

OHIO CONFERENCE OF COMMUNITY DEVELOPMENT LEGISLATIVE MATTERS

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OCCD Legislative Committee

The following is a summary of recent Ohio General Assembly activity relating to economic development matters through April 23, 2023.

LEGISLATION RECENTLY ENACTED

House Bill 45 (From prior General Assembly. Passed December 14, 2022; signed by the Governor January 6, 2023; effective April 7, 2023 (with portions effective immediately, and other portions effective January 1, 2024).) This Bill, among other provisions, disqualifies a project involving the rehabilitation of federal low income housing tax credit (LIHTC) property from a state tax credit for rehabilitating historic buildings; and authorizes a county auditor to value LIHTC property by using one or more of three existing appraisal methods. It also appropriates approximately \$5.83 billion for Fiscal Year 2023, primarily from federal ARPA funds, including \$161 million for rent and utility assistance (for arrearages incurred before December 31, 2021 [NOTE – this cut-off date is removed by SB 10, effective March 15, 2023]), \$250 million for water and sewer quality programs, and \$150 million for lead prevention and mitigation.

House Bill 501 (From prior General Assembly. Passed December 14, 2022; signed by the Governor January 5, 2023; effective April 6, 2023.) This Bill, among other provisions, allows townships to create township redevelopment tax increment financing districts.

Senate Bill 33 (From prior General Assembly. Passed December 14, 2022; signed by the Governor January 2, 2023; effective April 3, 2023.) This Bill, among other provisions, allows limited home rule townships to designate community reinvestment areas (CRAs), eliminates the requirement that the Development of Development approve a proposed CRA, and increases the percentage of a proposed CRA exemption that may be approved without the requirement of school district approval.

House Bill 23 (Passed March 29, 2023; signed by the Governor March 31, 2023; effective June 28, 2023.) This Bill is the biennial transportation budget. Some provisions in the enacted version that may be of interest are:

State Infrastructure Bank

Requires any loan made to a small municipal corporation by ODOT from the State Infrastructure Bank to be a zero-interest loan.

Requires a municipal corporation to qualify for ODOT's Small City Program to be eligible for a zero-interest loan.

Force accounts

Raises the force account monetary limits for municipal corporations, townships and counties concerning road, highway, bridge, and culvert projects.

Transportation improvement districts

Agreement with an RTA

Authorizes a transportation improvement district (TID) to enter into an agreement (including a multi-year agreement) with a regional transit authority (RTA) in Hamilton County regarding road and bridge projects in the same manner that counties, municipal corporations, or townships may enter into an agreement with a TID under current law.

Stipulates that under the agreement:

The TID, along with any participating county, municipal corporation, or township, may fund and finance qualifying projects, which are projects involving the construction or maintenance of roads or bridges related to the provision of service by the RTA;

The TID may issue bonds to assist in its provision of funding and financing; and

The RTA may levy, pledge, and assign sales and use taxes to reimburse the TID for the debt service on qualifying bonds issued by the TID.

Applies the current law authority, immunity, and responsibilities granted to a TID for other projects to a qualifying project.

Authorizes a TID to fund and finance projects, in addition to its current law authorization to manage projects directly.

Authorizes a TID to employ, hire, or otherwise retain the services of auditors.

Authorizes the qualifying RTA to pledge its sales and use tax revenue to pay debt service on county, municipal, and township bonds to fund qualifying projects.

Local government spending

Authorizes any county, municipal corporation, or township to make appropriations to pay costs incurred by a TID, rather than only the county, municipal corporations, and townships that are part of the TID as in current law.

County cooperation

Authorizes a TID to enter into an agreement with the board of county commissioners that created the TID and with the boards of county commissioners of any contiguous group of counties to exercise all powers of the TID with respect to a project that is both (1) located partially or wholly within any county that is a party to the agreement, and (2) partially funded with federal money.

LEGISLATION PASSED BY THE HOUSE

[None notable, other than HB 23, above]

LEGISLATION INTRODUCED IN THE HOUSE

House Bill 1 (Introduced February 15, 2023; sixth hearing in House Ways and Means Committee on April 18, 2023.) This Bill is a priority for the majority caucus and is intended to be a stepping stone to the elimination of the state income tax. House Bill 1 makes a number of changes to property taxes and the state income tax.

