DevelopOhio Economic Incentives Toolkit

An Effective Economic Development Toolkit for Growth and Job Creation

Current as of July 1, 2023

Bricker Graydon

www.bricker.com/economicdevelopment

Bricker Graydon LLP would like to acknowledge and thank Quinten Harris, Deputy Director of Jobs and Economic Development for the City of Columbus' Department of Development, for his significant contributions to the development of this resource.

CONTENTS

Section **Page No.**

INTRODUCTION **1**

The Purpose of This Guide 1
Ohio's Economic Development Landscape Shaped by Recent Wins 1
Bricker Graydon: Commitment to Economic Development 2

STATE OF OHIO TAX CREDIT PROGRAMS **3**

Job Creation Tax Credit Program 3
Job Retention Tax Credit Program 5
Data Center Tax Exemption Program 6
Historic Preservation Tax Credit Program 7
New Markets Tax Credit Program 8
Motion Picture Tax Credit Program 9
Opportunity Zone Tax Credits 10
State Low Income Housing Tax Credit 11
Welcome Home Ohio Tax Credit 11

STATE OF OHIO GRANT PROGRAMS **13**

629 (Roadwork Development) Grant Program 13
SiteOhio Certification Program 14
Ohio Air Quality Development Authority 14
Residential Broadband Expansion Grant Program 17
Brownfield Remediation & Building Demolition and Site Revitalization Programs 17
Connect4Ohio Fund 18
All Ohio Future Fund 18
Welcome Home Ohio Purchase & Rehab Construction Grant 19

STATE OF OHIO LOAN/BOND PROGRAMS **20**

166 Direct Loan Program 20
Regional 166 Direct Loan Program 21
Minority Business Direct Loan Program 23
Enterprise Bond Fund Program 24
Rural Industrial Park Loan Fund 25
Research and Development Investment Loan 26
Innovation Ohio Loan Fund 27

STATE INFRASTRUCTURE BANK PROGRAMS **30**

State Infrastructure Bank Loans 30
State Infrastructure Bank Bonds 31

JOBSOHIO LOAN AND GRANT PROGRAMS....34

JobsOhio Growth Fund Loan....34
JobsOhio Workforce Grant....35
JobsOhio Economic Development Grant....36
JobsOhio Revitalization Loan and Grant Fund....36
JobsOhio Research and Development Grant....38
JobsOhio's Ohio Site Inventory Program (OSIP)....39

MUNICIPAL TAX CREDIT PROGRAMS....40

Municipal Job Creation Tax Credit Program....40
Municipal Job Retention Tax Credit Program....41

LOCAL PROPERTY TAX ABATEMENT PROGRAMS....41

Enterprise Zone Program....43
Community Reinvestment Area Program....49
Tax Increment Financing....53
Undeveloped Property Tax Abatement....59
Pre-Residential Development Property Tax Abatement....61
Airport Development Districts....61
Regional Transportation Improvement Projects....62

LOCAL SPECIAL PURPOSE ECONOMIC DEVELOPMENT DISTRICTS/ENTITIES....62

Joint Economic Development Districts....62
New Community Authorities....65
Transportation Improvement Districts....69
Special Improvement Districts....70
Property Assessed Clean Energy Bonds....72
Community Improvement Corporations....73
County Land Reutilization Corporations....76
Port Authorities....80
Bond Fund....81
Exception to Sunshine Law and Public Records Law....81
Exemption from the Requirement of the Use of Prevailing Wage....81
Federal and State Tax Exemptions....82
Downtown Redevelopment Districts....82

FEDERAL TAX CREDIT PROGRAMS....83

Historic Preservation Tax Credit Program....83
20 Percent Tax Credit....84
10 Percent Tax Credit....84
New Market Tax Credit Program....84
Opportunity Zones....85

FEDERAL LOAN PROGRAMS..88

7(a) Loan Program 88
504 Loan Program..89

FEDERAL GRANT/SPECIAL PURPOSE PROGRAMS..91

EB-5 Immigrant Investor Program 91
EB-5 Regional Center Program..92
U.S. Foreign-Trade Zone Program 93
Foreign-Trade Sub Zones 94
Federal COVID-19 Stimulus Responses 94

OHIO WORKFORCE DEVELOPMENT PROGRAMS..97

Ohio Means Jobs..99
On the Job Training 99
ApprenticeOhio..100
Ohio Export Internship Program..100
Work Opportunity Tax Credits 100

INTRODUCTION

The Purpose of This Guide

Economic development has been defined as "the entire array of activities, some conducted by government, and some by the private sector, often in partnership with government, which are intended to expand the economy of a designated area to increase the number of jobs available to the population of that area."[1] Similarly, one may employ a working definition of economic development as being that of a public or nonprofit sector-based intervention into private transactions (e.g., land purchases, building construction) to increase a community's tax base or address "market imperfections" like abandoned industrial brownfields. This guide outlines the array of tools with which Ohio economic development practitioners can intervene to stimulate or induce development to occur — or occur sooner than market forces sometimes allow — in their communities. This guide also assists practitioners by identifying programs and clarifying changes to existing programs, and introducing effective new options to consider. If knowledge is power, this guide provides practitioners with the unique ability to empower their communities or businesses to accomplish a variety of economic development objectives.

As a side-by-side companion resource, we direct the reader's attention to the Ohio Attorney General's Economic Development Manual, last published in 2017. This state government-issued overview is of a high quality and provides economic development program information and a perspective that nicely complements this guide. But as the state's resource now is six years' old, we point out this Toolkit tracks the respective law changes in Ohio's economic development programs through summer 2023.

Ohio's Economic Development Landscape Shaped by Recent Wins

The publication of this updated Toolkit in 2023 occurs as the state of Ohio experiences substantial economic development wins in the form of large-scale site attractions and expansions garnering national (and international) media attention. During September 2022, Intel Corp. formally broke ground on a $20 billion project to construct two semiconductor chip manufacturing plants in New Albany, within the Columbus metro area. And in February 2023, ground broke in Fayette County on the construction of a new $3.5 billion electric vehicle battery factory to be operated as a joint venture between Honda and LG Energy Solutions. Finally, in June 2023, General Motors announced it would invest $920 million in expanding operations at its Ohio diesel engine plant for heavy-duty trucks (this move occurs even as the automaker vows to stop the sale of new gasoline and diesel-powered vehicles by 2035).

Coming out of the COVID-19 pandemic and the supply chain nightmares it induced – which coincided with ruptures across the globe in longstanding economic relationships as nations took

[1] Source: https://www.arkansasedc.com/, last visited August 4, 2023.

sides in the Russian invasion of Ukraine – Ohio has been well-placed as a safe and dependable location of choice for manufacturing, headquarters operations, and new investment.

Such are the dividends flowing from the state's restructuring – commencing in 2011 – of the Ohio Department of Development (ODOD) to carve-out project attraction and site selection responsibilities, placing them in JobsOhio. (With the state's back office economic development functions, and the entirety of its community development portfolio, still remaining with ODOD.[2]) With these organizational changes, Ohio moved away from the traditional state agency-led economic development practices employed during the latter half of the 20th Century (dating back to the efforts in the early 1960s by the so-called Governor Rhodes' Raiders).[3]

Bricker Graydon holds a key place in the state's evolution in its economic development approach. Our firm was an instrumental part of the restructuring process through JobsOhio, and we have decades' long relationships with key industry leaders. We remain committed to collaborative work with state and local government organizations to position Ohio for growth and sustained prosperity.[4]

Bricker Graydon: Commitment to Economic Development

We Have Joined Forces

Columbus-based law firm Bricker & Eckler LLP, with nearly 78 years of history, and Cincinnati-based law firm Graydon Head & Ritchey LLP, with 152 years of history, have merged effective April 3, 2023, and are now operating under the name Bricker Graydon LLP. Our clients will continue to experience the same level of service moving forward, but with an added bonus.

Our firm provides legal advice to a wide range of clients, including businesses, real estate developers, site selection consultants, governmental agencies, and public entities. To serve clients and markets creatively, Bricker Graydon integrates a broad range of capabilities and a network of relationships to position its clients' projects for short- and long-term success. Bricker Graydon helps its economic development clients define and implement their overall financing structures to maximize the success of their projects by leveraging various financing sources and available incentive programs. Along the way, Bricker Graydon also helps identify and execute strategies to achieve clients' overall business objectives, addressing matters pertaining to state taxes, transportation and logistics, land-use planning, and development.

---

[2] Gov. John Kasich signed S.B. 314, of the 129th Ohio General Assembly Regular Session 2011-2012, into law on June 26, 2012, which changed the name of the Ohio Department of Development (ODOD) to the Ohio Development Services Agency (ODSA) effective September 26, 2012. Thereafter, in June 2021, the state budget bill (H.B 110, 134th Ohio General Assembly) specifically reverted the name of the entity back to the Ohio Department of Development (see uncodified Section 518.20).

[3] Source: https://ohiohistorycentral.org/w/Rhodes'_Raiders?rec=1677.Ohio, last visited August 3, 2023.

[4] Visit the DevelopOhio Resource Center at www.bricker.com and www.DevelopOhio.com for various public finance and economic development resources from Bricker Graydon LLP.

STATE OF OHIO TAX CREDIT PROGRAMS

- Job Creation Tax Credit Program
- Historic Preservation Tax Credit Program
- New Markets Tax Credit Program
- Motion Picture Tax Credit Program
- Opportunity Zone Tax Credit
- State Low Income Housing Tax Credit
- Welcome Home Ohio Tax Credit
- Non-Refundable Job Retention Tax Credit Program
- Data Center Tax Exemption Program

Job Creation Tax Credit Program

The Ohio Job Creation Tax Credit[1] (JCTC) is a refundable tax credit provided to companies generally creating at least 10 new jobs with a minimum annual payroll of $660,000[2], at the time the Ohio Tax Credit Authority (the Authority) approves the project, that pays at least 150 percent of the federal minimum wage for the entirety of the tax credit term.[3] The JCTC is a refundable and performance-based tax credit calculated as a percent of created Ohio payroll and is applied primarily toward the company's commercial activity tax liability. It also may be applied against the insurance premiums tax, corporate franchise tax or an individual's Ohio personal income tax obligations. Should the amount of the credit exceed the company's commercial activity tax liability for any given year, the difference *is* refunded.[4] For the purposes of the tax credit, a "qualifying work-from-home employee" shall be considered to be an employee employed at the applicant's project location.[5]

The Authority is charged with reviewing and approving applications and setting the tax credit rate and term. Companies can receive tax credits under the program for a period of up to 15 years. The rate and term are generally based on the number of jobs to be created, the new payroll to be generated by the project, the fixed-asset investment in the project and the extent of the interstate competition for the project.

A company typically applies for the credit *before* committing to the project as the applicant must demonstrate that the tax credit is a "major factor" in its determination to expand or locate in Ohio.

---

[1] See R.C. 122.17 and O.A.C. rules 122:7-1-01 through 09. This overview pertains to the JCTC Program for projects approved *after* October 17, 2009.
[2] A payroll of $660,000 approximates to 175 percent of the federal minimum wage for 25 net new employees. The payroll threshold for this program will increase as federal minimum wage increases.
[3] See O.A.C rule 122:7-1-05. The JCTC Program defines a project site as a single location from which operations are conducted. However under the terms of the statute, manufacturers may designate multiple locations, consisting of one or more integrated buildings or structures within a 15-mile radius, as one project site.
[4] Source: https://jobsohio.com/why-ohio/incentives/
[5] See R.C 122.17(A)(3)(a) and (I).

The "major factor" requirement, however, may also be met based on a recommendation from the chief investment officer of JobsOhio *and* the director of ODOD. If a taxpayer has already started a project, the major factor requirement *may be* met through such a recommendation made within six months after the JCTC application was received by the Authority. This allows JCTC applicants greater flexibility and helps to expedite the application approval process by alleviating sole reliance on the Authority, which only meets monthly. Finally, the company must commit to maintain operations at the project site for (a) the term of the tax credit plus three years or (b) seven years, whichever is greater.[6]

The JCTC now includes a "megaprojects" designation, allowing tax credits for very large projects (i.e., at least $1 billion in capital investment or $75 million/year in new payroll, or average wages at least 300% of the federal minimum wage) for up to 30 years.[7] Further, JCTC recipients may include work-from-home employees in their job creation calculations.[8]

In the state capital bill enacted in 2022, the Ohio General Assembly made several nuanced changes to exemptions afforded to "megaprojects" designated under R.C. 122.17.[9] These changes were directly related to the announcement by Intel to locate up to eight of its microchip "fab facilities" in Licking County, east of Columbus. The changes included:

(i) Allowing suppliers of a semiconductor wafer manufacturing megaproject to qualify for megaproject tax incentives without meeting the payroll and investment thresholds generally required for megaprojects suppliers

(ii) Providing sales and use tax exemptions for building and construction materials incorporated into a manufacturing or R&D facility at a semiconductor wafer manufacturing megaproject site (i.e., for building the Intel fabs themselves, but not for supplier buildings)

(iii) Modifying existing exclusions for tangible personal property sold by a megaproject supplier to a megaproject operator for use at a megaproject site

---

[6] See. R.C. 122.17

[7] See new R.C. subsections 122.17(A)(11) and (D)(2)(c), inserted by Am. Sub. H.B. 110, 134th Ohio General Assembly.

[8] See new R.C. subsection 122.17(T), inserted by Am. Sub. H.B. 110, 134th Ohio General Assembly.

[9] See Sub. H.B. 687, 134th Ohio General Assembly. This bill initially contained the Ohio General Assembly's authorization for significant financial incentives to support the Intel project location in Licking County. The measure was rewritten to serve as the state's capital appropriations for State Fiscal Year (SFY) 2023 and SFY 2024. Related to the Intel development, $95 million was appropriated for local roadwork construction, along with $600 million in an Ohio Onshoring Incentive grant. And the General Assembly specifically directed from the state's dedicated purpose funds $101.2 million for local water and sewer construction, and $300 million for water reclamation facilities to serve the Intel site.

(iv) Providing a new Commercial Activities Tax (CAT) exclusion for the sale of new capital equipment used at the site of a semiconductor wafer manufacturing megaproject, provided the cost of the equipment exceeds $100 million for the Intel-related supply chain

Job Retention Tax Credit Program

The Ohio Non-Refundable Job Retention Tax Credit[10] (Non-Refundable JRTC) is a tax credit provided to companies that:

(a) If engaged at the project site primarily in significant corporate administrative functions, as defined by the Director of Development by rule, meet both of the following criteria: (i) the taxpayer either is located in a foreign trade zone, employs at least five hundred full-time equivalent employees[11], or has an annual Ohio employee payroll of at least thirty-five million dollars at the time the Authority grants the tax credit; and (ii) the taxpayer makes or causes to be made payments for the capital investment project of at least $20 million dollars in the aggregate at the project site during a period of three consecutive calendar years, or

(b) If engaged at the project site primarily as a manufacturer, makes or causes to be made payments for the capital investment project at the project site during a period of three consecutive calendar years, in an amount that in the aggregate equals or exceeds the lesser of: (i) $50 million dollars; (ii) five percent of the net book value of all tangible personal property used at the project site.

The credit granted under the Non-Refundable JRTC allows participating companies to receive a credit equal to a portion of the state income taxes withheld from all eligible existing full-time employees retained under the program and is applied primarily toward the company's commercial activity tax liability. It also may apply against personal income tax obligations.[12] Should the amount of the credit exceed the company's commercial activity tax liability for any given year, the difference is *not* refunded. In the event the amount of the Non-Refundable JRTC is greater than the taxpayer's state tax liability, any unused portion may be carried forward up to three years.[13]

---

[10] See R.C. 122.171 and OAC rules 122:16-1-01 through 06. This overview is for the Non-Refundable JRTC Program for projects approved *after* October 17, 2009. The program was amended by H.B. 166 effective October 17, 2019.
[11] "Full-time equivalent employees" means the quotient obtained by dividing the total number of hours for which employees were compensated for employment in the project by 2080.
[12] The company may not begin receiving job retention tax credit assistance until the minimum investment is completed.
[13] See R.C. 122.171(B).

The Non-Refundable JRTC Program is designed for use by large-scale capital investment projects, significant corporate administrative functions and manufacturers. In consideration of a company's commitment to significantly invest in the acquisition, construction, renovation or repair of its facilities and/or machinery and equipment, the Non-Refundable JRTC Program may offer substantial tax savings. In general, the Non-Refundable JRTC is structured to resemble the Job Creation Tax Credit Program, incorporating a number of similar programmatic requirements and conditions for participation.[14]

The Authority is charged with reviewing and approving applications and setting the tax credit rate and term, and may issue tax credits under the program allowing companies to receive a credit up to 75 percent of the state income taxes withheld from eligible full-time equivalent employees for a period of up to 15 years. Changes in 2021 to the Non-Refundable JRTC Program's application process inserted a rank-ordering of priorities for projects seeking such assistance.[15]

The applicant must commit to maintain operations at the project site for (a) the term of the tax credit plus three years or (b) seven years, whichever is greater.

Data Center Tax Exemption Program

The Data Center Tax Exemption Program provides a sales and use tax exemption on the purchase of eligible data center equipment and on the installation, delivery and repair of such equipment for qualified businesses.[16] Projects must invest at least $100 million at the project site in a consecutive three-year period and create annual payroll of at least $1.5 million at the project site to be eligible. Exemptions may be up to 100 percent of the sales and use taxes that would otherwise be owed and are generally for a period of less than 15 years.

