



## *Bill Analysis*

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*Legislative Service Commission*

### **Sub. H.B. 554**

127th General Assembly  
(As Passed by the House)

**Reps. Hottinger, Peterson, Skindell, Bacon, Boyd, Brown, Budish, Evans, Flowers, Gardner, Jones, R. McGregor, Redfern, Schlichter, Sears, Yates, Beatty, Bolon, Book, Brady, Celeste, Chandler, Daniels, DeBose, DeGeeter, Dodd, Dolan, Domenick, Dyer, Fende, Foley, Garrison, Gerberry, Gibbs, Goyal, J. Hagan, R. Hagan, Harwood, Heard, Hite, Hughes, Koziura, Letson, Luckie, Lundy, Mallory, J. McGregor, Mecklenborg, Newcomb, Oelslager, J. Otterman, Patton, Sayre, Schindel, Schneider, Setzer, Slesnick, D. Stewart, Sykes, Szollosi, Uecker, Ujvagi, White, Widener, Widowfield, B. Williams, Wolpert, Yuko, Zehringer**

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### **BILL SUMMARY**

- Authorizes the Third Frontier Commission (TFC) to make loans, loan guarantees, and grants for coal research and development, authorizes the issuance of \$66 million in general obligations for coal research and development, and appropriates that amount in fiscal year 2009 to be utilized for such purposes.
- Authorizes the Director of the Ohio Coal Development Office to use any money received from any royalties, incomes, or profits paid to the Office to make additional loans, loan guarantees, or grants.
- Authorizes the issuance of liquor-backed obligations, the proceeds of which may be used to provide assistance for eligible logistics and distribution projects and eligible advanced energy projects.
- Requires any assistance provided for logistics and distribution or advanced energy purposes to be evidenced by an agreement, which agreement may require recipients to repay the amount of the assistance plus interest for failing to adhere to the terms of the agreement.
- Limits the aggregate amount of obligations that may be issued for eligible advanced energy projects to \$84 million and the aggregate

amount of obligations that may be issued for eligible logistics and distribution projects to \$100 million.

- Appropriates \$50 million in fiscal year 2009 and states the intention to appropriate \$25 million in fiscal year 2010 and \$25 million in fiscal year 2011 for eligible logistics and distribution projects.
- Authorizes the TFC to make loans and grants for advanced energy projects and provides the TFC with rulemaking authority to implement that program.
- Makes capital appropriations to fund advanced energy projects in fiscal year 2009 and states the intention to appropriate no more than \$56 million from bond proceeds in the biennium ending on June 30, 2012 for eligible advanced energy projects.
- Authorizes the Ohio Public Facilities Commission to issue general obligations of not more than \$120 million to finance or assist in the financing of local subdivision public infrastructure capital improvement projects, and appropriates said amount for this purpose for the biennium ending on June 30, 2010.
- Provides an intended appropriation of \$20 million in fiscal year 2010, \$100 million in fiscal year 2011, and \$80 million in fiscal year 2012 for highway capital improvements, supported by the issuance of highway obligations.
- Provides an intended appropriation of \$20 million in fiscal year 2010, \$100 million in fiscal year 2011, and \$80 million in fiscal year 2012 to be used by the Public Works Commission for the Local Transportation Improvement Program, supported by transfers from the Highway Operating Fund.
- Requires the Director of Transportation to establish a fee for participation in the Business Logo Sign Program, which fees are to be deposited into the Motorist Service Sign Fund.
- Provides for the use of turnpike revenue and money transferred from the Motorist Service Sign Fund for transportation purposes in specified districts of the state.

- Creates the Local Infrastructure Development Fund consisting of money from the liquidated Tobacco Use Prevention and Control Foundation Endowment Fund to provide grants for local infrastructure development and for capital improvement projects.
- Establishes the Choose Ohio First Co-op/Internship Program to award competitive grants in fiscal years 2010 through 2014 to promote cooperative education and internship programs at public and at private, nonprofit Ohio institutions of higher education.
- States the Governor's intent to propose and the General Assembly's intent to appropriate at least \$50 million per year in each of fiscal years 2010 through 2014 for the Co-op/Internship Program.
- Extends the historic building rehabilitation tax credit for two additional years, and eliminates the July 1, 2008, to June 30, 2009, application period.
- Limits amount of new credits awarded to \$5 million per taxpayer (or entity) per year.
- Limits the total of all newly authorized credits to \$60 million per year for two additional years.
- Reserves \$30 million of each additional year's total new credit awards for credit applications previously filed but not approved before the former 100-project quota was attained.
- Limits the refundability of newly authorized credits to \$3 million (less any credit applied to reduce first-year tax liability); originally authorized credits, and any new corporation franchise tax credits, remain fully refundable.
- Preserves the eligibility of a nonprofit corporation to be the owner of rehabilitated building for which credits may be awarded.
- Eliminates the cost-benefit analysis from the current approval criteria, but requires the Director of Development to consider the geographic location of a project site and regional distribution of all rehabilitation tax credits throughout the state when approving applications.

- Establishes the Ohio Bioproducts Development Program and Ohio Biomedical Development Program to be administered by the TFC.
- Requires any assistance provided under the Ohio Bioproducts Development Program or Ohio Biomedical Development Program to be evidenced by an agreement and authorizes the TFC to require recipients of assistance to repay the amount of the assistance plus interest for failing to adhere to the terms of the agreement.
- Establishes the Third Frontier Economic Stimulus Advisory Board.
- Requires the TFC to establish competitive processes when awarding financial assistance under the new TFC administered programs created by the bill.

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## CONTENT AND OPERATION

### Coal research and development

(R.C. 151.01, 151.071, 184.35, and 184.36; R.C. 1555.03; Sections 5 and 12)

#### Coal research and development projects--background

Article VIII, Section 15 of the Ohio Constitution authorizes the General Assembly to pass laws for the borrowing of money and the issuance of general obligations of the state for the purpose of making grants, loans, and loan guarantees for research and development of coal technology to encourage the use of Ohio coal. The aggregate principal amount of such money borrowed and such bonds and other obligations issued is capped at \$100 million outstanding at any given time. Pursuant to this authority, current law authorizes the Ohio Air Quality Development Authority's Coal Development Office to operate to assist in financing coal research and development, coal research and development projects, and coal research and development facilities.<sup>1</sup>

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<sup>1</sup> "Coal research and development project" generally means any coal research and development or any coal research and development facility of a person doing business in Ohio or of an educational or scientific institution in Ohio with at least part of the cost of the project being paid from a loan or grant, or using a loan guarantee, from the Ohio Coal

Specifically, the Office may request the Ohio Public Facilities Commission (OPFC) to issue coal research and development obligations. After the OPFC issues these obligations and deposits the proceeds from their sale into the Coal Research and Development Fund, the Office may use the proceeds to make loans, loan guarantees, and grants for allowable projects to persons doing business in Ohio and to educational or scientific institutions located in Ohio.

