Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 297 of the 131st G.A. (L_131_1464-3)

Date: June 10, 2016

Status: In House Ways and Means

Sponsor: Rep. Hill

Local Impact Statement Procedure Required: Yes

Contents: To authorize a refundable income tax credit for investments in property used to handle, store, treat, transport, or apply livestock manure

State Fiscal Highlights

- Allowing a refundable tax credit for eligible investments against the state personal income tax (PIT) would reduce revenue from the PIT. The number of taxpayers likely to claim the credit is uncertain, but the revenue loss could be up to tens of millions of dollars per year.
- The credit is available for such investments made between January 1, 2015 and January 1, 2025; the revenue losses would therefore last until FY 2029.
- Because past investments are eligible, the revenue loss for the first few years would likely be larger than revenue losses in later years, and would be somewhat likelier to approach tens of millions.
- The state GRF would bear 96.64% of the revenue loss from the income tax credit. The remaining 3.36% would be borne by the Local Government Fund (1.66%) and the Public Library Fund (1.70%).

Local Fiscal Highlights

- Revenue losses to the state GRF would result in a decrease in the amount of total GRF tax revenue allocations to the Local Government Fund (LGF) and Public Library Fund (PLF). Each month, the LGF and PLF receive 1.66% and 1.70%, respectively, of total GRF tax receipts collected in the preceding month. A GRF revenue loss of $10 million, for example, would reduce LGF revenue by $166,000, and PLF revenue by $170,000.
- Because the credit is available for such investments made between January 1, 2015 and January 1, 2025, the associated revenue losses are temporary.
- Any revenue loss to the LGF and PLF will decrease distributions to each county and to political subdivisions other than public school districts.

Detailed Fiscal Analysis

The bill authorizes a refundable income tax credit for a taxpayer that owns livestock in this state or is a contract grower in this state, or that is a direct or indirect investor in a pass-through entity that owns livestock or is a contract grower in this state, if the taxpayer or pass-through entity makes eligible investments on or after January 1, 2015 and before January 1, 2025. The bill defines "eligible investment" in the case of any such taxpayer or pass-through entity as costs incurred by the taxpayer to acquire manure application equipment or manure handling and transportation equipment to the extent such equipment assists or will assist the taxpayer in complying with state and federal manure requirements.[1] In the case of a taxpayer (or pass-through entity) that is not a concentrated animal feeding operation, the bill adds to this definition costs incurred by the taxpayer to plan, design, excavate, construct, or install a manure storage or treatment facility to the extent the facility assists or will assist the taxpayer in complying with state and federal manure requirements.

The bill specifies that an eligible investment does not include costs paid or reimbursed from financial assistance received under the environmental quality incentives program described in 16 U.S.C. 3839aa to 3839aa-8. The bill specifies that a taxpayer may not claim the credit unless the taxpayer owned livestock or was a contract grower in this state on the effective date of the bill and for the entire taxable year for which the credit is claimed. The bill specifies that a credit may not be claimed on the basis of eligible investments incurred by a certified livestock manager under section 903.07 of the Revised Code.

The bill specifies that the amount of credit equals 50% of the first $100,000 in eligible investments and 25% for eligible investments between $100,000 and $200,000 made by the taxpayer or pass-through entity during the period described above. The taxpayer is allowed to claim one-fifth of the credit amount in each taxable year in which an investment is made and an additional one-fifth of the credit amount in each of the four ensuing taxable years. For eligible investments made after December 31, 2014, and before the beginning of the taxpayer's taxable year that ends in the calendar year that includes the effective date of this bill, the five-year period begins with the taxable year that ends in the calendar year that includes that effective date. The bill specifies that if the amount of the credit for a taxable year exceeds the amount of income tax otherwise due, the taxpayer is entitled to a refund of the excess.

The bill requires the Tax Commissioner to adopt rules for the administration of the tax credit. The bill specifies that the rules may require such taxpayers to submit information substantiating the amount of the eligible investment, divulging the primary

[1] The bill specifies that the state and federal manure requirements are, respectively, Revised Code section 1511.10, and U.S. Department of Agriculture Natural Resources Conservation Service Practice Standard Code 590 prepared for Ohio.

location at which their livestock are cared for and raised, and describing how the eligible investment will assist them in complying with state and federal manure requirements.

Fiscal effect

According to updated Table 25 of a bulletin prepared by Ohio State University professors in 2006,[2] the estimated costs related to manure handling systems for 100 lactating cows ranged between $25,000 and $81,000 per year. The estimated refundable credit would range between $2,500 and $8,100 each year, over five taxable years. However, under the bill eligible taxpayers may claim up to $75,000[3] in such tax credit on eligible investments, thus the estimated refundable credit could be as high as $15,000 per year ($75,000 / 5).

