OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

S.B. 110
136th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsors: Sens. Cirino and Chavez

Local Impact Statement Procedure Required: Yes

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Highlights

- Authorizing credits for investments in rural business growth funds would decrease tax receipts from domestic and foreign insurance companies by up to $90 million. One-fourth of the amount of credits (e.g., $22.5 million) could be claimed in each of the third, fourth, fifth, and sixth tax years following investment. The unused portion of a taxpayer's nonrefundable credit may be carried forward up to two years.
- GRF tax revenue losses could start as early as FY 2029 if the bill is enacted and implemented during calendar year (CY) 2025, or in FY 2030 if the first investments are not made until FY 2027. Annual revenue losses could continue until FY 2034 or FY 2035 due to the carryforward provision associated with this nonrefundable credit.
- Fees of $5,000 initially and $20,000 annually are due from each rural business growth fund, deposited in the Tax Incentives Operating Fund (Fund 5JR0) used by the Department of Development.
- Domestic and foreign insurance tax receipts are currently deposited in the GRF. Thus, 96.6% of revenue losses from insurance company taxes would be borne by the GRF, while the remaining will be borne by the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065), each of which receives 1.7% of GRF tax revenue under the statutory formula.
- Rural business growth fund investments that create too few jobs may result in reimbursements owed to the state, which would be credited to the GRF.

Detailed Analysis

Rural business growth program three

The bill authorizes the third round of funding (i.e., identified as program three under the bill) for the rural business growth program, to be administered by the Department of Development (DEV). Under the bill DEV is allowed to approve not more than $150 million in eligible investment authority and not more than $90 million in credit-eligible contributions for program three. Generally, under the program eligible taxpayers that make qualifying investments in program three rural business growth funds would be able to claim a nonrefundable tax credit equal to 60% of their investment against domestic and foreign insurance taxes. The credit against such taxes must be claimed for a single taxpayer in a taxable year that exceeds the tax due for that year. Any excess tax credits issued under program three may be carried forward for up to two ensuing taxable years. The bill also modifies eligibility and investment requirements associated with program three.

Previous rural business growth programs

Program one of the rural business growth program, which was enacted by S.B. 8 of the 132nd General Assembly, allowed up to $45 million of credit-eligible capital contributions for up to $75 million of eligible investments, starting after March 23, 2018, and certified before September 30, 2021. In addition, program two, which was enacted as part of H.B. 110 of the 134th General Assembly (the main operating budget for FY 2021-FY 2022) and starting on September 30, 2021, also allowed up to $45 million of credit-eligible contributions and $75 million of eligible investments. Both program one and program two, now closed to additional applications, were fully subscribed, an indication that the bill's third round of funding might also be approved for the full amount offered.

Background information

Under the rural business growth program, a person that has developed a business plan to invest in rural business concerns in Ohio and has successfully solicited private investors to make capital contributions in support of the plan may apply to DEV for certification as a rural business growth fund. DEV may then award tax credits to the investor.

To qualify as a rural business growth fund with DEV, the applicant must provide certain documentations, including a revenue impact assessment for the applicant's proposed growth investments. The assessment must be done by a nationally recognized third-party independent economic forecasting firm and demonstrate that the business plan will result in a positive economic impact on Ohio over a ten-year period that exceeds the cumulative amount of tax credits that would be issued if the application were approved.

The tax credit under the program equals to a taxpayer's credit-eligible capital contribution, as deemed by DEV, and may be claimed starting in the third tax year after the initial investment, with one-fourth of credits eligible to be claimed in each of the third, fourth, fifth, and sixth tax years.

Fees

The program requires a $5,000 nonrefundable fee due with any application to DEV. In addition, once a rural business growth fund is certified by DEV, there is an annual fee amounting to $20,000 per year due to DEV. Each subsequent annual fee is due and payable on the last day of February following the first and each ensuing anniversary of the closing date until the fund has been decertified. The annual fee must also be submitted along with any required annual report that must be submitted to DEV. All fees are to be deposited in the Tax Incentives Operating Fund (Fund 5JR0), which is used by DEV to fund the operating costs of administering various ongoing tax credit programs managed by the agency. The fees received into Fund 5JR0 may partially or fully offset the administrative costs to DEV in reviewing, approving, and monitoring the tax credit applications and awards.

Fiscal effect

The aggregate amount of program three tax credits approved by DEV is limited to $90 million. Thus, the cumulative potential revenue loss would be up to $90 million, or up to $22.5 million per year. Any revenue loss from the bill would occur beyond the current biennium. Assuming DEV awards the entire amount of program three tax credits allowable under the bill in FY 2026, GRF tax revenue losses could start as early as FY 2029 once the first taxable year credits may be claimed. If the amount of credit for a taxable year exceeds the tax due for that year, under program three the excess may be carried forward for not more than two ensuing taxable years. The credits claimed by taxpayers under program three may be subject to recapture under certain conditions.

Receipts from domestic and foreign insurance taxes are deposited into the GRF. There is a 0.75% surtax on the premiums attributable to fire insurance; revenue from the surtax is deposited in the Fire Marshal Fund. Additionally, under permanent law, a portion of the GRF tax receipts is subsequently transferred to the Local Government Fund (LGF) and Public Library Fund (PLF), with both the LGF and PLF receiving 1.7% of GRF tax revenue under statutory formula.

Potential indirect fiscal effects

The program requires the rural business growth fund applicant to show positive economic impacts from the projects receiving the credit-eligible capital from the fund. Such economic benefits may be additional employment positions created or retained; improvement in property, plant, and equipment; or a growth in rural business profits, among others. In theory, these developments would create additional tax revenue for the state and local governments. If that is realized, the fiscal revenue loss from the bill's program three may be reduced. However, it is also possible that those projected economic benefits may not occur.

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