### **Third Frontier Commission coal research and development**

The bill establishes nearly identical authority to that above for the Third Frontier Commission (TFC) to finance costs of projects or capital facilities for coal research and development through the issuance of general obligations.<sup>2</sup> Under this new authority, the Director of Development, after consultation with the TFC, is authorized to request the issuance of the obligations. The bill creates the Third Frontier Coal Research and Development Fund to receive the proceeds of the obligations, as well as various other monetary items such as grants, gifts, and contributions, and also creates the Third Frontier Coal Research and Development Bond Service Fund to pay debt service on the obligations.

Under the bill, the TFC, with Controlling Board approval, may lend money, guarantee loans, or provide grants from the Third Frontier Coal research and Development Fund to persons for the purpose of paying costs of projects and or capital facilities for coal research and development. The TFC must consult with the appropriate governmental agencies in determining the projects to be assisted and the nature, amount, and terms of the assistance. It also requires the TFC to provide the Development Financing Advisory Council (DFAC) the terms of the proposed assistance to be provided and other relevant information DFAC may request and requires the DFAC to make recommendations as to the appropriateness of that proposed assistance, which DFAC may revise to reflect

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Development Office. "Coal research and development" generally means research or other inquiry, experimentation, or demonstration directed toward utilizing Ohio coal in an environmentally acceptable manner as a fuel or chemical feedstock. "Coal research and development facility" generally means any property or its modification or replacement for coal research and development that qualifies for grants, loans, and loan guarantees under Article VIII, Section 15 of the Ohio Constitution.

<sup>2</sup> "Projects" means any "coal research and development" or any "coal research and development facility" (see immediately preceding footnote). "Costs of projects" and "costs of capital facilities" includes related direct administrative expenses and allocable portions of direct costs of the TFC and generally any expenses necessary to the acquisition or construction, the financing of such acquisition or construction, and the financing of the placing of projects into operation, including any related costs and expenses (for example, engineering services).

any changes in the proposed assistance. The TFC must then submit the terms of the proposed assistance and the DFAC recommendations (as amended) to the Controlling Board.

The bill authorizes the OPFC to issue and sell the obligations in an amount not to exceed \$66 million, and appropriates that amount for TFC funded coal research and development.

### **Use of royalties, income, and profits from projects**

Current law permits the Director of the Ohio Coal Development Office to include, as a condition of a coal research and development loan, loan guarantee, or grant contract or agreement, that the Director receive a reasonable royalty or portion of the income or profits arising from the developments, discoveries, or inventions resulting from the projects. This money must be credited to the Coal Research and Development Bond Service Fund. The bill permits this money to be used for additional loans, loan guarantees, grants, or agreements, in addition to crediting amounts to the Fund.<sup>3</sup>

### **Expansion of economic development bond issuance authority**

#### **Introduction and background**

Pursuant to Article VIII, Section 13 of the Ohio Constitution granting state and local governments the authority to issue special obligations to fund economic development, the General Assembly has enacted law permitting the Treasurer of State to issue special obligations, to be repaid by the net profits from the sales of liquor and revenue generated from economic development projects ("pledged receipts"), for economic development assistance programs administered by the Department of Development.

The bill expands the current law to permit the issuance of special obligations, to be repaid using pledged receipts, to fund advanced energy projects, logistics and distribution projects, research and development projects, and expanded air pollution control facilities, as described below.<sup>4</sup>

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<sup>3</sup> It is not clear whether the principal and interest on any loans or service charge on any loan guarantees may be used to make additional loans, loan guarantees, grants, or agreements.

<sup>4</sup> The bill, in expanding the current law governing the issuance of bonds for economic development assistance programs to include advanced energy projects and logistics and distribution projects, also expands the definitions of "allowable costs," "project facilities," and "governmental actions" to include "eligible advanced energy projects" and "eligible

*Advanced energy projects*

(R.C. 166.01, 166.08, 166.30, 184.30 to 184.34, and 184.37; Sections 15 and 16)

The bill authorizes the TFC to request the Treasurer to issue bonds to provide loans and grants to business and industry in Ohio, state and local government entities and agencies, educational institutions, research organizations and institutions, or any combination of those entities, for acquiring, manufacturing, constructing, reconstructing, expanding, improving, or equipping facilities or facility components to be used for energy production, delivery, storage, conservation, and efficiency through advanced energy projects.

The bill gives the TFC the authority to make loans and provide grants for advanced energy projects with the approval of the Controlling Board. The bill creates in the state treasury the Advanced Energy Research and Development Fund and authorizes the TFC to make grants from that Fund and creates in the state treasury the Advanced Energy Research and Development Taxable Fund and authorizes the TFC to make loans from that Fund.<sup>5</sup> The grants and loans are to be used for the purpose of paying allowable costs of eligible advanced energy projects.<sup>6</sup> These funds consist of proceeds of obligations issued for eligible

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logistics and distribution projects." The changes to the definitions appear generally to be intended to assimilate such projects into the existing scheme of the law.

<sup>5</sup> The bill authorizes the Director of Budget and Management, at the request of the TFC, to transfer money between the funds, based on program needs. The bill incorrectly refers to the Executive Director of the Ohio Air Quality Development Authority instead of the TFC. A technical amendment is needed.

<sup>6</sup> "Eligible advanced energy projects" means an "advanced energy project," which consists of any technologies, products, activities, or management practices or strategies that facilitate the generation or use of electricity and that reduce or support the reduction of energy consumption or the production of clean, renewable energy for industrial, distribution, commercial, institutional, governmental, research, not-for-profit, or residential energy users, including "advanced energy resources" and "renewable energy resources."

The bill defines "advanced energy resources" as:

(1) Any method or any modification or replacement of any property, process, device, structure, or equipment that increases the generation output of an electric generating facility to the extent such efficiency is achieved without additional carbon dioxide emissions by that facility;

advanced energy projects, and the TFC is authorized to credit money to the respective funds in the proportion it determines appropriate. Investment earnings

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(2) Any distributed generation system consisting of customer cogeneration of electricity and thermal output simultaneously, primarily to meet the energy needs of the customer's facilities;

(3) Advanced nuclear energy technology consisting of generation III technology as defined by the Nuclear Regulatory Commission; other, later technology; or significant improvements to existing facilities;

(4) Any fuel cell used in the generation of electricity, including a proton exchange membrane fuel cell, phosphoric acid fuel cell, molten carbonate fuel cell, or solid oxide fuel cell;

(5) Advanced solid waste or construction and demolition debris conversion technology, including advanced stoker technology, and advanced fluidized bed gasification technology, resulting in measurable reductions of greenhouse gas emissions as calculated pursuant to the United States EPA's waste reduction model (WARM).

