



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** H.B. 233 of the 131st G.A.

**Date:** April 8, 2016

**Status:** As Reported by Senate Ways & Means

**Sponsor:** Rep. Schuring

**Local Impact Statement Procedure Required:** No

**Contents:** Authorizes municipal corporations to create downtown redevelopment districts and innovation districts, and amends the law governing certain taxes and tax credits

### State Fiscal Highlights

- There will be a minimal increase in administrative costs to the Development Services Agency and the Office of Budget and Management to develop and implement a system of tracking information necessary to anticipate the impact that issuing Ohio Historic Preservation Tax Credits will have on current and future fiscal years.

### Local Fiscal Highlights

- The bill allows municipal corporations to designate downtown redevelopment districts (DRDs) to redevelop commercial and mixed-use commercial and residential areas of no more than ten acres. DRDs would require property owners within the district to submit service payments in lieu of some property taxes, similar to tax increment financing (TIF) districts.
- The funds generated from DRDs may be used for a broader range of purposes than TIF funds. The additional uses include the ability to award grants and loans to owners of historic buildings and other property located within the district.
- The bill also authorizes innovation districts to be designated within DRDs, to generate funds via the same means, except the funds from these districts may also be used to award grants and loans to technology-oriented businesses and to incubators and accelerators that provide services and capital to such businesses within the innovation district.
- The creation of DRDs and innovation districts may result in a loss of tax revenue for units of local government. In the case of a municipality that establishes a district, any revenue loss would be permissive. But school districts and other units of local government could experience revenue losses that would not be permissive.
- Changes to the law pertaining to property tax exemption for property used for charitable or educational purposes may result in revenue losses to units of local government, of an uncertain magnitude.

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## Detailed Fiscal Analysis

### Creation of downtown redevelopment districts

The bill establishes a procedure by which municipal corporations may designate downtown redevelopment districts (DRDs) for the purposes of rehabilitating historic buildings, creating jobs, and encouraging economic development in commercial and mixed-use commercial and residential areas of no more than ten acres. The DRD would enable municipal corporations to require property owners within the district to submit service payments in lieu of some property taxes, to pay for the redevelopment. In this way, the districts would act similar to tax increment financing (TIF) districts, an economic development financing tool already available to political subdivisions under current law. The primary difference between the two is that revenue to DRDs may be used for a broader range of purposes than TIF funds, including the ability of the municipal corporation to award grants and loans to owners of historic buildings and other property located within the DRD.

### Local establishment of DRDs

DRDs may be created by ordinance of the legislative authority of a municipal corporation. Under the bill, a municipal corporation is authorized to exempt a percentage of the increased value of parcels located within the DRD from property taxation and require the owners of such parcels to make their service payments in lieu of taxes. The DRD must include at least one historic building that is in the process of being rehabilitated, or that will be rehabilitated after designation of the district. A "historic building" has the same meaning as when used in the context of the state historic building rehabilitation tax credit: the building must be listed on the National Register of Historic Places, listed as a historic landmark, or located in a registered historic district and certified by the State Historic Preservation Officer as being of historic significance to the district.

The municipal corporation must complete an economic development plan when the DRD is authorized. The plan must include a statement describing the purposes and goals of the district, an explanation of how the municipal corporation will collaborate with businesses and owners of property within the district, and a proposal for using the revenue generated from the property owners' payments in lieu of taxes. If the municipal corporation intends to use those payments to finance public infrastructure improvements, the economic development plan must identify specific projects that will be funded and describe how the projects will accommodate additional demands on the existing infrastructure within the district.

Moreover, the bill allows an innovation district to be created within a DRD if the area is equipped with a high-speed broadband network capable of download speeds of at least 100 gigabits per second. The purpose of an innovation district is to attract and facilitate growth of technology-oriented businesses. A separate economic development

plan for the innovation district must be developed, but the other requirements governing these districts are identical to the laws that would apply to DRDs.

