



# OHIO LEGISLATIVE SERVICE COMMISSION

Russ Keller

## Fiscal Note & Local Impact Statement

**Bill:** H.B. 24 of the 132nd G.A.

**Status:** As Reported by Senate Ways & Means

**Sponsor:** Rep. Ginter

**Local Impact Statement Procedure Required:** No

**Subject:** To expand certain property tax exemptions, clarify motor fuel tax law, and make an appropriation

### State & Local Fiscal Highlights

	FY 2018	FY 2019	FUTURE YEARS
<b>State Higher Education Improvement Fund (Fund 7034)</b>			
Expenditures	- 0 -	Increase of \$750,000	Potential increase up to the balance of the \$750,000 appropriated
<b>Counties, Municipalities, Townships, School Districts, and Other Local Governments</b>			
Revenues	- 0 -	Loss up to \$18,000	Loss up to \$18,000 per year
<b>Political Subdivisions in Montgomery County</b>			
Revenues	Loss up to \$52,000	Loss up to \$52,000	Loss up to \$52,000 per year

Note: The state or school district fiscal year is July 1 through June 30. For example, FY 2018 is July 1, 2017 – June 30, 2018. For most local governments, the fiscal year is the calendar year.

- The bill expands the current property tax exemption for veterans' organizations to include certain social welfare organizations that are exempt from the federal income tax under section 501(c)(4) of the Internal Revenue Code. Newly eligible 501(c)(4) properties must be used primarily for meetings and administration of the veterans' organization or for providing nonprofit programs and supportive services to veterans or current members of the U.S. Armed Forces or their families.
- The provision would reduce local property tax receipts by up to \$18,000 per year for these organizations, all of which are chapters of the Disabled American Veterans.
- The provision exempting from tax the real property of an institution that is a 501(c)(3) charitable organization exempt from federal income tax, that provides housing for developmentally disabled persons, and that is funded at least in part by a county board of developmental disabilities would reduce property tax revenue to political subdivisions in Montgomery County by up to \$52,000 per year.
- The bill makes a capital appropriation of \$750,000 for the Licking County Big Brothers Big Sisters Project for the FY 2019-FY 2020 capital biennium.
- The bill makes corrective changes to the motor fuel tax that do not have a fiscal effect.

## Detailed Fiscal Analysis

The bill expands two existing property tax exemptions, modifies certain language governing the motor fuel tax, and makes a capital appropriation. The following sections provide brief descriptions and summary analyses of the bill's provisions.

### Property tax exemption for veterans' organizations

H.B. 24 modifies an existing tax exemption for property held or occupied by a veterans' organization by extending eligibility for the exemption to the property of qualifying veterans' organizations that are exempt from the federal income tax under section 501(c)(4) of the Internal Revenue Code (IRC).

The expanded exemption requires that qualifying property of a 501(c)(4) social welfare organization meet the IRC criteria as a 501(c)(19) veterans' organization. A veterans' organization qualifies for federal income tax exemption under section 501(c)(19) if it is organized and operated as a nonprofit, at least 75% of its members are veterans and current members of the U.S. Armed Forces, and substantially all the other members of the organization are cadets, spouses, ancestors, or lineal descendants of veterans or current members of the U.S. Armed Forces.

H.B. 24 limits the scope of the expanded exemption by requiring property to be used primarily for meetings and administration of the veterans' organization or for providing nonprofit programs and supportive services to veterans or current members of the U.S. Armed Forces or their families.

Under current law, a veterans' organization's property is tax exempt if the organization qualifies for exemption from federal income tax under section 501(c)(19) or 501(c)(23) of the Internal Revenue Code and the property generates less than \$36,000 in gross rental income for the tax year.

LSC staff identified 14 chapters of the Disabled American Veterans (DAV) organization that would benefit from this exemption, and consider this list likely to be complete, though it is possible there are other eligible organizations and properties. As seen in the table below, enacting the bill would reduce local property tax receipts by up to \$18,000 per year. Actual losses could be lower depending on the types of property tax levies in applicable taxing jurisdictions. In some cases, the revenue losses incurred by the bill would be mitigated by shifting the tax liability to other property taxpayers.

Properties of 501(c)(4) Organizations Assumed to be Eligible Under H.B. 24					
County	City	DAV Chapter	Federal EIN	Parcel Number	Annual Tax
Athens	Athens	37	316077780	A027380002203	\$4,024.76
Belmont	Bellaire	117	346596142	29-03486.000	\$1,795.80
Champaign	Urbana	31	344473360	K48-25-00-03-19-079-00	\$295.02
Clark	Springfield	13	316077783	2400300019403020	\$5,910.06
Columbiana	East Liverpool	47	346596121	37-09586.000	\$0