The Bill makes small changes to the state's income tax brackets for Tax Year 2022, then in Tax Year 2023 and thereafter eliminates all but one bracket. Under the Bill, beginning in Tax Year 2023, Ohioans will pay no income tax on their first \$26,050 of income and then pay the sum of \$360.69 plus 2.75% of their taxable income above \$26,050.

House Bill 1 also makes several changes to Ohio's property tax system. First, the Bill eliminates the Class 1 (Residential and Agricultural) 10% property tax rollback and changes the owner-occupied 2.5% credit to a flat \$125 per year. The state currently reimburses taxing districts for both of these credits. This rollback was put in place when Ohio first instituted an income tax. The rollback was modified in 2013 so that it would not apply to new or replacement levies. It is expected that these changes will reduce state expenditures by approximately \$1.2 billion per year.

Second, the Bill modifies the homestead credit that is available to homeowners who are disabled or age 65 and over and have incomes lower than the statutory threshold. The Bill indexes the current \$25,000 valuation exemption for inflation, and creates an enhanced valuation exemption of \$50,000 for individuals who have owned their homes for at least 20 years.

Third, the Bill changes the statewide valuation assessment rate from 35% to 31.5% for the first tax year the Bill is effective and then lowers the assessment rate for inflation in subsequent years. The assessment rate is capped at 31.5%. This change is intended to reduce or eliminate the financial impact on property owners of eliminating the residential credit.

The temporary law language in the Bill states that it is the intent of the General Assembly to appropriate funds in fiscal years 2024 and 2025 to local governments impacted by these changes. There are no specifics on the amount of assistance or whether this aid will continue beyond the biennium.

House Bill 3 (Introduced February 15, 2023; fourth hearing in House Economic and Workforce Development Committee on March 28, 2023.) This Bill would authorize a nonrefundable state tax credit that piggybacks on the federal low-income housing tax credit (LIHTC) for affordable housing projects; and requires the Tax Commissioner to adopt a uniform tax valuation formula for federally subsidized residential rental property that takes into account a property's operating income and expenses and a uniform capitalization rate, and sets a minimum total value for subsidized residential rental property of 150% of the value of the underlying land (See House Bill 45 from the previous General Assembly, above).

House Bill 16 (Introduced February 15, 2023; second hearing in House Government Oversight Committee on March 28, 2023.) This Bill would revise the law governing ethics, financial disclosure and lobbying.

House Bill 33 (Introduced February 15, 2023; referred to House Finance Committee on February 15, 2023; subcommittee hearings concluded; full committee hearings ongoing.) This Bill is the biennial operating budget. Some provisions in the “As Introduced” (i.e., Governor’s) version that may be of interest are:

AIR QUALITY DEVELOPMENT AUTHORITY

Authorizes the Ohio Air Quality Development Authority to enter into an arrangement with a municipality, township, or special improvement district to fund commercial or industrial energy or energy efficiency projects (often referred to as a PACE or “property assessed clean energy” project).

Authorizes the municipality, township, or special improvement district to impose and remit to AIR special assessments on property benefitting from the PACE.
(R.C. 503.59, 727.01, 1710.06, 3706.01, 3706.051, 3706.12, Section 803.20 of the Budget Bill)

OFFICE OF BUDGET AND MANAGEMENT

Requires the transfer of \$175,000,000 each fiscal year from the General Fund to the Brownfield Remediation Fund, and \$150,000,000 in FY 2024 to the Building Demolition and Site Revitalization Fund.

From the General Revenue Fund surplus on June 30, 2023, requires the transfer of up to \$500,000,000 to the All Ohio Future Fund, \$150,000,000 to the Downtown Development Grant Fund, and \$50,000,000 to the Township Development Fund (each discussed below).

All Ohio Future Fund (R.C. 126.62)

Renames the Investing in Ohio Fund to the All Ohio Future Fund and expands the fund’s economic development purposes.

Authorizes the Director of the Office of Budget and Management (OBM) to transfer money to the All Ohio Future Fund from the Oil and Gas Well Fund and money from JobsOhio under the liquor franchise agreement under specified circumstances.

DEPARTMENT OF DEVELOPMENT

Brownfield Remediation Fund and Building Demolition and Site Revitalization Fund (R.C. 122.6511, 122.6512)

Limits to only the first fiscal year, instead of both fiscal years of each biennium under current law, the requirement that the Director of Development reserve money for each county from the Brownfield Remediation and Building Demolition and Site Revitalization Funds.

