

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7298
BILL NUMBER: SB 215

NOTE PREPARED: Feb 15, 2011
BILL AMENDED: Feb 14, 2011

SUBJECT: Forfeiture.

FIRST AUTHOR: Sen. Bray
FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: ___ GENERAL
 X DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- A. It provides that, in a forfeiture proceeding, 85% of the proceeds shall be awarded to participating law enforcement agencies, and 15% of the proceeds shall be deposited in the Common School Fund.
- B. It provides that 25% of the proceeds awarded to law enforcement shall be transferred to the prosecuting attorney to defray the expenses of bringing the forfeiture action; however, this amount is capped at: (1) \$10,000 if the amount of property seized is less than \$100,000; and (2) \$20,000 if the amount of property seized is \$100,000 or more.
- C. It specifies that money or the proceeds of seized property awarded to a law enforcement agency may be used only for: (1) law enforcement purposes; and (2) disbursements under an appropriation by the state or a local government unit.
- D. It permits a prosecuting attorney to retain an attorney to bring a forfeiture action only if the Attorney General reviews the compensation agreement between the prosecuting attorney and the retained attorney, and requires that the compensation agreement with the attorney be capped at: (1) \$10,000 if the amount of property seized is less than \$100,000; and (2) \$20,000 if the amount of property seized is \$100,000 or more.
- E. It prohibits a prosecuting attorney from retaining a prosecuting attorney or a deputy prosecuting attorney to bring a forfeiture action.

Effective Date: July 1, 2011.

Explanation of State Expenditures: .

Explanation of State Revenues: (Revised) The bill provides that 85% of forfeitures are to be deposited into

the State Police Asset Forfeiture Fund if the property was seized by the State Police Department, or the local law enforcement forfeiture fund if the unit has established a local law enforcement forfeiture fund. If there is no local law enforcement forfeiture fund, the proceeds are to be deposited in the Safe Schools Fund. The balance, or 15%, is to be deposited into the Common School Fund.

The bill will have an indeterminable impact on the Common School Fund. LSA found limited information on asset seizures and the value of these assets to conclude whether the Common School Fund would receive more money from these asset forfeitures. As background, the State Auditor's data system reports that the Common School Fund received \$102,472 from controlled substance seizures in FY 2010. The amount retained by local law enforcement agencies was not known.

LSA used 13 forfeiture cases that were reported by the Wayne County Sheriff to the State Treasurer and the amount of money that was divided between the local law enforcement agencies and prosecuting attorney and the Common School Fund. The following table shows the reported distributions for each case and what the distribution would be under this proposed formula. For these selected cases, more money from asset seizures would stay at the local level under this proposed formula than is currently being recovered now.

Case No.	Current Law		Proposed Changes		Total Value of Asset
	Law Enforcement Costs	Common School Fund	Law Enforcement Costs	Common School Fund	
0712-MI-036	\$2,145.41	\$13,820.59	\$13,571.10	\$2,394.90	\$15,966.00
0806-MI-013	\$343.08	\$5,276.92	\$4,777.00	\$843.00	\$5,620.00
0908-MI-013	\$1,345.86	\$2,645.14	\$3,392.35	\$598.65	\$3,991.00
0806-MI-012	\$921.07	\$2,079.93	\$2,550.85	\$450.15	\$3,001.00
0610-MI-021	\$425.53	\$2,099.31	\$2,146.11	\$378.73	\$2,524.84
0704-MI-008	\$1,982.60	\$340.24	\$1,974.41	\$348.43	\$2,322.84
0606-MI-011	\$628.89	\$1,632.31	\$1,922.02	\$339.18	\$2,261.20
0804-MI-022	\$1,132.44	\$878.60	\$1,709.38	\$301.66	\$2,011.04
0612-MI-024	\$999.92	\$921.88	\$1,633.53	\$288.27	\$1,921.80
0811-MI-001	\$477.75	\$1,439.25	\$1,629.45	\$287.55	\$1,917.00
0811-MI-026	\$572.75	\$1,048.25	\$1,377.85	\$243.15	\$1,621.00
0704-MI-030	\$589.72	\$690.28	\$1,088.00	\$192.00	\$1,280.00
0611-MI-024	\$498.01	\$454.99	\$810.05	\$142.95	\$953.00
Totals	\$12,063.03	\$33,327.69	\$38,582.11	\$6,808.61	\$45,390.72

Explanation of Local Expenditures:

Explanation of Local Revenues: See *State Explanation of State Revenues*.

State Agencies Affected: Office of the State Treasurer.

Local Agencies Affected: Local law enforcement agencies; Prosecuting attorneys.

Information Sources: Paul Ogden, Attorney at Law; Steve Johnson, Prosecuting Attorneys Council; State Treasurer.

Fiscal Analyst: Mark Goodpaster, 317-232-9852.