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134th General Assembly

Final Analysis

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Primary Sponsors: Reps. Manchester and Lightbody

Effective date: July 18, 2022; appropriation effective April 18, 2022

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SUMMARY

Tax credits to assist beginning farmers

- Authorizes a nonrefundable income tax credit for beginning farmers who attend a financial management program.
- Authorizes a nonrefundable income tax credit for individuals or businesses that sell or rent farmland, livestock, buildings, or equipment to beginning farmers.
- Requires the Department of Agriculture, and allows land grant state universities (the Ohio State University and Central State University), to certify individuals as beginning farmers.
- Sunsets the credit on January 1, 2028.
- Limits the total amount of tax credits awarded to \$10 million.

Tax increment financing

- Allows a municipality to concurrently exempt improvements to the same parcel through both an incentive district tax increment financing (TIF) arrangement and a subsequent project or urban redevelopment TIF, if each exemption was authorized before March 1, 2022.
- Prescribes rules for allocating the exemption percentage, school district and county reimbursements, and service payment uses between the two TIF exemptions.
- Requires that municipal TIFs created after March 1, 2022, terminate and replace any prior TIF exemption granted to the same parcel by the same municipality.
- Establishes an alternative means by which a subdivision may effectuate notice to bind future owners of the property to TIF service payments.

Property tax abatement

- Provides a temporary period for a municipal corporation that acquired property from the state in 2020 to apply for abatement of unpaid taxes, penalties, and interest.

Motor vehicle show sales

- Generally expands the types of trucks that may be sold at certain motor vehicle shows to include motor vehicles that have a gross vehicle weight rating of 6,800 pounds or more.

Federal school lunch appropriation

- Appropriates \$338 million of federal funds in FY 2022 for the federal school lunch program.

DETAILED ANALYSIS

Tax credits to assist beginning farmers

The act authorizes two income tax credits: one for beginning farmers who attend a financial management program and another for individuals or businesses that sell or rent farmland, livestock, buildings, or equipment to beginning farmers.

Beginning farmers

Before either credit may apply, an individual must first obtain certification as a beginning farmer. A beginning farmer is an individual who meets all of the following eligibility criteria:

1. Intends to farm in Ohio, or has been farming in Ohio for less than ten years;
2. Has a household net worth of less than \$800,000, adjusted annually for inflation beginning in 2022;
3. Provides the majority of the day-to-day labor for and management of the farm;
4. Has adequate farming experience or demonstrates adequate knowledge about farming;
5. Submits projected earnings statements and demonstrates a profit potential;
6. Demonstrates that farming will be a significant source of the individual's income;
7. Participates in a financial management program approved by the Department of Agriculture; and
8. Meets other requirements, which may be set by the Department of Agriculture.

There are two ways for an individual to be certified as a beginning farmer. The first is to apply to the Director of Agriculture or a state university that is designated as a land grant institution under federal law (i.e., the Ohio State University or Central State University) and

demonstrate eligibility under the foregoing criteria. The second is to obtain a “substantially equivalent” certification from the U.S. Department of Agriculture. In either case, the certification is valid until the individual no longer meets the eligibility criteria.¹

Tax credit for participation in financial management program

An individual who holds a valid beginning farmer certification and participates in an approved financial management program may apply to the Director of Agriculture for an income tax credit equal to the cost of attending the program. The application must include the name and address of the financial management program, the dates the beginning farmer participated, and the cost of attending. If the beginning farmer is eligible and if awarding the credit will not result in the overall cap being exceeded (see below), the Director must issue a tax credit certificate.

The credit is nonrefundable, but if the credit amount exceeds the beginning farmer’s tax liability for the year in which it is claimed, the beginning farmer can carry forward the excess credit for up to three succeeding years.

The Director must approve eligible financial management programs and maintain a list of approved programs on the Department of Agriculture’s website. The Director must consult with Ohio State and Central State Universities in formulating the list. A beginning farmer may also receive the credit for the cost of attending a financial management program approved by the U.S. Department of Agriculture.²

Tax credit for the sale or rental of farm assets

An individual or business that sells or rents “agricultural assets” to a beginning farmer may also apply to the Director of Agriculture for a tax credit. Agricultural assets include land, livestock, facilities, buildings, and machinery used in farming. In order for land to qualify as an agricultural asset, it must either total at least ten acres or produce an average annual income of at least \$2,500 from farming. Equipment dealers and similar businesses that sell agricultural assets for profit are not eligible for the credit.