The program allows for a tax exemption agreement to be made with multiple taxpayers; in other words, eligible computer data centers may be operated by one or more taxpayers.[17] Final approval of the percentage and term of the tax exemption is contingent upon the approval of the Authority.

---

[14] See R.C. 122.171.

[15] See R.C. 122.171(C)(2), inserted by Am. Sub. H.B. 110, 134th Ohio General Assembly. The project priorities are as follows: (a) within the preceding five years, the applicant has not received JCTC or Non-Refundable JRTC for the same project site; (b) the applicant is not currently receiving such credits; (c) the applicant has operated at the project site for at least the preceding ten years; (d) the project involves a significant upgrade of the project site, rather than just routine maintenance; and (e) the applicant intends to use machinery, equipment, and materials supplied by Ohio businesses in the project.

[16] See R.C. 122.175.

[17] See R.C. 122.175(A)(5) and (M).

Historic Preservation Tax Credit Program

The Ohio Historic Preservation Tax Credit[18] (OHPTC) provides a tax credit to owners and long-term lessees of historically significant buildings equal to 25 percent of the qualified rehabilitation expenses (QRE), not to exceed the QRE estimates in the application, up to a maximum of $5 million. QREs are hard construction costs that meet the requirements of the U.S. Secretary of Interior's "Standards for Rehabilitation of Historic Properties" or some soft costs such as architectural or engineering fees. If the owner or long-term lessee is eligible for more than $5 million in total credits, the taxpayer may carry forward the balance of the credit in excess of the amount claimed for that year for not more than five ensuing calendar years, tax years, or taxable years. If the credit claimed in any calendar year, tax year, or taxable year exceeds the tax otherwise due, the excess is to the taxpayer.[19] Funding is provided to applicants[20] through competitive rounds based on economic benefit, regional distributive balance, and economic impact based on a cost-benefit analysis.

The OHPTC can be applied against the applicant's domestic and foreign insurance premium, financial institutions tax, corporate franchise tax, or Ohio individual income taxes. The applicant must also demonstrate that the issuance of an OHPTC is a *major factor* in the applicant's decision to rehabilitate the historic building or to increase the level of investment in the rehabilitation of the historic building.

A building is eligible if it is individually listed on the National Register of Historic Places, located in a registered historic district, certified by Ohio's preservation officer as being of historic significance to the district or listed as a historic landmark by a certified local government and, if upon completion, it will not function as a single-family or multi-unit condominium residential property. A project may include more than one historic building if the historic buildings are in close proximity, within the same jurisdiction, and if rehabilitation activities and costs are undertaken by the same owner. Each historic building in a multiple building project is subject to the eligibility requirements of a single historic building.

ODOD will accept and review applications on a semiannual schedule (in rounds) each fiscal year.[21] All applicants shall notify both ODOD and the Ohio Historic Preservation Office prior to

[18] See R.C. 149.311, O.A.C. rule 122:19-1-01 and https://development.ohio.gov/static/community/redevelopment/OHPTC-Program-Policies-Aug-2023.pdf , last visited August 4, 2023.

[19] See R.C. 149.311(H).

[20] An eligible applicant is the fee simple owner or qualified lessee of the building described in the application and is a non-governmental entity.

[21] Applications for the Spring Round are due March 31, while applications for the Fall Round are due September 30.

submitting an application and are strongly encouraged to schedule a pre-application meeting with both offices. There is an aggregate limit of $60 million for the OHPTC credits during each fiscal biennium but the Director of Development may reallocate unused tax credits from a prior fiscal year for new applicants and such reallocated credits shall not apply toward the dollar limit.

Changes made in 2022 to the tax credit program – applicable only to state fiscal years 2023 and 2024 (i.e., July 1, 2022 through June 30, 2024) – are as follows:

(i) Allow developers who were approved by ODOD for historic rehabilitation tax credits in State Fiscal Year 2021 to reapply for enhanced credits if their projects had not yet gone to construction
(ii) Align the state preservation tax credit guidelines with those for the federal preservation tax credit
(iii) Increase the tax credit aggregate cap to $120 million
(iv) Increase each project cap from $5 million to $10 million
(v) Increase tax credit thresholds for municipalities, counties, or townships with fewer than 300,000 people from 25 percent to 35 percent
(vi) Require ODOD, when reviewing a proposed project involving a historic theater, to consider how the effort would affect gross receipts and economic conditions in the vicinity[22]

During the 134th Ohio General Assembly's lame-duck session, the Senate Finance Committee inserted a legislative change to the OHPTC that rendered federal low income housing tax credit (LIHTC) financed project buildings as no longer eligible for the credit.[23]

New Markets Tax Credit Program

The Ohio New Markets Tax Credit[24] (NMTC) is a nonrefundable tax credit designed to incentivize investors to fund businesses in qualified active low-income communities in Ohio.[25]

[22] See Sub. S.B. 225, 134th Ohio General Assembly.
[23] See Am. Sub. H.B. 45. At the time of enactment of this measure, Governor DeWine and legislative leaders committed to address this change in project financing by enacting a state-level LIHTC, which they did during the next General Assembly via Am. Sub. H.B. 33, the state's biennial operating budget.
[24] See R.C. 5725.33, R.C. 5725.98, R.C. 5729.16, R.C. 5729.98, R.C. 5733.01, R.C. 5733.58 and R.C. 5733.98; O.A.C. Chapter 122:22.
[25] See https://development.ohio.gov/business/state-incentives/ohio-new-markets-tax-credit-program, last visited August 6, 2023.

The NMTC Program was designed in 2009 to leverage the Federal New Markets Tax Credit Program to attract investment into the state and spark revitalization in Ohio's low-income communities. Eligible areas in the state that qualify for the program are low-income communities: (1) that contain census tracts that have a poverty rate of 20 percent or higher; or (2) in which the median income is below 80 percent of the greater of (a) statewide median income or (b) metropolitan median income.

Eligible applicants of the ONMTCs are Community Development Entities (CDEs) that have been allocated Federal New Markets Tax Credits serving Ohio, through a competitive process. Investors (insurance companies or financial institutions) provide cash to a CDE in exchange for an ONMTC. The CDE, in turn, uses the investor's cash to finance projects in low-income communities. The ONMTCs may be applied against the investors' insurance premium or financial institution taxes and are structured to be used over the course of seven years. The total tax credit value will be 39 percent of the investment, with the yearly percentage of tax credits being:

- Zero percent for each of the first two years
- Seven percent for the third year
- Eight percent for the next four years

The amount of the tax credit claimed may not exceed the amount of the taxpayer's state tax liability for the tax year for which the credit is claimed. Although the credits are nonrefundable, they may be carried forward for up to four years. The maximum state tax credit impact in any fiscal year may not exceed $10 million. The maximum amount of state tax credits for one project may not exceed $1 million.

Motion Picture Tax Credit Program

The Ohio Motion Picture Tax Credit[26] is a refundable, transferable tax credit taken against the income or commercial activity tax for motion pictures produced in Ohio. The credit equals 30 percent of the sum of production cast and crew wages plus other eligible in-state spending. The law broadly defines the term "motion picture" as entertainment content created in whole or in part within the state for distribution or exhibition to the general public. Note that eligibility was changed in 2021 to remove production contractors from those which may claim the credit.[27]

[26] See R.C.s 122.85, 5733.98, 5747.66 and 5747.98.
[27] See R.C. 122.85, amended by Am. Sub. H.B. 110, 134th Ohio General Assembly.

Eligible production projects must spend a minimum of $300,000 in the state of Ohio to qualify and the eligible expenditures include but are not limited to expenditures for cast and crew wages, accommodations, costs of set construction and operations, editing and related services, photography, sound synchronization, lighting, wardrobe, makeup and accessories, film processing, transfer, sound mixing, special and visual effects, music, location fees, the purchase or rental of facilities and equipment, and post-production, advertising, and promotional expenses.

The program requires that production companies be registered with the Secretary of State as a condition of receiving the credit. The program is administered by the Ohio Department of Development, and tax credit certificates are awarded in two rounds – in July and January – each fiscal year. Each round's applications are to be ranked on the basis of the economic and workforce development impact of the production and granted tax credits in the order of the ranking. Tax credit recipients may no longer transfer their right to claim the credit to a third party.

Upon approval by the ODOD, the production can commence. ODOD will not issue a tax credit certificate before completion of the production. Proof of financial ability to undertake and complete a motion picture must be included with the application. An applicant shall provide documentation showing that the company has secured funding equal to at least 50 percent of the total production budget.

In the state biennial budget bill, the 135th General Assembly tweaked the program to reserve $5 million of the annual $50 million available in tax credits for Broadway theatrical productions, with any such balance remaining each year to be carried-forward to the following state fiscal year.[28]

Opportunity Zone Tax Credits

This program is overseen by the Ohio Department of Development and is a companion to the federal incentives for investments into qualified opportunity zones implemented in the federal Tax Cuts and Jobs Act.

Ohio's Opportunity Zone Tax Credits are available for up to ten-percent of capital gains, up to $2 million per individual taxpayer (per fiscal biennium), with total credits to be issued limited to $50 million per biennium.[29]

Credits may be transferred, and once funds are invested into an opportunity fund, 100 percent of that investment must then be invested in an opportunity zone to be eligible for the credit. Excess

[28] See Am. Sub. H.B. 33.
[29] See R.C. 122.84, with the per-taxpayer limit amended by Am. Sub. H.B. 110, 134th Ohio General Assembly.

credits may be carried forward for up to five years, and taxable trusts, estates and pass-through entities are eligible for the credit. Applications for the credit must be submitted to the ODOD in the January following the year in which investments are made. Eligibility is determined based on the order in which applications are received.

Note that changes made in 2022 to the tax credit program – applicable only to state fiscal years 2023 and 2024 (i.e., July 1, 2022 through June 30, 2024) – establishes an additional time period for Opportunity Zone Tax Credit applications, and increases the amount of funds available from $50 million to $100 million.[30]

State Low Income Housing Tax Credit

In 2023, the Ohio General Assembly enacted a state-level low income housing tax credit[31], which is modeled on the federal program to induce developments that increase the supply of quality, affordable rental housing. This long-standing federal tool helps developers offset the costs of rental housing developments for individuals with low- to moderate-income.

Welcome Home Ohio Tax Credit

In 2023, the Ohio General Assembly enacted a new tax credit program (featuring corresponding grant features, which are described elsewhere in this Toolkit) focused on single-family affordable housing development. Newly enacted R.C. 122.633, effective October 3, 2023, directs ODOD to implement the Welcome Home Ohio Program (WHO)'s tax credits, which are available to a limited set of eligible entities: electing subdivisions (i.e., communities with land banks) or eligible developers, which are comprised of affordable housing-focused nonprofits (notably including community improvement corporations) and for-profit pass-through entities in which such nonprofits are members.[32]

Tax credits may be obtained from ODOD to support capital stacks for rehabilitation or construction of single-family residential units comprising at least 1,000 square feet of living space.[33] Each tax

---

[30] See Sub. S.B. 225, 134th Ohio General Assembly.
[31] Am. Sub. H.B. 33, 135th Ohio General Assembly, authorizes up to $100 million in nonrefundable tax credits for investments in the development and construction of affordable housing. New R.C. 175.16 *et seq*. mirror the federal LIHTC used by affordable housing developers.
[32] See R.C. 122.633(A).
[33] "Qualifying residential property" is defined under R.C. 122.631(A)(3) to capture limited multi-family development, namely: "multi-unit property containing not more than ten units."

credit is capped at $90,000 or one-third of project costs (whichever is less). The enabling legislation set caps on total credits at $25 million in each of state fiscal years 2024 and 2025.[34]

Tax credits are fully transferrable to “any person” (i.e., syndication) and are taken against taxpayers’ state financial institutions or personal income tax obligations. Unused tax credits may be carried forward for up to five years. Applicants approach ODOD for such tax credits after the subject property has sold, otherwise demonstrating that a lengthy set of program restrictions, set forth below, have been followed. To receive the WHO tax credit for rehabilitation and construction costs means land banks cannot also seek a grant of funds for the same work on the subject property.[35]

Tax credit recipients must satisfy a lengthy list of conditions, which include:

- Eventual buyers cannot earn more than 80 percent of the median income for the county in which the subject property is located; those buyers must participate in a financial literacy course conducted by the seller.

- Those buyers must commit – via the purchase sale agreement with the seller – to use the subject property only as a primary residence, and they cannot rent “any portion” to others for five years (on these points, the buyer must report to ODOD annually).
- The subject property will have recorded against it restrictive covenants limiting future buyers to only those who likewise don’t earn more than 80 percent of the county median income; this affordability period is 20 years (the list of such properties with restrictive covenants is not a public record under Ohio’s Sunshine Laws).[36] The ODOD is given standing to sue in court to enforce these restrictive covenants.
- The subject property cannot be sold for more than $180,000.

---

[34] See Am. Sub. H.B. 33
[35] See R.C. 122.633(C)(7).
[36] See R.C. 122.631(B).

STATE OF OHIO GRANT PROGRAMS

PROGRAMS DISCUSSED

- 629 (Roadwork Development) Grant Program
- Residential Broadband Expansion Grant Program
- Brownfield Remediation Program
- SiteOhio Certification Program
- Ohio Air Quality Development Authority
- Building Demolition and Site Revitalization Program
- Connect4Ohio Fund
- All Ohio Future Fund
- Welcome Home Ohio Purchase & Rehab Construction Grant

629 (Roadwork Development) Grant Program

The 629 (Roadwork Development) Grant Program (629 Program) was created to support and promote economic development and job creation by providing grant assistance for public roadway improvements, including engineering and design costs, for eligible projects throughout the state of Ohio. 629 Program grants are administered through JobsOhio and the ODOD, and the project must create new or retain existing jobs in Ohio.

The 629 Program is often available for company projects primarily involving manufacturing, research and development, technology, corporate headquarters, and distribution activity. Retail projects are ineligible. 629 Program grants are usually provided by ODOD directly to a local jurisdiction and require local participation. All 629 Program grants are contingent upon State of Ohio Controlling Board approval and are provided on a reimbursable basis.

Projects are typically given an 18-month project completion date from the time of State of Ohio Controlling Board approval. Local jurisdictions must report on job creation after the 18-month project completion date has passed. The 629 Program is funded with state gas tax dollars; therefore, the available funding level varies each fiscal year. Funds may be used for costs directly related to public roadwork improvements, including engineering and design costs. Funds are distributed on a first-come, first-served basis.

Although not a change in the 629 Program's substantive law, the 135th General Assembly increased appropriations for state fiscal year 2024 to $31.4 million and $25.2 million for state fiscal year 2025, which such increases are noteworthy because $10 million each year is allocated to Licking County to improve local roads impacted by the Intel development and another $6.2 million in state fiscal year 2024 is allocated to Fayette County to improve local roads similarly impacted by the Honda and LG Energy Solutions battery plant.[1]

SiteOhio Certification Program

The SiteOhio Certification[2] (SiteOhio) Program was established in 2012 and is designed to increase Ohio's portfolio of available industrial, manufacturing, and commercial locations, by certifying and marketing "eligible" sites across Ohio based on site characteristics and community assets. The goal of the program is to assure future investors that the prospective property meets the state's site selection standards and leverages previous investments in infrastructure (i.e., 629 Roadwork Fund, Jobs Ready Site Program, etc.) to better support a project. While under the umbrella of ODOD, in 2015 it contracted with JobsOhio to administer the program.

An "eligible" project is any project that, upon completion, will be a site and/or facility primarily intended for commercial, industrial, and manufacturing uses. Eligible projects do not include sites and/or facilities intended primarily for residential, retail, or government use. A political subdivision (i.e., city, township, county, school district, port authority, etc.) or individual may apply for certification of a site. The applicant, however, must be the property owner or an authorized representative of the owner.

Under the SiteOhio Program, an eligible applicant must submit an application via email to both ODOD and JobsOhio.[3] The applicant will then be contacted by a JobsOhio agent to submit additional materials for evaluation in accordance with the program's scoring criteria and scoring instruments. There is no fee for submitting an application. If the site meets all the scoring criteria and is approved for certification, the applicant will be issued an approval letter by the Director of ODOD, at which time the applicant will be required to submit a $500 certification fee. Upon payment of this fee, the site will be included in the state's inventory of sites ready for immediate development by end users, and JobsOhio will undertake to actively market the site.

Ohio Air Quality Development Authority

The Ohio Air Quality Development Authority (OAQDA) offers a Clean Air Resource Center (CARC)[4] to assist Ohio small businesses in complying with air quality rules and regulations.

---

[1] See Am. Sub. H.B. 33.
[2] See R.C. 122.9511 to R.C. 122.9512. The program became effective on Sept. 4, 2012.
[3] See https://www.jobsohio.com/programs-services/sites/available-sites, last visited August 4, 2023.
[4] See website for more information at https://ohioairquality.ohio.gov/Our-Services/Small-Business-Assistance, last visited August 6, 2023

Services include site visits and assessments, technical assistance, and tax reduction through loan financing and grants. The CARC Grant Program is administered by the ombudsman for the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, housed under the OAQDA.[5] The program, which is financed with proceeds from bonds issued by the OAQDA, helps small businesses purchase air quality equipment needed to comply with federal air quality requirements.

