

As Introduced

**128th General Assembly
Regular Session
2009-2010**

H. B. No. 149

Representative Miller

**Cosponsors: Representatives Letson, Weddington, Williams, S., Yates,
Luckie, Domenick, Chandler, Foley, Murray**

—

A B I L L

To amend section 166.01 of the Revised Code to allow 1
Chapter 166. loans and loan guarantees to be made 2
to establish supermarkets and grocery stores in 3
underserved communities, and to make an 4
appropriation. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 166.01 of the Revised Code be amended 6
to read as follows: 7

Sec. 166.01. As used in this chapter: 8

(A) "Allowable costs" means all or part of the costs of 9
project facilities, eligible projects, eligible innovation 10
projects, eligible research and development projects, eligible 11
advanced energy projects, or eligible logistics and distribution 12
projects, including costs of acquiring, constructing, 13
reconstructing, rehabilitating, renovating, enlarging, improving, 14
equipping, or furnishing project facilities, eligible projects, 15
eligible innovation projects, eligible research and development 16
projects, eligible advanced energy projects, or eligible logistics 17
and distribution projects, site clearance and preparation, 18

supplementing and relocating public capital improvements or 19
utility facilities, designs, plans, specifications, surveys, 20
studies, and estimates of costs, expenses necessary or incident to 21
determining the feasibility or practicability of assisting an 22
eligible project, an eligible innovation project, an eligible 23
research and development project, an eligible advanced energy 24
project, or an eligible logistics and distribution project, or 25
providing project facilities or facilities related to an eligible 26
project, an eligible innovation project, an eligible research and 27
development project, an eligible advanced energy project, or an 28
eligible logistics and distribution project, architectural, 29
engineering, and legal services fees and expenses, the costs of 30
conducting any other activities as part of a voluntary action, and 31
such other expenses as may be necessary or incidental to the 32
establishment or development of an eligible project, an eligible 33
innovation project, an eligible research and development project, 34
an eligible advanced energy project, or an eligible logistics and 35
distribution project, and reimbursement of moneys advanced or 36
applied by any governmental agency or other person for allowable 37
costs. 38

(B) "Allowable innovation costs" includes allowable costs of 39
eligible innovation projects and, in addition, includes the costs 40
of research and development of eligible innovation projects; 41
obtaining or creating any requisite software or computer hardware 42
related to an eligible innovation project or the products or 43
services associated therewith; testing (including, without 44
limitation, quality control activities necessary for initial 45
production), perfecting, and marketing of such products and 46
services; creating and protecting intellectual property related to 47
an eligible innovation project or any products or services related 48
thereto, including costs of securing appropriate patent, 49
trademark, trade secret, trade dress, copyright, or other form of 50
intellectual property protection for an eligible innovation 51

project or related products and services; all to the extent that 52
such expenditures could be capitalized under then-applicable 53
generally accepted accounting principles; and the reimbursement of 54
moneys advanced or applied by any governmental agency or other 55
person for allowable innovation costs. 56

(C) "Eligible innovation project" includes an eligible 57
project, including any project facilities associated with an 58
eligible innovation project and, in addition, includes all 59
tangible and intangible property related to a new product or 60
process based on new technology or the creative application of 61
existing technology, including research and development, product 62
or process testing, quality control, market research, and related 63
activities, that is to be acquired, established, expanded, 64
remodeled, rehabilitated, or modernized for industry, commerce, 65
distribution, or research, or any combination thereof, the 66
operation of which, alone or in conjunction with other eligible 67
projects, eligible innovation projects, or innovation property, 68
will create new jobs or preserve existing jobs and employment 69
opportunities and improve the economic welfare of the people of 70
the state. 71

(D) "Eligible project" means project facilities to be 72
acquired, established, expanded, remodeled, rehabilitated, or 73
modernized for industry, commerce, distribution, or research, or 74
any combination thereof, the operation of which, alone or in 75
conjunction with other facilities, will create new jobs or 76
preserve existing jobs and employment opportunities and improve 77
the economic welfare of the people of the state. "Eligible 78
project" includes, without limitation, a voluntary action. For 79
purposes of this division, "new jobs" does not include existing 80
jobs transferred from another facility within the state, and 81
"existing jobs" includes only those existing jobs with work places 82
within the municipal corporation or unincorporated area of the 83

