Fiscal Note & Local Impact Statement

125 th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **Sub. H.B. 427** DATE: **May 26, 2004**

STATUS: **As Enacted - Effective June 9, 2004** SPONSOR: **Rep. Martin**

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

CONTENTS: **To increase from 10 to 15 the number of years that enterprise zones or urban jobs and enterprise zone agreements may exempt property from taxation, to create the Job Development Initiatives Fund, to transfer up to $25.8 million of unclaimed funds, to convey state-owned real estate to Hamilton County, to broaden the scope of activities which may be supported by state payments to municipalities and counties that attract federal jobs, to create a moldbuilder's lien, to add state buildings to the Clean Ohio Brownfield Revitalization Program, to prevent repeal of the Employee Ownership Assistance Program at the end of this year, to create and make an appropriation for the Industrial Site Improvement Fund for the purpose of making grants to counties for job development, to make appropriations, to make various changes to the tax increment financing law, and to declare an emergency**

State Fiscal Highlights

STATE FUND	FY 2005	FY 2006	FUTURE YEARS
Unclaimed Funds (Fund 543)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Decrease of up to $25.8 million due to the transfer of funds to the Job Development Initiatives Fund	- 0 -	- 0 -
Job Development Initiatives Fund (Fund 5AD)			
Revenues	Gain of up to $25.8 million from Unclaimed Funds	- 0 -	- 0 -
Expenditures	Increase of up to $25.8 million	- 0 -	- 0 -
General Revenue Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase
Unemployment Compensation Trust Fund – Department of Job and Family Services			
Revenues	Potential $300,000 gain	- 0 -	- 0 -
Expenditures	- 0 -	- 0 -	- 0 -

Liquor Control Fund (Fund 043)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Increase of $5.0 million	- 0 -	- 0 -
Industrial Site Improvement Fund (Fund 5AR)			
Revenues	Gain of $5.0 million	- 0 -	- 0 -
Expenditures	Increase of $5.0 million	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2004 is July 1, 2003 – June 30, 2004.

- ***Unclaimed Funds.*** The transfer of $25.8 million from the Unclaimed Funds (Fund 543) to the Jobs Development Initiatives Fund (Fund 5AD) for three new Department of Development programs reduces the amount of funds available for other programs and reduces amounts available to pay claims of those seeking to claim their funds.

- ***Department of Development.*** The transfer of $25.8 million from the Unclaimed Funds (Fund 543) to the Job Development Initiatives Fund (Fund 5AD) allows moneys to be spent on three new Department of Development programs in FY 2005: $12.8 million for the Investment in Training Expansion, $3.0 million for the Worker Guarantee program, and $10.0 million for Wright Operating Grants.

- ***Unemployment Compensation Trust Fund.*** The bill allows the Hamilton County Commissioners to purchase a state-owned office building located in Hamilton County for $300,000. The payment is to be deposited in the Unemployment Compensation Trust Fund.

- ***Liquor Control Fund (Fund 043).*** The bill transfers $5.0 million from the Liquor Control Fund (Fund 043) to the Industrial Site Improvement Fund (Fund 5AR) to be used for the Industrial Site Improvement program.

- ***Industrial Site Improvement Fund (Fund 5AR).*** The bill appropriates $5.0 million to the Industrial Site Improvement Fund (Fund 5AR) to be disbursed by the Director of Development to eligible counties. This money will be used for the purpose of making improvements to commercial or industrial areas when these improvements create new jobs or preserve existing jobs. The revenue source of these funds is the Liquor Control Fund (Fund 043), from which money is transferred to the Industrial Site Improvement Fund (Fund 5AR).

- ***General Revenue Fund.*** Because most of the administrative support for current programs is paid for using General Revenue Funds (GRF), there is a potential minimal increase in GRF expenditures due to the Investment in Training Expansion and additional funding for the Wright Operating Grants.

- The bill broadens the scope of activities to attract federal jobs that the Department of Development may support by payments to a county or municipal corporation. This provision is intended to attract the NASA Shared Services Facility to Ohio.

- A repeal of the sunset provision of the Employee Ownership Assistance Program within the Department of Development would have a minimal fiscal impact on the General Revenue Fund which supports program operations.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2004	FY 2005	FUTURE YEARS
Counties and Municipal Corporations			
Revenues	Possible gain	Possible gain	Indeterminate
Expenditures	Possible increase	Possible increase	Possible increase
Other Local Governments			
Revenues	Possible gain	Possible gain	Indeterminate
Expenditures	- 0 -	- 0 -	- 0 -
Hamilton County			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential $300,000 increase, plus negligible conveyance costs	- 0 -	- 0 -
Courts of Common Pleas			
Revenues	Potential gain in court fees	Potential gain in court fees	Potential gain in court fees
Expenditures	Potential minimal increase in cases	Potential minimal increase in cases	Potential minimal increase in cases

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

- Local property tax revenues may increase if extending partial tax exemption in enterprise zones from 10 years to 15 years attracts investment that would not have been made if these incentives were available only for the 10 years generally allowed under current law.

- Alternatively, local property tax revenues may decrease in years 11 through 15, 2014 or later, if the investments would have been made in an enterprise zone even without the longer period of partial tax exemption provided in this bill, but nevertheless receive this benefit.