The CARC Grant Program offers grants equal to 30 percent of equipment costs (post-closing), up to $30,000. The grant is applied as a principal payment on the loan obtained to finance the cost of the equipment, including all reasonable closing costs and legal fees. The grant funds are released after the equipment has been installed and operational for at least six months. When evaluating an eligible small business, the ombudsman will give priority to the federal air quality compliance needs of the county where the small business is located. To qualify, a business must have fewer than 100 employees, emit less than 75 tons per year of all regulated air pollutants and emit 50 or less tons of any regulated pollutant.

Additionally, the OAQDA can offer a variety of tax incentives for businesses of any size considering projects to improve air quality, including energy efficiency projects, new lighting systems, and eligible energy systems (HVAC or lighting) that achieve an increase in energy savings above historical usage or existing energy codes based on the performance of these specific systems.

OAQDA can provide a 100 percent exemption from the following taxes:

Real property tax – Any real property comprising an air quality project is exempt from real estate property taxes and assessments as long as the bond or note issued by OAQDA is outstanding.

Sales and use tax – All tangible personal property comprising an air quality project purchased or acquired specifically for that project is exempt from the state and local sales and use tax levied on the transfer or sale of that tangible personal property. The state sales tax rate is set at 5 percent. Sales tax rates vary by county as counties are authorized to levy additional, permissive sales taxes.

Interest income on bonds and notes issued by OAQDA – Any income generated from the ownership of bonds and notes issued by the OAQDA, the transfer of bonds and notes, and any

[5] See R.C. 3706.19 and O.A.C. rule 3706-2-01.

profit derived from the sale of those bonds or notes is exempt from Ohio's state income tax and in some cases, federal income tax.

The 135th General Assembly tweaked OAQDA to enable townships and municipalities with energy special improvement districts (Energy SIDs, described elsewhere in this Toolkit, as part of the state's PACE program) to levy special assessments on real property, upon request of the property owner, within the context of OAQDA-financed projects.[6]

[6] See Am. Sub. H.B. 33.

Residential Broadband Expansion Grant Program

In 2021, the Ohio General Assembly enacted new R.C. 122.40 to R.C. 122.4077, thereby establishing the Ohio Residential Broadband Expansion Grant Program.[7] The program is administered by ODOD to provide grant funds to broadband providers that otherwise would not pursue expansion in certain areas of Ohio without such support. Specifically, this program provides ODOD-vetted grants to cover broadband providers' costs of providing hard-to-reach, last-mile connectivity. In a 2023 law change, areas that have an "extremely high cost per location threshold" are considered when scoring grant and awarding funds.[8]

Brownfield Remediation & Building Demolition and Site Revitalization Programs

In 2021, the Ohio General Assembly inserted into the state's biennial budget bill two new and massive funding sources to remediate brownfields and demolish structures, including commercial buildings.[9] These two programs were renewed in 2023 for another two years, with equally massive appropriations.

The two new state grant initiatives, representing a full $1 billion in appropriations (across two state budget biennia, state fiscal years 2022 through and including 2025) to address legacy commercial and industrial sites across Ohio: , are the *Brownfield Remediation Program* (R.C. 122.6511) to remediate brownfield conditions statewide (with $1 million reserved for each Ohio county in each state fiscal year 2024 and 2025), and the *Building Demolition and Site Revitalization Program* (R.C. 122.6512) to demolish statewide, commercial and residential buildings and to revitalize adjacent, non-brownfield properties ($500,000 reserved for each Ohio county in state fiscal year 2024).

Common features to both programs include: (i) respective grant funds may cover up to 75 percent of a project's total cost (i.e., 25 percent local match required); and (ii) beyond each county's reserved amount, all remaining funds in the programs are to be awarded by ODOD on a first come, first served basis.

Changes made in 2023 to these programs were inserted into the state budget bill and were focused on identifying singly named grant recipients, known as "lead entities."[10] Lead entities are the only entities allowed to submit grant applications to ODOD, with further downstream recipients of

[7] Am. H.B. 2, 134th Ohio General Assembly.
[8] See Am. Sub. H.B. 33, 135th Ohio General Assembly.
[9] Am. Sub. H.B. 110, 134th Ohio General Assembly.
[10] See Am. Sub. H.B. 33, 135th Ohio General Assembly.

those funds as “may include,” and therefore not limited to, local governments, nonprofit organizations, community development corporations, regional planning commissions, county land banks, and community action agencies. Such lead entities are defined according to a county’s population. That is, in a county with a population of less than 100,000 (per the most recent 10 year census), the board of county commissioners submits a recommended lead entity subject to ODOD approval; in a county with a population of more than 100,000, county land banks are the lead entity (but if such a county does not have an operating county land bank then the board of county commissioners submit its recommendation to ODOD).

Connect4Ohio Fund

The 135th General Assembly appropriated $500 million to ODOT in the state operating budget, for state fiscal year 2024, to stand-up the new Connect4Ohio Fund, which is intended to fund rural highway improvements; the program had been proposed by the House – but then removed by the Senate – in the transportation bill[11] that passed earlier in the session. Funding is made available ostensibly to make commuting easier for workers, and is directed to eligible “rural” counties defined as those lacking a city with 55,000 population or more, using the most recent 10-year census.[12]

All Ohio Future Fund

The 135th General Assembly also included modest appropriations ($40 million) and significant cash resources ($667 million) to the All Ohio Future Fund for site-readiness and preparation of large economic development projects, across so-called Tiers 1, 2, and 3.[13] As described by Governor DeWine in his initial budget proposal, the fund is intended to make site investments to attract mega-site opportunities in every single part of Ohio and “within commuting distance” for every single Ohio citizen.

The All Ohio Future Fund will make available state funding for electric, natural gas, “and other infrastructure improvements”. Notably, Governor DeWine line-item-vetoed House-added language that would have authorized cost recovery for electric distribution utilities and electric cooperatives for "planning, development, and construction of utility infrastructure.” And the enabling legislation also prohibits utilities receiving such assistance from levying riders to customers for the same projects. Finally, the All Ohio Future Fund prohibits water or waste water utilities using such assistance for new or expanded waste water treatment plants or water treatment facilities.

---

[11] See Am. Sub. H.B. 23.
[12] See uncodified Sec. 755.30, Am. Sub. H.B. 33.
[13] See R.C. 126.62 and uncodified Sec. 513.10, Am. Sub. H.B. 33.

Welcome Home Ohio Purchase & Rehab Construction Grant

In parallel with the Welcome Home Ohio Tax Credit, discussed elsewhere in this Toolkit, the General Assembly enacted a new grant program focused on single-family affordable housing units that comprise at least 1,000 square feet of living space.[14] Newly enacted R.C. 122.631 and R.C. 122.632, effective October 3, 2023, direct ODOD to implement the Welcome Home Ohio Program (WHO), with grant funds exclusively available to land banks.[15]

Land banks may apply for, and receive, grants from ODOD to purchase single-family residential units to become part of those land banks' land reutilization programs under R.C. Chapter 5722.[16]

In addition – or available in their own right – grants may be obtained from ODOD by land banks to offset the costs of rehabilitation or construction of single-family residential units, with each grant capped at $30,000 per unit.[17] Importantly, to seek and obtain a grant of funds for such rehab/construction work, land banks cannot also seek a WHO tax credit for the same work on the subject property.[18]
Grant funds under the WHO are accompanied by a lengthy list of conditions, which include:

- Eventual buyers cannot earn more than 80 percent of the median income for the county in which the subject property is located; those buyers must participate in a financial literacy course conducted by the land bank.\Those buyers must commit – via the purchase sale agreement with the land bank – to use the subject property only as a primary residence, and they cannot rent "any portion" to others for five years (on these points, the buyer must report to ODOD annually).

---

[14] "Qualifying residential property" is defined under R.C. 122.631(A)(3) to capture limited multi-family development, namely: "multi-unit property containing not more than ten units."
[15] The WHO makes available, exclusive to electing subdivisions or county land reutilization corporations, purchase grants and rehab/construction grants. As to "electing subdivisions," the WHO uses the same definition as under Ohio's land banking law, which includes municipal or township land banks (i.e., limited authority land banks under R.C. Chapter 5722; also referred to as "passive" land banks). County land reutilization corporations (i.e., full-authority county land banks) are specifically included. See R.C. 122.631(A)(1).
[16] Grants are awarded "[t]o the extent that funding is available" in the Welcome Home Ohio Program Fund (Dedicated Purpose Fund 5AP1); during each state fiscal year 2024 and 2025, the General Assembly appropriated $25 million for such purchase grants. See Am. Sub. H.B. 33.
[17] During each state fiscal year 2024 and 2025, the Ohio General Assembly appropriated $25 million for rehab/construction grants. See Am. Sub. H.B. 33.
[18] See R.C. 122.632(B)(8).

- The subject property will have recorded against it restrictive covenants limiting future buyers to only those who likewise don't earn more than 80 percent of the county median income; this affordability period is 20 years (the list of such properties with restrictive covenants is not a public record under Ohio's Sunshine Laws).[19] The ODOD is given standing to sue in court to enforce these restrictive covenants.
- The subject property cannot be sold for more than $180,000.

STATE OF OHIO LOAN/BOND PROGRAMS

Programs Discussed:

- 166 Direct Loan Program
- Regional 166 Direct Loan Program
- Minority Direct Loan Program
- Enterprise Bond Fund Program
- Rural Industrial Park Loan Fund
- Research and Development Investment Loans
- Innovation Ohio Loan Fund

166 Direct Loan Program

The 166 Direct Loan (166 Direct Loan) Program,[20] provides low interest loan financing assistance to businesses for the allowable costs of eligible projects in the state of Ohio. The program is marketed by JobsOhio which handles the initial company contact and the company application process through loan approval. Once loans are approved, the ODOD services the loans. Typically, businesses must commit to create new or preserve existing jobs in the state as well. Generally, JobsOhio requires the creation or retention, within a three-year period, of one job for every $35,000 – $75,000 of 166 Direct Loan proceeds. Projects at the higher end of this range must have some combination of significant job creation, high average hourly wage, or must be located in a priority investment area. The program also provides financing for eligible projects that improve the efficiency of companies' operations and that enhance their effectiveness in the marketplace (retention of jobs will be considered).[21]

Eligible projects include those related to industry, commerce, distribution, or research activities. Allowable project costs and uses under the 166 Direct Loan are land and/or building purchases, machinery and equipment purchases, building construction or renovation costs, long-term

[19] See R.C. 122.631(B).
[20] See R.C. 166.06 and R.C. 166.07.
[21] See https://www.jobsohio.com/why-ohio/incentives/state-loan-and-grant-programs/166-direct-loan/, last visited August 4, 2023.

leasehold improvements, ongoing business fixed-asset purchases and capitalizable costs directly related to a fixed-asset purchase. JobsOhio requires a 10 percent minimum equity contribution in the allowable project costs/uses by the company.[22] The required contribution may be higher, depending on the company's financial and operating position and the project's characteristics. Refinancing and retail projects are ineligible under the program.

The 166 Direct Loan may finance up to 40 percent of allowable project costs with loans ranging from $500,000 to $1.5 million. The 166 Direct Loans are "take-out" financing, meaning allowable project costs/uses must be capitalized utilizing interim financing from a conventional lender, with the 166 Direct Loan disbursing funds upon project completion. JobsOhio requires a first or shared-first priority mortgage or lien position on project costs/uses financed with the 166 Direct Loan proceeds. JobsOhio may also require additional collateral or credit enhancements[23] to secure the loan.

The 166 Direct Loan term is based on the useful life of the allowable project costs/uses financed. The term for real estate is up to 15 years, and the term for machinery and equipment is up to 10 years. ODOD does not impose a prepayment penalty. The 166 Direct Loan interest rate is fixed at or below market rates. Companies receiving assistance under the 166 Direct Loan Program are *not* required to complete their project utilizing the Ohio prevailing wage for construction, renovation and machinery installation.[24] Moreover, businesses requesting $500,000 or less may participate in the Regional 166 Direct Loan Program.

Regional 166 Direct Loan Program

The Regional 166 Direct Loan (Regional 166 Direct Loan) Program[25] provides low-interest loan financing assistance to businesses creating new or preserving existing jobs[26] in the state of Ohio. Ten local economic development agencies around the state administer the Regional 166 Direct Loan Program on behalf of the ODOD. Eligible projects include those related to industry,

[22] The required contribution may be higher for early stage companies and special purpose facilities.
[23] Additional collateral or credit enhancements could be: 1) personal guaranties from owners with more than 20 percent ownership in the company; 2) corporate guaranties from related companies; 3) full or partial letter of credit; 4) life insurance on key business owners and/or managers; or 5) other types of credit enhancement, if necessary.
[24] The prevailing wage requirement in section 166.02 was repealed by 129th General Assembly File No. 28, H.B. 153, § 105.01, effective 9/29/2011 for guarantees and loans in R.C. 166.06 and R.C. 166.07 that previously required projects utilizing financial assistance from programs created from these sections to pay laborers and mechanics employed on the project the prevailing rate of wages under R.C. Chapter 4115.
[25] See R.C. 166.06 and R.C. 166.07.
[26] ODOD requires the creation or retention, within a three-year period, of one job for each $50,000 of 166 Direct Loan proceeds. Priority may be given to eligible projects with higher wage and job creation commitments or projects located in a Priority Investment Area.

commerce, distribution or research activities. Allowable project costs and uses under the Regional 166 Direct Loan are land and/or building purchases, machinery and equipment, building construction or renovation costs, long-term leasehold improvements, ongoing business fixed-asset purchases and capitalizable costs directly related to a fixed-asset purchase. ODOD requires a 10 percent minimum equity contribution in the allowable project costs/uses by the company. Refinancing and retail projects are ineligible under the program.

The Regional 166 Direct Loan may finance up to 40 percent of allowable project costs with loans up to $500,000. The Regional 166 Direct Loans are "take-out" financing, meaning allowable project costs/uses must be capitalized utilizing interim financing from a conventional lender and its equity, with the Regional 166 Direct Loan disbursing funds upon project completion. ODOD requires a first or shared-first priority mortgage or lien position on project costs/uses financed with the Regional 166 Direct Loan proceeds. ODOD may also require additional collateral or credit enhancements[27] to secure the loan.

The Regional 166 Direct Loan term is based on the useful life of the allowable project costs/uses financed. The term for real estate is up to 15 years, and the term for machinery and equipment is up to 10 years. ODOD does not impose a prepayment penalty. The initial approval responsibility lies with the regional agency. The loan officer and the agency's board will approve the loan. Upon approval, the loan package is sent to ODOD's Oversight Committee[28] in the Loans & Servicing Office for review prior to submitting to the Ohio Controlling Board. The business may not begin its project until receiving Ohio Controlling Board approval. Doing so could result in the state's determination that the business could proceed without state assistance and therefore does not need the funds.

The Regional 166 Direct Loan interest rate is fixed at or below market rates. Companies receiving assistance under the Regional 166 Direct Loan Program are *not* required to complete their project utilizing the Ohio prevailing wage for construction, renovation and machinery installation, but must create or retain jobs. Priority may be given to eligible projects with higher wage and job creation commitments or projects located in a priority investment area.[29] Businesses requesting more than $500,000 may participate in the 166 Direct Loan Program, described above.

[27] Additional collateral or credit enhancements could be: 1) personal guaranties from owners with more than 20 percent ownership in the company; 2) corporate guaranties from related companies; 3) full or partial letter of credit; 4) life insurance on key business owners and/or managers; or 5) other types of credit enhancement, if necessary.

[28] It is the responsibility of the Oversight Committee to review the loan package for information accuracy, completeness and proper due diligence.

[29] The prevailing wage requirement in R.C. 166.02 was repealed by 129th General Assembly File No. 28, H.B. 153, § 105.01, effective 9/29/2011 for guarantees and loans in R.C. 166.06 and R.C. 166.07 that previously required

Minority Business Direct Loan Program

The Minority Business Direct Loan (MBDL) Program[30] provides low-interest direct loans to certified minority-owned businesses that are purchasing or improving fixed assets and creating or retaining jobs in Ohio. Eligible borrowers include any operating business entity that has been certified by the state equal opportunity coordinator as a Minority Business Enterprise (MBE) and demonstrates that its fixed-asset expansion/retention project will result in job creation for Ohioans.

The MBDL Program functions like the 166 Direct Loan Program, except that it is designed to target MBE certified businesses. The program may lend funds to businesses engaged in commerce, manufacturing, research and development, or distribution. Funds received under the program may be used for part of the cost of land and/or building purchases, machinery and equipment purchases, new building construction or renovation costs of an existing building. In addition, limited soft costs related directly to fixed-asset expenditure may be included. Examples of eligible soft costs include architectural and/or engineering costs, installation costs for machinery and financing costs for bank loans. MBDL funds, however, may not be used for working capital, refinancing, rolling stock, inventory/receivable financing, speculative real estate development, relocation costs, office equipment, small tools or supplies.

The level of MBDL Program financing is based on particular financing needs but may not exceed 75 percent of eligible project costs.[31] Loan contributions generally range from $45,000 to $450,000, but the director of ODOD may authorize a higher loan amount to address a unique and demonstrated economic development need. Furthermore, like the 166 Direct Loan Program, the MBDL Program is "take-out" financing, meaning allowable project costs/uses must be capitalized utilizing interim financing from a conventional lender and its equity, with the MBDL Program disbursing funds upon project completion. The term of the loans may not exceed 15 years for real estate financing, 10 years for machinery financing and may not exceed the term of the conventional loan. The interest rate for MBDL financing is currently set at a fixed rate of 3 percent. Companies

projects utilizing financial assistance from programs created from these sections to pay laborers and mechanics employed on the project the prevailing rate of wages under R.C. Chapter 4115.

