



Ohio Legislative Service Commission

Bill Analysis

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131st General Assembly
(As Reported by S. Finance)

Reps. Schaffer and Duffey, Blessing, Boose, Vitale, Brown, Buchy, Butler, Pelanda, R. Smith, Amstutz, Anielski, Antani, Antonio, Arndt, Baker, Boyce, Brenner, Burkley, Conditt, Craig, Cupp, Dever, Dovilla, Hagan, Hall, Hambley, Koehler, LaTourette, Leland, McClain, M. O'Brien, S. O'Brien, Retherford, Rogers, Romanchuk, Ryan, Scherer, Sprague, Sweeney, Thompson

BILL SUMMARY

Education

Performance audits of state institutions of higher education

- Authorizes the Auditor of State to conduct performance audits of state institutions of higher education.
- Prohibits the Auditor from auditing the academic performance of an institution.
- Sets costs limits for performance audits of state universities and colleges.

LEAP loans

- Permits state institutions of higher education to obtain loans from the Leverage for Efficiency, Accountability, and Performance (LEAP) Fund to pay for performance audits of the institutions.

Midwest Student Exchange Program

- Permits the Chancellor of Higher Education to endorse Ohio's participation in the Midwest Student Exchange Program.

* This analysis was prepared before the report of the Senate Finance Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

Inter-university tax consortium

- Permits a state university or college to participate in a joint self-insurance pool to provide personal liability coverage to protect the institution and its employees against loss incurred while undertaking official duties.
- Authorizes the joint self-insurance pool to also provide certain types of property or casualty coverage to cover other risks of pool members.
- Permits the board of trustees of the university or college to contract with a pool administrator to administer the joint self-insurance pool.
- Exempts a joint self-insurance pool from the application of Ohio's Insurance Laws and its records from Ohio's Public Records Law.
- Permits a joint self-insurance pool to issue obligations and notes to pay claims expenses.
- Requires the pool administrator to prepare and maintain a public report on pool funds.
- Limits the liability of a state university or college to the amounts payable pursuant to its written agreement with the pool.
- Establishes civil immunities and defenses under the Court of Claims Law with respect to individuals involved in administering a joint self-insurance pool.
- Specifies that an employee of a state university or college who becomes a member of the governing body of a joint self-insurance pool does not violate certain state employee ethics laws.

Workforce Grant Program

- Revises the Workforce Grant Program to require the Chancellor of Higher Education to disburse funds to institutions of higher education, which in turn must award grants to eligible students.

Taxation

Municipal tax pension exemption

- Specifies that all defined benefit plans, including supplemental executive retirement plans (SERPs), are exempt from municipal income tax.



Arena property tax exemption

- Authorizes a property tax exemption for an arena that is owned by the Convention Facilities Authority of a county with a population of more than one million people and that is leased to a private enterprise.

Musical entertainment device sales tax exemption

- Exempts from sales taxation the sale of music from a jukebox or similar musical entertainment device.

Taxation of small business investment companies

- Exempts small business investment companies from the financial institutions tax both prospectively and retrospectively to the first year that tax was levied (2014).

Water-works tangible personal property tax assessment

- Requires that all new water-works company tangible personal property first subject to taxation in tax year 2017 or thereafter be assessed at 25% of its true value, instead of 88% as required under existing law.

Economic development provisions affecting impacted cities

- Allows certain municipalities to use tax increment financing payments in lieu of taxes to fund unrelated infrastructure projects.
- Allows a New Community Authority to contract with certain municipalities to fund services or infrastructure projects unrelated to the new community district.

Appeal of BTA decisions

- Removes a requirement that persons appealing a Board of Tax Appeals decision must serve notice of the appeal on the Tax Commissioner, unless the Commissioner is already a party to the case.

Alternative Fuel Vehicle Conversion Program Grants

- Allows political subdivisions of Ohio to receive grants under the Alternative Fuel Vehicle Conversion Program.

