



OHIO LEGISLATIVE SERVICE COMMISSION

Shannon Pleiman

Fiscal Note & Local Impact Statement

Bill: H.B. 329 of the 132nd G.A.
(L_132_1338-4)

Status: In House Financial Institutions, Housing, and Urban
Development

Sponsor: Rep. Pelanda

Local Impact Statement Procedure Required: No

Subject: Modifies the law governing pyramid promotional schemes

State & Local Fiscal Highlights

- On the state level, any costs as a result of modifying the definition of pyramid promotional schemes will likely be minimal and paid from the Consumer Protection Fund (Fund 6310) used by the Attorney General. On the local level, the costs for prosecuting and adjudicating cases involving pyramid promotional schemes is to some degree covered by penalties and court costs assessed by courts.

Detailed Fiscal Analysis

The bill modifies the law governing pyramid promotional schemes. Specifically, it renames "pyramid sales plan or program" under existing law to "pyramid promotional scheme." It defines that phrase as any plan or operation by which individuals pay consideration for the chance to receive compensation that is derived primarily from recruiting other individuals into the plan or operation rather than from (1) the sale of products or services to ultimate users or (2) the consumption or use of products or services by ultimate users. Additionally, the bill modifies the definition of "consideration" and "ultimate user."

It is unclear how modifying these definitions will affect the Consumer Protection Section within the Office of the Attorney General or the caseloads of local courts where cases dealing with pyramid promotional schemes are heard. For the Attorney General, any costs will likely be minimal and paid from the Consumer Protection Fund (Fund 6310). For counties where these cases are prosecuted and adjudicated, court costs and penalties assessed by courts would cover some or all of the associated expense. Existing criminal penalties (unchanged by the bill) that apply to pyramid scheme operators range from a first degree misdemeanor for cases where a victim paid less than \$1,000 into the scheme to a third degree felony when they paid in \$150,000 or more.

Finally, the bill states that a violation of the prohibition against pyramid promotional schemes is considered an unfair or deceptive act or practice and permits the Attorney General to use all the powers and remedies existing under the current Ohio Consumer Sales Practices Act (CSPA) to enforce this violation. This would allow the Attorney General to seek a restraining order or injunction to enjoin the violation. Consequently, a court issuing such an order or injunction may impose a penalty of not more than \$5,000 for each day the violation occurs.

Synopsis of Fiscal Effect Changes

The substitute bill (L_132_1338-4) permits the Attorney General to use all the powers and remedies existing under CSPA to enforce violations of the prohibition against pyramid promotional schemes. As mentioned above, it is unclear how modifying the pyramid promotional scheme definition will affect the Consumer Protection Section within the Office of the Attorney General and local courts. However, allowing the Attorney General to use all the powers and remedies under the CSPA expands its enforcement authority and gives local courts the ability to assess various penalties.