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OHIO LEGISLATIVE SERVICE COMMISSION

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<p style="text-align: center;">S.B. 225 (with AM2160-1, AM2161-1, AM2169, AM2175-1, AM2176-3, and AM2192-1)</p> <p style="text-align: center;">134th General Assembly</p>	<h2 style="margin: 0;">Fiscal Note & Local Impact Statement</h2> <p style="text-align: center; margin-top: 10px;">Click here for S.B. 225's Bill Analysis</p>
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Version: In Senate Finance

Primary Sponsor: Sen. Schuring

Local Impact Statement Procedure Required: Yes

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Highlights

Fund	FY 2022-FY 2023 Biennium	Future Years
State General Revenue Fund		
Revenues	Loss of up to \$164.3 million	Potential loss
Local Government and Public Library funds (counties, municipalities, townships, and public libraries)		
Revenues	Loss of up to \$5.7 million	Potential loss

Note: The state or school district fiscal year runs from July 1 through June 30 and is designated by the calendar year in which it ends. For other local governments, the fiscal year is identical to the calendar year.

- The bill increases the amount of historic building rehabilitation tax credits that may be issued in each of FY 2022 and FY 2023 from \$60 million to \$120 million. Some of the credits issued in those years may be claimed in subsequent fiscal years.
- For such tax credits approved after the bill's effective date and before the end of FY 2023, the allowable credit is increased to 35% of the dollar amount of qualified rehabilitation expenditures from 25%, except in cities with populations of 71,000 or more. Reapplication for the larger credit is permitted, for credits approved between the start of FY 2021 and the bill's effective date if construction has not started. The enhanced rehabilitation tax credit claimed for any one project may not exceed \$10 million for these credits, up from \$5 million for credits approved in other years.

- A limit is increased on the amount of nonrefundable Opportunity Zone credits that may be issued, such that the amount claimed may not exceed \$100 million in the July 2021-June 2023 biennium, up from \$50 million in other biennia.
- Persons other than state income taxpayers would be allowed to invest in Ohio Opportunity Zones and could transfer acquired credits to taxpayers.
- Revenue sharing with local governments and public libraries via the Local Government Fund and Public Library Fund would be reduced.

Detailed Analysis

The bill makes temporary changes to the historic building rehabilitation tax credit program and to the Ohio Opportunity Zone investment tax credit program. In addition, the bill permanently opens investment in Ohio qualified opportunity funds to persons other than taxpayers subject to the state income tax. It also relieves the city of Canton of responsibility for administration of a small charitable fund with which it has been tasked since 1879.

Revenue losses in the “**Highlights**” table above are shown in the years when the additional tax credits could be issued. Some portion of the revenue losses resulting from use of the credits might instead occur in subsequent years.

Historic building rehabilitation tax credits

The bill increases the total amount of rehabilitation tax credits that may be approved to \$120 million for each of FY 2022 and FY 2023 from \$60 million in prior law and for subsequent years. In addition, for a tax credit approved after the bill’s effective date and before the end of FY 2023, a certificate holder may claim a tax credit equal to 35% of the dollar amount on the tax credit certificate if the project is not located in a municipal corporation with a population of 71,000 or more, based on the 2020 decennial census. For larger cities, the tax credit equals 25% of the dollar amount on the certificate, the percentage that applies to all rehabilitation tax credits in other years. The bill allows the owner or qualified lessee of a historic building that is approved for a tax credit between June 30, 2020, and the bill’s effective date to reapply for an enhanced tax credit, so long as construction of the project has not yet commenced.

For credits approved in these years, the total tax credit claimed may not exceed \$10 million for any year, up from \$5 million for other years. The enhanced \$10 million annual credit cap prescribed by the bill applies on a per-project basis. Credits in excess of tax liability may be refunded in full. For credits approved in other years, if any portion of the credit is refunded, the amount refunded cannot exceed \$3 million, and any balance of the credit in excess of the amount claimed may be carried forward for not more than five years.

The bill provides that a state historic rehabilitation tax credit certificate is “effective” on the date that all historic buildings rehabilitated by the project are “placed in service,” according to the meaning prescribed by the federal historic building rehabilitation tax credit. The substantive effect of the provision is unclear in terms of when the credit certificate is issued or when the credit is claimed. However, it might nullify existing authority to issue or claim a credit for completing part of a multi-phase rehabilitation project.