- Businesses in an enterprise zone pay an annual fee of 1% of the value of incentives (but at least $500 and no more than $2,500), to cover the cost of reporting and of Tax Incentive Review Council oversight. More agreements as a result of lengthened tax abatements would increase these revenues and expenditures.

- Expenditures by municipal corporations and counties may increase to provide optional services or assistance to project sites. This may occur in years 1 through 15 for additional investments attracted by the longer period of tax exemption, or in years 11 through 15 for investments that would have been undertaken without the longer period of benefit but which nevertheless receive these services for the extended period of time.

- The bill allows the Hamilton County Commissioners to purchase a state-owned office building for $300,000. The Hamilton County Commissioners are also responsible for paying relevant conveyance costs, including conveyance fees, transfer tax, and recordation fees to the applicable jurisdictions. These costs would be negligible. Payments on interest and principal will increase revenue and expenditures in future years.

- The bill broadens the scope of activities to attract federal jobs that the state may support by payments to a county or municipal corporation. This provision is intended to attract the NASA Shared Services Facility to Ohio.

- The bill may result in a possible increase in cases in courts of common pleas by moldbuilders who have not been paid by customers. It is unclear how many new civil actions would take place as a result of this bill.

- The bill modifies certain aspects of incentive districts created by H.B. 405 of the 124th General Assembly under the Tax Increment Financing (TIF) Law. The bill requires service payments and charges in lieu of property taxes to be treated as taxes for purpose of lien, i.e., penalties, interest, or other charges may be imposed when recipients of exemptions are not making those payments as agreed.

- The bill makes other clarification regarding incentive district TIFs. This fiscal note assumes that these changes do not alter incentive districts' agreements with school boards where school districts are compensated for any taxes lost to a TIF.

- The bill requires that a portion of service payments for a real property located within an incentive district TIF created by a municipal corporation or a township be distributed to the county treasury to the credit of the county general fund if the incentive district is created by a municipal corporation or township. Alternatively, if a county creates an incentive district within a township, a portion of service payments for a real property that should be paid to the county will be distributed to the township.

- The bill may potentially increase revenues to the county or the township that would not have occurred otherwise. Conversely, the municipal, county, or township public improvement tax increment fund may lose an equal amount of revenues to their service payment fund.

- The bill permits the Director of Development to provide from the Industrial Site Improvement Fund (Fund 5AR) a grant of up to $1 million to eligible counties that apply for the funds, with the money used to make qualified improvements to industrial or commercial sites.

Detailed Fiscal Analysis

H.B. 427 extends to 15 years, from 10 years under current law, the period during which enterprise zone agreements or urban jobs and enterprise zone agreements may exempt real and tangible personal property from taxation. It also creates three programs within the Department of Development: the Investment in Training Expansion, the Worker Guarantee Program, and Wright Operating Grants. These three programs are funded through the newly created Jobs Development Initiatives Fund (Fund 5AD), which is funded with revenue from a transfer of $25.8 million in FY 2005 from the Unclaimed Funds (Fund 543). The bill also conveys state-owned real estate to the Hamilton County Commissioners. It broadens the scope of activities that may be supported by state payments to local governments that attract federal jobs, creates a moldbuilder's lien, adds state buildings to the Clean Ohio Brownfield Revitalization Program, and repeals the sunset provision of the Employee Ownership Assistance Program within the Department of Development, which would have otherwise expired on December 31, 2004. It makes various changes to Tax Increment Financing programs.

<u>Enterprise Zone Agreements</u>

The bill allows the legislative authority of a municipal corporation or a board of county commissioners to enter into agreements providing property tax exemptions for up to 15 years to businesses located within an enterprise zone, as inducements to them to hire and invest. Currently, with a very limited exception, the maximum term of these agreements is 10 years. So the maximum exemption would increase 50% as a result of the increased term. Any extension beyond 10 years requires approval of the board of any affected school district, and would continue to do so under the bill. The tax exemption applies to 75% or less (60% or less in unincorporated areas) of the taxable value of tangible personal property first used on the site and of the increase in the value of the real property at the site. This tax exemption may exceed these percentages with school board approval. Details including the term and percentage of tax abatement and property to which abatement applies are negotiable, and are specified in each agreement. The extension from 10 to 15 years also applies to the maximum period for which a municipality or county may commit to provide optional services or assistance to the project site. Consequently, the total service or assistance cost could increase 50% as a result of the increase in years.

The Enterprise Zone program in Ohio, begun in 1982, was originally intended to help distressed cities attract business investment and jobs. In the late 1980s, eligibility was extended to nondistressed areas in the state. An enterprise zone is a geographic area, which is required to have a single continuous boundary. Large portions of many of Ohio's counties are included in enterprise zones. The agreements have had a maximum term of 10 years, except for an extension to 15 years passed last year for uranium-related projects, as part of the state's successful competition for a large investment.

As of January of this year, 344 enterprise zones were active in the state, with 3,207 agreements in effect with businesses, out of 4,813 entered into since the program started. The taxable value of real property that is partially tax exempt under these agreements was less than $1.15 billion in calendar year 2002, or less than 0.5% of the value of all real property in the state.[1] The 2002 annual report for the program shows real property taxes paid by participating businesses of $47 million and real property taxes forgone under these agreements of $51 million. Tangible personal property taxes paid by these firms on business equipment and inventory were $51 million and tangible personal property taxes forgone were $145 million. Companies may also enter into agreements with school districts and other units of local government to compensate them for tax revenue forgone as a result of the enterprise zone agreements.