The application must include the name of the beginning farmer, the date the sale or lease was made, and other financial information about the sale or lease. If the sale or lease is eligible and awarding the credit will not result in the overall credit cap being exceeded (see below), the Director must issue a tax credit certificate. The credit equals 3.99% of one of the following:

1. In the case of a sale, the sale price;

¹ R.C. 901.61(A) and (B); see also, [NIFA Land-Grant Colleges and Universities \(PDF\)](#), which is available by conducting a keyword “Land-Grant Colleges and Universities Map” search on the U.S. Department of Agriculture’s National Institute of Food and Agriculture’s website, nifa.usda.gov/document.

² R.C. 901.61(C) and (E), 5747.77(B), and 5747.98.

2. In the case of a rental, the gross rental income that the individual or business received during the first three years of the rental agreement. To qualify for the credit, an asset must be rented at prevailing community rates.
3. In the case of a rental through a share-rent agreement, the gross rental income received during the first three years of the share-rent agreement. (A share-rent agreement is an arrangement by which, in exchange for the rented assets, the beginning farmer provides the owner of the assets with a specified portion of the farm products produced from the assets.)

In the case of a sale, the credit must be claimed in the year of the sale. In the case of a rental, the credit is claimed over the first three years of the rental or share-rent agreement. The credit is nonrefundable. However, if the credit amount exceeds the taxpayer's liability for any year in which it is claimed, the taxpayer can carry forward the excess for up to seven years.³

Cap and sunset

The act prohibits the Director of Agriculture from issuing tax credit certificates on or after January 1, 2028. Additionally, the aggregate amount of tax credit certificates issued by the Director under the act must not exceed \$10 million.⁴

Effective date

The credits may be claimed for taxable years beginning on or after July 18, 2022.⁵

Tax increment financing

Background

Continuing law allows municipalities, townships, and counties to create a tax increment financing (TIF) arrangement to finance public infrastructure improvements. Through a TIF, the subdivision grants a real property tax exemption for a percentage of the incremental increase in the assessed value of designated parcels that are part of a development project. The owners of the parcels make payments in lieu of taxes to the subdivision equal to the amount of taxes that would otherwise have been paid with respect to the exempted portion of such improvements (referred to in this analysis as "service payments"). TIFs thereby create a flow of revenue back to the subdivision that created the TIF, which is generally used to pay the public infrastructure costs necessitated by the development project. In some circumstances, a subdivision granting a TIF exemption is required to use a portion of service payments to reimburse school districts, counties, or other taxing authorities for revenue forgone as a result of the TIF exemption.

The three most common TIF arrangements, summarized below, are: (1) project TIFs, (2) incentive district TIFs, and (3) urban redevelopment TIFs. A municipal corporation, township,

³ R.C. 901.61(A) and (D), 5747.77(A), and 5747.98.

⁴ R.C. 901.61(F).

⁵ Section 3.

or county may create a project TIF or an incentive district TIF, whereas only a municipal corporation may create an urban redevelopment TIF.

Project TIFs

A project TIF exempts improvements to certain parcels of real property from taxation. A municipal corporation may create a project TIF for improvements to real property used for residential purposes under limited circumstances, but counties and townships may not do so for residential property.⁶

Incentive district TIFs

To create an incentive district TIF, a political subdivision establishes an “incentive district” in which a project is to be undertaken and exempts from taxation all improvements to parcels within that district. The incentive district must be an area that is 300 acres or smaller, has a continuous boundary, and has at least one of several “distress” characteristics enumerated in the statute, such as a high proportion of low-income residents, high unemployment, or “inadequate” infrastructure.⁷

Urban redevelopment TIFs

A municipal corporation may create an urban redevelopment TIF on land that it currently owns or once owned. An improvement to property is exempt if it was owned by the municipal corporation before the date of the ordinance creating the TIF and was leased or sold to any person either before or after adoption of the ordinance. The amount exempted is the increased value of the parcel after it is acquired by a municipal corporation engaged in urban redevelopment activities.⁸

Concurrent municipal TIF exemptions

The act allows a municipal corporation to concurrently exempt improvements to the same parcel through both an incentive district TIF and a subsequent project or urban redevelopment TIF, provided the ordinances authorizing both exemptions were adopted before March 1, 2022. The subsequent project or urban development TIF is referred to in this analysis as the “subsequent TIF.”