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CONTENT AND OPERATION

Education

Performance audits of institutions of higher education

The bill authorizes the Auditor of State to conduct a performance audit of a state institution of higher education¹ in the same manner as the Auditor may currently conduct performance audits of state agencies. The Auditor is to determine the scope of any such audit. At the Auditor's discretion, a performance audit of a state institution of

¹ "State institution of higher education" means any state university or college, community college, state community college, university branch, or technical college. And "state university or college" means any public institution of higher education, which is a body politic and corporate, specifically including each of the following: the University of Akron, Bowling Green State University, Central State University, the University of Cincinnati, Cleveland State University, Kent State University, Miami University, Ohio University, Ohio State University, Shawnee State University, the University of Toledo, Wright State University, Youngstown State University, and the Northeast Ohio Medical University, and includes the board of trustees of the university (R.C. 3345.011 and 3345.12, neither of which are in the bill).



higher education may be one of the four performance audits that continuing law requires the Auditor to conduct each biennium.²

As is the case with respect to performance audits of state agencies under current law, a state institution of higher education that is audited must accept comments regarding the audit from interested parties and make all comments available to the public.³ Also, the state institution of higher education must implement the recommendations of an audit within three months after the end of the comment period for the audit or must (1) file a report with the Governor, Auditor, Speaker and Minority Leader of the House of Representatives, and President and Minority Leader of the Senate explaining why the institution has not commenced implementation of the recommendations and (2) provide testimony explaining why the institution has not commenced implementation of the recommendations to the House of Representatives and Senate committees dealing primarily with the programs and activities of the institution. An institution that does not fully implement an audit recommendation within one year after the end of the comment period for the audit must file a report with the Governor, Auditor, Speaker and Minority Leader of the House of Representatives, and President and Minority Leader of the Senate justifying why the recommendation has not or will not be implemented.⁴

Additionally, the Auditor's annual report regarding performance audits must describe whether a state institution of higher education has implemented the audit recommendations and how much money was saved as a result of the implementation.⁵

Prohibition on academic performance audits

Under the bill, the Auditor is prohibited from including a review or evaluation of a state institution of higher education's academic performance in conducting a performance audit.⁶

Performance audit cost limits

The bill sets forth the following cost limits on a performance audit of a state university or college:⁷

² R.C. 117.46.

³ R.C. 117.461.

⁴ R.C. 117.462.

⁵ R.C. 117.463.

⁶ R.C. 117.46.



Full-time-equivalent enrollment	Cost limits, not to exceed
5,000 or less	\$125,000
5,001 to 30,000	\$250,000
30,001 or more	\$350,000

The costs limits for a performance audit may only be exceeded on agreement between the Auditor and the state university or college being audited.⁸ Because the cost limits apply to the narrower category of state universities and colleges instead of the broader category of state institutions of higher education, it appears the cost limits are not intended to apply to performance audits of community colleges, state community colleges, university branches, or technical colleges.⁹

Under the bill, "full-time-equivalent enrollment" means the total number of students enrolled full time at a state university or college main campus as reported for the most recent fiscal year in the Department of Higher Education's annual report, "Full-Time Equivalent Enrollment Trends by Ohio Public Institutions."¹⁰

LEAP loans

Under the bill, state institutions of higher education may apply for and receive loans from the Auditor of State through the Leverage for Efficiency, Accountability, and Performance (LEAP) Fund in order to pay the Auditor's costs for conducting performance audits on such institutions.¹¹

The loans are to be subject to all the requirements that apply to LEAP Fund loans to state agencies and local public offices under existing law, including, for example, the requirements concerning the following:

- The amount loaned (which must equal the amount charged for the audit) plus interest;¹²

⁷ R.C. 117.464(B)(1) to (3).

⁸ R.C. 117.465.

⁹ R.C. 117.464(A)(1); R.C. 3345.011 and 3345.12, not in the bill.

¹⁰ R.C. 117.464(A)(2).

¹¹ R.C. 117.47.

¹² R.C. 117.471(A) and (B); R.C. 117.13(A)(2), not in the bill.

