OHIO LEGISLATIVE SERVICE COMMISSION

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Fiscal Note & Local Impact Statement

Bill: H.B. 143 of the 132nd G.A.

Status: As Introduced

Sponsor: Rep. Sprague

Local Impact Statement Procedure Required: No

Subject: Modifies the definition of "electric distribution company" for kilowatt-hour tax purposes

State & Local Fiscal Highlights

- The bill would reduce revenue from the kilowatt-hour tax. The amount of the revenue loss is uncertain, but it could be up to a few million dollars per year.
- Revenue from the kilowatt-hour tax is deposited into the GRF. The state GRF would bear 96.66% of the revenue loss in FY 2019, after transfers of the remaining 3.34% to the Local Government Fund (LGF, 1.66%) and the Public Library Fund (PLF, 1.68%).
- Reduced allocations to the LGF and PLF will decrease distributions to counties, municipalities, townships, public libraries, and certain other political subdivisions.

Detailed Fiscal Analysis

The bill modifies the definition of an "electric distribution company" for kilowatt-hour tax purposes. Under the bill, an entity that is a self-generator or agent who contracts with a self-generator and installs, owns, or operates an electric generation facility or associated facilities to produce electricity that is primarily dedicated to meeting some or all of the electricity requirements of the self-generator is not an electric distribution company for kilowatt-hour tax purposes. A "self-generator" is defined in continuing law as an entity that owns or hosts on its premises an electric generation facility that produces electricity primarily for the owner's consumption, and it may provide excess electricity to another entity.[1]

Fiscal effect

The bill would reduce revenue from the kilowatt-hour tax. LSC staff could not precisely estimate the fiscal impact due to lack of information on the number of self-generators or agents who contract with a self-generator and the amount of electricity that they produce and consume. A rough estimate of the revenue loss would be up to a few million dollars per year. The Department of Taxation estimates that the revenue loss would be a minimum of $1 million per year.

[1] The bill references the definition in R.C. 4928.01. That section is not part of H.B. 143.

LSC staff assume that the revenue loss would begin in FY 2019. The state GRF would bear 96.66% of the revenue loss during FY 2019. The remaining 3.34% of the revenue loss would be borne by the Local Government Fund (LGF, 1.66%) and the Public Library Fund (PLF, 1.68%) in the form of reduced transfers from the GRF. Any revenue loss to the LGF and PLF will decrease distributions to counties, municipalities, townships, public libraries, and certain other political subdivisions in the state. After FY 2019, under current law, the portion of GRF tax revenue transferred to the PLF will decrease to 1.66%, meaning that the GRF will retain 96.68% of kilowatt-hour tax revenue.

According to electric system operating data from the U.S. Energy Information Administration,[2] combined heat and power plants accounted for about 1.4 million megawatt hours in net electric generation in calendar year 2016. The tax treatment of much of this electricity is likely to be unaffected by the bill's provisions, but there could be other types of generation subject to those provisions. If 1.4 million megawatt hours were excluded from the kilowatt-hour tax base under the bill, the estimated kilowatt-hour tax revenue loss would be about $3.8 million per year. The actual revenue loss is likely lower than that amount, but could be higher if other types of generation are important contributors.

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[2] Source: EIA-923 Monthly Generation and Fuel Consumption Time Series File, 2016 Final Revision.