Using these revenue figures as a guide would imply that the maximum possible effect if this proposal would have been adopted 15 or more years ago and the maximum time period was used extensively, up to a 50% increase in the loss of $196 million, or $98 million, would be possible. Because of payments to school districts and agreements with less than the maximum term, loss increases would probably be substantially less. On the other hand, both taxes paid and forgone by businesses under enterprise zone agreements would tend to be higher if availability of the longer term led to an increase in the number of exemptions granted. The average agreement entered into in 2002 provided an average incentive of 50% for 7 years on increases in the value of real property and of 66% for 9 years on investments in tangible personal property, according to the annual report. No similar summary

[1]An Ohio Department of Taxation report, Taxable Value of Real Property Improvements Exempted by Tax Abatements (PE-3), shows enterprise zone tax abatements as part of an "other" category which includes several programs, the largest of which is enterprise zone abatements.

figures are provided in that document for all outstanding agreements, but a review of the information provided on individual agreements indicates that incentives vary widely, including up to 100% for 10 years on real property but no tax abatement on personal property, and no abatement on real property but 100% for 10 years on personal property. Presumably, currently outstanding agreements reached for less than the 10-year term permitted under current law would not have instead been for 15 years, if that had been allowed.

Enterprise zone agreements include commitments by businesses to make specified investments, anticipated dates between which the investments are to be made, projections of the number of employees to be hired or retained, and estimates of the amount of payroll associated with those positions. The bill adds a requirement that the business benefiting from the enterprise zone agreement repay exempted taxes for any three-year period in which it does not create or retain at least 75% of the number of jobs estimated in the agreement. In addition, the municipal corporation or county with which the business has an enterprise zone agreement may terminate or modify these exemptions. Performance in meeting these commitments is to be monitored by Tax Incentive Review Councils (TIRCs), which include representatives of the county auditor and of taxing jurisdictions affected by each enterprise zone agreement. A TIRC lacks power to take punitive action against a business that fails to live up to its commitments, but may only recommend that local legislative bodies take such action.

A business participating in an enterprise zone agreement is required to pay an annual fee of 1% of the value of incentives offered to it, with a minimum of $500 and a maximum of $2,500, to be used to pay for reporting on its activities in the enterprise zone and for oversight by a TIRC. An increase in the number of such agreements as a result of lengthening the period of tax abatement would increase both revenues and expenditures under these provisions. This fee, but not the duties for which it pays, may be waived by the municipal corporation or county within which the enterprise zone is located.

Other states competing with Ohio for business investment dollars use a variety of tax incentives to attract investments, including enterprise zones. A summary this year from the Department of Development indicated that Indiana and Kentucky offered enterprise zones with terms up to 20 years. The time period for tax benefits to individual companies is tied to the term of the zone. Michigan has multiple programs to encourage business investment and job creation, offering tax abatements for various periods of time up to 20 years. Numerous other states around the country have enterprise zone programs.

Academic studies of the effectiveness of enterprise zones have reported mixed findings. Cassell, in reviewing research on whether enterprise zone incentives attract additional business and investment, states that "effectiveness of enterprise zone programs is notoriously difficult to assess."[2] He cites several studies, some of which conclude that enterprise zones tend to increase job growth and investment, while others find that enterprise zone incentives alone do not offset other locational disadvantages or have no discernible impact on employment growth. Peters and Fisher conclude that enterprise zones have "little or no" effect on growth of establishments or employment.[3]

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[2] Mark Cassell, "Zoned Out: Distribution and Benefits in Ohio's Enterprise Zone Program," Policy Matters Ohio, October 2003, page 8.

[3] Alan H. Peters and Peter S. Fisher, State Enterprise Zone Programs: Have They Worked? W.E. Upjohn Institute for Employment Research, 2002, page 225.

Availability of partial exemption from property tax in an enterprise zone for 15 years instead of 10 years might attract some investments that otherwise would be made elsewhere or not be undertaken. Such investments would generally tend to add to property tax revenues of local governments, though other investments that might have occurred if these had not been made should be offset against any such gains. For example, if a desirable site is occupied by a business attracted by the enterprise zone tax abatements in years 11 through 15, and if in the absence of the added tax incentive another business might have located at that site, the net gain (if any) in tax revenues resulting from the changes in this bill would be the difference between tax revenues from the two projects.

Alternatively, if investments that would have been attracted to an enterprise zone by 10 years of tax abatements under current law instead receive 15 years of tax reductions as a result of this bill, the result would be a net loss of tax revenues in years 11 through 15. Local authorities have an obvious incentive to offer tax benefits only to the extent necessary to attract investment and jobs, but determining that needed extent may be difficult. The loss of tax revenues might occur sooner than 11 years in the future if existing agreements, with benefits ending 1 to 9 years in the future, could be renegotiated. The bill does not provide for reopening existing agreements to extend their term, but neither does it appear to preclude such a change. Also, prospective investors in an enterprise zone may come to expect whatever period of benefits is permitted, and might insist on 15 years of benefits if the law allows that, even if 10 years of tax abatements would have been sufficient to attract the project if that was the maximum allowed by law.