Also included are any (1) advanced energy manufacturing centers created by the Edison Technology Centers to assist with advanced energy products and providing the exchange of information and expertise, developing workforce training, and encouraging investments in advanced energy manufacturing technology and sustainable operations, (2) university research on any advanced energy resource or educational outreach programs conducted by a not-for-profit corporation formed to address issues affecting the price and availability of electricity and whose members are small businesses, (3) a small business utilizing an advanced energy project or participating in an energy efficiency program or any independent group in Ohio whose express objective is educating small businesses in Ohio regarding renewable energy resources and energy efficiency programs.

The bill defines "renewable energy resources" as solar photovoltaic or solar thermal energy, wind energy, power produced by a hydroelectric facility (which is, generally, a generating facility located at a dam on a river, or on any water discharged to a river, that is within or bordering Ohio or an adjoining state that complies with certain environmental laws, standards, and requirements--further described in the bill), geothermal energy, fuel derived from solid wastes (through fractionation, biological decomposition, or other process that does not principally involve combustion), biomass energy, biologically derived methane gas, or energy derived from non-treated by-products of the pulping process or wood manufacturing process. Renewable energy resources include any fuel cells used in the generation of electricity, including a proton exchange membrane fuel cell, phosphoric acid fuel cell, molten carbonate fuel cell, or solid oxide fuel cell, wind turbine located in Ohio's territorial waters of Lake Erie, storage facility promoting the better utilization of a renewable energy resource that primarily generates off-peak, or distributed generation system used by a customer to generate electricity from any such energy.

of each fund are credited to each fund, respectively. Any repayment of loans made from money in the Advanced Energy Research and Development Taxable Fund must be credited to the Facilities Establishment Fund established under continuing law governing economic development obligations. The Director of Budget and Management must establish and maintain records related to these funds that show (1) the amounts credited to the funds, and (2) that the amounts credited have been expended pursuant to constitutional and statutory authority.

While the bill gives the TFC authority to make loans and grants for advanced energy projects, it also requires the TFC to consult with the appropriate governmental agencies in determining the eligible advanced energy projects to be assisted and the nature, amount, and terms of the assistance. It further requires the TFC to submit to the Development Financing Advisory Council (DFAC) the terms of the proposed assistance and other relevant information DFAC may request, and requires DFAC to make recommendations as to the appropriateness of that proposed assistance. DFAC may revise its recommendations to reflect any changes in the proposed assistance the TFC may submit to DFAC. The TFC must then submit the terms of the proposed assistance and the DFAC recommendations (as amended) to the Controlling Board for approval.

The bill states that any grant or loan made for advanced energy purposes must be evidenced by an agreement, containing any terms the TFC determines are necessary or appropriate, including performance measures and reporting requirements. The bill authorizes the TFC to take any action necessary or appropriate to collect or otherwise deal with any assistance made for advanced energy purposes, including requiring a recipient of assistance to repay the amount of the loan plus interest at a rate of 3% above the federal short-term interest rate, or any rate determined by the TFC.

The bill provides that determinations made by the TFC that a particular project is an advanced energy project and is consistent with the constitutional and statutory authority under which eligible advanced energy project obligations are issued is conclusive as to the validity and enforceability of the obligations and any related agreements. It provides that advanced energy facilities for industry, commerce, distribution, or research are deemed facilities for the control of air pollution and thermal pollution related to air under the Constitution and gives the TFC authority to adopt rules under Chapter 119. to implement this new program.

The bill appropriates \$9 million from the Advanced Energy Research and Development Taxable Fund and \$19 million from the Advanced Energy Research and Development Fund in fiscal year 2009 for advanced energy projects. It also appropriates any investment earnings of those funds for such projects, at the discretion of the Director of Budget and Management on the request of the TFC. The bill provides that the Governor has informed the General Assembly of his

intent to propose appropriations, and the General Assembly intends to appropriate, amounts not to exceed \$56 million for the biennium ending on June 30, 2012 from bond proceeds deposited in the state treasury to the credit of these two funds.

**Logistics and distribution projects**

(R.C. 166.01, 166.08, 166.25, 166.26, and 184.37; Sections 5 and 11)

The bill authorizes the Director of Development to request the Treasurer of State to issue bonds to provide loans to pay allowable costs of eligible logistics and distribution projects.<sup>7</sup> The bill authorizes the Director of Development, subject to the approval of the Controlling Board and all other applicable limitations, to lend money in the Logistics Distribution and Infrastructure Fund to pay for allowable costs of eligible logistics and distribution projects. The Director must consult with appropriate governmental agencies, including the Department of Transportation and the Ohio Rail Development Commission, to determine which projects to assist and the nature, amount, and terms of the assistance.

The bill requires the Director to submit to DFAC the terms of the proposed assistance and other requested relevant information, and DFAC must use that information to make recommendations regarding the appropriateness of the assistance. DFAC may revise its recommendations to reflect changes in the proposed assistance the Director may submit to DFAC. The Director must then submit the terms of the proposed assistance--along with DFAC recommendations (as amended)--to the Controlling Board.

The bill states that any loan made for logistics and distribution purposes must be evidenced by a loan agreement, containing any terms the Director determines are necessary or appropriate, including performance measures and reporting requirements. The bill authorizes the Director to take any action necessary or appropriate to collect or otherwise deal with any loan made for logistics and distribution purposes, including requiring a loan recipient to repay the amount of the loan plus interest at a rate of 3% above the federal short-term interest rate, or any rate determined by the Director.

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<sup>7</sup> The bill defines "eligible logistics and distribution projects" as "eligible projects," which are projects to be acquired, established, expanded, remodeled, rehabilitated, or modernized for transportation and logistics and distribution infrastructure purposes. The bill defines "transportation logistics and distribution infrastructure purposes" as promoting, providing for, and enabling improvements of ground, air, and water transportation infrastructure comprising Ohio's transportation system--which includes Ohio highways, streets, roads, bridges, railroads carrying freight, and air and water port and port facilities, and all related facilities.

The bill creates the Logistics and Distribution Infrastructure Fund in the state treasury, consisting of: grants, gifts, and contributions of money or rights of money lawfully designated for or deposited into the Fund, all money and rights of money lawfully appropriated and transferred to the Fund (including money received from issuance of obligations backed primarily with liquor profits), and money received from the repayment of loans and recovery on loan guarantees (including any interest) made from the Fund. Any investment earnings on the cash balance of the Fund must be credited to the Fund. Money raised from taxation may not be any part of the Fund.

The bill appropriates \$50 million to the Logistics and Distribution Infrastructure Fund in fiscal year 2009 for eligible logistics and distribution projects. It also provides that the Governor has informed the General Assembly of his intent to propose appropriations, and the General Assembly intends to appropriate \$25 million for eligible logistics and distribution projects in fiscal year 2010 and \$25 million in fiscal year 2011.