In continuing law, the historic preservation tax credit can be claimed against the state personal income tax, financial institutions tax, and both foreign and domestic insurance

premiums taxes. The historic preservation tax credit is not transferable, and is to be applied to the tax liability of the applicant, or if the applicant is a pass-through entity,¹ to the partners or members of the pass-through entity.

The bill requires the Director of Development, when considering whether to award a historic rehabilitation tax credit to a historic theater, to consider the potential for increased attendance and gross revenue. In current law, a cost-benefit analysis is already required, for the purpose of determining whether rehabilitation will result in a net revenue gain in state and local taxes when the rehabilitated building is placed in service.² For a building intended to be used as a theater, future returns to the building's owner, and associated income and property taxes, would depend in part on theater attendance and revenue. The provision does not appear to alter the need for such an assessment, as part of the cost-benefit analysis, so appears to have no fiscal effect.

Opportunity Zone credits

The bill expands the Ohio Opportunity Zone Program for FY 2022 and FY 2023 only. It allows certificates for Ohio Opportunity Zone tax credits to be issued in a total amount such that tax credits claimed in the current fiscal biennium equal \$100 million or less, up from \$50 million or less in any other fiscal biennium. The fiscal effect of this change is a revenue loss of up to \$50 million, with the timing of the loss likely to fall mostly in the current biennium, but possibly extending to future years.

The bill also allows not only state income taxpayers but also others to earn such credits by investing in projects through these funds. Only state income taxpayers may use the credits. The bill permits the credits to be transferred. It allows a certificate holder to transfer the unused portion of a partially claimed tax credit. It allows a certificate holder to transfer a portion of the tax credit and retain the remainder, or to transfer portions of the tax credit to multiple transferees. It allows the same tax credit, or portion thereof, to be transferred more than once provided each transfer is reported to the Tax Commissioner in the same manner as transfers by the certificate holder under current law. These changes have no specified end date.

Ohio Opportunity Zone tax credits equal 10% of a person's investment in Ohio qualified opportunity funds that are in turn invested in projects located in Ohio Opportunity Zones, areas designated for development under the federal Tax Cuts and Jobs Act of 2017. The Ohio Opportunity Zone tax credit is nonrefundable and may be claimed against the individual income tax. The credit may be claimed by a taxpayer for the year when a qualifying investment is made in a project or for the next year. Any unused credit amount may be carried forward for up to five years.

The bill requires the Director of Development to conduct two annual Opportunity Zone credit application periods for the Ohio Opportunity Zone tax credits, each covering investments by Ohio qualified opportunity funds in Ohio Opportunity Zone projects during the six preceding calendar months. Current law provides for one application period each year. This change appears to have no fiscal effect.

¹ Pass-through entities (PTEs) include partnerships, limited liability companies, and S-corporations.

² R.C. 149.311(B)(6).

Revenue sharing

Reductions in revenue as a result of the bill will lower amounts distributed to local governments and public libraries through the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065). In the current biennium, the PLF receives 1.70% of GRF tax revenue under a provision of H.B. 110 of the 134th General Assembly, the main operating budget. In codified law, both the LGF and PLF receive 1.66% of GRF tax revenue.

All taxes affected by this bill are considered GRF taxes. If tax revenues in the current biennium decline by \$170 million, distributions to the LGF and PLF will be reduced by a total of about \$5.7 million and amounts remaining for use by the GRF will be reduced by about \$164.3 million.

Canton Hartford-Houtz Poor Fund

The bill provides that the city of Canton is not to be required to appoint a board of trustees to take charge of the Hartford-Houtz Poor Fund, bequeathed to the city by S.B. 51 of the 63rd General Assembly (1879). It authorizes the city of Canton to distribute all moneys and proceeds bequeathed to the city under S.B. 51 and subsequent amendments, to the Canton Ex-Newsboys Association or any other charitable organization.

Documents associated with this provision of the bill show the principal of this fund was approximately \$100,000 in 2017 and \$67,000 in April 2000. Interest earnings in recent years for distribution to benefit needy children in Canton have been small. The bill relieves Canton of administrative costs associated with oversight of the fund.