[30] See R.C. 166.06 and R.C. 166.07.

[31] The actual level of participation will be determined by ODOD based upon the criteria described in the program guidelines under "Criteria for Loan Application Evaluation." See also https://development.ohio.gov/business/minority-business/ohio-minority-business-direct-loan-program, last visited August 4, 2023.

receiving assistance under the MBDL Program are *not* required to complete their project utilizing the Ohio prevailing wage for construction, renovation and machinery installation.[32]

Enterprise Bond Fund Program

The Ohio Enterprise Bond Fund[33] (OEBF), rated AA+ by Standard & Poor's, provides revenue bond financing whereby the Ohio Treasurer of State issues bonds, the proceeds of which are loaned to businesses for allowable costs of eligible projects. The OEBF provides long-term, fixed-rate, one-time project financing for qualifying businesses that create or preserve employment opportunities in the state of Ohio. The OEBF also provides large and small creditworthy businesses with access to capital at costs comparable to those of rated multinational corporations. OEBF bonds may be issued on a tax-exempt basis if the project to be financed satisfies the requirements of federal tax law.

Eligible projects include those related to industry, commerce, distribution, or research activities. Allowable project costs and uses under the OEBF are land and/or building purchases, machinery and equipment, building construction or renovation costs, long-term leasehold improvements, ongoing business fixed-asset purchases and capitalizable costs directly related to a fixed-asset purchase. ODOD requires a 10 percent minimum equity contribution in the allowable project costs/uses by the company,[34] and a 10% reserve in the amount of the OEBF loan. This reserve may be satisfied by a letter of credit or cash reserve and must remain in place for the term of the OEBF loan.[35] Refinancing and retail projects are ineligible.

The OEBF may finance up to 90 percent of allowable project costs with loans ranging from $2.5 million to $10 million. ODOD requires a first or shared-first priority mortgage or lien position on assets financed with the loan proceeds. ODOD may consider a shared position with participating third party lenders. This position is established via a multiparty agreement between the

[32] The prevailing wage requirement in R.C. 166.02 was repealed by 129th General Assembly File No. 28, H.B. 153, § 105.01, eff. 9/29/2011 for guarantees and loans in R.C. 166.06 and R.C. 166.07 that previously required projects utilizing financial assistance from programs created from these sections to pay laborers and mechanics employed on the project the prevailing rate of wages under R.C. Chapter 4115.
[33] See R.C. 166.06 and R.C. 166.07.
[34] The required contribution may be higher for early stage companies and special purpose facilities.
[35] See https://www.jobsohio.com/why-ohio/incentives/state-loan-and-grant-programs/ohio-enterprise-bond-fund/, last visited August 4, 2023.

participating lender(s), ODOD and the borrower. ODOD may also require additional collateral or credit enhancements[36] to secure the loan.

The OEBF term is based on the useful life of the allowable project costs/uses financed. Loan terms range from 7 to 10 years for equipment and 15 to 20 years for real estate. Up to $10 million in financing is available through the program. The interest rate is fixed for the term of the loan and is determined by the market when the bonds are sold. Companies receiving assistance under the OEBF Program are *not* required to complete their project utilizing the Ohio prevailing wage for construction, renovation and machinery installation,[37] but must create jobs within a three-year period, with one new job created for every $35,000 - $75,000 of proceeds loaned from the OEBF Program. Projects at the higher end of this range must have some combination of significant job creation, high average hourly wage, or must be located in a priority investment area.

Rural Industrial Park Loan Fund

This program is operated by the Ohio Department of Development, as detailed in R.C. 122.23 to R.C. 122.25. The program assists eligible applicants in financing the development and improvement of industrial parks by providing financial assistance in the form of loans and loan guarantees for land acquisition; constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, or improving industrial park buildings; and infrastructure improvements. It is available to counties with a population less than 125,000 that meet certain economic distress criteria; in 2021, the Ohio General Assembly expanded eligibility beyond distressed areas by including *rural areas*, which are comprised by any county not within a statistical metropolitan area (MSA).[38] Although the program was threatened with de-funding in recent years, the 135th Ohio General Assembly appropriated $15 million in funding to the program for each state fiscal year 2024 and 2025; further, the budget bill capped loans at $4 million per project.[39]

---

[36] Additional collateral or credit enhancements could be: 1) personal guaranties from owners with more than 20 percent ownership in the company; 2) corporate guaranties from related companies; 3) full or partial letter of credit; 4) life insurance on key business owners and/or managers; or 5) other types of credit enhancement, if necessary.

[37] The prevailing wage requirement in section 166.02 was repealed by 129th General Assembly File No. 28, H.B. 153, § 105.01, effective 9/29/2011 for guarantees and loans in R.C.s 166.06 and 166.07 that previously required projects utilizing financial assistance from programs created from these sections to pay laborers and mechanics employed on the project the prevailing rate of wages under chapter 4115.

[38] See R.C. subsection 122.23(J), with "rural area" set forth by Am. Sub. H.B. 110, 134th Ohio General Assembly.

[39] See uncodified Sec. 259.50, Am. Sub. H.B. 33.

Research and Development Investment Loan

The Research and Development Investment Loan Fund,[40] administered by ODOD, provides loan financing ranging from $500,000 to $5 million for projects primarily engaging in R&D activity. The loans have fixed rates (at or below market rates) and other loan terms similar to those of commercial bank financing. Companies receive a dollar-for-dollar, nonrefundable Ohio commercial activity tax credit for principal and interest payments made during the year up to $150,000 during the loan term. The credit is non-refundable and any unused credits may be carried forward until expended.

The program may finance allowable project costs with R&D Loans typically ranging in size from $500,000 to $5,000,000. The amount of R&D Loan will take into account additional financing offered through other State loan programs. Total financing from State programs should typically range from 20% to 40% of the project investment.

The program requires a commitment to create jobs to the State of Ohio through the R&D Loan program. The number of jobs committed, as well as the annual payroll will be considered when determining the funding amount.

Eligible projects include those where research and development activities are undertaken for the purpose of discovering information that is technological in nature and the application of which is intended to be useful in the commercialization of a new or improved product, process, technique, formula or invention. It is expected that project employment will be comprised of a significant representation of scientists, researchers and technicians. Retail projects are ineligible for the R&D Loan. Refinancing is ineligible.

Eligible project costs include the following types of investments, which are being used for research and development activities:

- Land and/or building purchase. If the project involves the purchase of an existing building, the business must occupy at least 51% of the premises.
- Machinery & equipment purchase
- Building construction and/or renovation costs. If the project involves new construction, the business must occupy at least 60% of the premises.
- Long-term leasehold improvements
- Capitalizable costs directly related to a fixed-asset purchase

[40] See R.C. 166.17 to R.C. 166.21.

The R&D Loan term is based upon the useful life of the allowable project costs/uses financed. The term for real estate is up to 15 years and the term for machinery and equipment is up to 10 years. The R&D Loan interest rate is fixed at closing.

Applicants must make a 10% minimum equity contribution in the allowable project costs/uses. The required contribution may be higher depending on the company's financial and operating position and the project's characteristics. At least 50% of the allowable project costs must be funded by the borrower either directly or indirectly through third party investors and/or lenders.

ODOD requires a first and/or shared priority mortgage and/or lien position on assets financed with R&D Loan proceeds. ODOD may consider a shared position with participating third party lenders, established via a multi-party agreement between the participating lender(s), ODOD and the borrower. ODOD may require the following additional collateral or credit enhancements:

- Personal guarantees from owners of the company
- Corporate guarantees from related companies
- Full or partial letter of credit
- Life insurance on key business owners and/or managers
- Other types of credit enhancement, if necessary

The R&D Loans are "take-out" financing. Allowable project costs/uses must be purchased with interim financing with the R&D Loan disbursing upon project completion.

Program Fees include a commitment fee equal to 1% of the loan amount capped at $10,000 and an annual servicing fee equal to 0.25% of the outstanding principal amount of the loan is pro- rated and payable monthly. The program does not impose a pre-payment penalty.

Innovation Ohio Loan Fund

The Innovation Ohio Loan Fund (IOF Loan)[41] promotes assistance to existing Ohio companies in developing next generation products and services within certain Targeted Industry Sectors.

The IOF Loan provides capital to Ohio companies with limited access to capital and funds from conventional financing sources due to technical and commercial risk factors associated with the development of new products or services. The IOF Loan may finance up to 75% of allowable project costs with loans typically ranging in size from $500,000 to $1,500,000.

[41] See R.C. 122.16.

The program requires a commitment to create jobs in the State of Ohio through the IOF Loan program. The number of jobs committed, as well as the annual payroll will be considered when determining the funding amount.

The IOF Loan targets industry sectors involving the production or use of:

- Advanced Materials
- Instruments, Controls and Electronics
- Power and Propulsion
- Biosciences
- Information Technology.

The IOF Loan is intended to support the growth capital needs of established Ohio companies that have:

- A minimum of two years of operating history and revenues generated
- attracted or are likely to attract additional third party capital to the project
- developed a proven product for a proven market
- have customer orders and reasonable prospects for rapid sales growth
- attracted third party capital and has reasonable prospects of continued backing from such investors the program may require additional investment in the company as a condition to an IOF Loan.

Eligible projects include those related to industry, commerce, manufacturing, distribution or research activities. Retail projects are ineligible for the IOF Loan. Allowable costs are defined as costs that can be capitalized under applicable generally accepted accounting principles. The IOF Loan term typically ranges from 5 – 7 years or upon the useful life of the allowable project costs/uses financed. The IOF Loan rate will be fixed at closing.

The program requires a 25% minimum contribution in the allowable project costs/uses. The required contribution may be higher depending on the financial and operating position of the company. In-kind contributions of labor, equipment or similar items are not acceptable as the applicant’s contribution.

The program may require a first and/or shared first priority mortgage and/or lien position on all business assets including Intellectual Property. At a minimum, the program will require a senior position on all project costs/uses financed with the IOF Loan proceeds.

Program Fees include:

Commitment fee equal to 1.75% of the loan amount capped at $17,500 is due to proceed with the loan closing and loan documentation process.

- Annual servicing fee equal to 1% of the outstanding principal amount of the loan is pro-rated and payable monthly.
- Participation fee equal to 10% of the maximum drawn principal will be payable upon maturity of the loan.

The program does not impose a pre-payment penalty.

STATE INFRASTRUCTURE BANK PROGRAMS

Programs Discussed:

- State Infrastructure Bank Loans
- State Infrastructure Bank Bonds

State Infrastructure Bank Loans

The State Infrastructure Bank (SIB) Loan Program,[42] offered through the Ohio Department of Transportation (ODOT), provides loan financing assistance for the purpose of fostering the economic development and creation of public transportation facilities that contribute to the multimodal and intermodal transportation capabilities of the state of Ohio.[43] The program provides assistance in the form of loans, loan guarantees, letters of credit, leases, interest rate subsidies, debt service, cash reserves and other financing forms that may be deemed appropriate by the director of ODOT.

Eligible borrowers include any public entity, such as political subdivisions, state agencies, boards, commissions, regional transit boards and port authorities. While publicly dedicated roads and transportation or infrastructure facility projects are eligible, they must retain a local government sponsor to receive loan funding. Thus, the loan must go to a public entity and be guaranteed to be repaid with public funds in order to qualify.

Eligible projects must be public transportation projects, including, but not limited to: construction, reconstruction, resurfacing, restoring, rehabilitation or replacement of public transportation facilities within the state of Ohio; any highway transit or other transportation project eligible for financing or aid under any federal act or program; any project involving maintenance, repair, improvement or construction of a public highway, road, street, parkway or transit project; and any related right-of-way, bridges, tunnels, railroad-highway crossings, drainage structures, signs, guardrails or protective structures. Other transportation projects, including aviation and other intermodal facilities will also be considered for SIB funding.

However, costs for preliminary engineering, design, environmental studies, major investment studies and interchange justification analysis are not eligible project costs under the program.

The SIB Loan Program is characterized as a "revolving loan program," such that repayments of the loans are to be made to ODOT and then reloaned to subsequent eligible projects. This revolving

---

[42] The SIB Loan Program is authorized by the 1995 National Highway System Bill. Additionally, SIB is authorized by R.C. 5331.09, which creates the SIB as a fund of the State Treasury to be administered by the director of ODOT.
[43] See O.A.C. chapter 5501:6-1.

nature ensures that more transportation projects may be completed through financing assistance from the SIB.

Furthermore, to be approved, projects must be in the right-of-way or construction phase prior to loan approval. Thus, before a loan is approved, it will be considered whether environmental clearance must be provided prior to disbursement of any funds through the loan, whether preliminary engineering must be completed prior to closing the loan, and whether the project has an identifiable funding resource adequate to repay the loan.

The SIB loan term is based on and may not exceed the useful life of the asset financed. Further, the program sets a maximum term of 10 years. Short-term loans are those with terms of three years or less, and their interest rates are made on a case-by-case basis by the loan committee.

The SIB loan interest rate is otherwise fixed at or below market rates by the loan committee and the interest-free period continues for the first 12 months following the loan closing date. The interest accrual period consists of months 13-24 following the loan closing date. If a SIB loan is refinanced with proceeds from a SIB bond issue, a prepayment penalty will be assessed. Additionally, if a loan is prepaid, a penalty will be applied, absent mitigating circumstances.

Borrowers have one year following project completion to withdraw the loan amount (this date is referred to as the loan withdrawal date). After the loan withdrawal date, any amount of the original loan that has not been withdrawn is cancelled and the loan defaults to the total amount withdrawn. Extensions of the withdrawal date may be considered by the board, but may not exceed 12 months.

All projects receiving assistance from a SIB loan are required to utilize the Ohio Prevailing Wage or Davis Bacon Wage for construction, renovation, and machinery installation.

In 2023, the legislature changed the SIB program such that loans made to a "small city" (i.e., 5,000 - 24,999 population, located outside of a metropolitan planning organization) must carry 0% interest.[44]

State Infrastructure Bank Bonds

In addition to loans, the SIB provides funding to support bond issues and the use of bond proceeds for loans to qualified borrowers.[45] The purpose of the SIB Bond Program is essentially the same

[44] See Am. Sub. H.B. 23, 135th Ohio General Assembly.
[45] The SIB Bond Program is authorized by the 1995 National Highway System Bill, section 13 of Article VIII of the Ohio Constitution and R.C. 5531.10.

as the SIB Loan Program, to develop projects such as state and federal roadways and multimodal and intermodal transportation capabilities. Loan requests for $5 million or more may be referred to the SIB Bond Program.

Projects that qualify for SIB bond financing are the same as those that qualify for SIB loan financing.[46] Furthermore, under the SIB Bond Program (as under the SIB Loan Program), costs for preliminary engineering, design, environmental studies, major investment studies and interchange justification analysis are not eligible for financing. Likewise, qualified borrowers under the SIB Bond Program are the same as those under the SIB Loan Program. Finally, as with the SIB Loan Program, bond proceeds must be received by a public entity and be guaranteed to be repaid with public funds.

SIB bonds are issued by the Ohio Treasurer of State, on behalf of the state. The bonds are not general obligations of the state, nor are they payable from a tax source. Rather, the rights of bondholders under the program to payments of amounts due thereunder are limited solely to revenues pledged to such a payment.

Once a bond is issued through the program, a loan is made to the borrower for the amount of the bond proceeds. The interest rate on the loan will match that on the bonds. The balance of bond proceeds is thereafter held by the trustee in a designated project account and disbursed to the borrower for approved project spending on a reimbursement basis. Following disbursement to the borrower, loan repayments are used to fund the bond debt service payments.

The loan amortization schedule that accompanies the bond documents sets the schedule for loan payments. Prepayment penalties may be assessed on a case-by-case basis if a loan is refinanced with proceeds from a SIB bond issue. Loans may thus be prepaid and bonds redeemed as specified in the loan agreement.

The program follows a bond payment structure that requires semiannual debt service payments due to the trustee on April 15 and October 15. Disbursements are then made to the bondholders on May 15 and November 15. Other payment structures, however, may be approved.

Most bonds issued through the SIB are tax exempt. Therefore, the proceeds must be spent in accordance with the requirements set by USC Title 26, section 148, Internal Revenue Code. This means that the borrower must reasonably expect that: (i) 85 percent of the proceeds will be spent within three years; (ii) 5 percent of the proceeds will be obligated to be spent within six months;

[46] See previous section for list of qualified projects for SIB bond financing.

and (iii) the project will proceed with due diligence to completion. Additionally, in order to avoid rebate to the federal government of any interest earnings in excess of the yield on the bonds, proceeds must be spent in accordance with the following timetable: 10 percent within 6 months; 45 percent within 12 months; 75 percent within 18 months; and 100 percent within 24 months of issue. In order to meet the federal spend down requirements, bond proceeds should only be used for the construction phase of a qualified project and should not be used for right-of-way or design phases, unless those payments can reasonably be expected to meet the spend down requirements.

Additionally, an arbitrage computation is required every five years over the life of the bonds. The borrower on the bonds is responsible for making sure the arbitrage calculations are made.

As under the SIB Loan Program, the term of the loan may not exceed the useful life of the asset financed and must be the same as the term of the bond.[47] The maximum term under the SIB Bond Program is 25 years. Additionally, as under the loan program, projects must be in the right-of-way or construction phase before a loan is approved. Thus, it will be considered whether environmental clearance must be approved prior to disbursement of funds on the loan, whether preliminary engineering must be completed prior to closing of the loan, and whether the project has identifiable funding adequate to repay the loan prior to its issuance.