**Research and development projects**

(R.C. 166.02 and 166.08)

Current law governing the issuance of special obligations, to be repaid by pledged receipts, to fund economic development programs administered by the Department of Development, is authorized pursuant to Article VIII, Section 13 of the Ohio Constitution. That constitutional provision permits, generally, the issuance of such obligations by state and local governments to provide money for economic development. The bill expands the law by permitting obligations to be issued for eligible advanced energy projects for the purposes of Article VIII, Section 2p of the Ohio Constitution. The bill also declares it to be the policy of this state through the operation of the economic development program, which includes the issuance of special obligations, to assist in and facilitate the establishment or development of eligible projects or assist and cooperate with any governmental agency in achieving that purpose, pursuant to Article VIII, Section 2p. That provision permits the issuance of (1) obligations for purposes of local public infrastructure capital improvements, research and development projects, and site facility development (general obligations), (2) state-supported and state-assisted institutions of higher education bonds for research and development projects (unspecified obligations), (3) state and local government bonds for research and development projects (unspecified obligations), and (4) state-supported and state-assisted institution of higher education and local government bonds for site and facility development (unspecified obligations).

**Air pollution control facilities**

(R.C. 166.01)

Under current law governing the issuance of special obligations, which are to be repaid by pledged receipts, to fund economic development programs administered by the Department of Development, "air pollution control facilities" are included as public capital improvements that are project facilities for which allowable costs may be paid for eligible projects. The bill provides that, for purposes of the definition of "public capital improvements," such air pollution control facilities include solar, geothermal, biofuel, biomass, wind, hydro, wave, and other advanced energy projects, as defined under the bill.

**Limitation on obligations; use of liquor profits**

(R.C. 166.11)

Current law limits the aggregate principal amount of special obligations that may be issued to fund economic development programs to \$500 million, exclusive of project financing obligations.<sup>8</sup> Obligations above this \$500 million may be issued in the principal amount of any such obligations retired by payment and the amounts held or obligations pledged for the payment of the principal amount of any such obligations outstanding. The bill raises this amount to \$630 million. The bill provides that of that \$630 million, the aggregate amount of obligations that may be issued for eligible advanced energy projects is \$84 million and the aggregate amount of obligations that may be issued for eligible logistics and distribution projects is limited to \$100 million.

Additionally, current law generally prohibits the repayment of obligations with profits from the sale of spirituous liquor above \$45 million in any fiscal year. The bill increases this amount to \$63 million in any fiscal year.

**Local Subdivision Capital Improvement Projects**

(Sections 17, 18, and 19; R.C. 151.08, 164.01, and 164.08 (not in the bill))

Current law authorizes OPFC to issue general obligations to finance or assist in the financing of public infrastructure capital improvement projects of local subdivisions, administered by the Ohio Public Works Commission (OPWC). "Capital improvement projects" are defined as the acquisition, construction or reconstruction, improvement, planning, and equipping of roads and bridges;

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<sup>8</sup> "Project financing obligations" are economic development obligations issued pursuant to section 166.08 of the Revised Code for which bond service charges will not be paid from receipts of the state representing gross profit on the sale of spirituous liquor.

appurtenances to roads and bridges to enhance the safety of animal-drawn vehicles, pedestrians, and bicycles; waste water treatment systems; solid waste disposal facilities; and storm water and sanitary collection, storage, and treatment facilities. "Local subdivisions" are defined as any county, municipal corporation, township, sanitary district, or regional water and sewer district. Proceeds from the sale of these obligations must be deposited into the State Capital Improvements Fund.

The bill authorizes the OPFC to issue general obligations of the state in an aggregate amount not to exceed \$120 million, as needed to ensure sufficient money is available in the Fund to pay costs of the state in financing or assisting in financing of local subdivision public infrastructure capital improvements projects, and appropriates this amount out of the Fund for the biennium ending on June 30, 2010. The bill requires the appropriations from the State Capital Improvement Fund to be released upon presentation of a request to release those funds by the Director of the OPWC to the Director of Budget and Management.

### **Highway capital improvements**

(Section 14; R.C. 151.06 and 5528.53 (not in the bill))

Under current law, the Treasurer of State is authorized to issue obligations to pay the costs of highway capital improvements, which improvements are limited to highways, including those on the state highway system and their urban extensions, those within or leading to public parks or recreation areas, and those within or leading to municipal corporations. The proceeds of these obligations must be deposited into the Highway Capital Improvement Fund.

The bill provides that the Governor has informed the General Assembly of his intent to propose appropriations, and the General Assembly intends to appropriate from the Fund \$20 million in fiscal year 2010, \$100 million in fiscal year 2011, and \$80 million in fiscal year 2012 for highway capital improvements. The bill provides that those appropriations will be supported by the issuance of obligations and that those obligations are intended to reimburse the Department of Transportation for the periodic transfers of cash made by the Director of Budget and Management from the Highway Operating Fund (see immediately below).

### **Local Transportation Improvement Program**

(R.C. 4511.101 and 5537.141; Section 13; R.C. 164.02, 164.03, and 164.14 (not in the bill))

Under current law, the Local Transportation Improvement Program (LTIP) is administered by the OPWC and provides grants to local subdivisions for projects for municipal corporations, counties, and townships, as approved by

district public works integrating committees and the OPWC. The bill provides that the Governor has informed the General Assembly of his intent to propose appropriations, and the General Assembly intends to appropriate \$20 million in fiscal year 2010, \$100 million in fiscal year 2011, and \$80 million in fiscal year 2012 for this program. It provides that transfers from the Highway Operating Fund to the LTIP Fund support these appropriations.

### **Turnpike revenue**

The bill requires the Ohio Turnpike Commission to pay to the state to the credit of the Highway Operating Fund an annual amount to be determined by the Director of Budget and Management to be used for transportation purposes within Districts One (Cuyahoga County), Five (Defiance, Erie, Fulton, Henry, Ottawa, Paulding, Sandusky, Williams, and Wood Counties), Six (Mahoning and Trumbull Counties), Seven (Ashtabula, Geauga, Lake, and Portage Counties), Eight (Summit County), Nine (Lorain, Huron, and Medina Counties), and Twelve (Lucas County). Money is to be allocated each year on a per capita basis to those districts in accordance with the most recent decennial census statistics. The bill provides that the obligation to make these payments will be evidenced by an agreement between the Commission, the Office of Budget and Management, and the Department of Transportation, which must be entered into not later than September 30, 2008, and terminate not later than December 31, 2030. The agreement is to contain the obligation of the Commission to make payments from revenues available after satisfying its debt obligations and covenants under any outstanding bond proceedings, and a schedule for making periodic payments during the year and the manner in which payments are to be made. The agreement also must specify the amount due and payable in each calendar year. That amount cannot exceed the amount by which the cash transfers from the Motorist Service Sign Fund to the Highway Operating Fund for that calendar year are less than \$20 million (see below). Money transferred from the Motorist Service Sign Fund must be expended before the funds paid by the Commission pursuant to the agreement.

