



Ohio Legislative Service Commission

Bill Analysis

Megan Cummiskey

Sub. S.B. 1

128th General Assembly
(As Passed by the Senate)

Sens. Hughes, Carey, Stewart, Widener, Cafaro, Fedor, Gibbs, Gillmor, Husted, Kearney, R. Miller, Morano, Patton, Schaffer, Schiavoni, Schuring, Seitz, Smith, Turner, Wagoner, Wilson, Niehaus

BILL SUMMARY

- Extends the laws governing debt issuance to support the Clean Ohio program to reflect the recent adoption of Section 2q, Ohio Constitution, which provides additional debt authority for conservation and revitalization purposes (included in Am. Sub. H.B. 2 as enacted by the 128th General Assembly).
- Provides specific authorization for the issuance of \$60 million in state general obligations bonds and \$60 million in state revenue bonds to fund the Clean Ohio program in addition to the amounts authorized in Am. Sub. H.B. 562 of the 127th General Assembly, and appropriates the proceeds accordingly (included in Am. Sub. H.B. 2 as enacted by the 128th General Assembly).
- Increases the technology investment tax credit (included in Am. Sub. H.B. 1 as enacted by the 128th General Assembly).
- Makes new appropriations for the purpose of continuing the Ohio Co-op/Internship Program, logistics and distribution economic development programs, and the Ohio Bioproducts and Biomedical Development Programs, all of which were established by Am. Sub. H.B. 554 of the 127th General Assembly, the Job Stimulus Act.
- Requires using money in the Local Infrastructure Development Fund for broadband initiative projects and creates a process to allocate such money.
- Declares an emergency.

CONTENT AND OPERATION

Clean Ohio program debt authority expansion

(R.C. 133.52, 151.01, 151.09, and 151.40; Sections 6 and 7)

In 2000, Ohio voters adopted Section 2o of Article VIII, Ohio Constitution authorizing the issuance of bonds to be used for conservation and revitalization purposes (the "Clean Ohio" program). The General Assembly subsequently enacted legislation to implement the Clean Ohio program, including debt-issuance authority (Am. Sub. H.B. 3 of the 124th General Assembly). Section 2o and the implementing law provide that the Ohio Public Facilities Commission is authorized to issue up to \$200 million in general obligation bonds at any one time, the proceeds of which benefit the Clean Ohio Conservation Fund, the Clean Ohio Trail Fund, and the Clean Ohio Agricultural Easement Fund. Section 2o and the implementing law also provide for the issuance of revenue bonds for revitalization purposes. These obligations are not general obligations of the state, and the full faith and credit, revenue, and taxing power of the state are not pledged to the payment of debt service on the obligations. The Treasurer of State is authorized to issue these bonds, up to \$200 million at any one time, the proceeds of which are to be credited to the Clean Ohio Revitalization Fund. For both the general obligation bonds and revenue bonds, not more than \$50 million principal amount of each may be issued in any fiscal year, plus the principal amount of any obligations that could have been issued in a prior fiscal year but were not issued.

In 2008, Ohio voters adopted Section 2q of Article VIII, Ohio Constitution, an identical provision to Section 2o. This constitutional amendment authorizes an additional issuance of bonds to be used for the same conservation and revitalization purposes described above. Identical to Section 2o, up to \$200 million may be issued in general obligations at any one time for conservation purposes. Similarly, up to \$200 million in revenue bonds may be issued at any one time for revitalization purposes. Also, for both types of debt, the same \$50 million annual limit for issuance of each is imposed. Under the combined constitutional authority of Sections 2o and 2q, up to \$400 million in general obligation bonds may be issued for conservation purposes at any one time and up to \$400 million in revenue bonds may be issued for revitalization purposes at any one time. The combined per fiscal year limitation on bond issuance is now \$100 million.

Additionally, under Section 2o and its implementing law, a county, municipal corporation, or township is authorized to issue or incur public obligations, including general obligations, to provide, or assist in providing, grants, loans, loan guarantees, or contributions for conservation and revitalization purposes pursuant to Section 2o. Section 2q provides the same constitutional authority.