Answers to such "what if" questions, regarding alternative possible outcomes, are inevitably murky and difficult to determine. Academic literature on enterprise zones in general, as well as the more specific plausible outcomes of this bill outlined above, suggest that the changes in law in the bill might result in increased or decreased revenues in years 11 through 15 of future agreements. Consequently the revenue impact of this bill in that time period appears indeterminate.

Taxes are only one of various considerations in business location decisions. Net present value is a commonly used business decision technique for making choices among alternatives that have differing future consequences. The net present value of real property tax abatements discounted from 11 to 15 years in the future might be relatively small, and might play only a minor role in many location analyses. However, as property values rise, the discounted value of the out year values could be substantial unless the business uses a high discount rate in its calculations. In some cases, this could conceivably be the deciding factor in an investment decision.

Some types of property taxes—bond issues and school district emergency levies—are designed to collect specific amounts of money. To the extent that an enterprise zone tax abatement results in an increase in the tax base, relative to what it would otherwise have been, the taxes of other taxpayers in a taxing district would go down. But to the extent that the enterprise zone program reduces the tax base, other taxpayers would have to pay more. More generally, there is an equity issue in imposing different effective tax rates on two essentially similar taxpayers, differing only in that one of them satisfies the qualifications for the enterprise zone tax abatement and the other does not.

In some cases, enterprise zone incentives are viewed as an essential tool for competing with other states for business investment and employment. In other cases, Ohio local governments use the enterprise zone tax abatements to compete with other local governments within the state for these investments. This intrastate competition may result in a net loss of local tax revenues with no net gain in investments and jobs for the state as a whole.

The state plays a limited role in administration of enterprise zones. The Department of Development certifies zones to allow local communities to negotiate agreements. Local governments must apply to the Department for certification. The Department has authority to approve or deny requests from companies looking to relocate within Ohio to nondistressed based zones. It provides technical assistance to zone managers, communities, and businesses. Finally, it publishes an annual report based on the data supplied by zone managers.

State Special Revenue appropriation item 195-630, Enterprise Zone Operating, provides funding for administrative support of the program, through the Department's Office of Tax Incentives. Am. Sub. H.B. 95 of the 125th General Assembly appropriated $211,900 to this line item in each of FYs 2004 and 2005, funded by application fees and penalties collected under the Ohio Enterprise Zone and Community Reinvestment Area programs. The Department believes that the funding in the operating budget bill should be sufficient to cover any costs from this bill. It does not expect the bill to result in a large increase in new projects or the need to hire additional staff.

Investment in Training Expansion

In this bill, the Investment in Training Expansion program receives an appropriation of $12.8 million in FY 2005 through appropriation item 195-667, Investment in Training Expansion, which is to be used under the same purposes and in the same manner as specified in Section 38.09 of Am. Sub. H.B. 95 of the 125th General Assembly. Language in that section directs the use of the moneys for the Investment in Training program, which is funded through GRF appropriation item 195-434, Investment in Training Grants. That line item received appropriations of $12.2 million in FY 2004 and FY 2005, which are to be used to promote training through grants for the reimbursement of eligible training expenses. The appropriation in H.B. 427 must be used for the same purpose and added to the $12.2 million appropriation in Am. Sub. H.B. 95 of the 125th General Assembly thus bringing the total appropriations for the program to $25.0 million in FY 2005.

Am. Sub. H.B. 238 of the 116th General Assembly created the Investment in Training Program through appropriation item 200-514, Post Secondary Vocational Education, in the Department of Education. The program was transferred to the Department of Development and renamed the Industrial Training Grants program. During the FY 2002-2003 biennium, the program name was again changed to Investment in Training Grants to better reflect the changing scope of the program. The program provides financial assistance of up to 50% reimbursement for instructional costs, materials, and training-related activities for new and expanding Ohio businesses. The program places an emphasis on manufacturing and selected employment sectors that have significant training and capital investments related to creating and retaining jobs. The program has 12 regional coordinators who walk companies through all phases of the application and approval process, at no cost to the business. The program strives to achieve increased employee productivity, improved labor/management relations, and a highly skilled labor pool.

Administrative expenses for the Office of Investment in Training are supported through GRF appropriation item 195-415, Economic Development Division and Regional Offices, which received appropriations of nearly $5.6 million in each fiscal year through the biennial operating budget, Am. Sub. H.B. 95 of the 125th General Assembly. In addition to the Office of Investment in Training, the line item also funds other components of the Economic Development Division as well as the Department's Regional Offices. The Department estimates the administrative expenses of the Office of Investment in Training will cost approximately $354,000 in FY 2004; the Department anticipates using its current staff to handle the increased workload due to the expansion of the program and does not see a need to increase its staff size.

Worker Guarantee Program

Created in this bill, the Worker Guarantee Program is funded through appropriation item 195-668, Worker Guarantee Program, at $3.0 million in FY 2005. The program will be available to employers who create at least 100 high-paying, full-time jobs over a three-year period; prior to the commitment of state funds, the employer must show that the availability of those skilled workers is a major factor in the employer's decision to locate or expand in Ohio. Activities eligible for funding under this program include job assessment services, screening and testing of potential employees, customized training activities, and any other training or related service determined by the Director.