### **Motorist Service Sign Fund**

The Director of Transportation is currently required to establish a program for the placement of business logos for identification purposes on state directional signs within highway rights-of-way. All costs of the program must be paid by the businesses applying for participation in the program.

The bill requires the Director to establish a fee for participation in the program. Money collected from participating businesses in excess of program costs are to be deposited into the Motorist Service Sign Fund, which the bill creates in the state treasury. Beginning as soon as possible, but not later than July 1, 2009, and every three months thereafter, the Director of Budget and

Management must transfer the cash balance in the Fund to the Highway Operating Fund to be used for transportation purposes within all 19 districts of the state. Money is to be allocated each year on a per capita basis to those districts in accordance with the most recent decennial census statistics.

The obligation to make such transfers ceases upon termination of the agreement described immediately above. Thereafter, money in the Fund is to be used for transportation purposes, including transportation infrastructure.

### **Local infrastructure development**

(R.C. 164.28)

The bill creates in the state treasury the Local Infrastructure Development Fund consisting of cash transferred from the Jobs Fund created by Section 4 of Sub. H.B. 544 of the 127th General Assembly (Jobs Fund money consists of the proceeds from the liquidation of the Tobacco Use Prevention and Control Foundation Endowment Fund). Money in the Local Infrastructure Development Fund must be used to provide grants for local infrastructure development and for capital improvement projects (see definition of such projects discussed above under "**Local Subdivision Capital Improvement Projects**"). All investment earnings of the Fund must be credited back to it.

### **Choose Ohio First Co-op/Internship Program**

(R.C. 3333.71 to 3333.80; conforming changes in R.C. 3333.38 and 3345.32)

The bill establishes the Choose Ohio First Co-op/Internship Program, to be established and implemented by the Chancellor. The new program is to operate in fiscal years 2010 through 2014. Its stated purpose is "to promote and encourage cooperative education programs and internship programs at Ohio institutions of higher education. . .in order to support the growth of Ohio's businesses by providing businesses with Ohio's most talented students and providing Ohio graduates with job opportunities with Ohio's growing companies." The program must recruit both Ohio residents who have remained in the state and those who have left Ohio to attend out-of-state institutions. It must either, or both, (1) "support the creation and maintenance of high quality academic programs that utilize an intensive cooperative education or internship experience for students" or (2) "assign a number of scholarships to institutions to recruit Ohio residents as students in a high quality academic program." If scholarships are included in an award to an institution of higher education, they are to be awarded as grants to the institutions and then reflected on the students' tuition bills.

**Intent for appropriations**

(Section 20)

The bill states that "the Governor has informed the General Assembly of the Governor's intent to propose an appropriation, and it is the intent of the General Assembly to appropriate, for the Choose Ohio First Co-op/Internship Program . . . a minimum of \$50,000,000 each fiscal year from fiscal year 2010 through fiscal year 2014."

**Eligible institutions**

(R.C. 3333.71(C) and (D) and 3333.72)

The Co-op/Internship Program is a competitive grant program. Public two-year colleges (community colleges, technical colleges, and university branches), in addition to state universities, may apply directly, while collaboration with private colleges is limited to nonprofit institutions. Initiatives funded by the program may include those to be implemented by state institutions alone or in collaboration with other public or private colleges and universities. A four-year private, nonprofit college may be the lead applicant for a proposal to be implemented in collaboration with a public college or university.

**"Cooperative education program" and "internship program" defined**

(R.C. 3333.71(A) and (B))

For purposes of the new program, the bill defines "cooperative education program" and "internship program" as follows:

**"Cooperative education program"** means a "partnership between students, institutions of higher education, and employers that formally integrates students' academic study with work experience in cooperating employer organizations" and meets all of the following conditions:

(1) Alternates or combines periods of academic study and work experience in appropriate fields as an integral part of student education;

(2) Provides students with both (a) academic credit from the institution of higher education and (b) compensation, in the form of wages or salaries, from the employer;

(3) Evaluates each student's performance in the cooperative position from the perspective of both the institution of higher education and the employer; and

(4) Is part of a degree program for which a percentage of the total program acceptable to the Chancellor involves cooperative education.

**"Internship program"** means a "partnership between students, institutions of higher education, and employers that formally integrates students' academic study with work or community service experience" through internships of specified and definite duration, and that evaluates each student's performance in the internship position from the perspective of both the institution of higher education and the internship employer. An internship program "may provide" (but presumably is not required to provide) participating students with academic credit and with compensation in the form of wages, salaries, stipends, or scholarships.

**Selection of awards**

(R.C. 3333.73 and 3333.74(C))

The Chancellor must ask for the Controlling Board's approval of each award selected by the Chancellor. The Chancellor must determine which proposals to recommend for approval each fiscal year, and the amount of the awards, based on the following criteria:

(1) The extent to which the proposal will keep Ohio students in Ohio institutions of higher education;

(2) The extent to which the proposal will attract Ohio students who left Ohio to return to Ohio institutions;

(3) The extent to which the proposal will increase the number of Ohio graduates who remain in Ohio and enter Ohio's workforce;

(4) The quality of the program that is the subject of the proposal and the extent to which additional resources will enhance its quality;

(5) The extent to which the proposal is integrated with the strengths of the regional economy;

(6) The extent to which the proposal is aligned with the Chancellor's ten-year strategic plan;

(7) The extent to which the proposal facilitates the development of high quality academic programs with a cooperative education program or a significant internship program;

(8) The extent to which the proposal is integrated with supporting private companies to fill potential job growth;

(9) The amount of other institutional, public, or private resources, whether monetary or nonmonetary, the proposal pledges to leverage that are in addition to the monetary cost-sharing requirement (see "Matching private funds; waiver" below);

(10) The extent to which the proposal is collaborative with other Ohio institutions of higher education;

(11) The extent to which the proposal is integrated with the institution's mission;

(12) The extent to which the proposal meets a statewide educational need at the undergraduate or graduate level;

(13) The demonstrated productivity or future capacity of the students to be recruited;

(14) The extent to which the proposal will create additional capacity in a high quality academic program with a cooperative education program or significant internship program;

(15) The extent to which the proposal will encourage students who received degrees from two-year institutions to pursue bachelor's degrees;

(16) The extent to which the proposal facilitates the completion of a bachelor's degree in a cost-effective manner;

(17) The extent to which other institutional, public, or private resources that are pledged to the proposal, in addition to the monetary cost-sharing requirement, will be deployed to assist in sustaining the academic program of excellence;

(18) The extent to which the proposal increases the likelihood that students will successfully complete their degree programs; and

(19) The extent to which the proposal ensures that a student participating in the high quality academic program funded by the Co-op/Internship Program is appropriately qualified and prepared to successfully transition into professions in Ohio's growing companies and industries.