The bill extends the Section 2o implementing law to include the debt authority granted to state and local governments under Section 2q. In addition, with respect to the general obligations and revenue bonds that may be issued by the state, the bill increases the implementing law's outstanding debt limitation of \$200 million to \$400 million for each type of debt. The bill does not, however, increase the current limitation of \$50 million per fiscal year imposed under the implementing law for issuances of state general obligations or revenue bonds.

Pursuant to the extension of the implementation authority, the bill (1) authorizes the Ohio Public Facilities Commission to issue \$60 million in general obligations and the Treasurer of State to issue \$60 million in revenue bonds, and (2) appropriates the proceeds to fund the Clean Ohio program. This debt is in addition to the debt authorized in Am. Sub. H.B. 562 of the 127th General Assembly for the same purposes.

These provisions were enacted as part of Am. Sub. H.B. 2 of the 128th General Assembly.

Technology investment tax credit increase

(R.C. 122.151(D)(2))

Continuing law authorizes a tax credit against certain state taxes for a person who invests in an Ohio business with annual gross revenue or a net book value under \$2.5 million that is engaged primarily in research and development, technology transfer, bio-technology, information technology, or the application of new technology developed through research and development or acquired through technology transfer. The credit may be claimed by persons subject to the income tax, corporation franchise tax, dealers in intangibles tax, or the gross receipts excise taxes on natural gas companies and certain other public utilities.

Current law limits the total amount of tax credits that may allowed to not more than \$30 million.

The bill raises this limit to \$45 million. This provision was enacted as part of Am. Sub. H.B. 1 of the 128th General Assembly.

Continuation of programs established by the Job Stimulus Act

(Sections 3 to 5)

The bill makes new appropriations for the purpose of continuing the following programs that were established by Am. Sub. H.B. 554 of the 127th General Assembly:

--The Ohio Co-op/Internship Program, under which competitive grants are awarded by the Chancellor of the Ohio Board of Regents to promote cooperative education programs and internship programs at public and at private, nonprofit Ohio institutions of higher education. The Program recruits both Ohio residents who have remained in the state and those who have left Ohio to attend out-of-state institutions. (See R.C. 3333.71 to 3333.80).

--Logistics and distribution economic development programs, under which loans are made by the Department of Development to pay allowable costs of eligible projects that are to be established, expanded, remodeled, or modernized for transportation and logistics and distribution infrastructure purposes. Those purposes include promoting, providing for, and enabling improvements of ground, air, and water transportation infrastructure comprising Ohio's transportation system. (See R.C. 166.01, 166.08, 166.25, 166.26, and 184.37; a similar appropriation was included in Am. Sub. H.B. 1 of the 128th General Assembly).

--The Ohio Bioproducts Development Program, under which the Third Frontier Commission provides assistance to for-profit and not-for-profit entities to promote innovation, development, and commercialization of bioproducts, including biopolymers, chemicals, and advanced materials that use biomaterials and renewable agricultural resources (see R.C. 184.25).

--The Ohio Biomedical Development Program, under which the Third Frontier Commission provides assistance to for-profit and not-for-profit entities to promote innovation, development, and commercialization of biomedical and biotechnological products, processes, and applications, including medical devices, diagnostics, informatics, therapies, and drugs (see R.C. 184.26).

Broadband initiative projects

(R.C. 164.28; Section 9; R.C. 164.05, 164.08, Section 13 of Am. Sub. H.B. 554 of the 127th General Assembly, and Section 4 of Sub. H.B. 544 of the 127th General Assembly (not in the bill))

Background

Substitute H.B. 544 of the 127th General Assembly abolished the Tobacco Use and Prevention Foundation and required the Treasurer to liquidate the Tobacco Use

Prevention and Control Foundation Endowment Fund. Certain proceeds from this liquidation were to be transferred to the Jobs Fund, created by the same Act.¹

The Bipartisan Jobs Stimulus Act (Am. Sub. H.B. 554 of the 127th General Assembly) created the Local Infrastructure Development Fund, consisting of cash transferred to it from the Jobs Fund. The Bipartisan Jobs Stimulus Act provided that money in the Local Infrastructure Development Fund was to be used to provide grants for local infrastructure development and for capital improvement projects. It also required the transfer of \$80 million from the Jobs Fund to the Local Infrastructure Development Fund and for that money to be used by the Ohio Public Works Commission (OPWC) for capital improvements projects. The Act also provided that money in the Local Infrastructure Development Fund could be used for broadband initiatives.

