



www.lsc.ohio.gov

# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 501\*  
134<sup>th</sup> General Assembly

## Bill Analysis

[Click here for H.B. 501's Fiscal Note](#)

**Version:** As Reported by Senate Local Government and Elections

**Primary Sponsor:** Rep. Hall

Daniel DeSantis, Research Analyst  
Mackenzie Damon, Attorney

### SUMMARY

- Simplifies the process a township must follow to donate unneeded property.
- References the Auditor of State's fraud-reporting system in a provision allowing employees to report unlawful activity occurring at the workplace.
- Allows townships engaged in redevelopment to create a special tax increment financing (TIF) district with the goal of providing funding for any project delineated by the township.
- Allows a township to use general funds to support broadband expansion within the unincorporated territory and establishes requirements for awarding funds and for administering a challenge process.
- Allows a board of township trustees to appoint a deputy fiscal officer when the office of township fiscal officer becomes vacant.
- Allows a township fiscal officer's assistant to receive compensation allowable under a township's appropriation measurement as an alternative to the amount allowable under an estimate of expenditures provided to the board of trustees.
- Allows a board of township trustees, as part of a local government deferred compensation program, to establish a designated Roth account feature or any other feature for retirement savings account contributions that are not tax-deferred.

---

\* This analysis was prepared before the report of the Senate Local Government and Elections Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

- Permits counties, townships, and municipal corporations to regulate small solar facilities.
- Authorizes the treasurer or governing board of a subdivision that is a member of the Little Miami Joint Fire and Rescue District to invest all or part of the interim money in bonds or other obligations of the fire district of which it is a member.
- Requires that the fire district bonds or other obligations mature within 20 years.
- Exempts the treasurer or governing board from specified requirements of the Uniform Depository Act when investing the interim money in bonds or other obligations of the Little Miami Joint Fire and Rescue District.

---

## **DETAILED ANALYSIS**

### **Donating unneeded property**

The bill modifies the method a township follows to donate unneeded property, including vehicles, road machinery, equipment, and tools. Unchanged by the bill, any property exceeding \$2,500 in value must be sold by public auction or sealed bid to the highest bidder. Property valued at or below \$2,500 may either be sold directly (without a public process) or donated to an eligible nonprofit. The bill modifies the process for donating property.

Currently, the board of trustees follow a longer process to donate the property to an eligible nonprofit (must be located in the state and must be a 501(a) or 501(c)(3) organization). The trustees first must adopt a resolution stating their intent to donate unneeded property, with guidelines and procedures for doing so. The board must post notice in the board of trustees' office, and must publish notice via newspaper, via trade papers, and on the board's website. Nonprofit organizations interested in receiving donated property must submit written notice to the board; the notice must include evidence that the organization is eligible (located in the state and a 501(a) or 501(c)(3) nonprofit), its purpose, what types of property the organization needs, and the name, address, and phone number of the organization's agent. The board maintains a list of all eligible nonprofit organizations that have expressed interest in receiving donated property.

The board also maintains a list of all unneeded property that the board intends to donate, which must be posted continuously in the board of trustees' office and on its website. The board must donate the unneeded property to the eligible nonprofit that first declares its desire to obtain the property, or to whichever nonprofit has priority on the township's list of eligible organizations (trustees must specify the reasons why the organization is given priority).

Under the bill, these requirements are eliminated, except two: (1) the nonprofit organization still is required to be located in the state and still must be a 501(a) or 501(c)(3) organization, and (2) the nonprofit must submit evidence of its eligibility. Therefore, under the bill, a township may donate the property to an eligible nonprofit, which must provide evidence

of its eligibility before receiving the property. The bill retains the option to directly sell the property.<sup>1</sup>

## **Auditor of State fraud-reporting system**

Continuing law requires the Auditor of State to maintain a fraud-reporting system.<sup>2</sup> Any Ohio resident or public employee may make an anonymous complaint about fraud by a public official or public office, which the Auditor of State reviews. The bill simply references the Auditor's fraud-reporting system in a provision of law related to employees reporting unlawful activity in the workplace.<sup>3</sup> The provision currently lists a number of persons whom the employee may file a complaint with (e.g., the county prosecutor), but the list does not currently include the Auditor of State.

## **Township redevelopment TIFs**

The bill expands the options available to a township that wishes to create a tax increment financing (TIF) arrangement. Currently, townships may establish a TIF with the goal of funding public infrastructure improvements. Under the option authorized in the bill, which is currently only available to municipalities, a township that is engaged in redevelopment activities may create a TIF and use payments in lieu of taxes ("PILOTs") received through the TIF for any project described by the township in the resolution authorizing the use of PILOTs – effectively expanding the types of projects such townships may fund using PILOTs.

