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H.B. 50
135th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Reported by Senate Community Revitalization

Primary Sponsors: Reps. Humphrey and Seitz

Local Impact Statement Procedure Required: Yes

Shaina Morris, Budget Analyst, and other LBO staff

Highlights

- Courts of common pleas will incur onetime costs to develop and implement the bill's required petition mechanism that may be minimized to the degree that it can be incorporated into the existing certificate of qualification for employment (CQE) mechanism.
- The ongoing fiscal effect on courts of common pleas will be a function of (1) demand (number of petitions filed annually), which is unknown, (2) operating costs, and (3) revenue from filing fees, and other costs and fees. Common pleas court expenses may be minimized to the degree that a court's work can be incorporated into the existing CQE database managed by the Department of Rehabilitation and Correction (DRC).
- The additional workload for DRC will depend on the number of petitions filed annually. The Department will incur one-time costs to develop and adopt rules governing the new tenant education, training, and readiness program. It is likely the Department will be able to absorb the increase in administrative work utilizing existing resources and staff.
- The amount of revenue generated for any given county will depend on the number of petitions filed and the degree to which the CQH fees and court costs mirror those currently applicable to CQE petitions. The amount of revenue generated for the state will also depend on demand, as well as the frequency with which the filing fee is waived or partially waived.

Detailed Analysis

The fiscal analysis that follows is organized by the various subject areas covered by the bill: (1) certificate of qualification for housing (CQH), (2) legal aid society funds, (3) Home Construction Service Suppliers Act, and (4) residential land development property tax exemption.

Certificate of qualification for housing

Court of common pleas petition

The bill creates a mechanism by which an individual who is subject to a collateral sanction for housing may obtain a certificate of qualification for housing (CQH) that may provide relief from certain bars on housing. This mechanism largely mirrors the existing process for the issuance of a certificate of qualification for employment (CQE) authorized by R.C. 2953.25.

To receive consideration, the bill permits an individual to file a CQH petition with the court of common pleas. The petition is to be reviewed for completeness, and then reviewed by the court. The court is (1) permitted to order any report, investigation, or disclosure by the individual, and (2) required to decide whether to issue the CQH within 60 days after the court receives or is forwarded the completed petition and all information requested for the court to make that decision. The individual is permitted to appeal a denial to the court of appeals if the individual alleges that the denial was an abuse of discretion. The bill requires that a CQH be revoked if the individual to whom the CQH was issued is convicted of or pleads guilty to a felony or a misdemeanor offense of violence subsequent to the issuance of the CQH.

Courts of common pleas will incur onetime costs to develop and implement the required petition mechanism that may be minimized to the degree that it can be incorporated into the existing CQE mechanism. The ongoing annual operating costs for a court of common pleas will be a function of demand (number of petitions filed annually), which is unknown. The bill will create more work and may require more resources, in particular available staff. The capacity of any given court to absorb the work is unclear.

Unless waived or partially waived, a petitioner is required to pay a \$50 filing fee distributed as follows: \$30 credited to the state GRF and \$20 credited to the county general fund. Under current practice as it relates to CQE petitions (as described in more detail below), some courts also charge court cost and special project fees. According to the CQE annual report for CY 2018, the total amount in fees and court costs assessed a petitioner varied from \$0-\$450 statewide. The amount generated for any given county will depend on the number of petitions filed and the degree to which the CQH fees and court costs mirror those currently applicable to CQE petitions. The amount of revenue generated for the state will also depend on demand, as well as the frequency with which the filing fee is waived or partially waived.

DRC and Adult Parole Authority

The bill provides that if the Department of Rehabilitation and Correction (DRC) or the Adult Parole Authority (APA) issues a certificate of achievement and employability (CQE) to a prisoner under the current program authorized by statute, either DRC or the APA is required to also issue a CQH to the prisoner if the prisoner satisfactorily completes a tenant education, training, and readiness program approved by rule. DRC is required to adopt rules for the new tenant education, training, and readiness program. According to DRC, they will likely be able to comply with this provision utilizing existing resources and staff.

Background – certificate of qualification for employment

For some context of what may occur under the bill's CQH mechanism, a brief overview of historical CQE workload data is described below, as the two programs are likely to operate similarly.