- The statement of the amount due for performance of audit and when it is due;¹³
- Auditor duties if the amount is not repaid.¹⁴

Midwest Student Exchange Program

Under the bill, the Chancellor of Higher Education is permitted to endorse the Midwest Student Exchange Program of the Midwestern Higher Education Compact in order to permit state institutions of higher education, and nonprofit institutions that have been issued certificates of authorization under current law, to participate in the Program. If so endorsed, an institution may participate as long as its board of trustees adopts a resolution setting forth:

- The amount a participating student will be charged for instructional and general fees, provided that amount is in compliance with the Program; and
- The parameters for each student to participate in the Program, including any limitation on the number of students enrolled and admission requirements.

A state institution of higher education that participates in the Program is not to receive State Share of Instruction funds for any student enrolled in the institution under the Program. The institution must report the student to the Chancellor as a nonresident student.¹⁵

Inter-university tax consortium

Ohio law permits the board of trustees of a state university or college to provide insurance coverage for the institution, its employees, and other authorized personnel. The insurance coverage is to protect against loss or liability arising from an individual's acts or omissions while acting within the scope of his or her employment. The insurance coverage can be provided through any of the following:

- Liability insurance purchased from an insurer licensed in Ohio;
- Participation in a self-insurance program;

¹³ R.C. 117.471(C).

¹⁴ R.C. 117.472.

¹⁵ R.C. 3333.172.



- Participation in a licensed captive insurance company (an insurance company that insures only the risks of its parent or affiliated companies).¹⁶

Participation in a joint self-insurance pool

The bill expands the list of permitted insurance sources by also allowing a board of trustees to participate in a joint self-insurance pool with other state universities or colleges. The board can participate in a joint self-insurance pool regardless of whether the university or college secures insurance through one of the other permitted sources.¹⁷

The bill also adopts criteria in relation to a joint self-insurance pool. The joint self-insurance pool must be pursuant to a written agreement and to the extent that the board considers the pool to be necessary. Additionally, the joint self-insurance pool must do both of the following:

- Provide for claims expenses that arise from an act or omission of the state university or college, its employees, or any other persons authorized by the board while (1) acting in the scope of their official duties or (2) engaging in activities undertaken at the request or for the benefit of the state university or college;
- Indemnify or hold harmless the employees against the loss or damage.¹⁸

The bill specifies that a joint self-insurance pool is not an insurance company. Its operation does not constitute doing insurance business and it is not subject to Ohio's Insurance Law.¹⁹ Furthermore, the bill does not affect the ability of a state university or college to self-insure under any other authority of law.²⁰

Additionally, the bill exempts joint self-insurance pools from certain public records requirements under Ohio law. Continuing law requires nonprofit organizations entering into contracts with the federal or state government, or a unit of state government, to keep accurate and complete financial records of any moneys spent in relation to the contract. Those records are public records for purposes of Ohio's Public

¹⁶ R.C. 3345.202; R.C. 3964.01, not in the bill.

¹⁷ R.C. 3345.202(B)(4) and 3345.203(B).

¹⁸ R.C. 3345.203(B).

¹⁹ R.C. 3345.203(G)(2).

²⁰ R.C. 3345.203(I).



Records Law. The bill exempts from this requirement the records of joint self-insurance pools.²¹

Powers and duties of a joint self-insurance pool

In addition to providing self-insurance against personal liability, the bill permits a joint self-insurance pool to also include certain forms of property or casualty self-insurance to cover any other risks of pool members. The authorized forms of property or casualty self-insurance are:

- Public general liability, professional liability, or employee liability;
- Individual or fleet motor vehicle or automobile liability and protection against other loss associated with motor vehicles;
- Aircraft liability and protection against other loss associated with the use of aircraft;
- Loss or damage to property by fire, lightning, hail, tempest, flood, earthquake, or snow, explosion, accident, or other risk;
- Marine, inland transportation and navigation, boiler containers, pipes, engines, flywheels, elevators, and machinery;
- Environmental impairment;
- Loss or damage by any other risk to which state universities or colleges are subject, not prohibited by law from being the subject of casualty or property insurance.²²

Two or more state universities or colleges may establish a joint risk-management program, including the employment of risk managers and consultants, to reduce the risks covered by insurance, self-insurance, or joint self-insurance programs. The joint risk-management program can not include fidelity, surety, or guaranty coverage, however.²³

The bill permits a state university or college to issue obligation bonds and notes by resolution of its board of trustees or other governing body. The bonds and notes are

²¹ R.C. 149.431 and 3345.203(C)(1).