county in which the eligible project is located. 84

"Eligible project" does not include project facilities to be 85
acquired, established, expanded, remodeled, rehabilitated, or 86
modernized for industry, commerce, distribution, or research, or 87
any combination of industry, commerce, distribution, or research, 88
if the project facilities consist solely of 89
point-of-final-purchase retail facilities, except underserved 90
community groceries. If the project facilities consist of both 91
point-of-final-purchase retail facilities and nonretail 92
facilities, only the portion of the project facilities consisting 93
of nonretail facilities or an underserved community grocery is an 94
eligible project. If a warehouse facility is part of a 95
point-of-final-purchase retail facility that is not an underserved 96
community grocery and supplies only that facility, the warehouse 97
facility is not an eligible project. Catalog distribution 98
facilities are not considered point-of-final-purchase retail 99
facilities for purposes of this paragraph, and are eligible 100
projects. 101

(E) "Eligible research and development project" means an 102
eligible project, including project facilities, comprising, 103
within, or related to, a facility or portion of a facility at 104
which research is undertaken for the purpose of discovering 105
information that is technological in nature and the application of 106
which is intended to be useful in the development of a new or 107
improved product, process, technique, formula, or invention, a new 108
product or process based on new technology, or the creative 109
application of existing technology. 110

(F) "Financial assistance" means inducements under division 111
(B) of section 166.02 of the Revised Code, loan guarantees under 112
section 166.06 of the Revised Code, and direct loans under section 113
166.07 of the Revised Code. 114

(G) "Governmental action" means any action by a governmental 115

agency relating to the establishment, development, or operation of 116
an eligible project, eligible innovation project, eligible 117
research and development project, eligible advanced energy 118
project, or eligible logistics and distribution project, and 119
project facilities that the governmental agency acting has 120
authority to take or provide for the purpose under law, including, 121
but not limited to, actions relating to contracts and agreements, 122
zoning, building, permits, acquisition and disposition of 123
property, public capital improvements, utility and transportation 124
service, taxation, employee recruitment and training, and liaison 125
and coordination with and among governmental agencies. 126

127

(H) "Governmental agency" means the state and any state 128
department, division, commission, institution or authority; a 129
municipal corporation, county, or township, and any agency 130
thereof, and any other political subdivision or public corporation 131
or the United States or any agency thereof; any agency, 132
commission, or authority established pursuant to an interstate 133
compact or agreement; and any combination of the above. 134

(I) "Innovation financial assistance" means inducements under 135
division (B) of section 166.12 of the Revised Code, innovation 136
Ohio loan guarantees under section 166.15 of the Revised Code, and 137
innovation Ohio loans under section 166.16 of the Revised Code. 138

(J) "Innovation Ohio loan guarantee reserve requirement" 139
means, at any time, with respect to innovation loan guarantees 140
made under section 166.15 of the Revised Code, a balance in the 141
innovation Ohio loan guarantee fund equal to the greater of twenty 142
per cent of the then-outstanding principal amount of all 143
outstanding innovation loan guarantees made pursuant to section 144
166.15 of the Revised Code or fifty per cent of the principal 145
amount of the largest outstanding guarantee made pursuant to 146
section 166.15 of the Revised Code. 147

(K) "Innovation property" includes property and also includes 148
software, inventory, licenses, contract rights, goodwill, 149
intellectual property, including without limitation, patents, 150
patent applications, trademarks and service marks, and trade 151
secrets, and other tangible and intangible property, and any 152
rights and interests in or connected to the foregoing. 153

(L) "Loan guarantee reserve requirement" means, at any time, 154
with respect to loan guarantees made under section 166.06 of the 155
Revised Code, a balance in the loan guarantee fund equal to the 156
greater of twenty per cent of the then-outstanding principal 157
amount of all outstanding guarantees made pursuant to section 158
166.06 of the Revised Code or fifty per cent of the principal 159
amount of the largest outstanding guarantee made pursuant to 160
section 166.06 of the Revised Code. 161

(M) "Person" means any individual, firm, partnership, 162
association, corporation, or governmental agency, and any 163
combination thereof. 164

(N) "Project facilities" means buildings, structures, and 165
other improvements, and equipment and other property, excluding 166
small tools, supplies, and inventory, and any one, part of, or 167
combination of the above, comprising all or part of, or serving or 168
being incidental to, an eligible project, an eligible innovation 169
project, an eligible research and development project, an eligible 170
advanced energy project, or an eligible logistics and distribution 171
project, including, but not limited to, public capital 172
improvements. 173