Principal, interest, legal, administrative, arbitrage or other costs related to transactions, and any costs incurred by ODOT in its performance of the transaction are passed on to and borne by the borrower if the borrower requests to prepay or refinance a SIB loan that is associated with a SIB bond. Additionally, ODOT may charge an administrative fee for the bond program.

[47] See https://www.transportation.ohio.gov/wps/portal/gov/odot/programs/state-infrastructure-bank#page=1, last visited August 4, 2023.

JOBSOHIO LOAN AND GRANT PROGRAMS

Programs Discussed:

- JobsOhio Growth Fund Loan
- JobsOhio Workforce Grant
- JobsOhio Economic Development Grant
- JobsOhio Site Revitalization Loan and Grant Fund
- JobsOhio Research and Development Grant
- JobsOhio Site Inventory Program

JobsOhio is a private, nonprofit corporation established in 2011 to lead Ohio's job-creation efforts by singularly focusing on attracting and retaining jobs, with an emphasis on strategic industry sectors in areas of statewide and regional strength. Those industry sectors include the following: advanced manufacturing, aerospace and aviation, agribusiness and food processing, automotive, biohealth, energy, financial services, information technology, polymers and chemicals, and business functions.

JobsOhio contracts with a network of six regional economic development organizations, or *REDOs*, to assist in its efforts across Ohio: Team NEO, OhioSE, One Columbus, REDI Cincinnati, the Dayton Development Coalition and the Regional Growth Partnership (Toledo).

Often, project deals flow to JobsOhio from municipalities, townships, and counties with opportunities in their jurisdictions. These local economic development organizations, themselves known as *LEDOs*, typically have their own dedicated business development staff and resources. The regional entities are responsible for vetting projects from local economic developers and presenting them formally to JobsOhio for funding decisions and commitments of assistance. The programs available from JobsOhio are described below.

JobsOhio Growth Fund Loan

The JobsOhio Growth Fund provides capital for expansion projects to companies that have limited access to capital and funding from conventional, private sources of financing. JobsOhio will consider loans to companies that are in the growth, established or expansion stage and that have generated revenues through a proven business plan. The JobsOhio Growth Fund's loan decisions are based on a number of project factors, including, but not limited to, job creation, additional payroll, fixed-asset investment commitment, project return on investment and project location.

The JobsOhio Growth Fund focuses on fixed-asset investment by companies, including the following: land, buildings (purchase, construction or renovation), machinery and equipment, capitalized costs directly related to a fixed-asset purchase and software development.

The program may finance allowable project costs with loans typically ranging from $500,000 to $5 million. For established and expansion stage companies, projects should typically receive more than half of their total financing from other private capital sources. For early and growth stage companies, the JobsOhio Growth Fund may consider financing a higher portion of the project's total investment. Ineligible projects include retail and other population-driven businesses.

The program requires the creation of jobs within a specified period of time, and may consider the amount of loan proceeds per job created. JobsOhio may consider providing financing for eligible projects that improve operational efficiencies or production expansion, along with the retention of jobs.

The loan term is based upon the useful life of the allowable project costs. For instance, the term for real estate is up to 15 years, while the term for machinery and equipment is up to 10 years. Moreover, the interest rate is a fixed rate at closing. Rates are priced based on project risk along with other factors. The program requires at least a 10 percent borrower contribution or equity in the allowable project costs and uses. The project also typically requires a senior or shared-senior lien position on project uses financed and may require additional collateral or credit enhancements, and may consider a second mortgage and/or subordinate lien position on the project assets. The loan is typically "take-out" financing, disbursed upon project completion.

The program does not impose a prepayment penalty.

JobsOhio Workforce Grant

The JobsOhio Workforce Grant was created to promote economic development, business expansion and job creation by providing funding for the improvement of worker skills and abilities in the state of Ohio. Like the JobsOhio Growth Fund Loan Program, grant decisions are based on a number of project factors, including, but not limited to, job creation, additional payroll, fixed-asset investment commitment, project return on investment and project location.

The program requires job creation and training of employees within a specified period of time, typically three years. JobsOhio will also set a wage floor based on multiple wage considerations. Ineligible projects include retail and other population-driven businesses. The grant is reimbursed-based, and eligible costs, among other things, can include information technology, maintenance, skilled trades, leadership skills, product knowledge, quality management and processes, safety training (industry specific), supervisory, technical processes, technical training, on-the-job training, equipment, materials and travel costs (domestic and international).

Ineligible costs include college degrees, consumables, general equivalency diploma costs, infrastructure, soft skills, trainee wages, membership dues and licensing fees, travel or preparation time, profit-oriented courses and compliance with Occupational Safety and Health Administration regulations.

JobsOhio Economic Development Grant

The JobsOhio Economic Development Grant promotes economic development, business expansion and job creation by providing funding for eligible projects in the state of Ohio. The requirements for this grant program are similar to the requirements for the JobsOhio Growth Fund Loan. Grant decisions are based on a number of project factors, including, but not limited to, job creation, additional payroll, fixed-asset investment commitment, project return on investment and project location.

The program requires job creation within a specified period of time, typically three years, and may consider the amount of proceeds per job created. In addition to assistance for the creation of new jobs, the grant may be available to provide assistance for eligible projects that improve operational efficiencies and production expansion, along with the retention of jobs. Ineligible projects include retail and other population-driven businesses. The grant is reimbursement-based with supporting documentation.

Eligible costs include land, buildings, leasehold improvements, machinery and equipment, moving and relocation costs of machinery and equipment (freight shipping) related to the project, infrastructure including utility, telecommunications, information technology, etc., site development, fees and material costs related to planning or feasibility studies, engineering services and software development.

Ineligible costs include, but are not limited to, the retirement of bond or other debt instruments issued by the grantee to finance completion of the project, administrative costs (including salaries), rolling stock, organized fundraising, long-term housing expenses, interest on borrowed money, travel expenses, taxes from which the grantee is normally exempt, and lease and rent payments.

JobsOhio Revitalization Loan and Grant Fund

The JobsOhio Revitalization Loan and Grant Fund was created to support the acceleration of redeveloping sites in Ohio.[48] The program's primary focus is on projects where the cost of

---

[48] See https://www.jobsohio.com/programs-services/sites/revitalization-program, last visited August 4, 2023.

redevelopment and remediation exceeds the value of the land and where a site cannot be competitively developed in the current marketplace. Priority is placed on projects that support near-term job creation opportunities for Ohioans.

Eligible projects typically must retain and/or create at least 20 jobs at a wage rate commensurate with the local market. Priority is given to job creation and retention projects within JobsOhio targeted industry sectors, those making additional capital investment beyond remediation and redevelopment and/or projects with wages higher than the average local wage rate.

Eligible sites are those that are abandoned or are an underutilized contiguous property where redevelopment for the immediate and primary purpose of job creation and retention are challenged by significant redevelopment constraints. Eligible applicants include business, nonprofits or local governments where an end user has signed an agreement such as a letter of intent, option, and lease or holds title to the project site *and* has a specific business plan, financing plan, and schedule for redevelopment and job creation to occur. Eligible costs include demolition, environmental remediation, building renovation, site preparation and infrastructure.

For environmental remediation loans and grants, a “no further action” letter must be achieved within three years of loan or grant agreements, unless an extension of time in writing is granted by JobsOhio in consultation with the Ohio Environmental Protection Agency (Ohio EPA). A covenant not to sue is required for all projects where an institutional or engineering control is part of no further action/site closure. The Ohio EPA will issue a letter to each awarded remediation project, offering assurances that if environmental remediation is completed according to Ohio EPA and federal standards, a covenant not to sue is achievable for the project.

Site improvement loans typically range from 20 percent to 75 percent of eligible project costs, in amounts ranging from $500,000 to a maximum of $5 million. The term of such loans may last up to 15 years. Interest rates are fixed and are determined at closing, and there is an additional .25 percent loan servicing fee. Security is negotiated for each project. Principal and interest repayments are deferred during site revitalization, with repayment beginning upon occupancy or after five years, whichever occurs first. The outstanding loan principal may be reduced annually on a negotiated basis, based on performance.

Site improvement gap grants up to $1 million are available to be coupled with site improvement loans and are provided to fill funding gaps where remediation costs exceed the anticipated net gain in land and improvement value, making successful redevelopment infeasible. Funds are available only to projects where a confirmed end user will create jobs within a negotiated period, not to exceed five years.

The **JobsOhio Revitalization Program Phase II** Assessment Fund is designed to assist in the review of potential environmental risks on sites where redevelopment for job creation or retention is likely to occur. Demonstrations of redevelopment readiness might include end user interest in the site, locations that are attractive to JobsOhio targeted industry projects, areas already undergoing redevelopment with other nearby job creation momentum, market studies and the like. JobsOhio will provide grant funding up to $200,000 per approved project, provided on a reimbursement basis.

The project must demonstrate that job creation or retention is highly likely if environmental risks can be understood and addressed. Priority will be given to job creation and retention projects within JobsOhio targeted industry sectors.

Eligible applicants include business, non-profits or local governments where a potential end user has expressed clear interest in reuse of the project site. Clear interest can include a signed agreement such as a letter of intent, option, lease or title for the project site coupled with a redevelopment plan that includes new job creation or retention of existing jobs.

Eligible sites can include abandoned or under-utilized contiguous properties where redevelopment for the immediate and primary purpose of job creation or retention are complicated by significant redevelopment challenges. An All Appropriate Inquiry (AAI) or OEPA Voluntary Action Program qualified Phase I Environmental Site Assessment must have been completed for the site.

Eligible costs include environmental testing, lab fees, and work completed by certified professionals for completion of a Voluntary Action Program or American Society for Testing and Materials Phase II environmental property assessment.

JobsOhio Research and Development Grant

The JobsOhio Research and Development Grant facilitates the creation of corporate Research and Development centers in Ohio to support the development and commercialization of emerging technologies and products. Eligible projects include those that support the development and commercialization of emerging technologies and/or products that align with JobsOhio’s targeted industries. Grant decisions are based on a number of project factors, including alignment with JobsOhio sector strategies, job creation, new payroll, and fixed-asset investment commitments, and project location.

An R&D grant may provide funding for a portion of the costs related to a new center over 5 years. R&D grant funded activities are expected to create at least 5 new jobs, foster new technology-enabled products or services, and attract new technology-enabled companies to Ohio. To the extent that new production facilities result from commercialized products and services from a new Ohio R&D center, JobsOhio will require (prior to a Grant recipient's investment decision) notification of such planned facilities and the opportunity to present site alternatives to the Grant recipient.

Applicants can include any for-profit company or non-profit institute with a minimum of 5 years' operating history and annual revenue of greater than $10 million. The credit rating of each applicant will be considered, along with other customary due diligence items. To be eligible to receive an R&D Grant, a center must represent at least $3 million in new cash investment by a for-profit company or non-profit institute.

Grant funds can be used for Qualified Research Expenses (QRE) and satisfy operational, equipment or facility needs related to:

- Industry-driven, value-added applied research;
- Software development; and,
- Developing technologies that can be commercialized by a for-profit company or non-profit institute

Equipment purchased with JobsOhio funds, if any, must remain in Ohio throughout its useful life. Operational activity funded with JobsOhio funds, if any, must occur in Ohio.

The term of grant agreements are up to five (5) years. Each year, the grant recipient is required to submit a status report detailing the overall progress of the project (including milestones, actual vs. budget) and the measurable economic impacts on Ohio.

Grant funds are disbursed on a reimbursement basis, first with respect to fixed assets and second, with respect to non-fixed assets, in each case with supporting documentation required with respect to dollars invested.

JobsOhio's Ohio Site Inventory Program (OSIP)

In 2020, . JobsOhio launched a $50 million per year grant and loan program for spec-based opportunities. . . . . . : the Ohio Site Inventory Program (OSIP).

Key highlights of the OSIP include:

- JobsOhio will award up to $250 million in grants and loans through 2024, with $50 million allocated each year, to spec-based development opportunities. An end user need not be identified.
- Grant funds will reimburse local governments, non-profits, developers, port authorities and businesses up to $2 million for site preparation, demolition, construction, infrastructure (e.g., utilities and roads) and environmental cleanup, including asbestos removal.
- Spec-based developable sites should be at least 30 acres in contiguous area and spec-based buildings must align with common site selection criteria (e.g., clear ceiling height, column spacing).
- This support cannot exceed 50 percent of a site's total project cost.
- Applicants must have control of the site, completed a Phase I environmental assessment and show demonstrated demand for the site's future end use.
- Eligible end uses include warehousing, industrial, office (including mixed use), R&D and business parks. Ineligible uses are those involving recreational parks, future multi-family housing, retail, hospitals and parking decks.

MUNICIPAL TAX CREDIT PROGRAMS

Programs Discussed:

- Municipal Job Creation Tax Credit Program
- Municipal Job Retention Tax Credit Program

Municipal Job Creation Tax Credit Program

A municipal corporation[49] may use a Municipal Job Creation Tax Credit[50] (Job Creation Tax Credit) to increase employment opportunities and encourage the establishment of new jobs in the

[49] Pursuant to R.C. Chapter 703, Ohio municipal corporations are classified either as cities or villages, depending on the population of the municipal corporation.
[50] A municipal corporation may grant a job creation tax credit in furtherance of the public purposes enunciated in Article VIII, Section 13 of the Ohio Constitution. Specifically, R.C. 718.15 allows a municipal corporation to grant a refundable or nonrefundable credit against its tax on income to a taxpayer in order to foster job creation in the municipal corporation.

municipal corporation. A Job Creation Tax Credit is a refundable or nonrefundable credit against the local tax levied on the net income of a company that creates jobs within the municipal corporation. A municipal corporation must pass an ordinance in order to grant a Job Creation Tax Credit.

A Job Creation Tax Credit is measured as a percentage of the new income tax revenue the municipal corporation derives from new employees of the company to which the Job Creation Tax Credit is granted for a term not to exceed 15 years. Before the municipal corporation passes an ordinance granting a Job Creation Tax Credit, the municipal corporation and the taxpayer must enter into an agreement specifying the terms and conditions of the credit.

Municipal Job Retention Tax Credit Program

A municipal corporation may use a Municipal Job Retention Tax Credit[51] (Job Retention Tax Credit) to retain employment opportunities in the municipal corporation. A Job Retention Tax Credit is a nonrefundable credit against the local tax levied on the net income of a company with existing jobs in the municipal corporation. The municipal corporation must pass an ordinance in order to grant a Job Retention Tax Credit.

A Job Retention Tax Credit is measured as a percentage of the income tax revenue the municipal corporation derives from the retained employees of the company to which the Job Retention Tax Credit is granted for a term not to exceed 15 years. Before passing an ordinance or resolution granting a Job Retention Tax Credit, the municipal corporation and the taxpayer must enter into an agreement specifying the terms and conditions of the credit.

LOCAL PROPERTY TAX ABATEMENT PROGRAMS

Programs Discussed:

- Enterprise Zone Program
- Tax Increment Financing

[51] A municipal corporation may grant a job retention tax credit in furtherance of the public purposes enunciated in Article VIII, Section 13 of the Ohio Constitution. Specifically, R.C. 718.151 allows a municipal corporation to grant a refundable or nonrefundable credit against its tax on income to a taxpayer for the purpose of fostering job retention in the municipal corporation.

- Community Reinvestment Area Program
- Undeveloped Property Tax Abatement
- Pre-Residential Development Property Tax Abatement
- Airport Development Districts

This section provides a summary of Ohio's real property tax exemption mechanisms, several of which have been used for many years across the state. It must be noted property tax exemptions function like blunt instruments. With very few exceptions (e.g., the Enterprise Zone Program's applicability to environmentally contaminated facilities, described below), Ohio's property tax exemption programs *do not abate existing taxes due* on real property (i.e., the tax base). At the very least, exemptions like those available under the Enterprise Zone, Community Reinvestment Area, and Undeveloped Property Programs protect an owner, for a certain time period, against future *increases* in real property taxes. And tax increment financing redirects *increases* in property taxes, in the form of service payments, into a deposit fund (should a project sufficiently *increase* improvement value to spur service payments). At their best, real property tax exemptions can materially reduce a taxpayer's overall development costs – via abating large tax obligations – or create a reliable revenue stream to fund public infrastructure improvements.

These tools require careful attention, preferably at the start of incentives negotiations. Some of these property tax exemptions have been used in economic development for decades in Ohio (e.g., the Community Reinvestment Area Program dates back to the late 1960s). They have become fairly routine in their use by economic developers. That said, property tax exemptions may not be the best fit for every project. The devils are in the details. Nuances exist in each of the following programs that if not properly managed during the process of negotiating and finalizing a property tax exemption, less-than-expected benefits may accrue to businesses, thereby frustrating investors, embarrassing local elected officials, and sowing confusion among members of the viewing public.