For each approved project, state funds will total one-third of a project's cost if an employer and local workforce development service provider, in conjunction with the local community, contracts with the Department of Development to provide services under the program. The contributions by the employer and the local community must equal that of the state, or one-third of the project's cost. In-kind contributions shall be counted towards the local community's contribution. A local workforce development service provider may include, but is not limited to, a community college, technical or vocational school, one-stop center, or any other entity designated by the Director of Development, to provide services under the program.

Again, the Department does not anticipate the need to hire additional staff to manage the new program, but rather intends on using its current staff in the Office of Investment in Training to handle the incoming program applications. The entire appropriation will be used for Worker Guarantee projects; none will be used for administrative expenses.

Wright Operating Grants

The bill appropriates $10.0 million in FY 2005 in appropriation item 195-669, Wright Operating Grants to support the nonbioscience-oriented Wright Centers and Wright Capital Projects funded by the Board of Regents capital appropriation item CAP-068, Third Frontier. Funding of the Wright Operating Grants shall be awarded based on criteria developed by the Department of Development. Grants must first be recommended for funding by the Third Frontier Commission, which consists of the Director of Development (chair), the Governor's Science and Technology Advisor, and the Chancellor of the Board of Regents, and then approved by the Controlling Board before funds are disbursed.

Previous Appropriations for Wright Centers and Wright Capital Projects

The Wright Capital Fund was initially funded in Am. Sub. S.B. 261 of the 124th General Assembly in CAP-068, Third Frontier, through a $50.0 million appropriation. Then another $50.0 million appropriation was made in H.B. 675 of the 124th General Assembly to provide additional funding for the program. The two appropriations allowed $100.0 million to be spent on the program over the FY 2003-2004 capital biennium. These appropriations are part of the Governor's Third Frontier Project, a plan to create high-wage jobs and support the expansion of high-growth industries in Ohio. The Wright Brothers Capital Fund was proposed by the Governor to be a 10-year commitment of $50.0 million per year in competitive grants for capital assets to support leading edge research and commercialization activities in Ohio, though funds cannot be appropriated that far in the future. The Wright Capital Projects Fund supports commercialization collaborations involving Ohio universities, other nonprofit research institutions, and Ohio companies. Collaborations between these entities are formed to further the near-term commercialization of specific or platform technology or capability with significant, defined market opportunities in the areas of information technology, power and propulsion, advanced materials, and instruments, controls, and electronics. The appropriations, made from the Higher Education Improvement Fund (Fund 034), are used to provide grants for the acquisition, renovation, or construction of facilities, as well as the purchasing of equipment for research programs, technology development, product development, and commercialization programs. Though funds are appropriated through the Board of Regents, the Department of Development provides administrative support to the Third Frontier Commission, which is responsible for determining the recipients of Wright Capital Fund grants.

Of the $100.0 million in capital funds appropriated for the program, $11.6 million was spent on seven Wright Capital projects, $18.0 million on one nonbioscience Wright Center, and $20.0 million on two bioscience Wright Centers in FY 2003; in FY 2004, $3.0 million was spent on two Wright Capital projects, $22.0 million on two nonbioscience Wright Centers, and $19.8 million on one bioscience Wright Center. In addition, approximately $16.6 million in FY 2003 and $7.9 million in FY 2004 of the Biomedical Research and Technology Transfer Trust Fund (BRTTTF) dollars, which are provided through the biennial tobacco budget, were used for the bioscience Wright Centers. The Department hired independent, outside contractors to review and evaluate the proposals, spending $178,000 in FY 2003 and $113,000 in FY 2004 from GRF appropriation item 195-422, Third Frontier Action Fund. Based on the recommendations of the contractors, the Third Frontier Commission awarded the grants.

Recently, Am. Sub. S.B. 189 of the 125th General Assembly appropriated $50.0 million for the program for the FY 2005-2006 capital biennium because of the absence of a capital budget this spring. That appropriation allows the program to continue with its funding rounds. The Department plans on issuing the next request for proposals for the program in May 2004.

Appropriations in H.B. 427 for Wright Centers and Wright Capital Projects

The $10.0 million appropriation made in this bill will be administered in the same manner that the Wright Capital Fund grants are administered. This additional funding will balance out the funding provided through the BRTTTF for the bioscience Wright Centers since BRTTTF funds are not available for nonbioscience Wright Centers. The three existing nonbioscience Wright Centers include a fuel cell center at Case Western Reserve University, an advanced data management center at Wright State University, and the Ohio Center for Advanced Power and Propulsion, which is a collaborative effort between research entities in Columbus and Cincinnati. The Department does not anticipate an increase in administrative expenses relating to the additional appropriation in this bill, as it plans on using the existing structure to administer the grants.

