



H.B. 173

124th General Assembly
(As Introduced)

Reps. Calvert, Hoops, Husted, Willamowski, Wolpert

BILL SUMMARY

- Creates the Ohio Technology Fund, to be used to make venture capital investments in high technology businesses that are in the early stages of their development and have 400 or fewer employees.
- Requires the Public Employees Retirement System, State Teachers Retirement System, School Employees Retirement System, and Bureau of Workers' Compensation to invest a combined total of \$60 million in the Ohio Technology Fund each fiscal year.
- Creates a five-member oversight board to serve as the trustee of the Ohio Technology Fund, consisting of the Governor, Treasurer of State, Administrator of the Bureau of Workers' Compensation, and Chairpersons of the Public Employees Retirement Board and State Teachers Retirement Board, or their respective designees.
- Requires the oversight board to select a private investment management company to manage the Ohio Technology Fund, and provides that the management company must invest \$20 million in the fund each fiscal year.

CONTENT AND OPERATION

Creation and purposes of the Ohio Technology Fund

(R.C. 168.01 and 168.02(A) and (C))

The bill creates the Ohio Technology Fund, to be used to make investments in small, high technology businesses in the early stages of their development. To be eligible for an investment, a business must have 400 or fewer employees, and must be engaged in either (1) designing, creating, formulating, or producing

products, equipment, or processes that create opportunities to use newly developed scientific or technical innovations in commerce or manufacturing, or (2) conducting scientific or technological inquiry or experimentation with the goal of producing such products, equipment, or processes. The bill provides that an eligible business can be organized as a corporation, partnership, proprietorship, or other entity.

The amount of an Ohio Technology Fund investment in a business must be at least \$250,000, but cannot exceed \$2 million. At least 80% of the annual investments are required to be in businesses that have their principal place of business in Ohio and have at least 50% of their gross assets and 50% of their employees in the state. For the purposes of determining these percentages for a business that is a member of an affiliated group of companies, the gross assets and number of employees of all of the members of the group, wherever located, must be included in the calculation.

The bill provides that the Ohio Technology Fund is in the custody of the Treasurer of State, but is not part of the state treasury. Under current law, expenditures from *custodial funds* such as this can be made without an appropriation from the General Assembly.

Sources of capital for the Ohio Technology Fund

(R.C. 145.11, 168.02(A), 3307.15, 3309.15, and 4123.44)

The Public Employees Retirement System (PERS), State Teachers Retirement System (STRS), School Employees Retirement System (SERS), and Bureau of Workers' Compensation are required to invest a combined total of \$60 million in the Ohio Technology Fund each fiscal year. The share of the \$60 million for each of the retirement systems or the Bureau for a fiscal year is determined using the same ratio that the total assets of the system or Bureau on January 1 of the preceding year bears to the total assets of all four entities on that date. The systems and Bureau can make additional investments in the fund beyond their required shares if they so choose.

The PERS investment is made from its Income Fund, and the STRS and SERS investments from their Guarantee Funds. These are the retirement systems' contingency funds that receive all investment income from system investments and from which money is transferred to help cover system obligations.¹ The

¹ Under existing law that is unchanged by the bill, in the event that a shortfall occurs in the Income or Guarantee Fund, the retirement systems must make up the deficiency by charging an additional employer rate of contribution. (R.C. 145.23, 3307.14, and 3309.60, not in the bill.)

Bureau of Workers' Compensation investment is made from the surplus of the State Insurance Fund, in equal parts from the public-sector and private-sector accounts within that fund.

The private investment management company that is selected to manage the Ohio Technology Fund (see below) must invest \$20 million in the fund each fiscal year. In addition, the bill directs the Treasurer of State to invest in the fund any appropriations made for that purpose.

The bill provides that all profits, gains, and income made by the fund are to be paid to PERS, STRS, SERS, the Bureau, the Treasurer of State, and the private management company in proportion to their respective investments in the fund. The investing entities and the fund's oversight board (see below) must adopt agreements covering how the earnings are to be paid.