²² R.C. 3345.203(G)(1).

²³ R.C. 3345.203(D).



subject to the applicable provisions of continuing law and must provide funds to do both of the following:

- Pay claims expenses, whether by reserve or otherwise;
- Pay the state university's or college's portion of the cost of establishing and maintaining a joint self-insurance pool or to provide for funds held in reserve under the pool.

The continuing law requirements pertaining to private sector bond financings apply to such bonds or notes.²⁴

Finally, a joint self-insurance pool can allocate the costs of funding the pool among its members on the basis of the member's relative exposure and loss experience. It can also require any deductible under the program to be paid from funds or accounts in the treasury of the state university or college from which a loss was directly attributable.²⁵

Pool administrator

The bill permits a board of trustees establishing a joint self-insurance pool to award a contract, without competitive bidding, to a pool administrator to administer the pool. The pool administrator can be any person or political subdivision, or a limited liability company, nonprofit corporation, or regional council of governments organized or created under Ohio law.

The bill prohibits the board from entering into a contract with a pool administrator without prior public disclosure of all contract terms and conditions. The disclosure must include a statement listing all representations made in connection with any possible savings and losses resulting from the contract, and potential liability of any state university or college or employee. In addition, the proposed contract and disclosure statement must be presented at a meeting of the board of trustees prior to the meeting when the board authorizes the contract.²⁶

The bill imposes on a pool administrator certain reporting requirements pertaining to funds held in a joint self-insurance pool. Pool funds must be reserved as necessary, in the exercise of sound and prudent actuarial judgment, to cover potential liabilities, loss, and damages. The bill requires a report on the aggregate amounts

²⁴ R.C. 3345.203(F); R.C. 9.98 to 9.983 and 3345.12, not in the bill.

²⁵ R.C. 3345.203(C)(4).

²⁶ R.C. 3345.203(C)(2).



reserved and disbursed from pool funds to be prepared within 90 days after the close of the pool's fiscal year. The report must be maintained in the pool administrator's office.

The report must include the aggregate disbursements made for the administration of the pool, including claims paid, costs of the legal representation of the state universities or colleges and employees, and fees paid to consultants. The report must also be accompanied by a written report from a member of the American Academy of Actuaries certifying whether the amounts reserved:

- (1) Conform to the bill's reporting requirements;
- (2) Are computed in accordance with accepted loss reserving standards; and
- (3) Are fairly stated in accordance with sound loss-reserving principles (see below).

The bill requires the pool administrator to make the report available for public inspection during regular business hours. At the request of any person, the pool administrator must make copies of the report within reasonable time and at cost. The report is in lieu of the records requirements under Ohio's Public Records Law.²⁷

Additionally, in order to comply with these reporting requirements, the bill requires a self-insurance pool to contract with a member of the American Academy of Actuaries to prepare the written evaluation of the pool's reserve funds.²⁸

Liability of a university under a joint self-insurance pool

A state university or college is not liable under a joint self-insurance pool for any amount in excess of the amounts payable under its written participation agreement. However, a state university or college may assume the risks of any other state university or college, including the indemnification of its employees.

A joint self-insurance pool is a separate legal entity for the public purpose of enabling pool members to obtain insurance or to provide for a formalized, jointly administered self-insurance fund. An entity created pursuant to the bill is exempt from all state and local taxes.²⁹

²⁷ R.C. 3345.203(C)(1).

²⁸ R.C. 3345.203(C)(3).

²⁹ R.C. 3345.203(E).