Unclaimed Funds Transfer to the Job Development Initiatives Fund

The Department of Commerce, Division of Unclaimed Funds, collects unclaimed funds and deposits them to the credit of the Unclaimed Funds Trust Fund. These unclaimed funds are then transferred to: (1) Fund 543, Unclaimed Funds – Operating, to be used for administrative costs of the division, and (2) Fund 543, Unclaimed Funds – Claims, to be used to pay the unclaimed fund owners who claim their funds. The remainder of the unclaimed funds is then made available to the following funds: (1) the Mortgage Insurance Fund, (2) the Minority Business Bonding Fund, (3) the Housing Guarantee Fund, and (4) the Housing Development Fund. The Housing Guarantee Fund and the Housing Development Fund are used to fund programs of the Ohio Housing Finance Agency. These funds are guarantee funds so that only occasional draws are made on unclaimed funds due to defaults.

The bill contains temporary law authorizing the transfer of up to $25.8 million in unclaimed funds to the Job Development Initiatives Fund (Fund 5AD) prior to June 30, 2005. This transfer would effectively decrease the amount available to the Mortgage Insurance Fund, the Minority Business Bonding Fund, the Housing Guarantee Fund, and the Housing Development Fund. It also reduces funds available to pay claims by those seeking their unclaimed funds.

Department of Development Payments to Local Governments in Support of Projects to Attract Federal Jobs

The bill broadens the scope of activities to attract federal jobs that the Department of Development may support by payments to counties or municipal corporations. This change is intended to enable Ohio to attract the Shared Services Facility of the National Aeronautics and Space Administration (NASA) to the state. This new service center, which could bring with it 400 to 500 jobs (both federal government employees and contractors), is to be selected among existing locations that house other NASA facilities in Virginia, Florida, Alabama, Mississippi, Ohio, and Texas. NASA is trying to save millions annually by consolidating a range of business services, financial management, and human resources activities. These services include procurements, financial management, grant applications, payroll processing, and personnel training.

Changes to the law include a broadened definition of employee, to include contractors. The definition of the federal entity whose rental payments to the local government may be subsidized by the state is broadened to include persons under contract with the United States. This change in law, if it is successful in attracting the desired tenant, will result in additional Department of Development expenditures beginning in state FY 2006, in corresponding additional local government receipts, and in additional local government expenditures for debt service on financing for construction of a facility for the tenant. State funding to make the anticipated payments is to come from money "not raised by taxation, including profits on the sale of spirituous liquor."

Repeal Sunset Provision of Employee Ownership Assistance Program

H.B. 427 repeals Section 2 of Sub. S.B. 186 of the 123rd General Assembly which would have abolished the Employee Ownership Assistance Program (EOAP) within the Department of Development on December 31, 2004. Currently, the EOAP is supported through appropriation line item 195-436, Labor/Management Cooperation, which received appropriations of $811,869 in FY 2004 and FY 2005 in the most recent budget bill. The extension of EAOP operations would continue existing program activities, which include grants to the Ohio Employee Ownership Center (OEOC), housed at Kent State University. In FY 2004, the grant to the OEOC was $93,000.

Land Conveyance to the Hamilton County Commissioners

The bill authorizes the Hamilton County Commissioners to purchase a state-owned office building located at 1916 Central Parkway for $300,000. The proceeds from the sale of the building will be deposited in the Unemployment Compensation Trust Fund.

According to the Department of Job and Family Services (JFS), this office building was constructed in 1961 and used by the former State Bureau of Employment Services using federal and state dollars. This two-story building, consisting of 48,354 square feet on 0.793 acres of land, was appraised at $1,023,700 by the Auditor, with a tax value of $358,295. According to JFS, this building is no longer needed due to its consolidation plan. Federal legislation was recently passed waiving the federal government's right to the equity in this building. This bill conveys the state's portion of the equity to the county in exchange for $300,000. The Hamilton County Commissioners plan to use this building as their One-Stop Employment and Training Center.

Moldbuilder Liens

This bill establishes a new, separate moldbuilder's lien for a molder who fabricates, casts, or otherwise makes or improves a die, mold, pattern, or form that is used to produce plastic or metal projects. This bill also specifies that the moldbuilder must comply with certain requirements in order for a lien to be enforceable. By complying with these requirements, the moldbuilder has the right to (1) enforce the right to possession of the mold by judgment, foreclosure, or any available judicial procedure, (2) commence a civil action in a court of common pleas to enforce the lien, including by obtaining a judgment for the amounts owed and a judgment permitting the mold to be sold at an execution sale, (3) take possession of the mold, if possession without judicial process can be done without breach of the peace, or (4) sell the mold in a public auction. In addition, the bill specifies that in any action by a moldbuilder to enforce a perfected lien, the court must award the moldbuilder that is the prevailing party reasonable attorney fees, court costs, and expenses related to enforcement of the lien. These provisions may result in a possible increase in cases in courts of common pleas by moldbuilders who have not been paid by customers, either molders or the end-user of the product fabricated from the mold.

Workforce Development Designation Change

The bill reduces the minimum county population necessary for a county to become a single county local area for the purposes of workforce development. Under the current state plan, a county must satisfy several criteria, including a minimum population of 225,000, to be designated a single county local area. The bill would lower the minimum population threshold to 175,000 until June 2005. Clermont County, the only county impacted by this section, currently operates as a single county sub-area in the Ohio Option Area 7. With the new minimum population threshold, Clermont County could be designated a single county local area, removing it from the Area 7 designation until June 2005.