Note the following practice points. First, real property tax exemptions only exempt (or redirect, as in a tax increment financing structure) taxes on *the county auditor's appraised value of improvements* made to a parcel of real property. It is the case generally that when abating taxes on improvement values, an exemption has more impact when the underlying parcel of property has little or no improvements in-place at the time of the exemption's approval (i.e., a so-called Greenfield site). If the to-be-exempted parcel already has a building on it, the exemption may not offer much tax benefit. Second, even if the project involves a Greenfield site, it very well may be the case that the county auditor fails to appraise the improvements to the extent envisioned by the developer; the abatement may not appear as robust a benefit as expected. Third, to this dynamic one should add the general premise in Ohio that impacted schools often are paid *some* amount of the abated taxes – via school compensation payments from the developer and/or the political jurisdiction.[52] The hoped-for "zing" of an awarded property tax exemption may fade in the awardee's eyes if all or most of the schools' millage is paid anyway (i.e., as-if there is no tax abatement in place). Fourth, benefits from these tax exemption only forego a business' obligation to make tax payments, they do not "cash flow," as would a refund, back to the business (with the exception of municipalities' urban redevelopment tax increment financing structures and townships' redevelopment tax increment financing, described below, that can redirect payments to offset a developer's private improvement costs).

In early 2023, state lawmakers enacted new requirements for reporting and legislative review of property tax exemptions, with the Ohio Tax Commissioner's biennial tax expenditure report now to include local property tax exemption program data.[53]

Enterprise Zone Program

Established under state law, the Ohio Enterprise Zone[54] (EZ) Program is a locally administered economic development tool providing real property and/or personal property tax incentives to eligible employers (i.e., enterprises) expanding or locating in Ohio. The EZ Program dates back to the early 1980s and historically has been used throughout Ohio to reduce both personal property and real property taxes paid by enterprises. With tax code reform in 2005 that shifted Ohio away from franchise and personal property taxes and toward the Commercial Activity Tax (CAT), personal property tax incentives available under the EZ Program diminished in importance among taxpayers. That said, the real property tax reductions offered by the EZ Program still carry importance among Ohio's business community, making this one of the bedrock financial incentive tools in use by local economic developers.

Specifically, EZs are designated areas (i.e., zones) of land with single, contiguous boundaries within which enterprises may apply to local governments and receive financial incentives in the form of abated (i.e., exempted) taxes otherwise due on eligible new investments. In order to offer local tax relief to enterprises under the EZ Program, a municipal corporation or county must first designate an area and then petition the ODOD for formal certification of that area.

[52] This fact is brought home by the requirement to formally involve joint vocational school districts in such deal-structuring, in EZs per a recently enacted change (Am. Sub. S.B. 89, 133rd Ohio General Assembly, described below), and in CRAs per proposed law changes currently pending (134th Ohio General Assembly, see H.B. 303 and its companion S.B. 166, each as introduced).
[53] See Am. Sub. H.B. 66, 134th Ohio General Assembly, and see R.C. 5703.48.
[54] See R.C. 5709.61 to R.C. 5709.69.

Designating EZ areas

In Ohio, certain municipal corporations and all 88 counties are empowered to designate EZ areas within their boundaries. These zones offer real property tax reductions to new or existing enterprises to help them be more competitive and to reduce the costs of doing business in their jurisdictions.

As to designating EZ areas, there is some nuance to the process. Ohio's EZ Program laws were modified in 1994 by the General Assembly so that in designating new EZ areas, eligible municipalities and counties may choose to show some measure of "distress" as to building vacancies, declining population, or high unemployment. If municipalities and counties designate their EZ areas as distressed, they can award tax abatements with *full authority* under the program. Such full authority means tax abatements are awarded in these EZ areas with less formalistic process; they do not require special findings before executing the required incentive agreements. A caveat: even *full authority* EZ areas are prohibited from awarding tax abatements for a period of five years to enterprises that reduce operations in Ohio or discontinue operations at the proposed project site (unless waived by ODOD).[55]

For those municipal and county EZ areas having already been designated prior to the 1994 law change, many of which still exist today, new tax abatement awards must be accompanied by legislative findings that an enterprise's operations are not being relocated from elsewhere in Ohio. These pre-July 1994 EZ areas are known as *limited authority* zones, because if an enterprise proposes to relocate from another jurisdiction in Ohio to the EZ area, the ODOD must sign-off on the move.[56]

It is the case that only certain municipalities in Ohio are empowered to designate EZ areas within their boundaries: those defined as the *principal cities* of their respective metropolitan statistical areas.[57] This group, by definition, is limited to principal cities in Ohio comprised of the following: Akron, Boardman, Canton, Cincinnati, Cleveland, Columbus, Dayton, Elyria, Lima, Mansfield, Massillon, Springfield, Steubenville, Toledo, Warren, and Youngstown. New *full authority* EZ areas may be designated going forward in these listed municipalities so long as they have existing

[55] The prohibition on full authority EZ areas awarding tax abatements to enterprises that reduced operations elsewhere in Ohio or discontinued operations at the proposed project site is set forth in R.C. 5709.633(A)(2).

[56] See R.C. 5709.62(E) for principal-city municipalities' pre-1994 zones and R.C. 5709.63(D) for counties' pre-1994 zones. The prohibition against relocated operations applicable to limited authority EZ areas is set forth in R.C. 5709.633(A)(1).

[57] See R.C. 5709.62. The U.S. Census Bureau makes available a map of such metropolitan statistical areas in Ohio, available at this link: https://www2.census.gov/programs-surveys/metro-micro/reference-maps/2020/state-maps/39_Ohio_2020.pdf, last visited August 6, 2023.

populations of at least 4,000 and are marked by *at least one (1)* distressed criterion under Ohio's EZ law, which include having a higher-than-state-average unemployment rate or decreased population.[58] Boards of county commissioners may designate EZ areas in either municipalities or townships within their respective county boundaries, with the consent of each affected municipality and board of township trustees.[59] No more than one (1) area may be designated by the county commissioners within a township or within adjacent townships. *Full authority* EZ areas may be designated by county commissioners in their constituent municipalities or townships so long as the zones have existing populations of at least 4,000 and are marked by *at least two (2)* distressed criteria under Ohio's EZ law, using the same list of factors as for the principal city-municipalities described above.[60]

County commissioners also may designate *full authority* EZ areas within their respective county boundaries if they have 300,000 or less population and so long as the zones have existing populations of at least 1,000 and are marked by *at least two (2)* distressed criteria under Ohio's EZ law.[61]

Even with the 1994 law changes described above, it is important to point out that eligible municipalities and all 88 counties may continue to designate new EZ areas without showing distress characteristics. But remember these *limited authority* zones require that before awarding any tax abatements to a project, the municipality or the county must make special findings that the abated enterprise is not relocating operations from elsewhere in Ohio; if the enterprise proposes to relocate from another jurisdiction in Ohio to the EZ area, the ODOD must sign-off on the move.[62]

In early 2023, state lawmakers made available, for a limited 12-month period commencing April 3, a window during which a property owner who failed to submit a property tax exemption application (i.e., Form DTE-24) now may duly apply for his or her EZ exemption, to abate unpaid

---

[58] For a full listing, see R.C. 5709.61(A)(1)(b) through (h). The seven distress criteria are: (1) being located in the Appalachian region; (2) having an average unemployment rate during the most recent 12 months that is 125 percent or more of the state average unemployment; (3) having a prevalence of vacant, tax delinquent, or demolished commercial or industrial structures; (4) experienced at least 10 percent population loss between 1980 and 2000; (5) more than one-half the population earn incomes less than 80 percent of the median income of the EZ area's municipalit(ies); (6) the EZ area contains previously used industrial facilities now marked by age, obsolescence, or deterioration (and if so, the EZ incentives can only be used to redevelop those facilities and adjacent land); and (7) the EZ area's income-weighted tax capacity of the school district(s) is less than 70 percent of the statewide average.

[59] See R.C. 5709.63.

[60] Supra, R.C. 5709.61(A)(1)(a) through (h).

[61] See R.C. 5709.61(A)(2).

[62] See R.C. 5709.632(B) for principal-city municipal and county zones formed after July 1994 with "limited authority." The prohibition against relocated operations is set forth in R.C. 5709.633.

taxes on the subject property, including taxes assessed prior to the current owner having acquired said property.[63]

ODOD certification of EZ areas

No matter whether an eligible municipality or a county designates an EZ area with *full* or *limited authority*, the Director of ODOD must review the designation and certify the zone under the EZ Program.[64] The legislative authority of the principal-city municipality or the board of county commissioners making the EZ designation petitions the Director of ODOD for certification. After he or she receives such a petition, the Director of ODOD has sixty (60) days to determine if a *full authority* zone has the described distress characteristics;[65] the same 60-day timeline applies to the Director's task of certifying *limited authority* zones, although he or she need only determine such zones satisfy population requirements.[66] Once certified, the municipality or the county may begin awarding tax incentives to eligible enterprises in their respective EZ areas.

Negotiating and memorializing tax incentives under the EZ Program

Once an EZ area is certified, local officials may negotiate agreements with prospective nonretail[67] enterprises to invest in the zone.

Note that once a county's designated EZ area is certified by the ODOD, the board of county commissioners may delegate to the municipality or township within such zone the power to negotiate and administer EZ Program tax incentives.[68]

The EZ agreement is a contract between the municipal corporation or county and the enterprise receiving the tax incentive. Each EZ agreement must commit the enterprise to retaining or creating employment and to establishing, expanding, renovating, or occupying a facility in the EZ. Specific data points must be set forth in each contract, such as the amount of committed investment dollars, project completion dates, annual payroll, and the number of employees of the enterprise working elsewhere in Ohio.[69]

---

[63] See Am. Sub. H.B. 66, 134th Ohio General Assembly.
[64] See R.C.s 5709.62(A), 5709.63(A), and 5709.632(A)(3).
[65] See R.C. 5709.62(A).
[66] See R.C. 5709.632(A)(3).
[67] Retail operations are not eligible for EZ Program tax exemptions except in those urban areas which have been designated as impacted cities, or if the impacted school district(s) adopt legislation waiving such a restriction (see R.C. 5709.634).
[68] See R.C. 5709.63(G).
[69] See R.C. 5709.631(A).

Negotiating an EZ tax exemption underwent a change by the Ohio General Assembly in November 2020. Enacted legislation now requires that when an impacted school district is compensated for foregone tax revenue due to active EZ exemptions, the respective joint vocational school districts also must be compensated at the same rate and under the same terms as the city, local, or exempted village school district.[70]

Municipal EZ area incentives

Generally, principal-city municipalities may award tax incentives within EZ areas that abate up to 75 percent of real property taxes on the value of an enterprise's improvements, for up to 10 years.[71] Principal-city municipalities can negotiate tax incentives for more than 75 percent in any given year of a contract, so long as the average abatement does not exceed 60 percent during the entire term.[72] In the instances described in this paragraph, school board approval is not required; the municipality need only provide notice to the affected school district.[73]

With approval of the school district within the EZ area, the real property tax incentive may be for a period beyond 10 years (up to 15) and/or exceed 75 percent (up to 100 percent) of the value of the enterprise's improvements.

Note that municipal EZ areas also can award tax incentives, on both a *pre-development and post-development tax basis*, to enterprises that remediate environmentally contaminated facilities. To participate, enterprises must spend at least 250 percent of such facilities' value in expanding, renovating, or occupying the cleaned-up sites.[74] The EZ Program can abate up to 50 percent of a contaminated facility's value *before* the enterprise's remediation investment for up to 15 years (i.e., existing tax base value). And real property taxes can be abated for up to 15 years, for up to 100 percent, of the improvement value *during or after* remediation (i.e., assessed value of improvements beyond the existing tax base value). Note the potential tie-in for this form of EZ Program abatement with spec-based grant funding for environmental cleanup under JobsOhio's Ohio Site Inventory Program (OSIP), described in a previous section of this Toolkit.

Finally, a principal-city municipality can abate up to 100 percent, for up to 15 years, the real property constituting a large manufacturing facility that employed at least 1,000 workers within

---

[70] Am. Sub. S.B. 89 (133rd Ohio General Assembly).
[71] See R.C. 5709.62(C)(1)(b).
[72] See R.C. 5709.62(D)(1).
[73] See R.C. 5709.62(D)(4) and R.C. 5709.83.
[74] See R.C. 5709.62(C)(2).

an EZ area and that ceased operations.[75] This exemption similarly abates the *existing tax base* of such large manufacturing facilities while they are newly being operated.

County EZ area incentives

County zones can award EZ Program tax incentives generally up to 60 percent of real property taxes on the value of improvements, for up to 10 years, in unincorporated areas (i.e., within townships).[76] Counties can negotiate tax incentives in unincorporated areas (townships) for more than 60 percent in any given year of a contract, so long as the average abatement does not exceed 50 percent during the entire term.[77] A county can award abatements of up to 75 percent to projects located in the boundaries of a municipality within the county's EZ area.[78] In the instances described in this paragraph, school board approval is not required; counties need only provide notice to the affected school districts.[79]

With approval of the school districts within the EZ area, the real property tax incentive may be for a period beyond 10 years (up to 15) and/or exceed 60 percent (unincorporated areas) or 75 percent (within municipal boundaries), for up to 100 percent of the value of the enterprise's improvements.[80]

Like principal-city municipal EZ areas, counties also can award abatements of *existing tax base and improvement value* for environmentally contaminated facilities and large manufacturing facilities that have ceased operations.[81] As noted, there is potential tie-in for these county EZ abatements with spec-based grant funding for environmental cleanup under JobsOhio's Ohio Site Inventory Program (OSIP), described in a previous section of this Toolkit.

The appropriate local legislative authority must provide final approval of the EZ agreement by legislation, and the EZ agreement must be executed prior to *any* portion of the project beginning.

---

[75] See R.C. 5709.62(C)(3).
[76] See R.C. 5709.63(B)(1)(b).
[77] See R.C. 5709.63(C)(1)(a).
[78] See R.C. 5709.63(B)(1)(a).
[79] See R.C. 5709.63(C)(2) and R.C. 5709.83.
[80] See R.C. 5709.63(C)(1)(a) and (b).
[81] See R.C. 5709.63(B)(1)(a), (B)(1)(b)(iv) and (B)(2).

Reporting to ODOD

Within 15 days of executing an EZ agreement, the municipality or county must submit a copy to the director of ODOD. Thereafter, before March 31 of each year, the local jurisdiction must submit an annual status report to the state agency and the impacted school districts.[82]

Community Reinvestment Area Program

The Ohio Community Reinvestment Area (CRA) Program[83] is another locally administered real property tax abatement program benefiting property owners who renovate existing buildings or construct new buildings. The CRA Program permits municipal corporations or counties to designate areas in which investment has been discouraged. Limited home rule townships also are permitted to designate their own CRAs if the relevant area is not included in a CRA already designated by their respective county. Communities may use the CRA Program to encourage revitalization of existing housing stock, renovation of commercial and industrial structures, and to attract new-build developments, and, with a September 2021 law change, megaprojects.[84] (As to the latter, jurisdictions can award additional 15 years of tax exemptions to such megaprojects.) Like the Enterprise Zone Program, CRA abatements in Ohio are a bedrock, go-to form of financial incentives available for economic development projects.

The CRA Program dates back to the late 1960s as a housing program, borne from post-World War II urban blight and slum clearance strategies.[85] As economic development efforts grew during the 1970s and 1980s, the CRA Program proved valuable for addressing disinvestment in commercial and industrial settings.

In some ways, the CRA Program may be the more nimble local property tax abatement tool. By way of example, EZ projects may require special findings and/or a waiver from the Director of the ODOD (in the case of *limited authority* EZ areas). These procedural hurdles do not exist under the CRA Program. (By way of another example, proposed CRA projects that propose to relocate a business' operations from elsewhere in Ohio must only provide 30-day notice to the negatively impacted community.[86] And with a 2023 law change, project owners only are prohibited from relocating from one CRA exemption to another CRA or EZ exemption within a three-year

[82] See R.C. 5709.68(A).
[83] See R.C. 3735.65-70.
[84] See R.C. 3735.65(E): "Megaproject," "megaproject operator," and "megaproject supplier" have the same meanings as in R.C. 122.17.
[85] H.B. 754, 108th Ohio General Assembly.
[86] See R.C. 3735.673.

period.[87]) Further, EZ incentive agreements must set forth that enterprises are to repay abated taxes if they fail to maintain certain employment levels;[88] this is not the case with CRA agreements, which need only describe the expected hiring activities of the CRA participant.[89]

Local jurisdictions describe CRA areas via housing surveys

As a throwback to the CRA Program's origins in housing policy, a housing survey must be completed in order for a municipality or county to designate a CRA area.[90] The housing survey must demonstrate the area is one in which housing or historically significant structures are located and investment has been discouraged.[91]

Municipalities and counties can determine the type of development to be abated in their respective CRA areas by specifying for inclusion or omission new structures or remodeling, whether used in residential, commercial, and/or industrial projects, as eligible for abatement.[92] The local jurisdiction designates a housing officer to review applications and to serve as the local CRA Program administrator[93]; the housing officer is required to conduct an annual inspection of the designated area in conjunction with a housing council.[94]

ODOD determination of CRA areas – "pre" and "post" 1994 areas

As is the case with Enterprise Zones, a municipal corporation or county must then petition ODOD for approval of its CRA designation. The Director of ODOD has thirty (30) days during which to review the submitted designation and respond to the municipality or county with his or her determination. If the Director determines the CRA area is compliant, the area is assigned a unique identifier for state-reporting purposes. Thereafter, the local community may award or negotiate tax abatements for projects to occur within such designated CRA areas.