### **TIF background**

Under continuing law, townships, municipalities, and counties may create a TIF. Generally, the goal of the TIF is to finance public infrastructure improvements, e.g., roads and bridges, water and sewer lines, other utility projects, and similar improvements. Through a TIF, the subdivision grants a real property tax exemption with respect to the incremental increase in the assessed value of designated parcels that are part of a development project. The owners of the parcels make PILOTs to the subdivision equal to the amount of taxes that would otherwise have been paid with respect to the exempted improvements. TIFs thereby create a flow of revenue back to the subdivision that created the TIF, which generally uses those PILOTs to pay the public infrastructure costs necessitated by the development project.

In addition, municipal corporations may establish a special type of TIF district, known as a "municipal redevelopment TIF," in which the municipal corporation, engaging in urban redevelopment, acquires land, leases or conveys it to another person, and exempts from taxation the improvements on the land it declares to be a public purpose. These TIFs can only extend to residential parcels if they are located in certain cities' blighted areas, i.e., areas in

---

<sup>1</sup> R.C. 505.10.

<sup>2</sup> R.C. 117.103, not in the bill.

<sup>3</sup> R.C. 4113.52. A similar reference appears in a provision specifically regarding civil service employees. See R.C. 124.341, not in the bill.

which at least 75% of the properties are a menace to public health and safety due to being vacant, dilapidated, contaminated, or some similar combination of factors.<sup>4</sup> The PILOTs that the municipality receives can be used for any project described in the municipal TIF ordinance authorizing the use of PILOTs.

### **Expansion of redevelopment TIFs to townships**

The bill allows townships to create this latter type of TIF. The same requirements that apply to municipal redevelopment TIFs apply to townships as well: the township must have acquired the property while engaged in redevelopment, then subsequently have leased or conveyed the property to another person. Similar to the municipal redevelopment TIFs, the township TIFs may include residential improvements, provided that the property is located in a blighted area of the township. And, the township may use PILOTs for any project described in the PILOT resolution.<sup>5</sup>

### **Township deputy fiscal officer**

The bill allows a board of township trustees to appoint a deputy fiscal officer when the office of township fiscal officer becomes vacant. Under current law, the board may only appoint a deputy fiscal officer when the township fiscal officer is unable to carry out the duties of office because of illness, because of entering military service, because of a court-ordered suspension, or because the fiscal officer is otherwise incapacitated or disqualified.<sup>6</sup>

### **Township fiscal officer assistant**

Under the bill, a township fiscal officer's assistant may receive compensation allowable under a township's appropriation measurement as an alternative to the amount allowable under an estimate of expenditures provided to the board of trustees, as under current law.<sup>7</sup>

### **Roth accounts and other nontax-deferred contributions**

Under continuing law, a board of township trustees may offer a local government deferred compensation plan or program to its officers and employees, under which a portion of an officer's or employee's income is deferred and invested for retirement. The bill allows a board of township trustees to establish a designated Roth account feature or any other feature for retirement savings account contributions that are subject to state and federal income taxes when made, rather than tax-deferred until retirement. These features are in addition to the tax-deferred retirement savings accounts the programs can offer under state and federal law.<sup>8</sup> The Ohio Public Employees Deferred Compensation Program and certain local government entities

---

<sup>4</sup> R.C. 1.08, not in the bill.

<sup>5</sup> R.C. 307.204, 503.01, 505.266, 5709.41, 5709.74, 5709.75, 5709.78, and 5709.85.

<sup>6</sup> R.C. 507.02.

<sup>7</sup> R.C. 507.021.

<sup>8</sup> R.C. 148.061(A).

that offer a local government deferred compensation program are permitted to establish Roth account and other features under continuing law.<sup>9</sup>

Federal law permits government deferred compensation programs to offer designated Roth account features, as well as tax-deferred features.<sup>10</sup> Contributions to a Roth account are not tax-deferred, but earnings are not taxed if no money is distributed until at least five years after the first contribution.<sup>11</sup>

## **Withholdings**

If a board of township trustees establishes a Roth account feature or other feature for nontax-deferred contributions, the bill requires federal and state income taxes to be withheld when contributions are made to the account of an officer or employee who selects this feature. That is, contributions are made on an “after-tax” basis. Continuing law requires that all other contributions an officer or employee makes under a board’s deferred compensation plan or program are tax-deferred.<sup>12</sup>

## **Small solar facility**

The bill authorizes counties, townships, and municipal corporations to regulate small solar facilities. For purposes of the bill, small solar facilities means “solar panels and associated facilities with a single interconnection to the electrical grid and designed for, or capable of, operation at an aggregate capacity of less than fifty megawatts.”<sup>13</sup>

Specifically, the bill allows a board of county commissioners, a board of township trustees, (or the board of zoning appeals for a county or township), and the legislative authority of a municipal corporation, to regulate the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any small solar facility, whether publicly or privately owned, or the use of land for that purpose.<sup>14</sup>

## **Investment of interim money**

Under continuing law, the Uniform Depository Act authorizes the investments of interim deposits (money not needed for immediate use but will be needed before the end of the period of designation) by subdivisions in specified instruments. In relevant part, the law authorizes the treasurer or governing board of the subdivision to invest interim deposits in bonds of the political subdivision, if all of the following apply:

---

<sup>9</sup> R.C. 148.04 and 148.06, not in the bill.