Management of the Ohio Technology Fund

(R.C. 168.02(B), 168.03(A), and 168.04)

The Ohio Technology Fund is administered by a five-member oversight board which is the trustee of the fund and which consists of the Governor, Treasurer of State, Administrator of the Bureau of Workers' Compensation, and Chairpersons of the Public Employees Retirement Board and State Teachers Retirement Board. Each member can designate an alternate from the member's office, and the alternate has all powers and duties associated with board membership while serving on the board. The bill specifies that service as an oversight board member or alternate does not constitute the holding of a public office or employment and does not disqualify the member or alternate from holding a public office or employment. Members and alternates serve on the board without compensation, but are reimbursed for expenses incurred while serving.

The oversight board is required to adopt policies, objectives, or criteria for the operation of the Ohio Technology Fund investment program that include asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines. The policies, objectives, or criteria, as well as any amendments or additions to them, must be adopted at regular board meetings. The board must publish the policies, objectives, or criteria at least annually, and must make copies of them available to interested parties upon request.

The bill requires the oversight board to select a private investment management company to manage the Ohio Technology Fund. The board must adopt rules setting forth the criteria it will use to award the management contract,

and the criteria must give equal consideration to firms owned and controlled by minorities, firms owned and controlled by women, and ventures involving firms owned and controlled by minorities or women, as long as those firms or ventures meet the board's policies, objectives, and criteria for operating the fund.

The rules also must prescribe the terms and amount of compensation payable to the management company for its services. The compensation is paid from either the new annual investments made in the fund by the retirement systems, Bureau of Workers' Compensation, Treasurer of State, and management company, or from the fund's gains, profits, or income credited to each of those entities. But to pay the compensation from the gains, profits, or income, the oversight board first must obtain the agreement of the three retirement systems, the Bureau, and the Treasurer of State.

All Ohio Technology Fund investments must be made at current market prices. The Treasurer of State is designated the custodian of the evidences of title to the investments, and the oversight board, private management company, and Treasurer of State must follow the same general procedures in purchasing and selling investments as the Treasurer currently follows with the state's retirement systems and the Bureau of Workers' Compensation. The bill specifies that no investment can be purchased or sold except as authorized by the oversight board or the board's management company.

Other duties of the Ohio Technology Fund Oversight Board

(R.C. 168.02(A) and 168.04(A) and (B))

The oversight board must include all of the following in rules it must adopt under the Administrative Procedure Act governing Ohio Technology Fund operations:

--A detailed specification of the products, equipment, and processes that constitute high technology for investment purposes;

--The percentage of funds to be invested in Ohio-based businesses if the board determines that more than the minimum requirement of 80% should be so invested;

--The types of investments allowed in businesses that are not based in Ohio.

The board also is responsible for calculating the ratios used to determine the amount of the investments that the retirement systems and the Bureau of Workers' Compensation must make each fiscal year. The board and each of the four investing entities must agree on an annual date for making the investments.

The bill requires the board to report at least annually on the performance of Ohio Technology Fund investments and the fund's financial position, and the reports must be made in accordance with performance presentation standards established by the Association for Investment Management and Research. The reports must include the fair market value as of the reporting date of all investments held by the fund.

Oversight board operating procedures

(R.C. 168.03(B), (C), and (D))

The bill requires the oversight board to meet as often as it considers necessary to conduct its business, and at times and places of its choosing. The Governor is to serve as the first chairperson, for a one-year term, and thereafter the chairpersonship rotates among the five board members so that each member serves one term during any five-year period. The board must adopt a rule specifying the order of succession to the chair.

The attendance of at least three board members at a meeting is necessary for a quorum, and the board can take no action unless at least three members vote in the affirmative. The board is subject to both the Open Meetings and Public Records Laws, but is not subject to expiration under the Sunset Review Law. The board's administrative expenses that are not related to the compensation of the private investment management company must be paid from the annual investments made in the Ohio Technology Fund by PERS, STRS, SERS, the Bureau of Workers' Compensation, and the Treasurer of State.

HISTORY

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Introduced	03-21-01	p. 251

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