OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

H.B. 685

134th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 685's Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Edwards and Cross

Local Impact Statement Procedure Required: Yes

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Highlights

- The bill creates a new loan program supported by revenue bonds issued by the Treasurer of State, which will fund natural gas infrastructure in areas that have deficiencies in natural gas infrastructure. The bill designates these areas as an "EnergizeOhio" zone.
- The bill expands the eligibility of existing Department of Development loan programs to include natural gas infrastructure projects in an EnergizeOhio zone.
- The bill creates the pipeline easement revolving loan program. Proceeds may be used solely to purchase or lease easements on property located in an EnergizeOhio zone designated for the purpose of installing natural gas pipelines or other natural gas infrastructure on the property. The bill appropriates $20 million in FY 2023 for this purpose, which is funded by a transfer from the Facilities Establishment Fund (Fund 7037).
- The bill authorizes state-regulated gas companies to levy a new rider on their customers, if the company already obtained approval from state regulators for an infrastructure development rider. The new rider pays for infrastructure in an EnergizeOhio zone.
- The bill reduces the taxable value of natural gas property within a designated EnergizeOhio zone. The losses would be authorized by the legislative authority of a taxing jurisdiction, so the local government's fiscal effect is permissive. However, school districts would incur property tax revenue losses due to actions of legislative authorities within their geographic boundaries.
- The Office of Budget and Management (OBM) Director must transfer $50 million cash from the State Fiscal Recovery Fund (Fund 5CV3) to the Natural Gas Infrastructure Reserve Account of Fund 7037 created by the bill, for purposes of providing collateral proceeds to the fund.

Detailed Analysis

The bill creates various incentives for the development of natural gas pipelines and associated infrastructure. The incentives are available for projects located in locally designated areas, called EnergizeOhio zones, and include loan programs, cost recovery provisions, and a personal property tax reduction.

EnergizeOhio zone

The bill enables a legislative authority to adopt and certify to the Director of Development an ordinance or resolution requesting that the Director designate all or a portion of the subdivision's territory as an EnergizeOhio zone. The bill defines "legislative authority" as the legislative authority of a municipal corporation, a board of the township trustees, or a board of county commissioners; school districts are not involved.

The ordinance or resolution must describe the boundaries of the proposed area. The Director, upon receipt of that certification, must designate the proposed area as an EnergizeOhio zone, if the Director determines that deficiencies in natural gas infrastructure in the proposed area adversely affect economic conditions or potential for economic growth.

The Director must notify the legislative authority of the agency's decision within 60 days after receiving the certified ordinance or resolution. An EnergizeOhio zone designation is effective for the five calendar years following the date of the Director's decision to approve the designation.

Revenue bonds for natural gas companies ("EnergizeOhio bond")

The bill allows the Director of Development to request that the Treasurer of State (TOS) issue new economic development bonds specifically to fund natural gas infrastructure. The Director, with Controlling Board approval, may lend money in the natural gas infrastructure fund to natural gas companies[1] for the purpose of paying the allowable costs of eligible natural gas infrastructure projects.[2] The Director must prescribe loan application procedures and eligibility criteria. Fees, charges, rates of interest, times of payment of interest and principal, and other terms, conditions, and provisions of the loans must be such as the Director determines to be appropriate and in furtherance of the purpose for which the loans are made.

The bill defines "eligible natural gas infrastructure project" as project facilities to be acquired, established, expanded, remodeled, rehabilitated, or modernized for the purpose of providing or transporting natural gas to areas underserved or not served by natural gas infrastructure, provided the facility is located in an EnergizeOhio zone.

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[1] According to Ohio Department of Taxation statistics, Ohio has 30 natural gas companies that meet the bill's definition of "natural gas company."

[2] Please refer to the LSC bill analysis for a comment about the Ohio Constitution, which generally prohibits the state from lending its credit in aid of private, for-profit corporations.

Existing bond-funded programs

The bill specifies that natural gas infrastructure projects located in an EnergizeOhio zone are eligible[3] for two existing state programs funded through economic development bond proceeds. Through both the 166 Direct Loan Program and the Enterprise Bond Fund Program, the Director of Development uses bond proceeds to make loans to eligible projects related to industry, commerce, distribution, or research. Under the 166 Direct Loan program, loans are provided from the Facilities Establishment Fund (Fund 7037), which is funded through the issuance of economic development bonds and the repayment of loans made from the fund. Under the Enterprise Bond Fund Program, the Treasurer can issue project-specific bonds, backed by money in the Facilities Establishment Fund, and the Director uses those bond proceeds to provide loans.

Natural Gas Infrastructure Fund

The bill creates the Natural Gas Infrastructure Fund in the state treasury. The fund would consist of grants, gifts, and contributions of money or rights to money lawfully designated for or deposited into the fund, all money and rights to money lawfully appropriated and transferred to the fund, including money received from the issuance of obligations under various bond programs for purposes of allowable costs of eligible natural gas infrastructure projects, and money received by the state from the repayment of loans. All investment earnings on the cash balance in the fund must be credited to the fund. The fund must not be comprised, in any part, of money raised by taxation.

Money received by the state from the repayment of loans, including interest thereon, may be deposited to the credit of separate accounts within the Natural Gas Infrastructure Fund or in the bond service fund and pledged to the security of obligations, applied to the payment of bond service charges without need for appropriation, released from any such pledge and transferred to the Natural Gas Infrastructure Fund, all as and to the extent provided in the bond proceedings pursuant to written directions of the Director.