Civil action against a state officer or employee

The Court of Claims Law generally waives the state's sovereign immunity and permits the state to be sued, subject to certain limitations, in the Court of Claims.³⁰ The bill establishes civil immunities and defenses with respect to individuals involved in administering a joint self-insurance pool. While in the course of administering a joint self-insurance pool, for purposes of the Court of Claims Law, the pool administrator and any of its employees are:

- An instrumentality of the state;
- Performing a public duty; and
- Able to use the available defenses to, and immunities from, civil liability.³¹

In a civil action against a state officer or employee, the bill requires both of the following to be determined in the Court of Claims according to the Court of Claims Law:

- Any claims or litigation relating to the administration of a joint self-insurance pool, including any immunities or defenses;
- Any claims relating to the scope of or denial of coverage under that pool or its administration.³²

Participation in a joint self-insurance pool does not constitute a waiver of any immunity or defense available to the member state university or college or to any covered entity.³³

Public Employee Ethics Law

Likewise, the bill regulates the application of Ohio's Public Employee Ethics Law with respect to employees of state universities or colleges who are involved in administering a joint self-insurance pool. Under the bill, a public official or employee of a state university or college who is or becomes a member of the governing body of a self-insurance pool does not violate any of the following provisions of current law because of the institution participating in the pool:

³⁰ R.C. 2743.02, not in the bill.

³¹ R.C. 3345.203(K)(2).

³² R.C. 3345.203(K)(1).

³³ R.C. 3345.203(J).

- The prohibition against a public official or employee soliciting, or using his or her authority or influence to secure, anything of value that would constitute a substantial and improper influence.
- The prohibition against an elected or appointed official accepting outside compensation for any service the official rendered personally in any matter before the employing agency.
- The prohibition against a public official knowingly having an unlawful interest in a public contract.³⁴

Workforce Grant Program

The bill revises the Workforce Grant Program to require the Chancellor of Higher Education to disburse funds to a public or private institution, which in turn will award grants to eligible students, rather than requiring the Chancellor to award those grants directly to eligible students as under current law.³⁵ For purposes of the Program, "public and private institutions" are (1) state institutions of higher education, (2) private nonprofit colleges and universities, and (3) Ohio Technical Centers that provide adult technical education services as recognized by the Chancellor.³⁶

The Workforce Grant Program awards grants to students enrolled in public or private institutions who pursue a degree, certification, or license that is required to become employed in an in-demand job.³⁷ Grants are awarded to an eligible student for the period of time the student takes to complete the qualifying degree, certification, or license. The annual maximum award available to each student is \$5,000, but the grant also cannot exceed 75% of the cost of tuition during an academic year.³⁸ The Program ends on December 31, 2019.³⁹

³⁴ R.C. 3345.203(H); R.C. 102.03(D) and (E), 102.04(C), and 2921.42, not in the bill.

³⁵ R.C. 3333.93(B), (C), and (D).

³⁶ R.C. 3333.93(A)(3).

³⁷ R.C. 3333.93(A)(1) and (4).

³⁸ R.C. 3333.93(C).

³⁹ Section 3; Section 125.10 of H.B. 340 of the 131st General Assembly, not in the bill.



Taxation

Municipal tax pension exemption

Continuing law prohibits municipal corporations from taxing pensions.⁴⁰ The bill specifies that the term "pension" includes all defined benefit plans, including those that do not qualify for federal income tax deferment (i.e., deferred compensation) or exemption from Federal Insurance Contributions Act (FICA) or Medicare taxes.⁴¹ Supplemental executive retirement plans (SERPs), which are currently taxed in a number of municipal corporations, would become exempt in all municipal corporations under the bill.

The bill specifies that the changes to the pension exemption are remedial in nature and apply to all tax years beginning in 2016 and thereafter. If a person erroneously paid tax on a pension that is exempt under the bill, the tax administrator of the municipal corporation is required to grant a refund upon request.⁴²

Arena property tax exemption

The bill authorizes a property tax exemption for an arena that is owned by the Convention Facilities Authority of a county with a population of more than one million people and that is leased to a private enterprise. Continuing law exempts property owned by a Convention Facilities Authority from taxation unless the property is leased to, or used exclusively by, a private enterprise.⁴³ The bill creates an exception to this rule for an arena owned by the qualifying Authority – under the bill, the arena may be leased to, or operated or managed by, a private enterprise and still qualify for exemption.⁴⁴

The exemption applies in tax year 2016 and every tax year thereafter. The bill allows the property owner to file an exemption application for the 2016 tax year within 31 days after the bill's effective date, even if the statutory deadline for filing such applications (December 31, 2016) has passed.⁴⁵

⁴⁰ R.C. 718.01(C)(3).