The Ohio General Assembly, in response to the heavy use of the CRA Program to abate property taxes in commercial and industrial projects, made major revisions in 1994. As a result of those revisions, there are two types of CRAs in Ohio — those created prior to July 1, 1994, and those created after.[95] Interestingly, the number of "pre-1994" CRAs in Ohio is diminishing, as the

[87] See R.C. 3735.671(C), as amended by Sub. S.B. 33, 134th Ohio General Assembly.
[88] See R.C. 5709.631(B)(12).
[89] See R.C. 3735.671(B)(4).
[90] See R.C. 3735.66.
[91] See R.C. 3735.65(B).
[92] See R.C. 3735.66.
[93] See R.C. 3735.68.
[94] See R.C. 3735.69.
[95] Any CRA created prior to July 1, 1994 is grandfathered and many of the post-July 1, 1994, CRA provisions do not apply.

General Assembly subsequently limited the ability of municipalities and counties to make changes to their grandfathered CRAs and still use the earlier, more generous process of abating taxes (communities can make *only two* substantive changes to their pre-1994 CRAs and still administer those areas under the old requirements).[96]

The regulations governing each type vary considerably, and have much to do with notice provided to and involvement of, impacted school districts and abating their respective millage (i.e., school notice of pending abatements is not required under pre-1994 CRA designations).[97] As another example, those CRA areas designated after July 1, 1994, must receive the director of ODOD's determination before they can grant real property tax abatements to property owners.[98]

In each case, however, the local legislative authority with jurisdiction determines the size of each designated CRA area, the number of such areas, and the term and extent of real property abatements to be offered and/or negotiated therein.

Negotiating tax incentives under the CRA Program – "pre" and "post" 1994 areas

All property owners eligible for abatements under the municipality or county's CRA designation may apply to the housing officer to be granted a tax abatement. Here again it matters whether the CRA area was designated before or after 1994. In many ways, a pre-1994 CRA area grants tax abatements on an automatic, available-for-the-asking basis (no matter whether residential, commercial, or industrial) whereas post-1994 abatements are fully negotiated in the commercial and industrial settings.

In a pre-July 1, 1994, CRA, the property owner generally makes an abatement application *after* he or she has completed the improvements (*unless* otherwise stipulated within the local jurisdiction's designation ordinance or resolution). The terms of each abatement in such a CRA are merely as set forth in the designating legislation.

In a post-July 1, 1994, CRA, residential property owners continue to make application *after* construction completion, and such projects receive an exemption percentage and term as specified within the designating legislation.[99] But a project involving commercial or industrial uses must apply for an abatement *before* the project begins. And the abatement percentage and term in commercial and industrial projects are negotiated between the property owner and the local

96 See R.C. 3735.661.

97 It is therefore important for both property owners and local governments to know the CRA's authorization date and to understand if a pre-1994 area has been amended more than twice.

98 See R.C. 3735.66.

99 See R.C. 3735.67(A) and (F).

legislative authority. Finally, school district approval generally is required for a negotiated abatement that is greater than 75 percent of the assessed taxes on improvement value.[100]

With a 2023 law change, ODOD must develop a model CRA agreement, which may or may not be used by jurisdictions.[101] Gone are the copious required terms and conditions – the "magic language" – that must be in each CRA Agreement in post-1994 commercial and industrial projects.

Reporting to ODOD

Each year, the local jurisdiction must submit a copy to the director of ODOD of any CRA agreement having been executed for commercial and industrial projects. And before March 31 of each year, the local jurisdiction must submit an annual status report to the state agency and the impacted school district.[102]

With the 2023 law change, local jurisdictions need not provide notice to ODOD whenever zoning restrictions have changed within a CRA.

CRA incentives

While the CRA Program is primarily a housing-oriented incentive, it does have considerable value as an economic development tool.

Municipalities and counties can award CRA tax incentives generally up to 100 percent of real property taxes on the value of residential improvements (either via remodeling or new construction), for up to 15 years.[103]

Municipalities and counties can negotiate tax incentives through an agreement providing for an abatement of up to 100 percent on the value of commercial or industrial improvements (either via remodeling or new construction), for up to 15 years.[104] Abatement agreements must be approved by the impacted schools if the terms of such agreements exempt 50 percent or more of the amount of taxes otherwise due on the improvement values.[105] Under a law change in 2021, the Ohio General Assembly required that school compensation agreements reached under commercial or industrial CRA abatements be provided on the same terms and conditions to joint vocational school

---

[100] See R.C. 3735.671(A)(2), as amended by Sub. S.B. 33, 134th Ohio General Assembly.
[101] See Sub. S.B. 33, 134th Ohio General Assembly.
[102] See R.C. 3735.672(A).
[103] See R.C.s 3735.66 and 3735.67(D)(1).
[104] See R.C. 3735.67(D)(2).
[105] See R.C. 3735.671(A)(2).

districts, thereby matching language under other property tax exemptions' school compensation requirements.[106] And in the 2023 rewrite of CRA law, exemption thresholds in commercial or industrial projects requiring school district approval were increased from 50 percent to 75 percent, with a corresponding change in school compensation – in municipalities that impose an income tax – to share such revenue with school districts only in those instances in which payroll from new employees is greater than $2 million per year, adjusted for inflation.[107]

The term of an abatement may be extended by another 10 years if remodeling is performed to a structure of historical significance and which has been leased to tenants for five years.[108]

In 2021, the Ohio General Assembly inserted the "megaprojects" concept from the JCTC Program into the CRA Program. Thus, very large projects (i.e., at least $1 billion in capital investment or $75 million/year in new payroll, average wages at least 300 percent of the federal minimum wage) may be awarded an exemption under the CRA Program for up to an additional 15 years.[109]

Tax Increment Financing

Tax Increment Financing (TIF) is an infrastructure financing tool authorized under the Ohio Revised Code and administered by local jurisdictions.[110] It is usually viewed as a bedrock economic development tool because it helps fund public infrastructure improvements that "directly benefit" private development. These structures are most commonly used in connection with commercial development, but in limited circumstances (parcel TIFs located in impacted cities and

---

[106] See Sub. S.B. 166, 134th Ohio General Assembly.
[107] See R.C. 3735.671(A)(2) and R.C. 5709.82(C), both as amended by Sub. S.B. 33, 134th Ohio General Assembly.
[108] See R.C. 3735.67(D)(1).
[109] See R.C. 3735.67(D)(2), as amended by Am. Sub. H.B. 110 (134th Ohio General Assembly).
[110] Municipal corporations in Ohio may exempt taxes under *parcel* TIF financing structures pursuant to R.C. 5709.40(B) (which may include residential development only in so-called impacted cities), *incentive district* TIF structures (which more generally allow for the inclusion of residential development) under R.C. 5709.40(C), and *urban redevelopment* TIF structures under R.C. 5709.41. This exemption period can be extended by another 15 years, in certain circumstances. Municipalities may cause service payments in lieu of taxes, or PILOTs, to be paid in place of such exempted taxes pursuant to R.C. 5709.42, and are authorized to create municipal TIF funds to receive such PILOTs pursuant to R.C. 5709.43.

Townships may exempt taxes under a similar framework: *parcel* TIF financing structures may be created under OR.C. 5709.73(B)(no residential development may be included), and *incentive district* TIF structures (which allow for the inclusion of residential development) under R.C. 5709.73(C). Townships may cause the collection of PILOTs under R.C. 5709.74, and create township TIF funds under R.C. 5709.75 to receive PILOT deposits.

Counties generally operate in the same manner, too, with county-specific TIF definitions set forth in R.C. 5709.77, *parcel* TIF financing structures authorized under R.C. 5709.78(A) (no residential development may be included), and *incentive district* TIF structures (which allow for the inclusion of residential development) authorized under R.C. 5709.78(B). In place of exempted taxes, counties may collect PILOTs under R.C. 5709.79, deposit those payments into TIF funds established under R.C. 5709.80, and issue revenue bonds backed by PILOTs deposited into the TIF funds under R.C. 5709.81.

incentive district TIFs) they may serve to capture incremental improvement values in connection with residential development.

TIF is similar to the property tax abatement programs described in this section because it, too, exempts from taxes the *increased* property value from a development project. The key distinction here is although property owners are exempt from paying property taxes on improvement values, they nonetheless remit service payments in lieu of taxes (commonly referred to as PILOTs) *in amounts equal to the exempted real property taxes*. Owners are required to make such service payments under stand-alone TIF agreements entered into with the respective municipality, township or county. And like the other abatement programs, taxes on real property values that existed *before* the creation of a TIF structure continue to be collected by the county treasurer and distributed to the tax levying agencies.[111]

Remitted service payments (i.e., PILOTs) are collected by the county treasurer, just as with traditional tax obligations. But instead of payments being distributed to various tax levying agencies across the county, as is the case with property tax collections, PILOTs are paid directly to the municipality, township, or county for deposit into its respective TIF fund. And from the TIF fund, service payments are used to pay the costs of public infrastructure improvements that directly benefit the TIF'ed development (and in the case of municipalities' urban redevelopment TIFs or townships engaging in redevelopment, service payments can pay for private improvements). Service payment revenues deposited into a TIF fund may be used to pay the developer and/or the local jurisdiction on a reimbursement basis, as the PILOTs are collected, if the parties bore the initial costs of constructing the necessary public infrastructure improvements (this is known as a "pay-as-you-go" TIF structure). Alternatively, service payment revenues may be used to pay debt service on bonds or notes having been issued by municipalities or counties to finance the necessary public infrastructure improvements with up-front bond sale proceeds.[112]

Among the property tax exemption programs described in this Toolkit, TIF is the oldest, with reporting of its use dating back to the 1940s and 1950s as a means to help local governments

---

[111] The real property value that existed before the enactment of the TIF legislation is commonly referred to as the *base value*, above which payments on the *tax increment* (or "improvements," in the language of the TIF statutes) are redirected into TIF funds.
[112] See R.C. 133.15(B).

finance infrastructure improvements.[113] Ohio adopted its own TIF statutory framework beginning in 1976.[114]

Designating improvements to real property both as a public purpose and tax-exempt

A TIF structure is created by a municipality, township, or county via ordinance or resolution.[115] This enabling piece of local legislation serves to accomplish several tasks. First, to pass constitutional muster, municipalities, townships, and counties proposing to directly support private developments via TIF-financed improvements must declare the tax-exempted private improvements as a public purpose.[116] Second, the TIF's exemption rate and its duration are set forth. Note here the TIF exemption commences with the tax year set forth in the ordinance or resolution, but in all cases *after* the legislation's effective date, with increased property values first appearing on the county auditor's tax list and duplicate. In 2021, the Ohio General Assembly clarified this handling for urban redevelopment TIFs, providing that exemptions are to commence on a parcel-by-parcel basis as improvements are made and value is added to each respective specific parcel.[117] Third, the legislative authority declares the private development's increased real property values to be exempt from taxes. Fourth, the public infrastructure improvements that will directly benefit the private development must be described in detail. Finally, the ordinance or resolution states that owners are to make service payments in lieu of the exempted taxes, and specifies the TIF fund into which those PILOTs will be deposited.

---

[113] See California (1952), Nevada (1959), Oregon (1960), Rhode Island (1956), and Tennessee (1945). Source: Council of Development Finance Agencies, *2008 TIF State-by-State Report*, accessed at the following link: https://www.cdfa.net/cdfa/cdfaweb.nsf/0/8ee94afeece08bc988257936006747c5/$FILE/CDFA-2008-TIF-State-By-State-Report.pdf, last visited August 6, 2023.

[114] Supra, and see H.B. 1328, 111th Ohio General Assembly.

[115] In the case of townships, such a resolution must be passed by unanimous vote of the board of township trustees (unless the township is considered an "urban township" under Ohio law). See R.C. 5709.73(B) and (C)(1).

[116] See R.C.s 5709.40(B) and (C)(1) and 5709.41(B) for municipalities, R.C. 5709.73(B)(which only requires that townships declare the necessary *public infrastructure improvements* to be a public purposes) and (C) for townships, and R.C. 5709.78(A) and (B)(1) for counties. See also Ohio Constitution, Article VIII, Section 13, in which the drafters determined it to be in the public interest and "a proper public purpose" for political subdivisions and tax levying agencies to issue bonds or other obligations to provide funds to acquire, construct, improve, or equip property, structures, and facilities used in industry and commerce. Further, this provision of the Ohio Constitution authorizes the lending of aid and credit by such subdivisions and tax levying agencies (generally prohibited) for purposes of industry and commerce, so long as the monies raised by taxation are not be obligated or pledged for the payment of such debt.

[117] See R.C. 5709.41(D), as amended by Am. Sub. H.B. 110 (134th Ohio General Assembly), allowing for local legislation to trigger the exemption on a parcel-by-parcel basis as improvements are made to individual parcels.

Negotiating and memorializing TIF benefits

TIF allows a jurisdiction to redirect, in the form of service payments, increased property taxes to pay the costs of public infrastructure improvements that directly support a private development. By way of example, a new traffic light and ingress and egress lanes constructed out front of a private development site are direct benefits to the new project without additional investment from the private developer.

Ohio law broadly defines the public infrastructure improvements that may be financed by TIF to the benefit of private developments. They include, but are not limited to: public roads and highways, street parking facilities including those with reserved spaces, water and sewer lines, environmental remediation, acquiring land, demolition, storm-water and flood remediation, providing gas, electric, and communication service facilities, and enhancing public waterways.[118]

In 2021, the Ohio General Assembly inserted into the state's biennial budget bill a change to TIF law to specifically include off-street parking facilities, including those with reserved spaces (i.e., nonpublic), within the list of eligible uses of TIF funds.[119] And in 2022, the Ohio General Assembly enacted a hyper-nuanced change to municipal TIF law: namely a new section of the Ohio Revised Code "grandfathers" those project sites that were exempted by multiple, layered TIFs if such projects were approved by municipal corporations prior to March 1, 2022. On or after that date, a TIF exemption adopted via ordinance as to a particular property will replace any prior exemption of improvements to the same parcel as may have been authorized by a previous ordinance (i.e., the TIF serves to terminate such prior exemptions).[120] In early 2023, state lawmakers made available, for a limited 12-month period commencing April 3 and only for municipally created TIFs (during the period June to December 2002), a window during which a project that failed to submit a property tax exemption application (i.e., Form DTE-24) now may duly apply for the exemption on a parcel-by-parcel basis.[121]

During the 135th General Assembly's state budget bill process, Ohio's TIF law received a number of substantive law changes[122], which we describe below:

[118] See R.C. 5709.40(A)(8).
[119] R.C. 5709.40(A)(8), as amended by Am. Sub. H.B. 110, 134th Ohio General Assembly. Note that Sub. S.B. 225, also enacted in the 134th Ohio General Assembly, made some refinements to this previous law change: namely, to clarify the timing of local governments' legislation as to the use of TIF funds for off-street parking facilities.
[120] R.C. 5709.916, as enacted by Am. Sub. H.B. 95, 134th Ohio General Assembly.
[121] See Am. Sub. H.B. 66, 134th Ohio General Assembly.
[122] See Am. Sub. H.B. 33.

- "Restart the clock" changes to municipal TIFs (R.C. 5709.40) and township TIFs (R.C. 5709.73): the respective legislative authority may remove a TIF exemption from any "nonperforming parcels," which are TIF'ed parcels for which PILOTs are required to be made, but for which no such payments have been remitted since the TIF commenced. And once removed from the previous TIF, those "nonperforming parcels" then can be included in another TIF. The amending legislation must list such nonperforming parcels and their value history since the original enabling legislation had been approved.
- "Residential Incentive District extension" change: allow municipalities to extend, by another 15 years, the exemption period of certain incentive district TIFs – approved prior to January 2006 – beyond the 30-year cap under then-current law (R.C. 5709.40(C)); the extension may be by amending the original enabling ordinance.
- "Super-long TIF" change: R.C. 5709.51 modified to enable up to 60-year TIFs (with years 31-60 treated as "non-school," meaning schools are to receive their entire millage amounts as if no exemption were present) as to any "parcel" TIF[123] under which either $1.5 million has been collected in annual service payments in lieu of taxes (PILOTs) or the legislative authority *projects* such amount of PILOTs will be collected.
- "Robin Hood TIF" change: ODOD-listed impacted cities[124] are authorized through state fiscal year 2024 for "remote" use of parcel TIF revenues, whereby PILOTs from one TIF project may be deployed for "urban redevelopment" needs elsewhere in the impacted city without regard to parcels directly benefitting such TIF-funded improvements (i.e., removes the nexus heretofore required when using PILOT revenues in and around TIF projects).[125]

Generally, a TIF exemption authorized by a municipality, township, or county cannot exceed 75 percent for a 10-year period. That said, if the local jurisdiction provides sufficient notice and the impacted school districts consent, the term of a TIF exemption can be extended to 30 years, and the exemption can be up to 100 percent. Such consent by the schools may take the form of simply approving of the TIF for a longer period or greater benefit level than the statutory thresholds (i.e., beyond 10 years, 75 percent). Consent also may be granted on condition that the local jurisdiction and/or the developer pays to the school districts some amount of compensation – up to the amount of real property taxes they would have received had the TIF not been enacted.

