Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 478 of the 130th G.A. **Date**: May 27, 2014

Status: As Introduced **Sponsor**: Rep. Boose

Local Impact Statement Procedure Required: Yes

Contents: Eliminates the requirement that a taxpayer receive a federal New Markets Tax Credit (NMTC) in order to qualify for the state NMTC and makes other changes to the state program

State Fiscal Highlights

STATE FUND	FY 2015	FY 2016	FUTURE YEARS
General Revenue Fund			
Revenues	Potential loss of several millions of dollars	Potential loss of several millions of dollars	Potential loss of several millions of dollars
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2015 is July 1, 2014 – June 30, 2015.

- The bill makes several changes to the state New Market Tax Credit program, including accelerating the use of the tax credits, expanding the types of investment that qualify for the state credit, and the potential number of taxpayers eligible for the credit.
- The bill decreases receipts from the financial institutions tax and the insurance taxes. Revenue from those tax sources are distributed to the state GRF, the Local Government Fund (LGF), and the Public Library Fund (PLF). Thus, the bill would reduce the amounts distributed to all three funds.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2014	FY 2015	FUTURE YEARS
Counties, municipalities, townships, and libraries (LGF and PLF)			
Revenues	Potential loss of several tens of thousands of dollars	Potential loss of several tens of thousands of dollars	Potential loss of several tens of thousands of dollars
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- A share of GRF tax revenues is distributed under permanent law to the LGF and the PLF. LGF revenues are distributed to counties, municipalities, and townships, while PLF revenues are distributed to libraries. Thus, any reduction to GRF receipts would also reduce the amount distributed to the LGF and PLF.

Detailed Fiscal Analysis

Under current law, a nonrefundable tax credit is authorized against the insurance and financial institution taxes for insurance companies and financial institutions that purchase and hold securities issued by low-income community organizations to finance investments in qualified active low-income community businesses in Ohio, in accordance with the federal New Markets Tax Credit (NMTC) law. The state credits must be applied over a seven-year period, beginning on the date a qualified equity investment is made and continuing for the next six anniversary dates; and the state NMTC has a four-year carryforward, if the awarded credit exceeds a taxpayer's tax liability.

The bill accelerates an investor's receipt of credit installments by permitting credits of 5% of qualified equity investments in Community Development Entities (CDEs)[1] for the first three years and 6% for the final four years of the seven-year period, compared with the current schedule of 0% in the first two years, 7% the third year, and 8% in the final four years. To obtain the Ohio credit, current law requires that a person must have qualified for the federal credit by holding a qualified equity investment, i.e., a taxpayer is only able to claim a state credit on the basis of credit-eligible investments for both the federal and state credits. However, the bill effectively eliminates that requirement, thus expanding the potential number of taxpayers that may qualify for the state credit, though their investments may not qualify them for the federal credit.

Federal law provides a credit against the federal income tax, totaling 39% of the cost of the investment at original issue, for making qualified equity investments in CDEs. Under the federal program, a CDE may make those investments in any state. The Ohio New Markets Tax Credit totals 39% of the percentage of those investments that are made in businesses located in Ohio. The amount of qualified low-income community investments is the total amount of investments that are invested in qualified low-income community businesses, up to $2,564,000 in a fiscal year. For purposes of the NMTC program, a CDE is required to invest at least 85% of the investment in low-income community businesses and at least 75% in the seventh year, and the qualifying business must derive less than 15% of its annual revenue from the rental or sale of real property. The bill allows a CDE to make credit-eligible investments in a low-income community business that derives 15% or more of its annual revenue from renting or selling real estate. Under current law, investments in such businesses would not be counted towards the required investment that would allow an investor to be eligible to claim the Ohio credit. Thus, the bill also expands the class of low-income

[1] A CDE is a United States corporation or partnership with the primary mission of serving or providing investment capital for businesses in low-income communities that is certified as a CDE by the Secretary of the Treasury. Substantially all of the taxpayer's investment must in turn be used by the CDE to make qualified investments in "low-income communities."

community businesses eligible to receive credit-eligible investments for purposes of Ohio's NMTC program.

Fiscal impact

Revenue from the financial institution tax and the insurance taxes are deposited in the GRF. The provision that accelerates the use of NMTC tax credits would also accelerate the realization of those tax credits, and its cash flow impact on the GRF, as the reduction in revenue from the two tax sources would occur earlier than in current law. Therefore, taxpayers may be able to apply for refunds for tax years which were precluded in current law when taxpayers could not claim the tax credits. Assuming sufficient tax liabilities, the cash flow impact could amount to several millions in FY 2015 and FY 2016. Certain tax credits would not be available in later years of the seven-year period, therefore the overall impact of NMTC credits issued in a particular fiscal year may be unchanged. Under the federal NMTC program, allocations to Ohio CDEs that may be used for the NMTC program were $440 million to $645 million between 2009 and 2012, as a portion of the $205 million allocated to Ohio CDEs in 2009 may not be eligible for the Ohio NMTC.[2]

The bill expands both the potential number of taxpayers that may qualify for the credit and the class of low-income community businesses eligible to receive credit-eligible investments for purposes of Ohio's NMTC program. Those provisions will reduce, by uncertain amount, revenue from the financial institution tax, the foreign insurance tax, and the domestic insurance tax for additional qualifying investments under the state NMTC. Under permanent law, the GRF receives 96.68% of the revenue from the sales and use tax, while 1.66% of the receipts are transferred to each the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065) for distribution to counties, municipalities, townships, and libraries. Thus, distributions to all three funds would be reduced by the bill.

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[2] Data from the Community Development Financial Institutions from the U.S. Department of the Treasury. Under current law, Ohio NMTC requires that the equity investment must be acquired after October 16, 2009.