Improvements eligible for only preexisting exemption

With respect to improvements exempt under only the preexisting incentive district TIF, i.e., improvements that, if not for the TIF exemption, would first appear on the tax list after the effective date of the incentive district TIF and before the effective date of the subsequent TIF,

⁶ R.C. 5709.40(B), 5709.73(B), and 5709.78(A), not in the act.

⁷ R.C. 5709.40(A)(5) and (C), 5709.73(C), and 5709.78(B), not in the act.

⁸ R.C. 5709.41, not in the act.

the exemption percentage, any school district and county reimbursements, and the use of service payments are determined in accordance with only the incentive district TIF ordinance.⁹

Improvements eligible for both exemptions

With respect to improvements that are concurrently exempt under both the incentive district TIF and the subsequent TIF, i.e., improvements that, if not for the exemption, would first appear on the tax list after the effective date of the subsequent TIF, the percentage of improvements exempted equals the sum of the exemption percentages prescribed by the incentive district TIF ordinance and the subsequent TIF ordinance, up to 100% of the improvement's value. For example, if the incentive district TIF exempts 50% of improvements and the subsequent TIF exempts 35% of improvements, the exemption percentage for the concurrently exempt improvements would be 85%. If both the incentive district TIF and the subsequent TIF exempt 100% of improvements, the exemption percentage for the concurrently exempt improvements would be 100%.

Service payments collected for concurrently exempt improvements, net of any necessary school district and county reimbursements, are divided among the uses prescribed by the two TIF ordinances in accordance with priority rules prescribed by the act. The act generally prioritizes owner-filed and owner-consented TIFs over municipal-filed TIFs that have not been approved by the owner. If one of the TIF exemptions was filed with the owner's consent and the other was not, the exemption approved by the owner is dominant. If both TIF exemptions were approved by the owner or were not, the most recent TIF is dominant. In either case, service payments must first be distributed and used in accordance with the dominant TIF ordinance and then, if the exemption percentage for the dominant TIF exemption is less than 100%, any remaining service payments are distributed and used in accordance with the subordinate TIF ordinance.¹⁰

Cap on service payments

The act provides that, in the event of concurrent TIF exemptions, the property owner's service payment obligations may not exceed the amount of real property taxes that would otherwise have been due on the exempt improvements. This limitation does not apply to "minimum service payment obligations," arising under a secondary agreement between the property owner and a subdivision guaranteeing future TIF service payment obligations against subsequent property tax exemptions.¹¹

Nonconcurrent municipal TIF ordinances

The act prohibits concurrent exemptions under municipal TIF ordinances adopted on or after March 1, 2022. A municipal TIF established on or after that date must instead terminate and replace any prior TIF exemption the municipal corporation previously authorized for

⁹ R.C. 5709.916(C)(1).

¹⁰ R.C. 5709.916(C)(2) and (D).

¹¹ R.C. 5709.916(C)(3); R.C. 5709.91, not in the act.

improvements to any parcel included in the TIF. The act specifies that a municipal TIF created before that date may terminate and replace prior TIF exemptions granted by the same municipal corporation if the ordinance clearly expressed that intent.¹²

Notice of service payment obligations

The act establishes an alternative means by which a county, township, or municipal corporation may effectuate notice that a property owner has consented to service payments required under a TIF ordinance or other similar agreement and, thereby, bind future owners of the property to those payments even if the property later qualifies for a non-TIF exemption.

Continuing law allows either the property owner or a subdivision that adopts a TIF ordinance or resolution or that enters into an urban redevelopment or community redevelopment corporation agreement for similar TIF-like exemptions to file an exemption application under the arrangement. If the application for exemption is filed by the property owner or the property owner later files written notice consenting to the associated service payments, no other exemption may be granted with respect to the property without the consent of the subdivision that established the TIF or entered into the agreement. However, if the subdivision files the application for exemption without the property owner's consent and the property later qualifies for a non-TIF exemption (for example, if the property is later used exclusively for charitable purposes), subsequent owners of the property are relieved of the obligation to continue making service payments. The owner of the property at the time the TIF is established or agreement is entered into is obligated to make the service payments or pay the service charges regardless of a future exemption.