### **Property tax exemption**

The municipal corporation that established a DRD may exempt up to 70% of the increase in value of parcels within the district from property taxes. This tax exemption would last no longer than ten years, except that the exemption could continue for up to 30 years with permission of affected school districts or if such school districts are reimbursed by the municipal corporation. Owners of parcels in the district would be required to make service payments in lieu of taxes on the specified percentage of the increment in value. Taxes would remain payable on the value prior to establishment of the district and on the portion of the incremental value not exempted. The service payments are made in the same manner as property taxes.

Because the service payments would be used for economic development purposes and not distributed as taxes, units of local government could lose revenue relative to what those revenues would be if taxable values increased by the same amounts in the absence of establishment of a DRD. School districts, unless reimbursed, could also lose tax revenue. The resulting loss of tax revenue would depend on the number of DRDs established, on the subsequent increment in taxable value in these districts, and on the terms (percentage of exemption and number of years) of the tax exemption. The bill provides exceptions to this loss of tax revenues for certain levies for a number of specified purposes under sections of the Revised Code enumerated in the bill, including mental retardation and developmental disabilities programs; senior citizens programs; county hospitals; alcohol, drug addiction, and mental health services; libraries; children's services; zoos; parks; public assistance; and several others. In addition, half of county inside millage (inside the ten-mill limit) on the increment in value of the real property as it existed when the DRD was created is to be paid to the county, unless the county and the municipal corporation that established the DRD agree to waive this requirement.

### **DRD revenue through service payments and redevelopment charges**

In lieu of the taxes on the exempted portion of increased property value, the municipal corporation receives annual payments, called service payments, from the owners of the exempted property. Service payments are equal to the amount of real property taxes that would have been charged on the value exempted from taxation. They are collected and distributed at the same time and in the same manner as real property taxes, but the entire amount must be distributed to the municipal downtown redevelopment district fund of the municipal corporation that created the DRD.

In addition to taxes, a property owner in a DRD and the municipal corporation that created the district may agree on a redevelopment charge on the property to pay for services, facilities, and improvement. Finally, a special improvement district in which a DRD is located may also receive contributions from the municipal corporation

that created the district. Such contributions are to be used for promotion of events and activities in the district and recruitment of businesses to relocate or expand in the DRD.

### **Allowable uses of DRD funds**

The municipal corporation collects the DRD funds and deposits the money into a set-aside DRD account to use for DRD purposes. Overall, DRD funds may be used for a broader range of purposes than TIF funds. One such purpose is to finance grants and loans to owners of historic buildings and other property located within the district. The proceeds of the grant or loan must be used by the owner to rehabilitate a historic building or make repairs and improvements to a nonhistoric building. If the municipal corporation awards such a loan or grant, it must track the building owner's use of the funds and the progress of the rehabilitation or improvement project.

DRD funds may also be used to make contributions to special improvement districts (SIDs), community improvement corporations (CICs), or to a nonprofit corporation organized for the purpose of redeveloping historic buildings and districts. A SID or CIC receiving the funds must use them to promote the district to potential business patrons, to recruit businesses to relocate to or expand in the district, and to attract and promote events and activities that generate or enhance public welfare within the district. They also must periodically report to the municipal corporation that contributed the funds on expenditures of past contributions and plans for utilization of future contributions. The total contribution of DRD funds to SIDs, CICs, and nonprofit corporations may not exceed the property tax revenue that would have been generated by 20% of the assessed value of the exempted improvements within the DRD.

Additionally, the DRD funds may be used for the use of TIF funds that exist in current law, to finance public infrastructure improvements to the extent authorized in the ordinance creating the district. Under continuing law, "public infrastructure improvements" include (1) public roads and highways, (2) water and sewer lines, (3) environmental remediation, (4) land acquisition and demolition, for economic development, (5) stormwater and flood remediation, (6) gas, electric, and communications service facilities, and (7) enhancement of public waterways through projects that allow for greater public access.