(O) "Property" means real and personal property and interests 174
therein. 175

(P) "Public capital improvements" means capital improvements 176
or facilities that any governmental agency has authority to 177
acquire, pay the costs of, own, maintain, or operate, or to 178

contract with other persons to have the same done, including, but 179
not limited to, highways, roads, streets, water and sewer 180
facilities, railroad and other transportation facilities, and air 181
and water pollution control and solid waste disposal facilities. 182
For purposes of this division, "air pollution control facilities" 183
includes, without limitation, solar, geothermal, biofuel, biomass, 184
wind, hydro, wave, and other advanced energy projects as defined 185
in section 3706.25 of the Revised Code. 186

(Q) "Research and development financial assistance" means 187
inducements under section 166.17 of the Revised Code, research and 188
development loans under section 166.21 of the Revised Code, and 189
research and development tax credits under sections 5733.352 and 190
5747.331 of the Revised Code. 191

(R) "Targeted innovation industry sectors" means industry 192
sectors involving the production or use of advanced materials, 193
instruments, controls and electronics, power and propulsion, 194
biosciences, and information technology, or such other sectors as 195
may be designated by the director of development. 196

(S) "Voluntary action" means a voluntary action, as defined 197
in section 3746.01 of the Revised Code, that is conducted under 198
the voluntary action program established in Chapter 3746. of the 199
Revised Code. 200

(T) "Project financing obligations" means obligations issued 201
pursuant to section 166.08 of the Revised Code other than 202
obligations for which the bond proceedings provide that bond 203
service charges shall be paid from receipts of the state 204
representing gross profit on the sale of spirituous liquor as 205
referred to in division (B)(4) of section 4310.10 of the Revised 206
Code. 207

(U) "Regional economic development entity" means an entity 208
that is under contract with the director of development to 209

administer a loan program under this chapter in a particular area 210
of this state. 211

(V) "Advanced energy research and development fund" means the 212
advanced energy research and development fund created in section 213
3706.27 of the Revised Code. 214

(W) "Advanced energy research and development taxable fund" 215
means the advanced energy research and development taxable fund 216
created in section 3706.27 of the Revised Code. 217

(X) "Eligible advanced energy project" means an eligible 218
project that is an "advanced energy project" as defined in section 219
3706.25 of the Revised Code. 220

(Y) "Eligible logistics and distribution project" means an 221
eligible project, including project facilities, to be acquired, 222
established, expanded, remodeled, rehabilitated, or modernized for 223
transportation logistics and distribution infrastructure purposes. 224
As used in this division, "transportation logistics and 225
distribution infrastructure purposes" means promoting, providing 226
for, and enabling improvements to the ground, air, and water 227
transportation infrastructure comprising the transportation system 228
in this state, including, without limitation, highways, streets, 229
roads, bridges, railroads carrying freight, and air and water 230
ports and port facilities, and all related supporting facilities. 231

(Z) "Underserved community grocery" means a retail facility 232
that operates on a self-service basis, primarily selling fresh 233
groceries, produce, poultry, meat, baked goods, and dairy 234
products; classified as a "supermarket and other grocery (except 235
convenience) store" under the North American industry 236
classification system; and located in a census tract with 237
below-average density of supermarkets and groceries or containing 238
households a majority of which are low-income households. 239

Section 2. That existing section 166.01 of the Revised Code 240
is hereby repealed. 241

Section 3. There is hereby created the Ohio Fresh Food 242
Initiative, to be administered by the Director of Development for 243
the purpose of providing grants, loans, and loan guarantees to 244
underserved community groceries as defined in division (Z) of 245
section 166.01 of the Revised Code. The Director shall develop 246
guidelines for the administration of the program and may 247
collaborate with and provide funding to nonprofit organizations 248
that provide financial assistance to businesses in underserved 249
areas. 250

Pursuant to Chapter 166. of the Revised Code, up to 251
\$10,000,000 in fiscal year 2010 shall be expended from the 252
Facilities Establishment Fund to establish and provide financial 253
assistance under the Initiative. Such moneys are appropriated, and 254
shall be accounted for as though appropriated in appropriation 255
item 195615, Facilities Establishment, in the main operating 256
budget act for fiscal years 2010 and 2011. 257

Section 4. The codified and uncodified sections in this act 258
are not subject to the referendum. Therefore, under Ohio 259
Constitution, Article II, section 1d and section 1.471 of the 260
Revised Code, the codified and uncodified sections of law 261
contained in this act go into immediate effect when this act 262
becomes law. 263