Under prior law, the property owner's consent to the service payments was established only by filing notice with the county recorder of the county in which the property is located. The notice must identify the property and the current owner and state that the property, regardless of future use or ownership, remains liable for service payments until the terms of the TIF or other agreement have been satisfied. The act allows the subdivision or the property owner, in lieu of such notice, to file with the recorder an agreement, declaration, or covenant binding current and future owners of the property to the service payments.¹³

Property tax abatement for certain municipal property

The act establishes a temporary procedure by which a municipal corporation that acquired property from the state in 2020 may apply for a tax exemption and the abatement of more than three years of unpaid property taxes, penalties, and interest due on the property, provided the property qualifies for the exemption available under continuing law for public property used exclusively for public purposes.¹⁴

¹² R.C. 5709.916(E).

¹³ R.C. 5709.911.

¹⁴ R.C. 5709.08, not in the act.

The application for exemption and abatement must be filed with the Tax Commissioner by July 18, 2023, and list the county in which the property is located; the property's legal description; its taxable value; the amount of the unpaid taxes, penalties, and interest; the date of acquisition of title; the use of the property; and any other information required by the Commissioner.¹⁵

Continuing law generally prohibits tax exemption of property with respect to which more than three years' worth of taxes remain unpaid, even if the property otherwise qualifies for exemption.¹⁶

Motor vehicle show sales

The act alters the types of motor vehicles that a dealer may sell and a consumer may purchase at a motor vehicle show. A motor vehicle show is a display of new motor vehicles that lasts up to ten days and often involves multiple new motor vehicle dealers. The show typically is designed to allow the public an opportunity to compare and inspect a variety of makes and models simultaneously, to test drive vehicles, and to gain a greater understanding of the new technology and features of the vehicles. The Registrar of Motor Vehicles must authorize any show before it occurs.¹⁷

Generally, motor vehicle dealers are prohibited from signing contracts, taking deposits, or consummating sales at the location of a motor vehicle show.¹⁸ However, continuing law exempts certain vehicles from the general prohibition, if all of the following apply:

1. The motor vehicle show is being held as part of or in connection with a major livestock show;
2. The licensed new motor vehicle dealers involved have complied with all of the general motor vehicle show statutory requirements; and
3. The Registrar has granted permission for the motor vehicle show.

The act generally expands the types of motor vehicles that may be sold at such a show. Prior law exempted towing trucks that have a *gross vehicle weight* (the unladen weight of a fully equipped motor vehicle) of more than three-quarters of a ton (1,500 pounds). Instead, the act authorizes the sale of motor vehicles with a *gross vehicle weight rating* of 6,800 pounds or more.¹⁹

¹⁵ Section 6.

¹⁶ R.C. 5713.081, not in the act.

¹⁷ R.C. 4517.22(A)(5) and (B).

¹⁸ R.C. 4517.22(C).

¹⁹ R.C. 4517.22(J). A "gross vehicle weight rating" is the maximum weight while loaded at which a motor vehicle can safely operate as rated by its manufacturer. R.C. 4517.22(A)(2).

Practically speaking, the change updates the terminology to reflect the Federal Highway Administration’s current classification of trucks and motor vehicles based on their gross vehicle weight rating. Additionally, it expands the types of motor vehicles that an authorized dealer may sell at a motor vehicle show meeting the above criteria (e.g., it includes certain motor vehicles traditionally called “half-ton trucks”), and does *not* impact the trucks that were already authorized to be bought and sold at a motor vehicle show.²⁰

Federal school lunch appropriation

The act appropriates \$338 million of federal funds in FY 2022 to the Ohio Department of Education for the federal school lunch program.²¹

HISTORY

Action	Date
Introduced	02-09-21
Reported, H. Agriculture & Conservation	03-16-21
Passed House (96-1)	06-28-21
Reported, S. Ways & Means	04-05-22
Passed Senate (32-0)	04-06-22
House concurred in Senate amendments (92-3)	04-06-22

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²⁰ [“What is a 3/4-ton Truck?”](#), MotorTrend, June 2, 2021.

²¹ Sections 4 and 5.