⁴¹ R.C. 718.01(WW).

⁴² Section 7.

⁴³ R.C. 351.12.

⁴⁴ R.C. 5709.084.

⁴⁵ Section 8; R.C. 5715.27, not in the bill.



Musical entertainment device sales tax exemption

Current law was recently changed to impose state and local sales tax on "digital audio works," i.e., music electronically transferred to the purchaser. The bill exempts from sales tax music purchased and played electronically via a musical entertainment device that accepts direct payments.⁴⁶ An example of such a musical entertainment machine is a jukebox that accepts cash or debit or credit card payments to play digital music. The exemption begins with the first full month after the bill's effective date.⁴⁷

The bill does not exempt purchases from a jukebox that plays vinyl records or compact discs; such purchases would not be delivered electronically and are not subject to sales tax under continuing law.

Taxation of small business investment companies

The bill exempts small business investment companies (SBICs) from the financial institutions tax (FIT).⁴⁸ The exemption applies both prospectively and retrospectively back to January 1, 2014, when the FIT was introduced.⁴⁹

The FIT is a tax on banks and other kinds of financial institutions. Tax liability is determined on the basis of the portion of an institution's equity capital attributable to its Ohio business, as measured by the relative amount of its gross receipts that arise from Ohio operations. The tax rate is tiered according to an institution's Ohio equity capital: the rate is 0.8% on the first \$200 million, 0.4% on the next \$1.1 billion, and 0.25% for equity capital in excess of \$1.3 billion. The minimum tax is \$1,000. All revenue from the tax is credited to the General Revenue Fund.⁵⁰

Small business investment companies

A small business investment company is a privately owned and managed investment fund licensed under federal law. An SBIC uses its own capital and, in most cases, securities guaranteed by the United States Small Business Administration to lend to and make equity investments in qualifying small businesses.⁵¹ Up to two-thirds or three-fourths of their capital may be from the SBA-guaranteed securities, depending on

⁴⁶ R.C. 5739.02(B)(55).

⁴⁷ Section 5.

⁴⁸ R.C. 5726.01.

⁴⁹ Section 4.

⁵⁰ R.C. Chapter 5726.

⁵¹ 15 U.S.C. 661 *et. seq.*



prior fund management experience. Their investments generally are restricted to small businesses – i.e., those having maximum net worth of \$19.5 million and net income of \$6.5 million – and one-fourth of each SBIC's investments must be in even smaller businesses having maximum net worth of \$6 million and net income of \$2 million. SBICs are usually structured as limited partnerships with the investment manager serving as the general partner.

Residual tax status of SBICs

Any financial institution that is subject to the FIT is exempted from the commercial activity tax (CAT), which is a general tax on the gross receipts of all businesses that are not expressly exempted. One implication of being exempted from the FIT is, technically, to become subject to the CAT.⁵² However, SBICs are structured in such a way that most of their income is investment income that is distributed to partners and which generally is not subject to the CAT. They would have some income as management fees but, to be taxable under the CAT, the fees would have to be at least \$150,000.⁵³

Water-works tangible personal property tax assessment

Continuing law imposes a property tax on the tangible personal property of public utilities. The tax is calculated by determining the taxable value of a company's property, allocating that value among the jurisdictions in which the property is located, and multiplying the apportioned values by the property tax rates in effect in the respective jurisdictions. The taxable value of a company's tangible personal property equals its "true" value (the cost of the property as capitalized on the company's books, less composite annual allowances prescribed by the Tax Commissioner), multiplied by an assessment percentage specified in law.

Under current law, the tangible personal property of a water-works company is assessed at 88% of its true value. The bill reduces the assessment rate for all new water-works property first subject to taxation in tax year 2017 or thereafter to 25% of the property's true value.⁵⁴

⁵² R.C. 5751.01(E)(3).

⁵³ R.C. 5751.01(E)(1).

⁵⁴ R.C. 5727.111.