OHIO HOUSING FINANCE AGENCY (R.C. 175.18)

Limits allocation of federal low-income housing tax credits and other financial assistance from OHFA to projects supported by the board of county commissioners of the county in which the project is located.

DEPARTMENT OF TAXATION

Income Tax Rate Reduction (R.C. 5747.02, Bill Sections 757.50 and 803.210)

Reduces, beginning in tax year 2023, the number of income tax brackets, by consolidating the lowest bracket (2.765% for income between \$26,050 and \$46,100) with the second lowest bracket (3.226% for income between \$46,100 and \$92,150).

Reduces the rate of that new lowest bracket to 2.75%.

Suspends indexing of income tax brackets and exemptions for inflation for tax years 2023 and 2024.

Tax credits

Low-income housing tax credit (R.C. 175.16, 5713.03, 5713.031, 5715.01, 5725.36, 5725.98, 5726.58, 5726.98, 5729.19, 5729.98, 5747.83, and 5747.98)

Authorizes a nonrefundable credit against the insurance premiums, financial institutions, or income tax for the development of low-income rental housing that is awarded in conjunction with the federal low-income housing tax credit (LIHTC).

Allows the Ohio Housing Finance Agency (OHFA) to reserve a state tax credit for any project in Ohio that receives a federal LIHTC allocation, as long as the project is located in Ohio and begins renting units after January 1, 2023.

Prohibits OHFA from reserving any credits after December 31, 2028.

Generally limits the amount of state credits that may be reserved in a fiscal year to \$500 million, but allows unreserved credit allocations and recaptured or disallowed credits to be added to the credit cap for the next fiscal year.

Limits the amount of credit reserved for any single project to an amount necessary, when combined with the federal credit, to ensure financial feasibility.

Requires OHFA to reserve credits in a manner that ensures projects create additional housing units they would not otherwise create.

Requires the Tax Commissioner to prescribe a formula for uniformly valuing federal subsidized rental housing that takes into account a property's operating income and expenses and a uniform capitalization rate. Sets a minimum total value for such property of 150% of the value of the underlying land. Requires the owner of such property to annually report the property's operating income and expenses to the county auditor of the county in which the property is located. Removes an existing law provision explicitly authorizing a county auditor to value LIHTC property by employing the income approach, cost approach, or comparable sales approach.

Historic building rehabilitation credit (R.C. 149.311)

Increases, from \$60 million to \$120 million, the amount of historic building rehabilitation tax credits that DEV may award in FY 2025.

Job creation and retention credits

Authorizes the Tax Credit Authority to adjust the amount that a noncompliant taxpayer must repay from a job creation or job retention tax credit one time within 90 days after initially certifying a repayment.

Research and development credits (R.C. 5726.56, 5751.51)

Modifies the manner in which a taxpayer that consists of multiple individuals or entities may compute and claim a research and development (R&D) tax credit against the financial institutions tax or commercial activity tax.

Requires a taxpayer claiming a R&D credit to retain records substantiating the claim for four years.

Allows TAX to audit a representative sample of a taxpayer's R&D expenses to verify that the taxpayer correctly computed the R&D credit.

Index Homestead Exemption to Inflation (R.C. 323.152 and 4503.065; Bill Section 803.90)

Adjusts the homestead exemption for inflation each year, beginning in 2023 for real property and 2024 for homes subject to the manufactured and mobile home tax. Applies the adjustment to both the standard \$25,000 exemption and the enhanced \$50,000 exemption for disabled veterans and spouses of public service officers killed in the line of duty.

Replacement Property Tax Levies (R.C. 5705.192, 1545.21)

Eliminates the authority of local governments to levy replacement property tax levies, beginning with elections held on or after January 1, 2025.

LOCAL GOVERNMENT

Local Government and Public Library Funds (R.C. 131.51, Bill Section 387.20)

Permanently increases the percentage of state tax revenue that the Local Government Fund (LGF) and Public Library Fund (PLF) each receive per month, from 1.66% to 1.7%.

