the products are shipped from that facility. More specifically, the exemptions apply to (1) TPP used primarily for transporting manufactured products from the manufacturing facility to a place from which those products will be sold at retail or a destination designated by the consumer to which those products were sold at retail, (2) transporting general merchandise or grocery products from one location within a distribution facility to another location from which the merchandise or products will be transported from that facility, and (3) TPP used to power or charge the equipment used to move the products. Current law exempts motor vehicles used primarily for transporting TPP belonging to others by a logistics business, or components or the repair of those vehicles.[1]

The proposed exemptions apply only if the qualifying equipment is purchased by a business in either the transportation and warehousing sector or the warehouse club and supercenter sector,[2] as classified by the North American Industrial Classification System (NAICS). The exemptions would also apply to affiliates of such businesses regardless of the affiliate's industry classification. The business or affiliate must be engaged in transporting TPP to destinations outside Ohio in commercial tractors and trucks operated by and either owned or leased by the business or its affiliates.

As illustrated in figures 1 and 2 (see "**Appendix**"), the bill would exempt a number of TPP types, including motor vehicles designed and used to carry merchandise or freight; commercial tractors; forklifts and hand trucks; batteries, fuel cells, and power systems; pallets; conveyors; moving, separating, sorting, and picking equipment; warehousing management systems; and potentially several other types of items purchased by qualifying businesses. Ohio companies may purchase hundreds of millions of dollars of those types of equipment;[3] however, LBO has no data either on qualifying taxpayers or estimated total expenditures that would become sales tax-free. Thus, the revenue loss from the bill is uncertain, but appears likely to be several millions of dollars per year, depending on the number of qualifying taxpayers and their annual level of capital expenditures for exempted TPP. However, LBO cannot rule out that the revenue loss from the bill could exceed $10 million annually. The bill applies on or after the first day of the first month that begins at least 30 days after the effective date of the bill. So, any potential revenue decrease in FY 2022 would depend on the date of enactment of the bill.

Receipts from the state sales and use tax are deposited into the GRF. For the FY 2022-FY 2023 biennium, the GRF would retain 96.64% of state sales and use tax revenue, and distributions to the Local Government Fund (LGF) and the Public Library Fund (PLF) would be

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[1] This exemption in current law is found in R.C. 5739.02(B)(32). The Department of Taxation estimated this exemption would reduce state sales tax GRF receipts by $45.7 million in FY 2022. In addition, continuing law exempts from sales tax TPP used primarily in a manufacturing operation to produce TPP for sale, but this exemption does not apply to TPP purchased for use after the manufacturing process is complete.

[2] The warehouse club and supercenter sector comprises establishments primarily engaged in retailing groceries in combination with a general line of new merchandise, such as apparel, furniture, and appliances.

[3] For example, based on data from the Industrial Truck Association (the nationwide trade group of the material handling and logistics industry) and the U.S. Bureau of Economic Analysis, purchases of new forklifts in the warehousing and storage sector in Ohio may exceed $90 million per year, though only a share of that amount may qualify for the sales tax exemption under the bill. On the other hand, the proposed exemption for qualified TPP includes much more than forklifts, thus sales that would be exempted under the bill are much larger than purchases of forklifts.

1.66% and 1.70%, respectively. Enacted H.B. 110 includes uncodified language directing that 1.70% of GRF tax revenue be credited to the PLF in FY 2022 and FY 2023; this provision of the budget act increases the PLF allocation from 1.66% in codified law.

The bill will also reduce revenue from permissive county and transit authority sales taxes. Those local taxes share the same tax base as the state sales tax. Sales tax revenue to permissive county and transit authorities' governments is about 25.0% of state sales tax collections. The potential revenue loss for these local governments may also be millions of dollars annually.

Appendix

Figures 1 and 2 illustrate exemptions that apply to sales of TPP to qualifying businesses and their affiliates. In certain situations, they may encompass nearly the entire supply chain of a product after its manufacture is complete. Please note that some of the TPP may be exempted under existing law.

Figure 1: Manufactured product transportation exemption

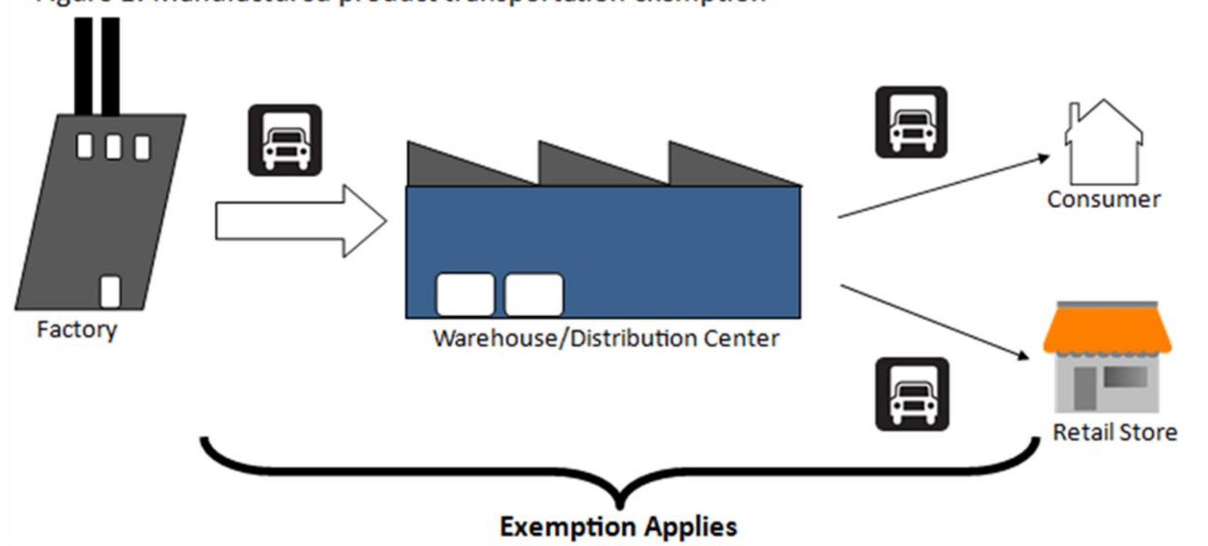
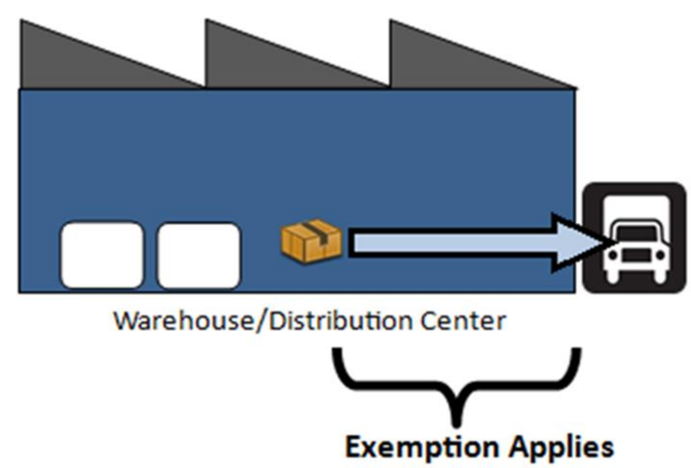


Figure 2: Grocery transportation exemption



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