The fiscal impact of this change is expected to be minimal. The county's administrative obligations under the new arrangement are expected to continue at the current level. The Ohio Department of Job and Family Services has indicated that departmental support to the county will not increase. Other state agency partners, including the Rehabilitation Services Commission, the Ohio Department of Aging, the Ohio Department of Development, and the Ohio Department of Education, may be required to offer additional, but minimal, support to the county.

Tax Increment Financing and Incentive Districts

The bill modifies certain aspects of incentive districts created by H.B. 405 of the 124th General Assembly under the Tax Increment Financing (TIF) Law.

Background on Incentive Districts under TIFs

An incentive district is defined as an area of land that is no more than 300 acres enclosed by a continuous boundary and has one or more of the following characteristics:

- 51% of the residents have incomes less than 80% of the median income of residents of the political subdivision in which the district is located.
- The average rate of unemployment in the district is 150% or more of the unemployment rate of the state.
- 20% of the residents live at or below the poverty line.
- The district is a "blighted area."
- The district is in a "situational distress area" as designated by the Director of the Ohio Department of Development.
- The engineer for the political subdivision has certified the public infrastructure serving the district to be below the standards of the economic development plan of the subdivision.
- The district is comprised entirely of unimproved land located in a "distressed area."

The incentive district may include one or many parcels, but all parcels must be identified in the ordinance that creates the incentive district. Under certain circumstances it also allows housing renovations to benefit from TIFs. A percentage of the increases in the taxable value of real property due to improvements made to parcels located in the incentive districts are exempt from taxation. Instead, service payments are required in lieu of the property taxes. The service payments are to be used to finance public improvements that *benefit or serve* the district, rather than public improvements that *directly benefit* the parcels in the district. Finally, townships with TIFs adopted before July 21, 1994, are allowed to add additional public infrastructure improvement projects. If these added projects include land acquisition in the aid of industry, commerce, distribution, or research, demolition on private property, or storm water and flood remediation projects, it may do so only if the affected school districts are held harmless.

Modifications to the Incentive District TIFs

H.B. 427 requires service payments and charges in lieu of property taxes to be treated as taxes for purpose of lien, i.e., penalties, interest, or other charges may be imposed when recipients of exemptions are not making those payments as agreed. The bill also makes the following clarification on the application of the incentive district TIFs.

- A municipal corporation, township or county that has enacted an ordinance or resolution for incentive district TIFs and has entered into an agreement with a school board may also file for exemption of property under incentive district TIFs, in addition to the owner of the property as indicated in section 5715.27 of the Revised Code. If a municipal corporation, township or county does so, an exemption granted under the district incentive TIF would be subordinate to any exemption granted under any other provision of the Revised Code, and there will be no service payments from a property exempt from real estate taxes under other provisions of the law.
- If the application for exemption in the incentive district is made by the owner of the property or a municipal corporation, township or county, no other tax exemption shall be granted for the portion of the property already exempt under the incentive district TIF.
- If the application for exemption is filed by municipal corporation, township or county and approved by the tax commissioner, if the owner of the property subsequently provides written consent to the exemption, if more than one real property tax exemption applies to the property or a portion of it, no other exemption shall be granted for the portion of the property already exempt under the district incentive TIF unless the municipal corporation, township or county than enacted the district incentive TIF provides an ordinance or resolution consenting to subsequent exemption.
- After the tax commissioner has approved an application for exemption filed by or with the property owner consent, the owner, the municipal corporation, township, or county shall file with the county recorder a notice identifying the property and its owners. The notice shall state that the property, regardless of future use or ownership, remains liable for any service payment or charges required by the exemption, unless the municipal corporation, township, or county consents to subsequent exemptions or relinquishes its right to collect the service payments and charges. The county recorder shall charge a fee of fourteen dollars to record the notice with the proceeds retained by the county.

These clarifications to the application of the incentive district TIFs are not expected to have a significant fiscal impact on the local governments that have enacted incentive districts under TIF law. This fiscal note assumes that these changes do not alter incentive districts' agreements with school boards where school districts are compensated for any taxes lost to a TIF.

Payments to counties or townships in lieu of service payments

The bill requires that no later than 30 days prior to applying for an exemption from taxes on behalf of owners of a property located within a proposed incentive TIF district, the legislative body of a municipal corporation, township or county that has proposed the incentive district TIF shall conduct public hearings on the proposed ordinance or resolution, and give notice on the proposed ordinance or resolution to every real property owner whose property is located within the boundaries of the proposed incentive district which is the subject of the ordinance or resolution. Under the bill, a county that proposes to create an incentive district TIF within a township shall also notify the township's clerk of the proposed incentive district TIF.

Under current TIF law, any real property owner that receives a tax exemption is required to make certain service payments in lieu of taxes to the relevant county, municipal corporations or townships based on the valuation of the property and other requirements in the TIF agreement. The service payments are used by the municipal corporation, township, or county to finance improvements within the incentive districts. In addition to public hearings and the notification of real property owners, the bill requires that a portion of service payments for a real property located within an incentive district TIF created by a municipal corporation or a township be distributed to the county treasury to the credit of county general fund if the incentive district is created by a municipal corporation or township. Alternatively, if a county creates an incentive district within a township, a portion of service payments for a real property that should be paid to the county would be distributed to the township (Generally, a county cannot create an incentive district within a municipal corporation).