Finally, if a DRD includes an innovation district, the funds may be used to award grants and loans to technology-oriented businesses and to incubators and accelerators that provide services and capital to such businesses within the innovation district. The grants and loans must be awarded on the condition that the recipient uses the funds to start or develop one or more technology-oriented business within the district. The bill requires the municipal corporation that awarded the grant or loan to develop a plan for tracking the recipient's use of the funds and the progress of the technology-oriented businesses. Municipal corporations might incur some additional administrative costs for tracking the use of this grant and loan money.

## **Charitable use property tax exemption for certain museums**

The bill amends Revised Code section 5709.121 to extend the charitable use property tax exemption to certain museum property conveyed to take advantage of a historic rehabilitation tax credit and to certain property leased for a lengthy term by the state or a political subdivision or charitable institution. It specifies that a children's, science, history, or natural history museum open to the general public is to be considered as used exclusively for charitable or public purposes.

The bill allows a qualifying property to be considered as used exclusively for charitable or public purposes even if an interest in the property is conveyed to an entity not a charitable or educational institution, the state, or a political subdivision, under certain conditions. These conditions include that at least 45% of the usable rental space of the property be leased to the entity that owned or occupied the property in the tax year prior to the year when the property was conveyed, or to an affiliate of that entity. Also, at least 45% of the usable rental space must continue to be used for the charitable or public purpose. Other conditions are as specified in current law.

The bill defines, for purposes of the property tax exemption in R.C. 5709.121, real property as belonging to a charitable or educational institution, the state, or a political subdivision if the entity either owns the property or holds a leasehold interest with a remaining term in excess of the recovery period prescribed by section 168(c) of the Internal Revenue Code, which governs accelerated cost recovery depreciation for federal income tax purposes. The term varies by type of property.

The change potentially broadens the availability of the charitable use property tax exemption, by extending it to property at least 45% of which is leased to be used for the charitable or public purpose, for historic rehabilitation property for which an exemption is sought under R.C. 5709.121.

The changes made by the bill may result in tax exemption for properties on which tax would otherwise be owed. The magnitude of such real property tax revenue losses as a result of amendment of R.C. 5709.121 by the bill appears uncertain. This provision of the bill is believed by LSC to apply to a property that is currently tax exempt, hence would not entail a loss of tax revenue from this property for units of local government.

## **Clarification of permissible uses of special lodging tax**

The bill clarifies that a county levying a lodging tax to support bonds issued by a port authority to pay for a port authority facility may use the funding not only to construct but also to acquire or equip the facility. Under Revised Code section 4582.56, enacted in H.B. 64 of the 131st General Assembly (the biennial budget act), a county eligible to use this funding method for a port authority facility must have a Lake Erie shoreline the length of which is at least 50% of the length of the county's border with other Ohio counties. "Construction" for a port authority is defined in Revised Code sections 4582.01 and 4582.21, but the definitions in these sections do not include acquisition or equipment, added by the bill.

## **Analyzing the tax impact of Ohio Historic Preservation Tax Credits**

Finally, the bill requires the Development Services Agency (DSA) to work in consultation with the Office of Budget and Management (OBM) to develop and adopt a system of tracking any information necessary to anticipate the impact of Ohio Historic Preservation Tax Credits (OHPTCs) issued on tax revenues for current and future fiscal years. Currently, applications under the OHPTC program are accepted and administered in partnership between DSA and the Ohio History Connection. Presumably, if OBM and DSA adopt a system that differs from the current application and tax credit oversight process, the costs would mostly be absorbed into ongoing operating costs of the program. Ultimately, this provision would likely result in a minimal increase in administrative costs to DSA and OBM in developing and implementing the system. DSA line item 195645, Historic Rehab Operating, is used to pay for the operating costs of the program, and in H.B. 64 of the 131st General Assembly, received appropriations of \$900,000 in FY 2016 and \$1 million in FY 2017. Half of the program costs are transferred from the line item to the Ohio History Connection to cover the expenses involved with administering its portion of the program.