Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 511 of the 129th G.A. **Date**: April 24, 2012

Status: As Introduced **Sponsors**: Reps. Beck and Gonzales

Local Impact Statement Procedure Required: Yes

Contents: To make various changes to the administration of the investment tax credit, the venture capital loan loss tax credit, and the New Markets tax credit

State Fiscal Highlights

STATE FUND	FY 2013	FY 2014	FUTURE YEARS
General Revenue Fund			
Revenues	Potential loss	Potential loss	Potential loss
Expenditures	Potential minimal decrease	Potential minimal decrease	Potential minimal decrease
Business Assistance Fund (Fund 4510)			
Revenues	Potential gain	Potential gain	Potential gain
Expenditures	- 0 -	- 0 -	- 0 -
Third Frontier Research and Development Fund (Fund 7011)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase	Potential increase	Potential increase

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- The bill increases the existing annual tax credit limit for the venture capital loan loss tax credit program from $20 million to $26.5 million. Thus, the annual revenue loss may be up to $6.5 million per year. The credit is allowed against the personal income tax, the corporate franchise tax, the dealers in intangibles tax, the public utility excise tax, the foreign insurance tax, and the domestic insurance tax.
- The bill increases, from $45 million to $51 million, the maximum amount of technology investment tax credits (ITC) that can be issued under the program. This credit is allowed against the personal income tax, the corporate franchise tax, the public utility tax, and the dealers in intangibles tax. The timing and the amount of potential annual revenue loss associated with this tax credit is undetermined.
- The provisions mentioned above may cause a GRF tax revenue loss. In this biennium, the state GRF would bear the entire revenue loss under those taxes because of the Local Government Fund (LGF) and the Public Library Fund (PLF)

"freeze." Beginning in FY 2014, any decrease to those taxes would also reduce the amount distributed to the LGF and the PLF.[1]

- The bill substitutes the Ohio Department of Development (ODOD) for the Edison Centers in the process of reviewing applications for the technology investment tax credit. Consequently, ODOD will receive the $200 tax credit application fee associated with this program. The fees will be deposited into the Business Assistance Fund (Fund 4510).
- The bill eliminates the Industrial Technology and Enterprise Advisory Council, and transfers its responsibility to review applications for the ITC to the Third Frontier Commission. Although this may result in minimal savings to the GRF, a portion of the savings could be offset by an increase in administrative costs borne by the Third Frontier Research and Development Fund (Fund 7011).

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2012	FY 2013	FUTURE YEARS
Counties, municipalities, townships, public libraries, and other local governments			
Revenues	- 0 -	- 0 -	Potential loss
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Provisions of the bill that increase the annual tax credit limit for the venture capital (VC) loan loss program and the increase in allowable ITC credits may reduce GRF tax receipts. In this biennium, the state GRF would bear the entire revenue loss under those taxes because of the Local Government Fund (LGF) and the Public Library Fund (PLF) "freeze." Beginning in FY 2014, any decrease to those taxes would also reduce the amount distributed to the LGF and the PLF.

[1] Under current law, beginning in FY 2014 transfers to the LGF and PLF will be based on a fixed percentage as determined by the Tax Commissioner not later than July 5, 2013. The percentage will be based on the amount transferred to each fund in FY 2013 as a percentage of total GRF tax revenues in FY 2013.

Detailed Fiscal Analysis

The bill makes various changes to the administration of the investment tax credit, the venture capital loan loss tax credit, and the New Markets tax credit. The bill eliminates the Industrial Technology and Enterprise Advisory Council and replaces it with the Third Frontier Commission to assist the Director of Development in reviewing applications and making recommendations related to investment tax credits. The provisions in the bill that have a fiscal effect are outlined below.

Changes to the venture capital loan loss tax credit and technology investment tax credit programs

The bill increases the annual tax credit limit for the existing venture capital loan loss tax credit program from $20 million to $26.5 million. The venture capital loan loss tax credits are allowed against the personal income tax, the corporate franchise tax, the dealers in intangibles tax, the public utility excise tax, the foreign insurance tax, and the domestic insurance tax. The increase in the annual tax credit limit may increase the GRF tax revenue loss under the program by up to $6.5 million per year.

The venture capital (VC) program was created in S.B. 180 of the 124th General Assembly. The Ohio venture capital program borrows funds from investors to make loans and investments in venture capital funds for seed funding and other private ventures, primarily in Ohio. If the program administrator is unable to repay investors, then investors may use tax credits issued by the Ohio Venture Capital Authority to recover amounts loaned to the program. So far, no investor losses have been incurred and the Authority has not issued any tax credits. The increase in allowable tax credits is likely to boost the amounts that could be borrowed by the VC program.

The bill also makes various other changes to the administration of the venture capital program, including: specifying that any agreement between the Ohio Venture Capital Authority and a program administrator must require the program administrator and any fund manager to have a "significant presence" in Ohio, and requiring the inclusion of past performance in the evaluation criteria of investment funds that would manage funds for the program.

The bill increases, from $45 million to $51 million, the maximum amount of tax credits that can be issued under the technology investment tax credit program. This credit is allowed against the personal income tax, the corporate franchise tax, the public utility tax, and the dealers in intangibles tax. As of December 2010, the latest data available, a total of $34.8 million in the technology investment tax credits have been issued for investment entities.[2] The changes to the maximum amount of tax credits may

[2] Data source: The Technology Investment Tax Credit Program Guidelines, published by the Ohio Department of Development, dated December 1, 2010.

increase GRF tax revenue loss over a number of years. However, the amount of potential revenue loss per fiscal year is undetermined.

The bill removes the Edison Centers from the process of reviewing applications for the Technology Investment Tax Credit, and instead places the responsibility with the Ohio Department of Development (ODOD). As a result, ODOD will receive the $200 tax credit application fee associated with this program. The fees will be deposited into the Business Assistance Fund (Fund 4510), and will be used to offset the Department's costs for reviewing applications.

During the current biennium, the state GRF would bear the entire revenue loss related to the tax credit changes mentioned above because of the Local Government Fund (LGF) and the Public Library Fund (PLF) "freeze." Beginning in FY 2014, any revenue decrease under those taxes would also reduce the amount distributed to the LGF and the PLF.

New Markets tax credit changes

The bill makes several changes to the existing New Markets tax credit, including: (1) allowing community development entities (CDEs) to make credit-eligible investments in a low-income community business that derives 15% or more of its annual revenue from renting or selling real estate; (2) eliminating the requirement to calculate adjusted purchase price of investments in calculating the amount of the credit; (3) clarifying that the maximum allowable credit for each investor is $1 million; and (4) permitting credits of 5% for the first three years and 6% for the final four years, compared with the current schedule of 0% in the first two years, 7% in the third year, and 8% in the final four years.

The net fiscal effect of these changes appears to be revenue neutral. Currently, up to $10 million in annual New Markets tax credits could be applied against the corporate franchise tax, and the domestic and foreign insurance taxes. Qualified businesses may apply such credits over seven years.

Industrial Technology and Enterprise Advisory Council

The bill also eliminates the GRF-funded Industrial Technology and Enterprise Advisory Council on October 1, 2012. The Council assists ODOD in reviewing applications and making recommendations regarding investment tax credits, and assigns these duties to the Third Frontier Commission. Although this may result in minimal savings to the GRF, a portion of the savings could be offset by an increase in administrative costs borne by the Third Frontier Research and Development Fund (Fund 7011).

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