The Chancellor must endeavor to select proposals in such a way that a wide range of disciplines is supported and that all regions of the state benefit from the economic development impact of the Co-op/Internship Program.

Applicants must submit a proposal and other required documentation in the manner and form prescribed by the Chancellor for each award it seeks.

**Initiatives to return or retain Ohio graduate students**

(R.C. 3333.76)

The program can finance both undergraduate and graduate education initiatives. The bill specifically requires the Chancellor to encourage proposals for initiatives that recruit Ohio residents who enrolled in colleges and universities outside the state to return to Ohio and enroll as graduate students in high quality academic programs that (1) use cooperative education programs, "significant" internship programs in private industry or institutional laboratories, or similar models involving a variation of cooperative education or internship programs common to graduate education, and (2) are in an educational area, industry, or industry sector of need. The bill also authorizes, but does not require, the Chancellor to encourage similar proposals for initiatives that recruit Ohio residents who have received bachelor's degrees from Ohio institutions to remain in Ohio and enroll as graduate students in such programs offered by Ohio institutions.

**Matching private funds; waiver**

(R.C. 3333.74(A) and (B))

Each award under the Co-op/Internship Program must require a pledge of private funds. The pledge must equal at least 100% of the state money awarded in the case of an initiative or scholarships for undergraduate students, and at least 150% of the state money awarded in the case of an initiative or scholarships for graduate students. But the Chancellor may waive this requirement if the Chancellor (1) finds that exceptional circumstances exist to do so, (2) reviews the proposal with the program's advisory committee (see "Advisory committee" below), and (3) provides an explanation for the waiver to the Controlling Board.

**Agreements**

(R.C. 3333.75)

Once the Chancellor and Controlling Board approve an award, the Chancellor must require that the institution enter into an agreement governing the use of the award. The agreement must contain the terms the Chancellor determines to be necessary, which must include performance measures, reporting requirements, and an obligation to fulfill pledges of other institutional, public, or nonpublic resources for the proposal. If the institution violates the terms of its agreement, the Chancellor may require it to repay the award, plus interest at the federal short-term rate determined each year by the Tax Commissioner.

If the Chancellor makes an award to a collaborative program or initiative, the Chancellor may enter into an agreement with the collaborating universities or

colleges that permits awards to be received directly by the collaborating universities or colleges consistent with the terms of the program or initiative. If there is such an agreement, the terms must be consistent with the requirements described above.

**Commitment to future awards**

(R.C. 3333.77)

The Chancellor, subject to Controlling Board approval, may commit to giving a proposal preference for future awards beyond a fiscal year or fiscal biennium, but not beyond June 30, 2014 (the end of fiscal year 2014). However, a future commitment must be conditioned on: (1) future appropriations from the General Assembly, (2) the institution's adherence to its agreement with the Chancellor, including its fulfillment of pledges from other institutional, public, or private resources, and (3) a demonstration that the students participating in programs or initiatives or receiving scholarships financed by the award are satisfied with the institutions selected by the Chancellor to offer those programs, initiatives, and scholarships. When a commitment for future awards expires, the institution may reapply.

**Monitoring and reporting**

(R.C. 3333.78 and 3333.79)

The Chancellor must monitor each initiative for which an award is granted to ensure fiscal accountability, operating progress, and desired outcomes. Not later than December 31, 2010, and annually thereafter by December 31, the Chancellor must submit to the General Assembly a report on the academic and economic impact of the Co-op/Internship Program. The report must include (1) progress and performance metrics for each initiative that received an award in the previous fiscal year, (2) economic indicators of the impact of each initiative, and all initiatives as a whole, on regional economies and the statewide economy, and (3) the Chancellor's strategy in allocating awards among institutions of higher education and how the actual awards fit that strategy.

**Advisory committee**

(R.C. 3333.80)

The bill establishes an advisory committee for the Co-op/Internship Program. The committee must advise the Chancellor on "growing industries well-suited for awards" under the program, and on other matters the Chancellor considers appropriate. The Chancellor must consult with the committee at each of the following times:

- (1) Prior to issuing each request for applications;
- (2) While reviewing applications and before deciding on awards to submit for the Controlling Board's approval; and
- (3) After deciding on awards to submit for the Controlling Board's approval and before submitting them.

**Membership.** The committee must consist of 16 members, as follows:

- (1) The Director of Development;
- (2) Five members appointed by the Governor, including two representatives of academia, two representatives of private industry, and one member of the public;
- (3) Five members appointed by the Senate President, including three members of the Senate, one representative of academia, and one member of the public; and
- (4) Five members appointed by the Speaker of the House, including three members of the House, one representative of private industry, and one member of the public.

Members of the House and Senate who are appointed to the committee serve for four years or until their legislative terms expire, whichever is sooner. Other members appointed by the Governor, Senate President, and Speaker of the House serve staggered, three-year terms and may be reappointed.

All of the members must serve without compensation.

**Committee organization and operation.** The committee must select a chairperson and vice-chairperson annually. Only the members who represent academia and private industry are eligible to be selected chairperson and vice-chairperson. However, if any of the members appointed as members of the public are trustees, officers, employees, or students of an institution of higher education, or directors, officers, or employees of a private business, those members also are eligible to be the chairperson or vice-chairperson. The committee annually must rotate selection of the chairperson between the group representing academia and the group representing private industry, and must always split its selection of the chairperson and vice-chairperson between the two groups. One committee member must be selected annually to serve as secretary to record the committee's proceedings.

The committee may adopt bylaws governing its operation, including the frequency of its meetings. The Chancellor must provide the committee meeting space and staff assistance.

**Conflicts of interest.** The bill prohibits a member of the committee from participating in discussions or votes concerning a proposed initiative or an actual award under the Co-op/Internship Program that involves an institution of higher education of which the member is a trustee, officer, employee, or student; an organization of which the member is a trustee, director, officer, or employee; or a business of which the member is a director, officer, or employee or a shareholder of more than 5% of the business' stock.

**Sunset Review exemption.** The advisory committee is exempt from the Sunset Review Law,<sup>9</sup> meaning it is not subject to automatic abolishment after a number of years.

### **Historic Building Rehabilitation Tax Credit**

The historic building rehabilitation tax credit is a credit against the income tax (R.C. Chapter 5747.), corporation franchise tax (R.C. Chapter 5733.), and dealers in intangibles tax (R.C. 5707.03(D) and 5725.15). The credit equals 25% of qualified expenditures made for rehabilitating a building of historical significance, and that meets certain historic preservation criteria as determined by the State Historic Preservation Officer.