The bill

Use of money in the Local Infrastructure Development Fund

The bill provides that the money in the Local Infrastructure Development Fund must be used for broadband initiative projects that increase the ability of end users to utilize online applications at reasonable performance levels through the addition of new, or the improvement of existing, fiber or wireless broadband infrastructure.

Process for receiving grants for broadband initiative projects

To receive money from the fund to be used for broadband initiative projects, the bill allows a county to apply to the district public works integrating committee of which it is a member. Each committee must determine which requests for assistance to submit to the director of the OPWC for approval. In approving requests for assistance from the committees, the OPWC must first allocate \$750,000 to each county for broadband initiative projects that have been approved by the district public works integrating committees. After that first allocation, the OPWC must allocate any money remaining in the Local Infrastructure Development Fund on a per capita basis to each committee in accordance with the most recent decennial census data.

¹ The state's use of that money is still the subject of a legal dispute. The 10th District Court of Appeals recently ruled that the state could use the money, but the matter is pending before the Ohio Supreme Court. See *Bd. of Trustees of the Tobacco Use Prevention and Control Found. v. Boyce*, 2009 Ohio App. LEXIS 5858 (Ohio Ct. App. 2009); see also Mark Niquette, *Tobacco-money dispute isn't over*, Columbus Dispatch, January 7, 2010, available at: http://www.dispatch.com/live/content/local_news/stories/2010/01/07/copy/tobacco_appeal.ART_ART_01-07-10_B3_3GG7MJS.html, last visited January 11, 2010.

Selecting requests for assistance

The bill provides that in selecting the requests for assistance to submit to the director, a committee must consider the following: (1) the inclusion of the broadband initiative project in a Connect Ohio E-Community Strategic Technology Plan, (2) the project's potential to increase the number of households or businesses served by broadband, (3) the project's potential to expedite the adoption of broadband by adding new users, (4) the project's regional or multijurisdictional nature, (5) the adequacy of planning and the readiness of the applicant county to proceed with the project upon approval, (6) the project's creation of opportunities to collaborate with vendors, (7) the project's potential for supporting economic development, (8) the project's potential of increasing the speed of available broadband, (9) availability of federal or other funding for the project, and (10) any other factors relevant to a particular project.

Miscellaneous provisions

The bill provides that the investment earnings in the Local Infrastructure Development Fund may be used to pay reasonable costs incurred by the OPWC in administering the allocation of grants for broadband initiative projects. It also provides that grants for broadband initiative projects may be in an amount up to 100% of total estimated project costs. The bill furthermore provides that grants for broadband initiative projects are not subject to current law governing the award of grants to subdivisions from each district public works integrating committee's annual allocation of funds raised from the sale of state obligations.

Training opportunities in connection with economic development projects

(Section 8)

The bill states that, as a condition to the receipt of assistance for any economic development project funded by appropriations made by the bill, the project must provide, *when practicable*, training opportunities for persons unemployed or underemployed. Efforts are to be made through city, local, and county workforce development programs, Workforce Investment Act (WIA) programs, and the Supplemental Nutrition Assistance Program (SNAP) to encourage minorities and persons with incomes of less than 200% of the federal poverty level to participate in these training programs. A person convicted of a felony offense *other than* a first or second degree felony cannot, for that reason, be prohibited from participating in these programs or from seeking employment on the project.

Effective date

(Section 10)

The bill takes effect immediately under its emergency clause.

HISTORY

ACTION	DATE
Introduced	02-10-09
Reported, S. Finance & Financial Institutions	03-03-09
Passed Senate (31-0)	03-04-09

S0001-PS-128.docx/jc

