



# Ohio Legislative Service Commission

## Bill Analysis

Mackenzie Damon

### Am. H.B. 135

130th General Assembly  
(As Passed by the House)

**Reps.** Pelanda and Cera, Gonzales, J. Adams, Boose, Hackett, Fedor, Sprague, Burkley, Baker, Terhar, R. Adams, Amstutz, Anielski, Antonio, Ashford, Barborak, Barnes, Beck, Bishoff, Blair, Blessing, Boyce, Brown, Buchy, Budish, Celebrezze, Conditt, Curtin, Damschroder, Derickson, DeVitis, Dovilla, Driehaus, Duffey, Gerberry, Green, Grossman, C. Hagan, Hall, Hayes, Henne, Hill, Hottinger, Huffman, Johnson, Landis, Letson, Lundy, Lynch, Mallory, McClain, Milkovich, Patmon, Patterson, Pelanda, Perales, Phillips, Pillich, Ramos, Reece, Retherford, Rogers, Romanchuk, Rosenberger, Ruhl, Schuring, Sears, Slaby, Slesnick, Smith, Stebelton, Stinziano, Strahorn, Thompson, Wachtmann, Williams, Winburn, Young, Batchelder

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## BILL SUMMARY

- Authorizes a nonrefundable tax credit against the income tax, financial institutions tax, severance tax, and domestic and foreign insurance taxes for the rehabilitation of a vacant industrial site that has been designated an industrial recovery site.
- Authorizes the Director of Development Services to designate manufacturing facilities meeting certain qualifications as industrial recovery sites upon application of a county or municipal corporation.
- Requires that the application include a detailed plan for the development and use of the industrial site.
- Authorizes an owner or developer that makes qualified investments in a vacant facility designated as an industrial recovery site to apply to the Director for a tax credit certificate.
- Requires that the Director issue a tax credit certificate for 15%, 20%, or 25% of the qualified investment (depending on the date the facility was originally placed into service) so long as the owner or developer followed the development plan and the rehabilitation is substantially complete.
- Authorizes the assignment and pass-through treatment of tax credit certificates issued to owners or developers.

- Permits the tax certificate owner to carry over any remaining credit if the amount of the certificate exceeds the tax otherwise due.
- Requires the Director to submit an annual report that includes information on the status of the rehabilitation of each industrial recovery site.
- Designates a five-year sunset date for the tax credit program.

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## CONTENT AND OPERATION

### In general

The bill authorizes a nonrefundable credit against the income tax, financial institutions tax, severance tax, and domestic and foreign insurance taxes for the rehabilitation of a vacant industrial site. The credit is administered by the Development Services Agency in conjunction with the municipal corporation or county in which the industrial site is located. The amount of the credit is based on the qualified investment of the owner or developer and the age of the vacant facility. No credits may be awarded more than five years after the bill's effective date.

### Qualifications for vacant industrial sites

A "vacant industrial site" is a vacant facility and the parcel or parcels of real property upon which the facility is located. Parcels that are subject to an administrative, civil, or criminal environmental enforcement action or against which delinquent taxes, interest, assessments, and penalties remain unpaid do not qualify as vacant industrial sites.<sup>1</sup>

A "vacant facility" is a building, complex of buildings, or the structural remains thereof, that have been used, or were designed and constructed for use, in production, manufacturing, fabrication, assembly, processing, refining, finishing, or warehousing of tangible personal property. The facility must have been placed into service (i.e., been at least 50% occupied) at least 15 years before the application for designation as an industrial recovery site. Furthermore, at least 75% of the facility must not have been used to carry on production, manufacturing, assembly, processing, refining, finishing, or warehousing of tangible personal property for the five years immediately preceding the application.<sup>2</sup>

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<sup>1</sup> R.C. 122.177(A)(2).

<sup>2</sup> R.C. 122.177(A)(1).



## Designation as an industrial recovery site

The bill permits the Director of Development Services to designate a vacant industrial site as an industrial recovery site upon application by the county (if the site is located within unincorporated territory) or municipal corporation in which the site is located. The application must include a detailed plan for the development and use of the vacant industrial site, a copy of a resolution adopted by the legislative authority of the municipal corporation or the board of county commissioners recommending the designation, and any other information required by the Director.<sup>3</sup>

The bill requires the Director to review each application and determine whether the site qualifies as a vacant industrial site. If so, the Director must determine whether designation of the vacant industrial site as an industrial recovery site is in the best interest of the state. The determination is based on the following factors:

--The level of distress caused by job losses in the community surrounding the vacant industrial site;

--The desirability of the intended use of the vacant industrial site and the likelihood that implementation of the plan submitted by the municipal corporation or county will improve economic and employment conditions in the surrounding community;

--Evidence that the residents, businesses, and other private organizations in the surrounding community support designation of the site as an industrial recovery site;

--Whether the vacant industrial site is located in an enterprise zone, a joint economic development zone, or a joint economic development district;

--Whether the vacant industrial site is exempt from property taxation under a tax increment financing resolution or ordinance of the county or municipal corporation;

--Evidence of a commitment by private or public entities to provide financial assistance in implementing the plan submitted by the municipal corporation or county;

--Evidence of efforts by the municipal corporation or county to implement the proposed plan without additional financial assistance from the state;

--Other factors the Director deems relevant.

