Ohio Legislative Service Commission

Bill Analysis

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S.B. 326

129th General Assembly
(As Introduced)

Sen. Coley

BILL SUMMARY

- Authorizes the Director of Budget and Management to arrange for the sale of up to $1.25 billion in prepaid insurance premium tax certificates to insurers in exchange for offsets against tax payments in ten future years.
- Authorizes the Director to solicit proposals and designate a manager to sell and market prepaid certificates in exchange for 1.5% of sale proceeds.
- Uses revenue generated from the sale of prepaid certificates to provide funding for cost-saving or efficiency projects undertaken by state agencies and local governments.

CONTENT AND OPERATION

Overview

The bill authorizes the Director of Budget and Management (OBM) to arrange for the sale of prepaid insurance premium tax certificates to insurers in exchange for offsets against future tax payments. Revenue collected from the sale of such certificates is to be credited to a fund administered by the Director of OBM to award grants to state agencies and political subdivisions for projects that the Auditor of State certifies will increase efficiency or reduce costs and result in an overall positive return on the state's investment.

Prepaid insurance premium tax certificates

The bill authorizes, but does not require, the Director of OBM, in consultation with the Treasurer of State, to issue tax prepayment certificates to foreign and domestic insurance companies subject to the insurance premium tax that prepay, in cash, the insurance premium tax. An insurance company may purchase a certificate by paying any amount of money. By purchasing a certificate, the company ("purchaser") is authorized to take offsets against the insurance premium tax that the purchaser will owe for up to ten consecutive years.[1] The Director may not issue more than a total of $1.25 billion in such certificates.[2]

A purchaser may offset the purchaser's insurance premium tax in each of ten consecutive years by an amount equal to 10% of the face value of the certificate, beginning with the third year after the certificate is sold ("fund allocation date").[3] If the amount of the offset would exceed the purchaser's insurance premium tax liability for that year, the unused balance of the offset may be carried forward for up to ten years after the certificate is issued.[4]

A purchaser holding a certificate may transfer any amount remaining on the certificate to another insurance company. If a purchaser transfers a certificate, the purchaser must deliver written notice to the Director within 30 days after the transfer. The notice must include the name of the transferee, the amount of offsets remaining to be redeemed, and the number of eligible offset years remaining on the certificate.[5]

A purchaser may not be denied a tax credit, nor may the purchaser's insurance premium tax liability be increased as a result of the purchaser taking an offset.[6] If either insurance premium tax is repealed or reduced by the General Assembly, the bill authorizes a purchaser to take remaining offsets against any substitute tax liability.[7]

The bill specifies that a purchaser that takes an offset is not required to adjust its ratemaking for an insurance company to account for the reduction in insurance premium tax resulting from the offset.[8] In addition, the certificate may be treated as an "admitted asset" of the purchaser, which generally enables the purchaser to include the

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[1] R.C. 126.51(A)(4) and (B), 5725.18, and 5729.03.

[2] R.C. 126.51(B).

[3] R.C. 126.51(A)(5) and (6) and (C)(1) and (2).

[4] R.C. 126.51(C)(3) and (4).

[5] R.C. 126.51(C)(7).

[6] R.C. 126.51(C)(6) and (8).

[7] R.C. 126.51(C)(10).

[8] R.C. 126.51(C)(5).

value of the certificate on the purchaser's balance sheet for purposes of evaluating the purchaser's solvency.[9]

Third-party management

The Director of OBM is authorized to solicit and request proposals and contract for the services necessary for the configuration, marketing, and selling of the prepaid tax certificates. This authority includes issuing requests for proposals, in consultation with the Treasurer of State, and contracting with a third-party manager for the prepaid insurance premium tax certificates. If the Director chooses to solicit such proposals, the bill authorizes the Director to issue a request for proposals that may include the following, in addition to any other information:

- A statement of services sought;
- Deadlines for the receipt of proposals;
- The criteria under which the Director will select a manager.

After receiving applications, the Director may select a manager. In making this selection, the Director may consider any factor or quality of the applicants, including the following:

- Experience marketing and selling insurance premium tax credit certificates;
- Experience underwriting and marketing state and local securities;
- Whether the applicant holds a minimum designated amount of equity capital;
- Experience managing financing transactions nationwide.[10]

The bill requires a manager selected by the Director to receive as compensation a fee equal to 1.5% of the face value of prepaid tax certificates sold by the manager.[11]

If the Director designates a third-party manager, the manager may include its principals, partners, subsidiaries, affiliates, or subcontractors in the administration of

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[9] R.C. 126.51(C)(9). See, e.g., "Glossary," Insurance Information Institute, http://www2.iii.org/glossary/ (accessed May 1, 2012).

[10] R.C. 126.51(B) and (D)(1) and (2).

[11] R.C. 126.51(A)(9) and (D)(3).

the tax certificate program.[12] A principal includes an officer or director of a corporation, the manager of an LLC, or the general partner of a partnership.[13] An affiliate is a person that either owns 10% or more of voting securities or ownership interests of the manager, is a partner in a partnership in which the manager is a general partner, or is an officer, employee, or agent of the manager or an immediate family member of such officer, employee, or agent.[14]

Manager reporting

The bill requires a manager designated by the Director of OBM to report to the Director not more than 30 days after a fund allocation date the name and identification number of the purchaser, the fund allocation date, and the face value of any issued certificate.[15]

Use of revenue

The bill requires money collected by the Director of OBM from the sale of insurance premium tax prepayment certificates, minus the amount paid to the manager, to be deposited into the Efficiency and Cost Reduction Fund created by the bill. Money from this fund may be used by the Director, upon approval from the Controlling Board, to provide funding to state agencies and municipal corporations, townships, counties, and other political subdivisions to fund certain projects of an agency or subdivision.[16]

The Director may award funding to a project only if the Auditor of State certifies that the project would yield increased efficiency or reduce future costs such that the funding would result in an overall positive monetary return on investment to the state. Projects may include purchases of tangible personal property, facilities, infrastructure, or systems, the refinancing or repayment of debt, or the payment of interest or penalties. However, the Auditor may not certify a project that would fund compensation, employee benefits, and similar personnel costs.[17]

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[12] R.C. 126.51(A)(3).

[13] R.C. 126.51(A)(8).

[14] R.C. 126.51(A)(1).

[15] R.C. 126.51(E).

[16] R.C. 126.51(B) and 126.52(B).

[17] R.C. 126.52(C).

The bill authorizes the Director of OBM and the Auditor of State to adopt rules to administer the Efficiency and Cost Reduction Fund.[18]

HISTORY

ACTION	DATE
Introduced	04-05-12

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[18] R.C. 126.52(D).