Under current law, credits are awarded on the basis of two "application periods," the first of which coincides with state FY 2008 and the second of which coincides with FY 2009. For each application period, only 100 applications may be approved. Applications must be reviewed for approval or denial in the order in which they are filed.

### **Extend credit for tax years 2010 and 2011**

(R.C. 149.311(A)(9))

The existing historic building rehabilitation tax credit is scheduled to expire June 30, 2009, at the conclusion of the second application period. The bill extends the rehabilitation tax credit by adding two additional application periods coinciding with fiscal years ending June 30, 2010, and 2011. But the bill also eliminates the ability to apply for credits during the second application period coinciding with FY 2009.

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<sup>9</sup> See R.C. 101.82 to 101.87, none in the bill.

### **Application approval process**

(R.C. 149.311(A), (B), and (C))

The bill changes the definition of the "owner" of a building, specifically excluding the state or any political subdivision from that definition. Because being an owner is a necessary pre-requisite to obtaining a tax credit under the bill, the state or a political subdivision would not be eligible to claim the credit. Otherwise, the bill preserves current law's definition of eligible owners.

The bill requires credit applicants to provide an estimate of qualified rehabilitation expenditures that the applicant expects to incur. The Director of Development may require applicants to furnish documentation supporting the estimates. No credit will be allowed on the basis of expenditures above the estimated expenditures on the application. Current law does not expressly limit credit amounts on the basis of an estimate of qualified rehabilitation expenditures.

### **Progress reports; rescision of credit certification**

(R.C. 149.311(D)(3))

The bill requires all new applicants (i.e., those whose application has not yet been approved) to provide the Director of Development "sufficient evidence of reviewable progress," including a viable financial plan, copies of final construction drawings, and evidence of historic approvals; the evidence of progress must be filed within 12 months after the applicant was notified of credit approval. Within 18 months after that notice, applicants also must provide evidence that the applicant has secured and closed on financing the rehabilitation. If an applicant fails to do either, the credit approval must be rescinded, and the credit that had been awarded to the applicant becomes available for other qualified applicants. An applicant whose credit approval has been rescinded may file a new credit application.

### **Overall limit on credits**

(R.C. 149.311(D))

Under current law, the Director of Development may approve the first 100 applications for rehabilitation tax credits per fiscal year without limitation on the amount of the credit. The bill removes the quota on the number of applications that may be approved, but limits the total amount of credits that the Director may approve to \$60 million per year. (The amount of credit approved during an application period does not imply a negative fiscal effect for the coinciding fiscal year, because credits approved for an application period are not likely to be

claimed until a subsequent fiscal year, if claimed at all--a credit may not offset tax liability or generate a refund until after the rehabilitation project is completed.)

**Credits reserved for outstanding applicants**

(R.C. 149.311(D)(3); Section 3(C))

Of the \$60 million in newly authorized credits for each of the new application periods, one-half (\$30 million) of each period's credit authorization is reserved for applicants who applied for the credit in the first application period (i.e., in FY 2008) but were not approved. To qualify for the reserve, an applicant must have filed a completed application before March 21, 2008, and not have since withdrawn the application. As with other applicants' rehabilitations, the rehabilitation must satisfy the criteria in continuing law--i.e., it is of a historic building, it satisfies federal rehabilitation standards, and the credit is a "major factor" in the applicant's decision to rehabilitate or to increase its investment in the rehabilitation. The Director of Development may accept from applicants for the reserved credits the applicants' estimates of their qualified rehabilitation expenditures, in conformance with the bill's requirement that all new applicants provide such estimates.

If the amount of credits awarded within the \$30 million reserved each application period is less than \$30 million, the remainder is to be made available for applications filed for that application period.

**Cost-benefit test; economic impact and regional balance**

Current law requires the Director of Development and the Tax Commissioner to perform a cost and benefit analysis for each project application. Only those projects that will result in a net revenue gain for the state and local governments may be approved. The bill eliminates this cost and benefit analysis requirement, but requires the Director of Development to consider the potential economic impact and regional distributive balance of the credits throughout the state when approving applications.

**Tax credits**

(R.C. 5725.151, 5733.47, and 5747.76; Section 3(A))

Under current law, the rehabilitation tax credit is refundable, which means if a taxpayer's tax credit exceeds the taxpayer's tax liability, the taxpayer may receive a refund equal to the difference. Additionally, there is no expressed limit on the amount of the credit a taxpayer may claim.

Under the bill, the maximum credit that may be claimed by each taxpayer each year is \$5 million. This limit applies only to credits awarded under the two additional application periods, not to credits awarded for the first application period from July 2007 through June 2008.

If the rehabilitation was undertaken by a limited liability company, partnership, S corporation, or other form of "pass-through entity," the \$5 million limit applies to the entity's total credit; each individual owner of the entity (including trusts or estates) may individually claim a share of the credit proportionate to their distributive share of the entity's income, gain, or loss.

The bill limits the amount of a credit that may be refunded if a taxpayer claims the tax credit against the income tax or dealers in intangibles tax. (As with the \$5 million credit limit, this refund limit applies only to credits awarded under the two additional application periods, not the first application period from July 2007 through June 2008). A taxpayer may apply any amount, up to \$5 million, against the taxpayer's annual tax liability, but if the amount of the credit exceeds the annual liability and a refund is issued for the difference, the refunded amount may not exceed \$3 million. (For example, if liability is \$4 million and the credit is \$5 million, the credit fully offsets the \$4 million liability and a refund is issued for the remaining \$1 million. But if liability were \$1 million, the liability would be fully offset and a refund would be issued for only \$3 million; the remaining \$1 million may be applied to tax liability due for the next five years.) Any amount that cannot be claimed initially because of the refund limitation may be carried forward and applied to taxes due for up to five succeeding years. If the credit is claimed against the income tax through a pass-through entity, the \$3 million refund limitation is apportioned among the several owners of the entity in proportion to their respective distributive shares.

### **BioProduct and Biomedical development**

(R.C. 184.02 and 184.23 to 184.26)

The bill creates the Ohio Bioproducts Development Program and Ohio Biomedical Development Program. The bill includes a requirement that assistance under these programs be provided pursuant to an agreement and authorizes the TFC to demand repayment of the assistance. These programs will be funded with money from the Jobs Fund. The bill also establishes the Third Frontier Economic Stimulus Advisory Board to provide advice to the TFC regarding bioproduct and biomedical issues.

### **Ohio Bioproducts Development Program**

(R.C. 184.25)

The bill creates the Ohio Bioproducts Development Program, to be administered by the TFC. Under the Program, the TFC must provide loans, loan guarantees, and grants to for-profit and not-for-profit entities to promote, provide for, and enable innovation, development and commercialization of bioproducts, including biopolymers, chemicals, and advanced materials that use biomaterials and renewable agricultural resources, through efforts including, but not limited to, business and industry in Ohio, state and local governmental entities and agencies, educational institutions, or research organizations and institutions.