Properties of 501(c)(4) Organizations Assumed to be Eligible Under H.B. 24					
County	City	DAV Chapter	Federal EIN	Parcel Number	Annual Tax
Fairfield	Lancaster	40	316077973	0546284900	\$1,828.24
Hancock	Findlay	43	344461862	600000314590	\$1,743.38
Jackson	Jackson	45	311090234	H140100023600	\$0
Lorain	Lorain	20	346596601	0202026105003	\$0
Muskingum	Zanesville	12	352458988	81-01-04-01-000	\$941.02
Scioto	Wheelersburg	134	237332553	17-0863.000	\$0
Stark	Alliance	50	237329551	2808113	\$651.92
Trumbull	Youngstown	11	237329528	38-121560	\$0
Washington	Whipple	52	465552996	140053540000	\$0
<b>TOTAL</b>					<b>\$17,190.20</b>

### Property tax exemption for housing for developmentally disabled persons

H.B. 24 would exempt from tax the qualifying real property of an institution that is a 501(c)(3) charitable organization exempt from federal income tax, the primary purpose of which is to provide housing for developmentally disabled persons, and that is funded at least in part by a county board of developmental disabilities. In order for a parcel of real property to qualify as qualifying property, it must be used to acquire, develop, or provide housing for developmentally disabled persons, be leased to such persons for housing purposes, or be leased to another charitable organization to be used for charitable purposes. The bill further states that it is remedial, intended to clarify the intent of the General Assembly, and applies not only to future tax years but also to any tax years at issue in any application for exemption or appeal of a decision on such an application.

Based on testimony last year on H.B. 49, the current main operating budget act, this provision appears to pertain to a Board of Tax Appeals decision reversing a determination that such homes are exempt from property tax, in a case involving property in Montgomery County.<sup>1</sup> The testimony characterized tax exemption for these properties as the long-standing status quo, and said the Ohio Association of County Boards of Developmental Disabilities was not aware of any such properties on which property taxes are being paid.

The decision referenced in the testimony is Board of Tax Appeals case no. 2016-495, entered April 11, 2017, which reversed a determination by the Tax Commissioner that Montgomery County parcel N64-01010-0014 was exempt from tax for tax years 2014 and 2015. Records on the Montgomery County Auditor's website show the parcel owned by Miami Valley In-Ovations Inc. since 2013, and exempt from tax for 2017, with tax payments of \$2,304.66 for tax year 2014 and no tax payments since that year.

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<sup>1</sup> Testimony of Dean Fadel, Board President, Ohio Association of County Boards of Developmental Disabilities, before the Senate Finance Committee on H.B. 49, June 14, 2017.

The Montgomery County Auditor's records list 66 properties in the county owned in the name of Miami Valley In-Ovations Inc. or Miami Valley In-Ovations. For tax year 2017, 49 are shown as exempt from tax and 17 as owing tax, a total of \$51,977.76 for the year. LSC does not know how many of these properties meet the use requirements of the bill, or how much of the tax revenue from this organization would be lost by political subdivisions located in Montgomery County.

Two spokespersons for the Ohio Association of County Boards of Developmental Disabilities said in January 2018 that they do not know how many homes of this type are in Ohio. The Director said she believes only one organization of this type is paying taxes, and that otherwise this bill is codifying current practice. If this is in fact the case, no wider fiscal impact beyond the revenue loss to Montgomery County would result. But potentially the bill would preclude political subdivisions challenging the tax-exempt status of properties statewide, if any, that the Board of Tax Appeals' case would suggest could produce revenue gains, thereby resulting indirectly in revenue losses to those political jurisdictions and to other neighboring subdivisions that receive tax revenues from such parcels.

### **Motor fuel tax**

H.B. 24 modifies definitions used in administering the motor fuel tax. The existing definition of "terminal" would lose its reference to a "terminal control number" assigned by the Internal Revenue Service, and the definition would no longer include specificity pertaining to motor fuel "removed at a rack." The current definition of "terminal operator" is replaced by "consumer," which refers to "a buyer of motor fuel for purposes other than resale in any form."

The bill also adds specificity to the definition of "aviation fuel dealer," and modifies a prohibition in current law against such dealers purchasing fuel for consumption in Ohio without first being registered by the Tax Commissioner, prohibiting them rather from purchasing fuel for resale in Ohio without being licensed by the Commissioner. The bill also authorizes the Tax Commissioner to revoke the license of an aviation fuel dealer that files a false monthly report.

The changes are of a corrective nature, generally modifying (or reversing) changes made by the transportation budget act (H.B. 26 of the 132nd General Assembly). The change in definition of "aviation fuel dealer" affects only reporting obligations, not motor fuel tax revenue, as motor fuel used to operate aircraft is exempt from the tax under section 5735.05(A)(7) of the Revised Code.

### **Capital appropriation**

H.B. 24 appropriates \$750,000 for the Higher Education Improvement Fund (Fund 7034) line item C36923, Licking County Big Brothers Big Sisters Project. The appropriations made in the bill are for the biennium ending June 30, 2020, and they are in addition to any other appropriations made for the FY 2019-FY 2020 biennium.