According to annual CQE petition summary data available on the Department of Rehabilitation and Correction’s website, there are thousands of petitions administered annually statewide, and that some, based on calendar year (CY) 2016 and 2017 survey data, required three or more hours for the initial investigation and around 30% of petitions required additional investigative work.

The table below summarizes the number of CQE petitions managed annually from CYs 2017-2021. A study of the annual reports showed that the largest pool of petitioners were in the state’s urban counties.

Table 1. Number of CQE Petitions Managed Annually, CYs 2017-2021				
2017	2018	2019	2020	2021
5,097	3,803	7,302	1,223	8,280

The annual reports for 2017 contain workload data generated by a survey of the courts of common pleas.¹ The responses to certain questions are summarized in the table below, including the number of hours the court expended on the initial investigation, the frequency with which the court ordered an additional investigation, who performed that investigation, and the amount of time spent.

Table 2. Court of Common Pleas CQE Workload Survey, CY 2017	
Court hours on initial investigation	Under 3 hours: 92% 3-5 hours: 6% +5 hours: 2%
Order additional investigations	30% of cases
Who collected	Probation Department: 69% Clerk: 0% Court: 3% Other: 28%
Time spent	Under 3 hours: 35% 3-5 hours: 0% +5 hours: 65%

Tort action

The bill: (1) provides that, in a tort action² against a decision-maker for negligent leasing, a CQH issued to an individual provides immunity for the decision-maker as to the claim if the decision-maker knew of the CQH at the time of the alleged negligence, and (2) specifies the

¹ This is the most recent and readily available workload survey data.

² “Tort action” means a civil action for injury, death, or loss to person or property.

circumstances in which a decision-maker, subsequent to such an individual demonstrating dangerousness or being convicted of or pleading guilty to a felony or a misdemeanor offense of violence, may be held liable in a civil action that is based on or related to the retention of the individual as a lessee. A decision-maker is defined as a landlord or a metropolitan housing authority. The filing of such civil actions in local trial courts is unpredictable, as is the frequency with which the defendant will be a public metropolitan housing authority.

Private right of action

The bill specifies that its provisions do not create or provide a private right of action. The number of private actions that otherwise may be brought absent this provision is unpredictable.

Legal aid society funds

The bill prohibits financial assistance received by a legal aid society from the Legal Aid Fund (Fund 5740) from being used for the provision of legal services in any criminal case or proceeding or in the provision of legal assistance in any fee generating case. The bill's prohibition has no direct fiscal effect on the state or political subdivisions, as a civil legal aid society is a nonprofit corporation.

Home Construction Service Suppliers Act

The bill clarifies that "home construction services" include the repair, improvement, remodel, and renovation of existing structures, and are subject to the Home Construction Service Suppliers Act. This clarification is a response to conflicting case law on whether the term, and law, are limited to the creation of a new structure. No additional cases or work will be generated for the Attorney General or local courts.

Under continuing law, transactions involving a home construction service contract are excluded from the purview of the Consumer Sales Practices Act, which prohibits and provides remedies for unfair, deceptive, or unconscionable acts in connection with consumer transactions. Instead, these transactions are regulated by the Home Construction Service Suppliers Act generally when the cost of services exceeds \$25,000. The Attorney General's Consumer Protection Section is responsible for handling the investigative and legal work associated with both acts. The powers and remedies for enforcement are substantially similar.

Residential land development property tax exemption

The bill modifies a property tax exemption originally authorized by H.B. 33 of the 135th General Assembly. In doing so, the bill replaces the Tax Commissioner with the local county auditor as the official responsible for granting the tax exemption. Moreover, the bill repeals the notification provision concerning school districts and further prohibits the county auditor from notifying school districts about applications for this particular property tax exemption. The bill's modifications do not have a fiscal effect because the prescriptive eligibility criteria in continuing law does not grant discretion to the official responsible for evaluating a property owner's application.

Under continuing law, the residential land development exemption excludes from property taxation the value (in excess of the most recent sale price) of unimproved land subdivided for residential development. The exemption lasts for up to eight years or until construction begins or the land is sold.