Competitive bidding thresholds and public improvement contracts (R.C. 153.12, 307.86, 307.861, 308.13, 505.08, 505.37, 505.376, 511.01, 511.12, 515.01, 715.18, 731.141, 735.05, 737.03, 3375.41, 5549.21, 5555.61, 6119.10)

Increases the statutory competitive bidding thresholds for counties, townships, municipal corporations, libraries, fire and ambulance districts, regional airport authorities, and regional water and sewer districts to \$75,000, through calendar year 2024.

Increases the competitive bidding thresholds for these entities by three percent annually after calendar year 2024.

Prohibits subdividing contracts or purchases in order to avoid competitive bidding requirements.

Increases the allowable difference between a public improvement project's estimate to the project's contract price from 10% to 20%.

New community authorities and townships (R.C. 349.01, 349.03, 349.04, 349.14)

Authorizes a township to form a new community authority or delete territory from an existing new community district with the approval of the board of township trustees, rather than the approval of the county commissioners as under current law, if the new community district is comprised of unincorporated territory and located entirely within a township with at least 5,000 people and in a county with a population of at least 200,000 and not more than 400,000 people.

Drainage Assessment Fund (R.C. 6131.43, 6133.15 (repealed))

Abolishes the Drainage Assessment Fund, which was funded by the General Assembly and which was used to pay each state agency's share of local drainage assessments made under the county ditch laws.

Eliminates an associated requirement that state agencies include the cost of the state's share of drainage assessments billed by county auditors in budget requests from the fund.

House Bill 57 (Introduced February 16, 2023; reported out of House Ways and Means Committee on April 18, 2023. See also House Bill 33.) This Bill would index the homestead exemption amounts to inflation.

House Bill 60 (Introduced February 21, 2023; fourth hearing in House Ways and Means Committee on April 18, 2023.) This Bill would increase the amount of and expand the income qualifications for the homestead exemption.

House Bill 64 (Introduced February 21, 2023; second hearing in House Civil Justice Committee on March 14, 2023.) This Bill would revise the law regarding eminent domain, including voiding appropriations that do not follow statutorily mandated procedures, excluding the use of property as a recreational trail as a “public use” for which property may be appropriated, allowing property owners who allege their property has been appropriated outside of the required judicial process to sue for inverse condemnation, and requiring courts hearing inverse condemnation cases to award successful property owners attorneys’ fees, costs, and expenses.

House Bill 101 (Introduced March 9, 2023; third hearing in House State and Local Government Committee on April 18, 2023.) This Bill would modify the law regarding village dissolution.

House Bill 145 (Introduced April 4, 2023; referred to House State and Local Government Committee on April 18, 2023. See also Senate Bill 23.) This Bill would expand political subdivision joint purchasing authority to expressly include purchases for construction services.

House Joint Resolution 1 (Introduced February 15, 2023; reported out of House Constitutional Resolutions Committee on April 19, 2023. See also Senate Joint Resolution 2.) This Joint Resolution would propose an amendment to the Ohio Constitution, to appear on the ballot at an August 8, 2023 special election, to require a vote of at least 60% of the electors to approve any constitutional amendment.

LEGISLATION PASSED BY THE SENATE

Senate Joint Resolution 2 (Introduced March 22, 2023; adopted by the Senate on April 19, 2023. See also House Joint Resolution 1.) This Joint Resolution would propose an amendment to the Ohio Constitution, to appear on the ballot at an August 8, 2023 special election, to require a vote of at least 60% of the electors to approve any constitutional amendment.

LEGISLATION INTRODUCED IN THE SENATE

Senate Bill 2 (Introduced January 11, 2023; referred to Senate Finance Committee on January 17, 2023.) This Bill would allow municipalities or townships to designate certain areas as Neighborhood Development Areas and to provide property tax exemptions for residential properties in those Areas.

Senate Bill 3 (Introduced January 11, 2023; referred to Senate Ways and Means Committee on January 17, 2023.) This Bill would create the Community Revitalization Program, through which individuals and businesses may receive a nonrefundable income tax credit for completing a community revitalization project.

Senate Bill 23 (Introduced January 18, 2023; reported out of Senate Government Oversight Committee on April 19, 2023. See also House Bill 145.) This Bill would expand political subdivision joint purchasing authority to expressly include purchases for construction services.

Senate Bill 75 (Introduced February 28, 2023; third hearing in Senate Local Government Committee on March 28, 2023.) This Bill would allow two or more municipalities to create a joint economic development district without involving a township.