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Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Schuring

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SUMMARY

Historic building rehabilitation tax credit

- Increases, from \$60 million to \$120 million, the amount of historic building rehabilitation tax credits that may be awarded by the Director of Development in each of fiscal years 2022 and 2023.
- Allows several credit enhancements for rehabilitation projects approved by the Director in fiscal years 2021, 2022, or 2023, upon which construction commences on or after the bill's 90-day effective date.

Ohio opportunity zone investment tax credit

- Expands eligibility to receive an Ohio opportunity zone investment tax credit allocation to investors in Ohio opportunity zones that are not subject to the personal income tax.
- Increases, from \$50 million to \$100 million, the amount of Ohio opportunity zone investment tax credits that may be awarded by the Director and claimed during the 2022-2023 fiscal biennium.

DETAILED ANALYSIS

Historic building rehabilitation tax credit

The bill increases the amount of historic building rehabilitation tax credits that may be awarded in fiscal years 2022 and 2023, and authorizes certain tax credit enhancements for rehabilitation projects approved in fiscal years 2021, 2022, or 2023, upon which construction commences on or after the bill's 90-day effective date.

Background

Continuing law authorizes a historic building rehabilitation tax credit equal to a percentage, generally 25%, of the qualified expenditures incurred by the owner or lessee of a

building of historical significance to rehabilitate the building in accordance with certain preservation criteria. Credits are awarded through a competitive application process by the Director of Development in consultation with the State Historic Preservation Officer. Credit recipients are issued a rehabilitation tax credit certificate which may be used to claim a credit against the income tax, financial institutions tax, insurance premiums taxes, and, for projects certified before June 30, 2021, the commercial activity tax.

Overall credit cap

Continuing law limits the Director to awarding no more than \$60 million in rehabilitation tax credit certificates per fiscal year, plus any unallocated credits from previous fiscal years. The bill temporarily increases the cap to \$120 million (plus unallocated credits) for each of fiscal years 2022 and 2023. The cap reverts to \$60 million in fiscal year 2024.¹

Enhancements

The bill provides for three temporary credit enhancements for projects approved by the Director in fiscal years 2021, 2022, or 2023, and upon which construction commences on or after the bill's 90-day effective date.

First, if the project is not located in a large municipal corporation, i.e., one having a population of 71,000 or more according to the 2020 census, the bill increases the credit amount to 35% of qualified rehabilitation expenditures. Projects that are located in such a municipal corporation (i.e., Columbus, Cleveland, Cincinnati, Toledo, Akron, Dayton, and Parma) receive the standard 25% credit available under current law.²

Second, the bill increases from \$5 million to \$10 million the maximum annual credit that may be claimed for a single project.³

Third, the bill allows a full refund of any credit amount that exceeds the tax otherwise due, up to the \$10 million annual limitation described above. Current law limits the refund to \$3 million, and allows any balance to be carried forward as a credit for up to five years.⁴

Ohio opportunity zone investment tax credit

The bill expands eligibility to receive an Ohio opportunity zone investment income tax credit allocation, i.e., a tax credit certificate, to an investor in an Ohio opportunity zone that is not subject to the personal income tax. It also increases, from \$50 million to \$100 million, the limit on the amount of such tax credit certificates that may be awarded by the Director of Development and claimed during the 2022-2023 fiscal biennium.

¹ R.C. 149.311(D)(2).

² R.C. 149.311(I)(1).

³ R.C. 149.311(I)(2).

⁴ R.C. 149.311(I)(3).

Background

Federal law allows states to designate economically distressed areas that meet certain criteria as “opportunity zones.”⁵ Certain investments made to benefit the zone are eligible for preferential federal tax treatment. Specifically, when a taxpayer reinvests capital gains (i.e., income from the sale of stock or other asset) in an “opportunity zone fund” – an investment fund that holds at least 90% of its assets in property, stock, or ownership interests that benefit opportunity zones – the tax on those capital gains is deferred until the investment is sold or exchanged from the fund. Additional federal benefits are available if the investment is held in the fund for at least five years.⁶

Because Ohio law uses federal adjusted gross income as a starting point for Ohio income tax liability, the federal deferral and reduction in capital gain taxes also defers or reduces a taxpayer’s Ohio income tax. These federal and Ohio tax benefits are available regardless of where the zone is located.

Ohio income tax credit

Continuing law adds to these incentives by allowing an Ohio income tax credit for investments that entirely benefit Ohio-designated zones. To qualify for the credit, a taxpayer must invest in an opportunity zone fund that in turn holds 100% of its invested assets in opportunity zones in Ohio (referred to in the bill as an “Ohio qualified opportunity fund”) and apply to the Director of Development for a tax credit certificate. The nonrefundable credit equals 10% of the investment. The credit may be claimed in the year in which the Ohio qualified opportunity fund invests the applicant’s investment in a project located in an Ohio opportunity zone, or in the following year (in case the applicant’s credit is approved after the tax filing deadline for the year in which the investment was made).

Award to nontaxpayers

The bill allows the Director to award a credit to a person that is not subject to Ohio income tax and is, therefore, unable to claim the credit.⁷ But continuing law allows such a person to sell or transfer the credit to a taxpayer. The credit may be transferred only once.

Biennial credit limit

Current law prohibits the Director from issuing tax credit certificates in a total amount that would cause the Ohio opportunity zone investment credits claimed in any fiscal biennium to exceed \$50 million. The bill temporarily increases the credit cap to \$100 million for the 2022-2023 fiscal biennium. The credit cap returns to \$50 million beginning with the 2024-2025

⁵ 26 U.S.C. 1400Z-1. A map of opportunity zones designated in Ohio is available at https://development.ohio.gov/bs/bs_censustracts.htm.

⁶ 26 U.S.C. 1400Z-2.

⁷ R.C. 122.84.

fiscal biennium. Continuing law, unchanged by the bill, limits the amount of tax credit that may be allocated to any particular credit recipient to \$2 million per fiscal biennium

HISTORY

Action	Date
Introduced	09-08-21