Based on data from the 2012 Census of Agriculture, there were a total of 75,462 farms in Ohio, but the total number of farms with livestock was approximately 38,000. It is unlikely that all livestock owners would make the investment and claim the credit. On the other hand, very large farms might install multiple systems like those described in the 2006 Extension Bulletin, and claim credits with a corresponding value; in such cases the taxpayers involved would likely hit the $75,000 maximum credit. The Census of Agriculture does not provide breakdowns of the number of farms by precise number of livestock on the farm, but a report based on a previous Census of Agriculture does give breakdowns into very broad categories.[4]

Though there are good data on the number of taxpayers who are livestock owners, there is considerable uncertainty about the number of livestock owners who might claim the credit. If as few as 2.5% of livestock owners claimed the credit, the revenue loss could be as little as $2.4 million annually.[5] Assuming as many as one-third of the livestock farm operators took advantage of the credit, claiming an average amount of $8,100 per year, state personal income tax revenues would decrease by up to $102.6 million per year.

The actual revenue loss could be lower or higher than this range of estimates, depending on the specific needs and costs of the manure handling system used, the type of livestock on each farm, and the number of livestock farmers taking advantage of

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[2] Ohio Livestock Manure Management Guide, Ohio State University Extension Bulletin 604, published in 2006.

[3] $75,000 = (50% x $100,000) + (25% *($200,000 - $100,000)).

[4] According to the report, Profile of Farms with Livestock in the United States: A Statistical Summary, Robert L. Kellogg, Natural Resources Conservation Service, USDA, February 4, 2002, in 1997 approximately 27% of farms with livestock in Ohio were farms with confined livestock, as defined in that publication, while another 35% were farms with pastured livestock types and few other livestock. Farmers that claim the credit would most likely have farms classified in one of these two categories.

[5] Where $2,500 x 38,000 x 0.025 equals $2.4 million. The subsequent example is found from the formula $8,100 x 38,000 x 0.333 = $102.5 million.

the credit. According to a report related to the total value of shipments of farm machinery and equipment of four categories of manure handling machinery in the U.S. (rear discharge manure spreaders, side discharge manure spreaders, liquid manure pumps, and farm-type manure and general utility front and rear tractor mounted loaders), published by the U.S. Census Bureau,[6] the total value of shipments of such equipment was $228 million in 2009. This nationwide figure supports an estimate of a revenue loss well below $100 million, despite the illustrative number shown above. The most that LSC economists can say with confidence is that the revenue loss would likely be in the millions annually, but that we could not rule out revenue losses in the tens of millions.

Because the credit is available in tax year 2015 for investments made any time since December 31, 2014, the revenue loss in the first year would be expected to be higher than in subsequent years, and more likely to be in the tens of millions. Because the credit is not available for investments made after December 31, 2024, the final year that the credit could be claimed would be tax year 2028, yielding revenue losses in FY 2029; after FY 2029 no additional revenue losses would result from the bill.

The state GRF would bear 96.64% of any revenue loss from the income tax credit. The remaining 3.36% would be borne by the Local Government Fund (1.66%) and the Public Library Fund (1.70%).[7] A GRF revenue loss of $10 million, for example, would reduce LGF revenue by $166,000, and PLF revenue by $170,000. Any revenue loss to the LGF and PLF will also decrease distributions to each county, municipality, and township.

Synopsis of Fiscal Effect Changes

The substitute bill (L_131_1464-3) makes several changes that would reduce the revenue loss from the bill. Those changes include: (1) limiting the amount of tax credit, which was 50% of an eligible investment in the As Introduced bill, to 50% of the first $100,000 in eligible investments and 25% for eligible investments between $100,000 and $200,000, (2) excluding costs related to construction or installation of a manure storage or treatment facility from eligible investments made by a taxpayer or pass-through entity that operates a concentrated animal feeding facility, (3) specifying that a livestock manager who is certified by the Department of Agriculture is not eligible to claim the credit, (4) specifying that any costs paid or reimbursed from the federal environmental quality incentive program (EQIP) must be excluded from eligible investments for the purpose of the tax credit. In addition, the substitute bill changes the timing of eligible

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[6] Table 2 of 2009 Farm Machinery and Lawn and Garden Equipment, MA333A – Farm Machinery and Lawn and Garden Equipment, published at https://www.census.gov/manufacturing/cir/historical_data/ma333a/index.html (accessed May 13, 2016).

[7] The 1.70% PLF share is due to a temporary law provision of Am. Sub. H.B. 64 of the 131st General Assembly. In the absence of any further action by the General Assembly regarding this share, it will revert to 1.66% in FY 2018.

investments, specifying that eligible investments made after 2014 but before 2025 are eligible for the tax credit; in the As Introduced version eligible investments made after 2004 but before 2020 would be eligible for the tax credit. The substitute bill also expands the types of eligible taxpayer who are authorized to claim the credit, including a taxpayer that contracts with another person to raise the other person's livestock.

Most of the changes in the substitute bill would reduce revenue losses associated with the bill, though there is one change that would tend to increase the revenue losses. LSC economists believe the changes would, considered as a whole, reduce revenue losses as compared with the As Introduced version, but are unable to quantify the reduction. Though the revenue losses would very likely be smaller, the description of those losses is unchanged due to the uncertainty surrounding the number of taxpayers that would claim the credit.

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