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OHIO LEGISLATIVE SERVICE COMMISSION

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Office

S.B. 21
135th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 21's Bill Analysis](#)

Version: As Passed by the Senate

Primary Sponsors: Sens. McColley and Reynolds

Local Impact Statement Procedure Required: No

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Highlights

- The bill's changes to the Administrative Procedure Law will decrease, to some degree, the number of administrative appeals heard in the Franklin County Court of Common Pleas and related cases heard by the 10th District Court of Appeals and increase the number heard in other courts of common pleas and other courts of appeals. The magnitude of the case shift is likely to be minimal relative to the total caseload of the affected courts generally.
- There are likely to be travel-related costs for state agencies and the Attorney General to appear in person at appeals hearings in counties outside of Franklin County.
- The bill removes and replaces existing statutory provisions authorizing the referral of a case to the Drug Court judge of the Hamilton County Court of Common Pleas, with the expected result being a potential increase in the number of offenders served by the Drug Court. The associated costs for the Drug Court and fiscal effects for the referring courts are uncertain.
- The bill transfers two townships from the jurisdiction of the Tiffin-Fostoria Municipal Court: (a) Perry Township (Wood County) transferring to the territorial jurisdiction of the Bowling Green Municipal Court, and (b) Washington Township (Hancock County) transferring to the territorial jurisdiction of the Findlay Municipal Court. As it appears that the number of cases shifting from the Tiffin-Fostoria Municipal Court to the Bowling Green and Findlay municipal courts are expected to be relatively small, any change in expenditures or revenues for the courts are likely to be minimal at most annually.
- The bill provides a legislative right to intervene in statutory challenges. The costs for the General Assembly will depend on the frequency of legislative interventions, as well as

their complexity and duration. The fiscal effect on the state's trial courts, courts of appeals, and Supreme Court will depend on the frequency and manner in which the legislature uses its right to intervene.

Detailed Analysis

Appeals of administrative agency orders

The bill modifies current law by generally providing that a party adversely affected by an order of an agency may appeal the order to the court of common pleas of the county in which the place of business of the party is located or the county in which the party is a resident, eliminating current law that directs certain appeals to the Franklin County Court of Common Pleas. Appeals from the Franklin County Court of Common Pleas are the jurisdiction of the 10th District Court of Appeals and the bill requires cases pending on the bill's effective date to remain within the appellate court's jurisdiction.

These changes will decrease, to some degree, the number of administrative appeals heard in the Franklin County Court of Common Pleas or resultantly in the 10th District Court of Appeals and increase the number heard in other courts of common pleas and other courts of appeals. The magnitude of the case shift is likely to be minimal relative to the total caseload of courts of common pleas and courts of appeals generally.

There are likely to be increased costs for personnel of affected state agencies and the Attorney General to travel for in-person appeal hearings in counties outside of Franklin County. Any cost increases are dependent upon the volume of cases heard outside of Franklin County. Those costs could be minimized to the degree that the court has the capability to, and permits, video-conferencing rather than requiring that parties to the appeal appear in person.

No claim preclusion in zoning appeals

The bill provides that, for zoning appeals, a final decision on the merits from a court does not preclude later claims for damages. The bill states that the change is intended to override the federal Sixth Circuit Court of Appeals' decision in *Lavon Moore v. Hiram Twp.*, 988 F.3d 353 (6th Cir.2021). As this provision returns the appeal of decisions of certain local boards and commissions to the status quo before that court decision, it has no apparent direct fiscal effect on the state or political subdivisions.

Hamilton County Court of Common Pleas Drug Court

The bill repeals the statutory provisions that specify the types of cases that may be referred to the Drug Court of the Hamilton County Court of Common Pleas and replaces them with the provisions described below. The expected result is that the number of offenders that can be served by the Drug Court will increase from 900 to 2,000. The associated costs for the Drug Court and fiscal effects for the referring courts are uncertain. Also of note is that the new statutory provisions governing the Drug Court will permit it to be certified by the Supreme Court of Ohio as a specialty docket court and therefore eligible for certain state funds.

Specifically, the bill:

- Requires eligibility for admission of a case into the Drug Court be set forth in a local rule adopted by the Hamilton County Court of Common Pleas; and

- Prohibits the local rule from permitting the referral to the Drug Court of a case that involves a first or second degree felony, a violation of any third degree felony sex offense (R.C. Chapter 2907), or aggravated murder or murder.

Court jurisdiction of Perry Township (Wood County) and Washington Township (Hancock County)

For purposes of court case filings, including traffic cases, the bill transfers:

1. Perry Township from the jurisdiction of the Tiffin-Fostoria Municipal Court to the territorial jurisdiction of the Bowling Green Municipal Court; and
2. Washington Township from the jurisdiction of the Tiffin-Fostoria Municipal Court to the territorial jurisdiction of the Findlay Municipal Court.

As it appears that the number of cases shifting from the Tiffin-Fostoria Municipal Court to the Bowling Green Municipal Court and the Findlay Municipal Court are expected to be relatively small, any change in expenditures or revenues for the relevant courts are likely to be minimal at most annually.

Legislature's right to intervene in statutory challenges

The bill allows the House of Representatives and the Senate, acting singularly or jointly, to intervene in any action or proceeding that involves a challenge to the Ohio Constitution or the state law. The costs incurred by the House, the Senate, or General Assembly as a whole will depend on the frequency of legislative interventions, as well as their complexity and duration.

The fiscal effect on the state's trial courts, courts of appeals, and Supreme Court will depend on the frequency and manner in which the legislature uses its right to intervene. Presumably, if circumstances created by the bill require a court to expend additional time and effort to adjudicate a civil action relative to current law, the court incurs costs. Such costs, including those related to motions filed and information submitted by additional parties and their counsel, are not readily quantifiable.

Right to legal counsel

The bill permits the Senate, the House of Representatives, or both chambers acting together, to retain legal counsel, other than from the Attorney General, in judicial proceedings that involve a challenge to the constitution or the laws of the state or to provide advice and counsel in matters that affect the business of the Senate, the House of Representatives, or the General Assembly as a whole.

Similarly, the Governor may also retain legal counsel, other than from the Attorney General, to intervene in proceedings as noted above or to provide counsel on matters that affect the official business of the Office of the Governor.

The bill requires that, when the House of Representatives, the Senate, or the Governor retain special counsel under the bill, the expenses for the representation must be paid from the applicable office's operating expenses appropriation line item or from a separate appropriation made for those costs.

These provisions do not have any readily apparent direct fiscal effect on the state. However, to the extent that outside counsel costs are higher than those potentially incurred from using counsel employed by the Attorney General, those costs would be borne by the contracting body (i.e., either chamber of the General Assembly or the Office of the Governor). Such personal service contracts would not be subject to Controlling Board approval, as under both the bill and current law.