Economic development provisions affecting impacted cities

The bill addresses certain municipalities' use of tax increment financing (TIF) funds and their receipt of new community district funds. The bill's provisions apply only to "impacted cities," which are cities that meet either of the following conditions:

(1) The Development Services Agency has certified a community development program for the city and the city has taken affirmative action to allow a metropolitan housing authority to construct or lease housing within the city; or

(2) The city has been declared a major disaster area under federal law.⁵⁵

Use of tax increment financing funds

Continuing law allows municipalities, townships, and counties to engage in TIF as a means of funding public infrastructure projects. With a TIF, the political subdivision designates specific parcels and provides a property tax exemption for the amount by which those parcels increase in value after the TIF is created. Property owners make payments in lieu of taxes (PILOTs) to the subdivision that created the TIF equal to the amount of taxes that would otherwise have been paid with respect to those increased values. The subdivision must use the PILOT to carry out infrastructure projects that "directly benefit" the designated parcels.

The bill allows impacted cities to use PILOTs for infrastructure projects that do not directly benefit the parcels originally designated in the TIF ordinance. An impacted city may do so if, before July 1, 2017, the municipality determines that "satisfactory provision" has been made for the infrastructure needs of the original parcel(s). In the municipality's TIF ordinance, the municipality must also describe the proposed, unrelated infrastructure projects, and certify that such projects are in support of "urban redevelopment." (In 1996, the same authority was granted to one impacted city. See Sections 19 and 20 of H.B. 627 of the 121st General Assembly.)

Receipt of New Community Authority funds

Continuing law provides for the creation of new community districts, which are districts designated to foster community development. A municipality, or one or more counties, may create a district upon the petition of developers. When the legislative authority of a political subdivision approves the petition, a New Community Authority (NCA) is established to develop land, provide services, and to raise revenue by levying community charges in the district, all pursuant to a development program.

⁵⁵ There are about 28 municipal corporations that are currently designated as impacted cities by the Development Services Agency, including the most populous cities in the state.



The bill explicitly allows an NCA to agree to pay or reimburse an impacted city or developer for services or infrastructure projects that were performed or completed within the city, but not within the new community district or as part of the NCA's development program. The bill states that this authority is intended to "supplement" an NCA's existing authority to contract with municipalities and developers.

Effective date

The TIF and NCA provisions apply prospectively and also to any ordinances or other proceedings that are pending or in progress on the bill's effective date.⁵⁶

Appeal of BTA decisions

Under continuing law, a decision of the Board of Tax Appeals may be appealed to either the Supreme Court or the relevant county court of appeals. In each such case, the person appealing the decision must serve notice of the appeal on the Tax Commissioner, and the Commissioner must be made an appellee in the case. Failure on either count results in dismissal of the appeal.⁵⁷

The bill removes this requirement, except in cases where the Tax Commissioner is already a party to the case.⁵⁸

Alternative Fuel Vehicle Conversion Program Grants

The bill allows political subdivisions of Ohio to receive grants under the Alternative Fuel Vehicle Conversion Program. Under the existing Alternative Fuel Vehicle Conversion Program, the Director of Environmental Protection may make grants for the purchase or conversion of large alternative fuel vehicles. The grant amount allowed per vehicle is the lesser of \$25,000 or 50% of either: (1) the cost of equipment and parts needed to convert a traditional fuel vehicle, or (2) the "adjusted purchase price" of the new alternative fuel vehicle. The "adjusted purchase price" of a new vehicle is the portion of the vehicle's price that is attributable to the parts and equipment used for storage of alternative fuel, delivery of alternative fuel to the motor, and exhaust of gases from combustion of alternative fuel.⁵⁹

⁵⁶ Section 6.

⁵⁷ *Olympic Steel, Inc. v. Cuyahoga County Bd. of Revision*, 110 Ohio St.3d 1242 (2006).

⁵⁸ R.C. 5717.04.

⁵⁹ R.C. 122.076.



HISTORY

ACTION	DATE
Introduced	11-02-15
Reported, H. Gov't Accountability & Oversight	01-20-16
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Reported, S. Finance	---

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