Infrastructure development rider

Background

Existing law permits natural gas companies to file applications with the Public Utilities Commission of Ohio (PUCO) for an infrastructure development rider (IDR) to recover costs of certain economic development projects. PUCO may only approve one IDR per company, but the rider may be used to recover costs for one or more economic development projects. A natural gas company that seeks cost recovery for economic development project costs must first file an application for an IDR with PUCO. Administrative rules then require natural gas companies to file a notice with PUCO, prior to beginning construction, for approval of an economic development project. PUCO's docketing information system shows that five natural gas distribution service providers, inclusive of the four PUCO-regulated companies with the largest customer bases, currently have an IDR in their tariff. However, two of the five companies currently charge nothing to their customers under this tariff, due to the paucity of ongoing projects.

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[3] To qualify, the project must meet the same requirements as those that qualify for the EnergizeOhio bond program.

New customer charge and IDR modifications

Under the bill, a natural gas company that has been approved for an IDR under continuing law may recover an additional $1.50 from any single customer in this state, if the company is doing infrastructure development in an EnergizeOhio zone. The company must recover the same amount from every customer.

The bill modifies the existing IDR law to permit a company with money remaining from an IDR that is no longer being collected for a project that has yet to be completed must not be precluded from receiving a new IDR for a new project.

Notwithstanding any provision of the Revised Code, or any regulation adopted thereunder, or any order of PUCO that sets a limit on the rate of return allowed to be collected by a natural gas company for infrastructure development investments, a natural gas company may collect up to a 12% rate of return for investments in infrastructure development in an EnergizeOhio zone.

Pipeline easement loan fund

The bill creates the pipeline easement revolving loan program. In doing so, the bill creates the Pipeline Easement Loan Fund (Fund 5YK0) in the state treasury, which consists of revenue transferred to the fund, inclusive of transfers from Fund 7037. Money in the fund must be used by the Director of Development to fund the new pipeline easement program. Interest earned on money in the fund must be credited to the fund.

An eligible applicant may apply to the Director, on forms prescribed by the Director, for a loan from the pipeline easement loan fund. The Director must evaluate each application using the evaluation criteria later adopted under Department of Development rulemaking. A loan awarded under this program must not bear interest for up to five years from the date the loan is disbursed, as determined by the Director.

An eligible applicant receiving a pipeline easement revolving loan may use the proceeds solely to purchase or lease easements on property located in an EnergizeOhio zone designated for the purpose of installing natural gas pipelines or other natural gas infrastructure on the property. A loan must be repaid from proceeds obtained by the eligible applicant in selling or leasing easements purchased or leased in whole or in part with loan proceeds and from any other lawful source of revenue. The Director must credit repayments to Fund 5YK0.

The Director of Development, in consultation with the Chief Investment Officer of JobsOhio, must adopt administrative rules prescribing all of the following: (1) the terms and conditions of any loan awarded under the pipeline easement revolving loan program, including the manner in which the loan amounts are to be repaid, (2) the manner in which the Director must enforce loan amounts that are not repaid according to those terms, and (3) criteria the Director will use to evaluate loan applications.

Valuation of natural gas property

The bill modifies this valuation formula for natural gas property that is placed into service in an EnergizeOhio zone. The effect is to reduce the valuation of such property, thereby reducing the property's taxable value.

First, the bill requires that, when the Tax Commissioner determines the property's annual depreciation allowance, the property's useful life must be considered to be one-third (or less) of the useful life of similar, nonqualifying property. The result of this change is to accelerate the property's depreciation allowances, producing a lower valuation. Second, the bill requires that the Tax Commissioner further reduce the value of property in an EnergizeOhio zone by 75%. This reduction occurs after the value is calculated using the accelerated depreciation allowance described above.

The bill's changes apply to property that is placed into service while an EnergizeOhio zone designation is in effect. However, the benefits are available to property for ten years, beginning in the tax year that the property is placed into service, regardless of whether EnergizeOhio zone designation expires during that ten-year period. The losses would be authorized by the legislative authority of a taxing jurisdiction, so the local government's fiscal effect is permissive. However, school districts would incur property tax revenue losses due to actions of legislative authorities within their geographic boundaries. The provision has indeterminate fiscal effect, but potentially sizable, depending on actions of both legislative authorities and investment decisions of natural gas companies.

Office of Budget and Management

The bill creates several duties for the OBM Director by including both an appropriation and multiple fund transfers.

Facilities Establishment Fund (Fund 7037)

The OBM Director must establish a separate account of Fund 7037, to be designated as the natural gas infrastructure reserve account. Money in the account must remain in the account as credit enhancement for the issuance of obligations by TOS for the purpose of paying the allowable costs of eligible natural gas infrastructure projects. Upon the issuance of such obligations, and to the extent provided in the bond proceedings, money in the fund may also be used for the payment of bond service charges with respect to such obligations.

On July 1, 2022, or as soon as possible thereafter, the OBM Director must transfer \$20 million in cash from Fund 7037 to Fund 5YK0. Once per fiscal year, the Director of Development may request that the OBM Director transfer money from the facilities establishment fund to Fund 5YK0. Upon receipt of that request, the OBM Director must make the transfer in the amount requested.

State Fiscal Recovery Fund (Fund 5CV3)

On July 1, 2022, or as soon as possible thereafter, the OBM Director must transfer \$50 million cash from the State Fiscal Recovery Fund (Fund 5CV3) to the Natural Gas Infrastructure Reserve Account of Fund 7037 created by the bill, for purposes of providing collateral proceeds to the fund.

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