The bill requires establishing the value of real property prior to a TIF ("base real property")[4] and the value of real property after the implementation of a TIF, with specific monetary values calculated for the "base real property" and to the improvements/construction as a result of the TIF. Then, the increase in value for the base real property from the TIF is used to calculate an amount to be paid to county or the township. The bill provides the mechanics of the calculation of potential payments to the counties or the townships based on inside millage rates applicable to the county or township, as illustrated in the table below.

Table 1. Illustration of the calculation of reimbursements to a local government		**Amount**
Pre - Incentive District TIF assessed value	Base Real Property	$1,000
Post-Incentive District TIF assessed value	Base Real Property	$1,500
Post-Incentive District TIF assessed value	TIF Improvements/Additional Construction	$1,500
Increase in the assessed value	Base Real Property	$500
	TIF Improvements/Additional Construction	$1,500
Calculation of payment to a county	(a) Exemption percentage on Base Real Property	75%
	(b) County inside millage rate (mills)	4
	Step 1: base real property increase x (a) x (b)	$1.5
	Step 2: Estimated payment to county	$0.8

[4] This is defined as land, building, and structures that existed and in the condition in which they existed for the year the ordinance or resolution creating the incentive district was adopted.

The bill exempts from the reimbursement mechanism parcels located in incentive districts created by municipal corporation before the effective date of the bill, and incentive districts entirely or mostly devoted to residential use (at least 90%). The bill also exempts from the reimbursements land which, prior to the creation of an incentive district, was valued for real property tax purposes at its current agricultural use valuation.

The bill may increase revenues to the county or the township that would not have occurred otherwise. Conversely, the municipal, county or township public improvement tax increment fund created by the TIF may lose an equal amount of revenues to their service payments fund. This provision does not apply if county enters into an alternative agreement with the municipal corporation or the township that this provision of the law would not apply. Also, such alternative agreement may instead provide for other payments to the county by the municipal corporation or the township, or to the township by the county. The extent of additional revenues to counties or townships will depend on the number of incentive districts TIFs created by the municipal corporations and townships, the increase in value of property, and other agreements between the counties, municipal corporations, and townships. Service payments are used by the municipal corporation, townships, or county to finance improvements within the incentive districts. Generally, local governments issue bonds for the creation of the incentive districts, and it is unclear how changes proposed by the bill may affect that process.

<u>Technical Changes</u>

Current law permits the legislative authority of a municipal corporation that the U.S. Office of Management and Budget defines as a "central city" of a Metropolitan Statistical Area to designate one or more areas of the municipal corporation to be an enterprise zone. The bill changes the wording from "central city" to "principal city." There is no fiscal effect from this change.

Current law requires township officials to submit to the Director of Development a report on the status of each economic development project for which the officials have granted a real property tax exemption to the developer as an incentive. The report must be submitted by March 31 each year, and must include a summary of the receipts from service payments in lieu of taxes, expenditures from funds created under section 5709.75 of the Revised Code, a description of the public infrastructure improvements and housing renovations financed, and a quantitative summary of changes in employment and private investment resulting from the project. The bill removes the requirement that a summary of the changes in employment be included in this report, retaining all other reporting requirements. There is no fiscal effect from the change.

<u>Industrial Site Improvements</u>

This provision creates the Industrial Site Improvement Fund (Fund 5AR) and transfers $5.0 million in cash to the fund in FY 2005 from the Liquor Control Fund (Fund 043). The money in this fund will be used at the discretion of the Director of Development to make grants to eligible counties for the purpose of making improvements to an industrial or commercial site that will create or preserve jobs. An eligible county meets one of four criteria:

- Is one of 29 Appalachian Counties in Ohio.

- Is defined in section 122.06 of the Revised Code as distressed. A county must meet two of the following criteria:
  - The average unemployment for the most recent five years is greater than 125% of the national average;
  - The county per capita income is less than 80% of the U.S. county median;
  - The ration of transfer payment income to total county income is greater than or equal to 25%.
- For counties with a population of less than 100,000 residents, 350 or more residents were permanently or temporarily terminated through no fault of their own.
- For counties with a population of more than 100,000 residents, 1,000 or more residents were permanently or temporarily terminated through no fault of their own.

This provision will provide additional funds to counties that can establish need based on the above criteria. Counties will also have to prove that the usage of the funds is eligible. Eligible improvements to qualify for funding include: expanding, remodeling, renovating, and modernizing existing buildings and structures, remediating environmentally contaminated property that could cause Ohio or the U.S. EPA to identify the property as contaminated, and infrastructure improvements.

An eligible county will apply to the Director of Development through an application process determined by the Director, but which requires the county to describe how they meet the eligibility for this grant, as well as the amount of the grant requested. Once a county receives a grant from this fund they are not eligible for additional grants from this fund.

Liquor Control Fund (Fund 043)

The Liquor Control Fund (Fund 043) is used to fund the operating expenses of the Division of Liquor Control and the Liquor Control Commission and is used to pay debt service on certain Department of Development bonds. Any money not used for these purposes is then transferred to the GRF. The transfer of $5.0 million to the Industrial Site Improvements Fund (Fund 5AR) will decrease the amount transferred to the GRF by $5.0 million.

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