### **Ohio Biomedical Development Program**

(R.C. 184.26)

The bill creates the Ohio Biomedical Development Program, to be administered by the TFC. Under the Program, the TFC must provide loans, loan guarantees, and grants to for-profit and not-for-profit entities to promote, provide for, and enable innovation, development and commercialization of biomedical and biotechnological products, processes and applications, including medical devices, diagnostics, informatics, therapies, and drugs through efforts by and collaboration among and including business and industry in Ohio, state and local governmental entities and agencies, educational institutions, or research organizations and institutions.

### **Agreement for assistance and authority to demand repayment**

(R.C. 184.37)

The bill states that any assistance granted under the Ohio Bioproducts Development Program or Ohio Biomedical Development Program must be evidenced by an agreement, containing any terms the TFC determines are necessary or appropriate, including performance measures and reporting requirements. The bill authorizes the TFC to take any action necessary or appropriate to collect or otherwise deal with any assistance made under those programs, including requiring a recipient of assistance to repay the amount of the loan plus interest at a rate of 3% above the federal short-term interest rate, or any rate determined by the TFC.

### **Jobs Fund and Local Infrastructure Development Fund**

(R.C. 164.28 and 184.24; Sections 8 and 10)

The Jobs Fund was established in Section 4 of Sub. H.B. 544 of the 127th General Assembly. That act required the Treasurer of State to liquidate the Tobacco Use Prevention and Control Foundation Endowment Fund in a prudent manner. The Treasurer was to deposit the lesser of \$40 million or 14.8% of the proceeds from the liquidation into the Tobacco Use Prevention Fund and the remaining proceeds into the Jobs Fund, both of which were created in Section 4 of Sub. H.B. 544.

The bill provides that money in the Jobs Fund must be used by the TFC to support the Ohio Bioproducts Development Program and the Ohio Biomedical Development Program. Money in the Fund may also be used to provide cash transfers to the Local Infrastructure Development Fund, created by the bill (see discussion above under "**Local infrastructure development**"). The bill states that the Governor has informed the General Assembly of his intent to propose appropriations, and the General Assembly intends to appropriate \$80 million in fiscal year 2010 out of moneys transferred from the Jobs Fund to the Local Infrastructure Development Fund for use by the Public Works Commission for capital improvement projects.

On or before June 30, 2011, or as soon as possible thereafter, the Director of the Public Works Commission is required to notify the Director of Budget and Management that all projects funded by the Local Infrastructure Development Fund have been completed, and the Director must transfer the cash balance in the Fund to the General Revenue Fund. Upon completion of the transfer, the Local Infrastructure Development Fund is abolished.

### **Third Frontier Economic Stimulus Advisory Board**

(R.C. 184.23)

The bill creates the Third Frontier Economic Stimulus Advisory Board to provide general advice to the TFC regarding bioproduct and biomedical issues. The Board is to consist of the following ten members selected for their advanced energy, bioproducts, and biomedical knowledge and experience:

(1) Three members, appointed by the Governor;

(2) Three members, appointed by the Speaker of the House of Representatives, one of whom may be recommended by the Minority Leader of the House of Representatives;

(3) Three members, appointed by the President of the Senate, one of whom may be recommended by the Minority Leader of the Senate;

(4) One member, appointed by the Director of Development.

All members serve at the pleasure of their appointing authorities and a vacancy on the Board must be filled in the same manner as the original appointment. The Governor may remove any member of the Board for malfeasance, misfeasance, or nonfeasance after a hearing in accordance with Ohio's Administrative Procedure Act (R.C. Chapter 119.). Membership on the Third Frontier Advisory Board does not prohibit membership on the new Board. The Board must select a chairperson from among its members and a majority of Board members constitutes a quorum. No action may be taken without an affirmative vote of a majority of the Board's members.

Members of the Board are not to act as representatives of any specific disciplinary, regional, or organizational interest. Members must represent a wide variety of experience valuable in technology research and development, product process innovation and commercialization, and creating and managing high-growth technology-based companies.

Board members are to serve without compensation, but must receive reasonable and necessary expenses incurred in the conduct of Board business. The Board members must file financial disclosure forms in accordance with Ohio Ethics Law (*see* R.C. 102.02). The Department of Development must provide office space and facilities for the Board.

### **Sunset provisions**

(Sections 21 and 22)

The bill provides that the sections of law creating the Ohio Bioproducts Development Program, Ohio Biomedical Development Program, and the Third Frontier Economic Stimulus Advisory Board and the section of law specifying the uses of the Jobs Fund are repealed effective June 30, 2011.

The bill provides that the section of law creating the Local Infrastructure Development Fund is repealed effective June 30, 2012.

### **Third Frontier Commission competitive processes**

(R.C. 184.37)

The bill requires the Third Frontier Commission, in consultation with the Third Frontier Economic Stimulus Advisory Board, to establish competitive

processes for the purpose of awarding financial assistance for projects funded under the Ohio Bioproducts Development Program and the Ohio Biomedical Development Program, as well as for advanced energy projects, and coal research and development projects (see discussion above).

**Effective dates**

(Sections 4 and 23)

Certain provisions of the bill provide for appropriations for current expenses of the state or rely on those appropriations for current expenses in order to be implemented. Therefore, those provisions go into immediate effect pursuant to Article II, Section 1d of the Ohio Constitution and R.C. 1.471. The affected sections are:

(1) R.C. 151.01, 151.071, 184.35, and 184.36--creation of TFC Coal Research and Development Program;<sup>10</sup>

(2) R.C. 164.28--creation of the Local Infrastructure Development Fund;

(3) R.C. 166.01, 166.02, 166.08, 166.11, 166.25, 166.26, and 166.30--creation of the loan and grant programs to be administered by the Department of Development and the Ohio Air Quality Development Authority;

(4) R.C. 182.02 and 184.23 to 184.26--Ohio Bioproducts Development Program, Ohio Biomedical Development Program, Third Frontier Economic Stimulus Advisory Board, and permitted uses of the Jobs Fund;

(5) R.C. 184.37--creates TFC competitive processes;

(6) R.C. 1555.03--loans and grants by the Ohio Coal Development Office;

(7) Section 5 of the bill appropriating amounts in favor of the Department of Development.

Because they are essential to the implementation of a tax levy, the amendments to the rehabilitation tax credit law are not subject to referendum and take immediate effect pursuant to Article II, Section 1d of the Ohio Constitution, although some provisions are delayed, as explained above.

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<sup>10</sup> Section 23 of the bill incorrectly refers to R.C. 151.07. It should refer to R.C. 151.01. A technical amendment is needed.

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## HISTORY

ACTION	DATE
Introduced	05-12-08
Reported, H. Finance & Appropriations	05-21-08
Passed House (88-9)	05-21-08

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