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<sup>3</sup> R.C. 122.177(B).



Once the Director determines to approve or deny the application for designation, the Director is required to certify the decision to the municipal corporation or county that requested the designation. If the application is approved, the Director must list the industrial recovery site on the web site of the Development Services Agency.<sup>4</sup> The bill requires the Director to revoke industrial recovery site designation if it is determined that the development and use of the site does not conform to the plan submitted in the application.<sup>5</sup>

### **Application for tax credit certificate**

The owner or developer of an industrial recovery site that makes a "qualified investment" in the site may apply to the Director for a tax credit certificate. "Qualified investment" means expenditures for the remodeling, repair, alteration, demolition, or redevelopment of a vacant industrial site for the purpose of putting the site to a better or more efficient use; it does not include legal expenses, including any expenses incurred by reason of an administrative, civil, or criminal environmental enforcement action brought with respect to the site.<sup>6</sup>

The application must state the amount of investment and include any other information required by the Director. The Director may require owners and developers to include with the application a uniform fee of up to \$2,500. The bill requires the Director to review each application to determine if all of the following criteria have been met:

--The qualified investment was made for the rehabilitation of property located on an industrial recovery site;

--The applicant is the owner or developer of the site;

--The qualified investment was made in accordance with the development plan submitted by the municipal corporation or county in which the site is located;

--The applicant made all or part of the qualified investment at least six months before submitting the application;

--The municipal corporation or county in which the site is located has certified that the rehabilitation of the site is substantially complete.

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<sup>4</sup> R.C. 122.177(C).

<sup>5</sup> R.C. 122.177(D).

<sup>6</sup> R.C. 122.177(A)(3).

If the Director determines that the foregoing criteria have been met, the Director is required to issue a tax credit certificate to the owner or developer.<sup>7</sup>

### **Terms of the tax credit certificate**

The amount of the tax credit certificate depends on the amount of the qualified investment and the date the vacant facility on the industrial recovery site was placed into service. If the facility was placed into service between 15 and 30 years before the date of the application, the credit equals 15% of the qualified investment. If the facility was placed into service 30 to 40 years before the date of the application, the credit equals 20% of the qualified investment. If the facility was placed into service more than 40 years before the date of the application, the credit equals 25% of the qualified investment.<sup>8</sup>

An owner or developer may use the tax credit certificate themselves, or assign the certificate to any other person. The person to which the certificate is assigned is required to provide written notice of the assignment to the Tax Commissioner before the certificate is applied against a tax.<sup>9</sup> A pass-through entity may allocate the credit certificate among the entity's equity owners in proportion to their ownership interests or in any other proportion mutually agreed upon by the owners.<sup>10</sup>

If the amount of the tax credit certificate exceeds the tax otherwise due from the certificate owner, the remaining credit may be carried forward to subsequent tax years or tax periods, whichever the case may be.<sup>11</sup>

The bill does not prescribe a cap on the credit amount an owner or developer may receive in tax credit certificates or on the total amount of credits that could be awarded overall.

### **Sunset**

No tax credit certificates may be issued after the end of five years after the bill's effective date.

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<sup>7</sup> R.C. 122.177(E)(1).

<sup>8</sup> R.C. 122.177(E)(2).

<sup>9</sup> R.C. 122.177(F).

<sup>10</sup> R.C. 5747.78(B).

<sup>11</sup> R.C. 5725.35, 5726.58, 5729.18, 5747.78, and 5749.18.



## Annual report

The bill requires the Director to create a report before April 1 each year during which tax credit certificates may be issued. The report must contain information on the status of the rehabilitation of each industrial recovery site. The report must be submitted to the Governor, the President of the Senate, and the Speaker of the House.<sup>12</sup>

## Rule making authority

The bill requires the Director to adopt rules necessary to administer the tax credit program. The rules must include criteria for when a municipal corporation or county may certify that the rehabilitation of an industrial recovery site is substantially complete.<sup>13</sup>

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## HISTORY

ACTION	DATE
Introduced	04-17-13
Reported, H. Economic Development and Regulatory Reform	06-12-13
Passed House (94-0)	06-19-13

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<sup>12</sup> R.C. 122.177(G).

<sup>13</sup> R.C. 122.177(H).

