OHIO LEGISLATIVE SERVICE COMMISSION

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Fiscal Note & Local Impact Statement

Bill: H.B. 469 of the 132nd G.A. **Status:** As Introduced

Sponsor: Reps. Schuring and Patton **Local Impact Statement Procedure Required:** Yes

Subject: To authorize a nonrefundable insurance company tax credit for contributions of capital to transformational mixed use development projects.

State & Local Fiscal Highlights

- The bill would reduce tax receipts from the state foreign and domestic insurance premium taxes, which are deposited into the GRF.
- The number of projects that may be approved is undetermined, but each such project would result in revenue losses of $40 million or more. The revenue losses could be less if actual project costs turn out to be less than estimated costs.
- Because the credits are nonrefundable, the revenue losses in any one fiscal year are limited by the taxpayer's tax liability in the year claimed. Unused tax credits can be carried forward for five years.
- A credit cannot be claimed until the project is completed, so revenue losses are unlikely during the current biennium.
- Any reduction to total GRF tax receipts would also reduce the amount distributed to the Local Government Fund (LGF, 1.66%) and Public Library Fund (PLF, 1.66%). Any reduction to the LGF and PLF would decrease distributions from the funds to counties, municipalities, townships, public libraries, and other political subdivisions in the state.
- The bill may increase the Development Services Agency's administrative costs for certification related to transformational mixed use development projects and application and approval processes for awarding the tax credits.

Detailed Fiscal Analysis

The bill specifies that the owner of one or more parcels of land in Ohio within which a transformational mixed use development is planned may apply to the Director of the Development Services Agency (DSA) for a transformational mixed use development project tax credit certificate if the estimated development costs[1] to

[1] "Development costs" means expenditures paid or incurred by the property owner in completing a certified transformational mixed use development project, including architectural or engineering fees and other expenses incurred before the date the project is certified by the Director.

complete the project exceed $400 million. The bill defines "transformational mixed use development" to mean a site not exceeding seven acres that integrates some combination of retail, office, residential, hotel, recreation, structured parking, and other uses and that includes at least one building that is 20 or more stories in height. If the Director determines that the project qualifies as a transformational mixed use development and satisfies all other criteria prescribed by the bill or by rule, the Director may issue to the applicant a written statement that certifies the project and preliminarily approves a tax credit. The bill specifies certain conditions that the Director must consider in determining on whether or not to certify a project. The Director's determination is final, but an applicant may revise and resubmit a previously denied application.[2]

The tax credit, which cannot be claimed until the project is completed, equals 10% of the actual development costs. The credit may be claimed against the foreign and domestic insurance premium taxes, in the calendar year specified in the certificate. If the credit exceeds the amount of tax otherwise due in that year, the company is allowed to carry forward the excess for not more than five years. The bill requires such company to retain the tax credit certificate for four years following the end of the last year in which the credit is claimed. The company must make the certificate available for inspection by the Tax Commissioner upon the request of the Commissioner during that period.

Under the bill, an applicant who is preliminarily approved for a tax credit may sell or transfer the rights to that credit to one or more persons for the purpose of raising capital for the certified project. The bill requires such applicant to notify the Director upon selling or transferring the rights to the credit.[3]

The amount of development costs for which a tax credit may be claimed is subject to inspection and examination by the Tax Commissioner or employees of the Commissioner. The bill requires the Director to certify to the Commissioner, in the form and manner requested by the Commissioner, the name of the applicant, the name of each person to which a tax credit certificate was issued, the actual amount of development costs attributed to the project, the credit amount shown on each tax credit certificate, and any other information required by the rules adopted under this bill.

Fiscal effect

The bill would reduce revenue from the state foreign and domestic insurance premiums taxes. Revenue from these taxes is deposited into the GRF. The amount of revenue loss would depend on the number of approved projects, contributions to those

[2] The Director is also authorized to rescind the approval of an application if the applicant does not demonstrate the required progress in completing the project.

[3] The notice must identify the person or persons to which the credit was sold or transferred and the credit amount sold or transferred to each such person. The bill specifies that only the applicant may sell or transfer a credit.

projects, and the size of taxpayers' liabilities. Under the terms of the bill, each approved project would result in revenue losses of $40 million (equal to 10% of $400 million) or more, though because the credit is nonrefundable, the loss is limited by a taxpayer's tax liability. The revenue loss may be spread over up to six fiscal years, the initial year it is claimed and up to five subsequent years.

Because the project must be completed before the tax credit may be claimed, the revenue loss is unlikely to appear during the current biennium. Under current law, the Local Government Fund (LGF) and Public Library Fund (PLF) would each receive transfers of 1.66% of GRF tax revenue starting in FY 2020, meaning that they will each bear a portion of the revenue loss: about $0.7 million for each fund for a $40 million tax credit. Any reduction to the LGF would reduce allocations to counties, municipalities, townships, and other local government entities. Any reductions to the PLF would decrease allocations to public libraries.

The bill would increase DSA's administrative costs to certify transformational mixed use development projects and administer application and approval processes for awarding tax credits related to such projects. Any increase in such costs may be paid from line item 195649, Business Assistance Programs (Fund 4510); operating costs of the Office of Strategic Business Investments of DSA are currently funded by this line item.[4] The bill may also increase the Department of Taxation's administrative costs related to inspection and examination associated with such tax credits. Any increase in such costs may be paid from GRF line item 110321, Operating Expenses.

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[4] Line item 195649 is used to pay for administrative expenses associated with the operation of various loan programs offered by DSA and overseen by the Office of Strategic Business Investments. Fund 4510 is funded by loan commitment fees and Facilities Establishment Fund reimbursements approved by the Controlling Board; application fees and penalties are collected through tax credit programs.