<sup>10</sup> 26 United States Code (U.S.C.) 402A.

<sup>11</sup> See [Retirement Topics – Designated Roth Account](#), which may be accessed by conducting a keyword “Roth account” search on the Internal Revenue Service (IRS) website: [irs.gov](https://www.irs.gov).

<sup>12</sup> R.C. 148.061(B).

<sup>13</sup> R.C. 303.213(A), 519.213(A), and 713.081(A).

<sup>14</sup> R.C. 302.13(B), 519.213(B), and 713.081(B).

1. The bonds or other obligations are payable from general revenues of the political subdivision and backed by the full faith and credit of the political subdivision.
2. The bonds or other obligations are rated at the time of purchase in the three highest classifications established by at least one nationally recognized standard rating service and purchased through a registered securities broker or dealer.
3. The aggregate value of the bonds or other obligations does not exceed 20% of interim moneys available for investment at the time of purchase.
4. The treasurer or governing board is not the sole purchaser of the bonds or other obligations at original issuance.
5. The bonds or other obligations mature within ten years from the date of settlement.
6. The treasurer or governing board has completed additional training for making the investments. The type and amount of additional training must be approved by the Treasurer of State and may be conducted by or provided under the supervision of the Treasurer of State.<sup>15</sup>

The bill makes an exception to the requirements above and authorizes the treasurer or governing board of a subdivision that is a member of the Little Miami Joint Fire and Rescue District to invest all or part of the interim moneys in bonds or other obligations of the fire district for which it is a member and requires that the bonds mature in 20 years, instead of the ten-year requirement under the Uniform Depository Act.<sup>16</sup>

## **Township broadband expansion projects**

The bill authorizes a board of township trustees to adopt a resolution to expend general funds to support broadband expansion projects within the unincorporated territory of the township, if each project (1) meets the definition of an eligible project under Ohio Residential Broadband Expansion Grant (ORBEG) Program and (2) has not been awarded a grant under that program. If the board adopts a resolution for this purpose, the board must also establish requirements and a process for awarding the funds to broadband expansion projects and for administering the challenge process described below.<sup>17</sup>

### **ORBEG Program definitions that apply to the bill**

The bill specifies that certain terms in the bill have the same meanings as terms defined for the ORBEG Program,<sup>18</sup> a program under which broadband providers may apply for and be

---

<sup>15</sup> R.C. 135.01 and 135.14, not in the bill.

<sup>16</sup> Section 3.

<sup>17</sup> R.C. 505.882(B).

<sup>18</sup> R.C. 505.882(A)(2).

awarded program grants awarded by the Broadband Expansion Program Authority to help fund broadband service access to residences as part of an “eligible project.”<sup>19</sup>

An “eligible project” is a project to provide tier two broadband service access to residences in an unserved area or tier one area of a municipal corporation or township that is eligible for funding under the ORBEG Program.<sup>20</sup>

“Program grant” is money awarded under the ORBEG Program to assist in covering certain costs for an eligible project.<sup>21</sup>

“Tier two broadband service” is a retail wireline or wireless broadband service capable of delivering internet access at speeds of at least 25 Mbps downstream and at least 3 Mbps upstream.<sup>22</sup>

“Tier one area” is an area that has access to tier one broadband service but not tier two broadband service. “Tier one area” includes an area where construction of a network to provide tier one broadband service is in progress and is scheduled to be completed within a two-year period. “Tier one area” excludes an area where construction of a network to provide tier two broadband service is in progress and is scheduled to be completed within a two-year period. “Tier one broadband service” is retail wireline or wireless broadband service capable of delivering internet access speeds of at least 10 but less than 25 Mbps downstream and at least 1 but less than 3 Mbps upstream.<sup>23</sup>

“Unserved area” is an area without access to tier one broadband service or tier two broadband service, but excluding an area where construction of a network to provide tier one broadband service or tier two broadband service is in progress and is scheduled to be completed within a two-year period.<sup>24</sup>

### **Process for challenges to broadband expansion projects**

Under the bill, if a board of township trustees adopts a resolution to expend general funds to support broadband expansion projects, a challenging provider may challenge the expending of township general funds for this purpose. A challenge must be in writing and must occur not later than 30 days after the resolution is passed.<sup>25</sup>

A “challenging provider” is either of the following:

---

<sup>19</sup> R.C. 122.40 to 122.4077, not in the bill.

