



# OHIO LEGISLATIVE SERVICE COMMISSION

Jessica Murphy

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## Fiscal Note & Local Impact Statement

**Bill:** H.B. 271 of the 132nd G.A.

**Status:** As Reported by House Civil Justice

**Sponsor:** Reps. McColley and Rezabek

**Local Impact Statement Procedure Required:** No

**Subject:** Notice of an alleged accessibility law violation

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### State & Local Fiscal Highlights

- The bill may create a savings effect for the state and local governments, as it could reduce the frequency and degree to which a governmental entity becomes involved, as either a plaintiff or defendant, in litigating an alleged accessibility law violation.
- The bill may result in a savings effect for courts of common pleas and municipal and county courts, as there may be a decrease in the number of civil actions filed alleging accessibility law violations.

### Detailed Fiscal Analysis

The bill allows an alleged aggrieved party to provide a notice of an alleged state or federal accessibility law violation to the owner, agent, or other responsible party of a property where the alleged violation occurred offering an opportunity to remedy the problem prior to filing a civil action. If the aggrieved party (plaintiff) does not provide notice prior to filing a civil action, or files a civil action after the property owner has provided evidence that improvements have been made and that the property is in compliance with the law, the bill specifies that the plaintiff is not entitled to attorney's fees upon judgement of the civil action.

As discussed below, the bill's "notice" and "opportunity to correct violations" provisions may create a savings effect for the state and its political subdivisions from the following two possibilities: (1) a reduction in the filing of civil actions in courts of common pleas and municipal and county courts, and (2) a reduction in the degree to which a state or local governmental entity is party to a civil action alleging an accessibility law violation.

#### Civil actions filed

##### Opportunity to correct violations

The bill provides a mechanism by which alleged accessibility law violations may be remedied thus potentially avoiding the need for such matters to be adjudicated by a court of common pleas, municipal court, or county court. Arguably, for each matter

settled outside of a court, some savings effect occurs that would permit the judge and other court personnel to expend time and effort on other matters. According to the Ohio Civil Rights Commission,<sup>1</sup> in FY 2017, it received 101 public accommodation charges filed on the basis of disability. It is unclear how many, if any of those cases were also filed as civil actions with a court, or how many cases were filed only as civil actions.

### **Governmental entity as a party to a civil action**

The bill could affect the state and local governments more broadly to the degree that a governmental entity is involved in accessibility law violations as either a plaintiff or defendant. In a case where the state or a local government is the plaintiff, the defendant (a property owner) may be given the opportunity to make improvements that may save costs that the governmental entity might otherwise have incurred to file a civil action and litigate the violations in court. In these cases, it is expected that the governmental entity will opt to provide notice because to do otherwise would result in the inability to recover costs and attorney's fees.

In a case where the state or a local government is the defendant (property owner), the bill would result in some savings if that governmental entity remedied the violation after receipt of notice thereby avoiding the costs associated with litigation that might otherwise have been incurred.

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<sup>1</sup> Under current law, anyone who lives or works in Ohio and feels that he or she has been subject to unlawful discrimination may seek resolution by filing a charge with the Ohio Civil Rights Commission, filing a civil action with the appropriate court, or by filing both a charge and a civil action.