



Ohio Legislative Service Commission

Bill Analysis

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H.B. 140

128th General Assembly
(As Introduced)

Reps. Goyal, Schneider

BILL SUMMARY

- Authorizes institutions of higher education to enter into agreements with others, including governmental agencies, to induce them to develop "entrepreneurial projects"--i.e., efforts to develop or commercialize technology through research, technology transfer, or investment in physical capital.
- Authorizes the institutions to acquire ownership interests in entrepreneurial projects.
- Authorizes the institutions to borrow against their various sources of nontax revenue to invest in entrepreneurial project facilities or equipment or to fund entrepreneurial project operations.
- Authorizes the institutions to loan money to or guarantee loans made to entities in connection with entrepreneurial projects.

CONTENT AND OPERATION

Technology development and commercialization

For the stated purpose of creating or preserving jobs and employment opportunities and of improving the economic welfare of Ohio residents, the bill authorizes institutions of higher education to take specific actions to "facilitate and assist with establishing and developing entrepreneurial projects and to assist and cooperate with any governmental agency" to do so.¹ The bill defines "entrepreneurial project" as "an effort to develop or commercialize technology through research or

¹ "Institution of higher education" means a state college or university and their branches, a state community college, a community college district, or a technical college district.

technology transfer or investment of real or personal property, or both, including undivided and other interests therein, acquired by gift or purchase, constructed, reconstructed, enlarged, improved, furnished, or equipped, or any combination thereof, by an institution of higher education or by others."

Specifically, the bill authorizes an institution of higher education to do any of the following:

(1) Enter into an agreement with persons and with governmental agencies to "induce" them to acquire, construct, reconstruct, rehabilitate, renovate, enlarge, improve, equip, furnish, or otherwise develop entrepreneurial projects;

(2) Acquire stock or other ownership in an entrepreneurial project or a legal entity formed in connection with a project;

(3) Make or guarantee loans and borrow money and issue bonds, notes, or other evidence of indebtedness to provide money for the operation, acquisition, construction, enlargement, improvement, equipment, maintenance, or repair of entrepreneurial projects.

An institution may acquire ownership of an entity only in exchange for intellectual property rights, not in exchange for the investment of money. Any indebtedness issued by an institution obligates only the institution and not the state or any political subdivision and does not require the levy of a tax, and no tax may be pledged to its payment.

The bill cites as authority for its provisions Section 13, Article VIII of the Ohio Constitution. Section 13 authorizes the state, its agencies and instrumentalities, and local governments to invest in, loan or guarantee loans for, and issue debt for physical capital:

[I]t is hereby determined to be in the public interest and a proper public purpose for the [state, its agencies and instrumentalities, and local governments] to acquire, construct, enlarge, improve, or equip, and to sell, lease, exchange, or otherwise dispose of property, structures, equipment, and facilities within the State of Ohio for industry, commerce, distribution, and research, and to make or guarantee loans and to borrow money and issue bonds or other obligations to provide moneys for the acquisition, construction, enlargement, improvement, or equipment, of such property, structures, equipment and facilities.

The bill declares that the authority it grants to institutions of higher education qualifies as property, structures, equipment, and facilities as those terms are used in Section 13, Article VIII. (See **COMMENT**.)

Debt authority

The bill applies current law governing bonds, notes, and other evidence of obligations issued by institutions of higher education for educational and related facilities, and the terms for that debt, to bonds, notes, and other evidence of indebtedness issued to facilitate and assist with establishing and developing entrepreneurial projects. The bill distinguishes the indebtedness authorized in the bill from obligations governed by current law by referring to the newly authorized debt as "assurances."

COMMENT

Section 13, Article VIII of the Ohio Constitution is an exception to the general constitutional prohibitions against state borrowing for, state and local financial assistance to, or joint ventures with, private enterprises:

The credit of the state shall not, in any manner, be given or loaned to, or in aid of, any individual association or corporation whatever; nor shall the state ever hereafter become a joint owner, or stockholder, in any company or association in this state, or elsewhere, formed for any purpose whatever. [Sec. 4, Art. VIII]

No laws shall be passed authorizing any county, city, town or township, by vote of its citizens, or otherwise, to become a stockholder in any joint stock company, corporation, or association whatever; or to raise money for, or to loan its credit to, or in aid of, any such company, corporation, or association . . . [Sec. 6, Art. VIII]

HISTORY

ACTION	DATE
Introduced	04-22-09

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