<sup>20</sup> R.C. 122.40(D), not in the bill.

<sup>21</sup> R.C. 122.40(B), (E), and (G), not in the bill.

<sup>22</sup> R.C. 122.40(K), not in the bill.

<sup>23</sup> R.C. 122.40(J) and (L), not in the bill.

<sup>24</sup> R.C. 122.40(M), not in the bill.

<sup>25</sup> R.C. 505.882(C)(1).

- A broadband provider providing tier two broadband service within or directly adjacent to an eligible project that is a township broadband expansion project authorized as described above;
- A municipal electric utility that provides tier two broadband service to an area within the eligible project that is a township broadband expansion project authorized as described above and that is within the geographic area service by the municipal electric utility.<sup>26</sup>

### **Challenge requirements**

If a challenging provider challenges township general fund spending for broadband expansion projects, the challenging provider must provide, by certified mail, a written copy of the challenge to the board of township trustees and to the broadband provider whose broadband expansion project is subject to the challenge. The copy provided to the board may include any information the challenging provider considers to be proprietary or a trade secret, but such information may be redacted from the copy of the challenge provided to the broadband provider whose broadband expansion project is subject to the challenge.<sup>27</sup>

### **Requirements for a successful challenge**

The bill requires a challenging provider to provide sufficient evidence to the board of township trustees demonstrating that all or part of the broadband expansion project is ineligible.<sup>28</sup> And, at a minimum, a challenge must include information providing sufficient evidence disputing that the broadband expansion project contains unserved or tier one areas.<sup>29</sup> Finally, the bill specifies that the minimum information in a challenge must also include:

- Sufficient evidence attesting to the challenging provider's existing offering of tier two broadband service to all or part of the broadband expansion project, which evidence must include a signed, notarized statement submitted by the challenging provider that sufficiently identifies the part of the broadband expansion project to which the challenging provider offers broadband service;<sup>30</sup> or
- Sufficient evidence attesting to the challenging provider's planned offering of tier two broadband service to all or part of the broadband expansion project, which evidence must include both of the following:

---

<sup>26</sup> R.C. 505.882(A)(1).

<sup>27</sup> R.C. 505.882(C)(2).

<sup>28</sup> R.C. 505.882(D).

<sup>29</sup> R.C. 505.882(D)(1).

<sup>30</sup> R.C. 505.882(D)(2)(a).



- A signed, notarized statement submitted by the challenging provider that sufficiently identifies the part of the broadband expansion project to which the challenging provider will offer broadband service;
- A summary of the construction efforts that includes the dates when tier two broadband construction is expected to be completed and when tier two broadband service will first be offered to the part of the broadband expansion project being challenged.<sup>31</sup>

### **Allowable information to demonstrate ineligibility**

Under the bill, a challenging provider may present shapefile data, residential addresses, maps, or similar geographic details to demonstrate that all or part of a broadband expansion project is ineligible. However, the bill specifies that census block or census tract level data is not acceptable as evidence of the ineligibility of all or part of a project.<sup>32</sup>

### **Township action regarding a challenge**

If a board of township trustees receives a challenge regarding a broadband expansion project from a challenging provider, the board, not later than 30 days after receipt of the challenge, may do any of the following:

- Suspend the use of general funds for broadband expansion projects that are subject to the challenge;
- Reject the challenge, approve the use of the funds, and proceed with the broadband expansion project by the broadband provider whose project was subject to the challenge;
- Accept the challenge in part, reject the challenge in part, and then approve the use of the funds for a modified broadband expansion project that includes some but not all of the locations initially proposed for the broadband expansion project.<sup>33</sup>

Under the bill, a decision made by a board of township trustees regarding a challenge is considered final and further challenges are prohibited. After the board makes its decision, the board must provide a copy of the decision both to the challenging provider and the broadband provider whose broadband expansion project was subject to the challenge. The copy must be provided by certified mail or electronic mail.<sup>34</sup>

---

<sup>31</sup> R.C. 505.882(D)(2)(b).

<sup>32</sup> R.C. 505.882(E).

<sup>33</sup> R.C. 505.882(F).

<sup>34</sup> R.C. 505.882(G).

---

## COMMENT

As currently drafted, the bill only applies to the treasurer or governing board of a subdivision that is a member of the Little Miami Joint Fire and Rescue District. This may raise a constitutional issue under Ohio Constitution, Article II, Section 26, which prohibits the enactment of special laws. Article II, Section 26 of the Ohio Constitution provides, in part, that “All laws, of a general nature, shall have a uniform operation throughout the state.”

---

## HISTORY

Action	Date
Introduced	12-07-21
Reported, H. Ways & Means	05-25-22
Passed House (89-2)	06-01-22
Reported, S. Local Gov't & Elections	---

---