In the case of incentive district TIFs, the local jurisdiction creating the TIF structure may be required to *automatically compensate* tax levying agencies, including city, local, exempted village,

---

[123] Municipal TIFs under R.C. 5709.40(B) and R.C. 5709.41; township TIFs under R.C. 5709.73(B); and county TIFs under R.C. 5709.78(A).
[124] See R.C. 1728.01.
[125] See uncodified Sec. 757.70, Am. Sub. H.B. 33.

and joint vocational school districts and county agencies, for a portion of the exempted (i.e., foregone) real property taxes; such compensation payments are to be made from collected PILOTs.[126] Another feature unique to incentive district TIFs is the allowance for certain owners to exclude their property from the proposed TIF structure.[127]

Recording Obligations to Make Annual Service Payments

It is common practice to record in the chain of title to TIF'ed property that an obligation exists on current and future owners to make PILOTs or otherwise remit payments in lieu of taxes. In 2021, the Ohio General Assembly enacted legislation that specified *minimum service payments*, which are contractual dollar amounts sometimes spelled out in TIF agreements, are enforceable against subsequent property owners.[128] Specifically, new R.C. 5709.91(B) renders such payments by developers as covenants running with the land (and therefore enforceable against subsequent owners), to be recorded with the county recorder.

Extending TIFs by another 30 years

In the fall of 2019, the General Assembly enacted a new provision in the Ohio Revised Code to allow local communities to extend *parcel* TIF exemptions – and, therefore, continue to redirect property taxes to fund necessary public infrastructure improvements – up to 30 additional years.[129]

The TIF law change only allows such extensions in large development projects. If an extension is adopted by the local community, the impacted school districts must be made whole by compensation payments during the extended term. In effect, therefore, the *non*-school millage assessed against private improvements in a large TIF project may be redirected for an extra 30 years.

.*Reporting to ODOD*

Within 15 days of adopting a TIF-enabling ordinance or resolution, the local jurisdiction must submit a copy to the director of ODOD. This includes any extended parcel TIFs under the recent law change; a copy of the amended ordinance or resolution must be sent to ODOD. Thereafter, before March 31 of each year, the local jurisdiction must submit an annual status report on each active TIF to the state agency.

---

[126] See R.C. Sections 5709.40(F), 5709.73(F), and 5709.78(E).
[127] See R.C. Sections 5709.40(C)(2), 5709.73(C)(2), and 5709.78(B)(2).
[128] Sub. S.B. 57 (134th Ohio General Assembly; signed into law in April 2021).
[129] See R.C. 5709.51.

Undeveloped Property Tax Abatement

Local jurisdictions may grant a six-year local property tax exemption for commercial or industrial sites not yet developed or in use.[130] The exemption is available to property owners who make application to have their sites deemed by respective local legislative authorities as either "newly developable property" or "redevelopment property."

Enacted in 2016, this property tax exemption serves as a hedge (i.e., a freeze) against general increases in the value of real property as commercial and industrial land, buildings, and structures sit idle and await development or redevelopment. Property does not qualify if it will be used, in whole or in part, for residential purposes.[131] (Note the 2023 enactment of the Pre-Residential Development Property Tax Abatement, described immediately below, that provides an analogous exemption for land intended for residential development.)

Local jurisdictions administer the abatement

This exemption is administered entirely at the local level. Unlike other programs described in this section of the Toolkit, there is no involvement by or reporting to the director of ODOD (which makes tracking the use of this exemption across Ohio more difficult[132]); as of the time of this updated Toolkit's publication, it remains unknown whether any local communities in Ohio have used this program since its inception. But similar to the other exemptions reviewed here, the Undeveloped Property Tax Abatement Program is nuanced in its availability. Moreover, this abatement is relatively easy to lose by the actions of the property owner.

First, an owner submits his or her application to the respective municipality, township, or county in which the subject property is located (if the property is already subject to a TIF, the owner makes application to the jurisdiction that created the earlier TIF structure[133]). The application must include a statement that the property is appropriately zoned for commercial or industrial use (or that no zoning exists to prohibit such development) and there are no taxes due and outstanding.[134]

[130] See R.C. 5709.52, enacted under SB 235 during the 131st Ohio General Assembly.
[131] See Ohio Legislative Service Commission's Bill Analysis at https://www.legislature.ohio.gov/download?key=4841&format=pdf, last visited August 6, 2023.
[132] The Ohio Legislative Service Commission noted at the time of SB 235's enactment that "[a] large number of parcels could be eligible based on the bill's criteria for receiving the exemption… it is conceivable that substantial amounts of newly developable property and redevelopment property in Ohio that is not already under another more beneficial tax incentive agreement (e.g., tax increment financing or Community Reinvestment Area) could benefit from this exemption[.]" Source: https://www.legislature.ohio.gov/download?key=6303&format=pdf, last visited August 6, 2023.
[133] See R.C. 5709.52(B)(1)(a)(iii).
[134] See R.C. 5709.52(B)(1)(b).

A note here as to the status of the property to be exempted. The exemption is available for *newly developable property*, or such property on which there are no current commercial, agricultural, or industrial operations occurring, and for which plans exist for commercial or industrial buildings to be constructed.[135] This description removes from eligibility any land that is being actively farmed – as under a lease – as it awaits development. The exemption also is available for *redevelopment property*, or such property on which commercial or industrial buildings currently stand, or were situated, and no commercial, agricultural, or industrial operations are being conducted; plans for new construction or redevelopment of commercial or industrial buildings likewise must exist.[136]

Second, the jurisdiction receiving an owner's application must then provide notice. The impacted school districts, including the local career center (i.e., joint vocational school), must be notified. If a township receives an application, it must notify the county board of commissioners, and vice versa.[137]

Third, the local jurisdiction may declare the owner's property exempt from taxes for six years. The abatement commences during the tax year in which the application was received, or the year immediately following.

Undeveloped Property Tax Abatement Program incentives

If awarded by the local jurisdiction, *any* increase (i.e., 100 percent) in the taxable value of the property is abated from taxes during the six-year exemption period.[138]

Early termination and recoupment charges

The occurrence of any one of several events will cause the exemption to terminate before the six-year term expires. Those events are: (i) the issuance of a certificate of occupancy for a commercial or industrial building located thereon; (ii) the owner transfers title to the property[139]; (iii) zoning changes are made such that new commercial or industrial buildings no longer are permitted; (iv) a subdivision plat that includes the exempted property is submitted to the county auditor (separate

[135] See R.C. 5709.52(A)(1).
[136] See R.C. 5709.52(A)(2).
[137] See R.C. 5709.52(B)(2)(a) and (b).
[138] See R.C. 5709.52(C).
[139] Interestingly, state policymakers opined at the time of SB 235's enactment that the *new owner* of the property could make application to the same jurisdiction for another exemption so long as no other early termination events had occurred. See footnote 4 of the Ohio Legislative Service Commission's Fiscal Note & Local Impact Statement at https://www.legislature.ohio.gov/download?key=6303&format=pdf, last visited August 6, 2023.

requirements may take hold to keep the exemption in place[140]); or (v) any commercial, agricultural or industrial operations occur on the property.

Similar to the clawback provisions in-place under other Ohio financial incentive programs, the Undeveloped Property Tax Abatement Program provides that a “recoupment charge” must be levied if (i) the exempted property owner transfers the title before having made the planned commercial or industrial improvements or (ii) commercial, agricultural, or industrial operations occur on the property prior to the issuance of a certificate of occupancy.[141]

Pre-Residential Development Property Tax Abatement

During the 135th General Assembly’s state budget bill process142, new R.C. 5709.56 was enacted to create tax exemption authority for “pre-residential development property.” This exemption, available by right, is applicable to unimproved land that has been subdivided for residential development. Exemptions are available for up to eight years, or until construction begins or the land is sold. Note the exemption does not apply to land already subject to a TIF.

Airport Development Districts

During the 133rd Ohio General Assembly’s lame duck session, legislation was enacted to authorize airport development districts (ADDs).[143] These districts are available in certain instances as an economic development tool to generate revenue for airport infrastructure improvements and induce increases in the volume of flights. To qualify as an ADD, an airport facility must be owned, operated or maintained by the following specifically tailored entities: a regional airport authority (including territory located in two counties), of which at least one such county has a population between 500,000 and 800,000; a port authority (as created by two counties), each having a population between 200,000 and 250,000; or, a municipal corporation (as the most populous in its county), in which the county has a population between 500,000 and 840,000.

If an airport qualifies as an ADD, it can generate revenue through development charges on real property within the ADD's territory. The development charges must be approved by the owners of at least 60 percent of the property located within such airport development districts. The revenue may be used for airport operating costs, planning and design, and infrastructure. As in other

---

[140] In the event that a portion of the property is subdivided, the statute provides flexibility to preserve the exemption for the remainder of the property (i.e., “remnant parcels”). See R.C. 5709.52(D).
[141] See R.C. 5709.52(F).
[142] See Am. Sub. H.B. 33.
[143] New R.C. 308.20 to R.C. 308.25, as enacted in Sub. S.B. 259 (133rd Ohio General Assembly); signed by the Governor in January 2021.

economic development settings, like new community authorities, development charges become covenants running with the land, and are enforceable against subsequent property owners.

Regional Transportation Improvement Projects

During the 135th General Assembly's state budget bill process, Ohio's Regional Transportation Improvement Projects (RTIPs) were changed to authorize their governing boards to create county-wide transportation financing districts that allow up to 100%, 30-year real property tax exemptions related to transportation improvements and "opportunity corridor improvements".[144] Such districts exclude residential and already-TIF'ed parcels.

LOCAL SPECIAL PURPOSE ECONOMIC DEVELOPMENT DISTRICTS/ENTITIES

Programs Discussed:

- Joint Economic Development Districts
- New Community Authorities
- Transportation Improvement Districts
- Special Improvement Districts
- Property Assessed Clean Energy Bonds
- Community Improvement Corporations
- County Land Reutilization Corporations
- Port Authorities
- Downtown Redevelopment Districts

Much of the work of economic development in Ohio is performed locally by municipalities, townships, and counties. Many of these political subdivisions have dedicated staff and resources devoted to business development in their jurisdictions. These local economic development organizations, or *LEDOs*, may be further supported by stand-alone "helper" economic development entities operating in furtherance of limited purposes and/or to serve specific geographical areas. These supporting entities authorized under Ohio law are described below.

Joint Economic Development Districts

Joint Economic Development Districts[145] (JEDDs) are special-purpose districts created by contract among a combination of municipal corporations and townships. These Districts allow for the

[144] See R.C. 5709.48 and R.C. 5595.01 *et seq*., as amended by Am. Sub. H.B. 33, 135th Ohio General Assembly; Opportunity Corridor Improvements are those transportation improvements within 2,500 ft. of rights-of-way to make for economic development opportunities.

[145] The creation of a JEDD may occur according to alternate means set forth in Sections 715.691 through 715.72 of the Ohio Revised Code. Joint Economic Development Districts generally are governed under Sections 715.69 through 715.82 of the Revised Code, with a significant rewrite of these provisions having occurred in Sub. HB 182 adopted by the 131st Ohio General Assembly.

levying of an area-wide income tax and the provision of municipal services in unincorporated township land. Put another way, JEDDs are a way to impose an income tax collection mechanism on employees, residents, and businesses located within, and provide municipal services to, areas in unincorporated townships; townships otherwise are prohibited under Ohio law from levying income taxes.

Under Ohio law, one or more municipal corporations and one or more townships may enter into a contract to create a JEDD for the purpose of facilitating economic development. Except in limited circumstances, each contracting party must be contiguous to at least one other contracting party. In addition, the territory included in the JEDD must meet several additional requirements to qualify.[146] Once the JEDD has been created, any county within which the JEDD is located may enter into an agreement with the contracting parties regarding the provision of services within the JEDD.

To create a JEDD, there must first be a newspaper notice published, a petition drive seeking signed consent from property and business owners in the proposed area, and an opportunity for the public to inspect the contract and the economic development plan for the JEDD.[147] As to such an economic development plan, this is a brief summary document consisting of a schedule of the new, expanded or additional services, facilities or improvements to be provided, and a schedule for the collection of any income tax to be levied within the JEDD. The public must also be able to inspect a detailed description of the area to be included within the JEDD, including a map. Next, a public hearing must be held by each political jurisdiction's legislative authority to promote public discussion of the contract and the JEDD. Each contracting party must then adopt legislation (i.e., a resolution or ordinance) approving the contract. Finally, the contract must be executed and any local referendum periods must expire before the JEDD is effective.

In 2021, the Ohio General Assembly inserted into the state's biennial budget bill a change to the JEDD law to require the partnering jurisdictions to issue new notices and employ new JEDD agreement terms.[148] Districts must exclude land that is in close proximity to, or subject to water/sanitary sewer service agreements by, a municipality which is not party to the JEDD

---

[146] To qualify, the territory included in the JEDD must meet these additional requirements: (a) the JEDD must be located within the territory of one or more of the contracting parties and may consist of *all* of that territory; (b) the territory may not include existing residential areas or areas zoned for residential use; provided, however, that it may include areas zoned for mixed-use; and (c) the area may not include any land owned by or leased to a municipal corporation or township, unless such municipal corporation or township is a contracting party or has consented to the inclusion of that land within the JEDD.
[147] See R.C. 715.72(I), (J), and (K).
[148] Am. Sub. H.B. 110, 134th Ohio General Assembly.

agreement.[149] Specifically, new R.C. 715.72(E)(1)(d) and (J)(2) require excluding from a district any land within one-half mile of a municipality (which is not part of the JEDD agreement), or is subject to a water/sanitary sewer agreement under which such non-party municipality will be the future provider of water or sewer services to all or part of the proposed JEDD. The only exception to this new requirement is if the subject property owner signs the circulated JEDD petition. A JEDD is governed by a board of directors. The contract sets the method for appointing board members. The powers of JEDDs are not clearly defined by Ohio law, but include:

- The power to levy an income tax within the JEDD at a rate not higher than the highest rate being levied by a municipality that is a contracting party, with an amount being set aside for the long-term maintenance of the JEDD.

- The power to determine the substance and administration of zoning and other land-use regulations, building codes, permanent public improvements, and other regulatory and proprietary matters determined to be for a public purpose.

- The power to limit and control annexation of unincorporated territory within the JEDD. Note here that JEDD contracts therefore can serve as annexation agreements under Ohio law[150] and often prohibit annexation of township territory during, and sometimes after, the term of the JEDD.

- The power to limit the granting of property tax abatements and other tax incentives within the JEDD.

- The power to create a JEDD in a mixed-use area where both residents and businesses are located.

- The power to create a community entertainment district within the JEDD.

In addition, JEDDs have all other powers that are described in the contract. But a JEDD is a creature of statute, and as such it can have only such powers as are specifically granted by statute. In this way, a JEDD can have no more power than an individual municipality or township. Ohio law specifically provides that the powers granted to a JEDD "are in addition to and not in

[149] See R.C. 715.72(A)(10) and (11).
[150] See R.C. 709.192.

derogation of all other powers granted to municipal corporations and townships pursuant to law."[151] Thus, creating a JEDD cannot cause a contracting party to lose other powers.

Business owners located in a proposed JEDD area may "opt out" of the JEDD by filing an action in a court of common pleas on or before six months of the effective date of the JEDD contract. The business owner must show: (1) that it operated within the JEDD area before the effective date of the JEDD contract; (2) that it did not sign a petition in support of the JEDD; and (3) that neither the business nor its employees has derived or will derive any material benefit from the JEDD's new, expanded, or additional services, facilities, or improvements, or the material benefit is negligible in comparison to the income tax revenue generated from the net profits of the business and the income of employees of the business. The court of common pleas must render a decision within 60 days of receiving the complaint, unless the parties agree to a longer period of time.[152]

Note that in the context of related types of entities – Joint Economic Development Zones[153] and Joint Economic Development Review Councils[154] – the General Assembly authorized in 2023 these particular types of joint economic development organizations to meet remotely via interactive videos or teleconferences, a form of meeting which is otherwise prohibited under Ohio's Sunshine Laws.[155]

New Community Authorities

The creation and governance of New Community Authorities arises under Chapter 349 of the Ohio Revised Code. The economic development value of a New Community Authority (NCA), sometimes called a Community Development Authority (CDA), is in making available *new taxing authority* as well as serving as a *stand-alone entity which may issue bonds* to support development.

The enabling statutes date back to the early 1970s. The use of NCAs is to encourage the orderly development of well-planned communities and to encourage participation by private enterprise in such undertakings.[156] Contemporary case law from that era noted the state's encouragement of developing communities "by private efforts through a mild form of a public community authority, with power limited… by its purpose."[157] Put another way, NCAs are public-private partnerships

[151] See R.C. 715.72(T).
[152] See R.C. 715.72(Q).
[153] R.C. 715.691.
[154] R.C. 715.692.
[155] See R.C. 715.693, as enacted by Am. Sub. H.B. 33, 135th Ohio General Assembly.
[156] See R.C. 349.02.
[157] *Perkins et al. v. Stockert et al.*, 45 Ohio App. 2d 211, 216 (March 26, 1975).

that allow local governments and private developers to work together to achieve development or redevelopment goals.

The concept has been used across Ohio to help pay for and manage infrastructure, such as roads and schools. Authorities, once created, are vehicles for financing the construction and ongoing maintenance of community assets like swimming pools, recreation centers, and outdoor plazas and buildings; the facilities themselves are exempt from real property taxes under Ohio law.[158]

A new community, or property developed as part of an existing community, is one planned to include facilities for industrial, commercial, residential, educational and recreational pursuits, designed in accord with planning concepts for the placement of open spaces and utilities.[159]

A new community's facilities are all the real property and related furniture, fixtures, and equipment owned, operated, financed, constructed, and maintained by an NCA or in furtherance of community activities, whether located within or outside the new community's boundaries. The list of NCA-financed and operated community facilities is quite broad, and includes public, neighborhood or town buildings and plazas, auditoriums, daycare centers, recreation halls and educational facilities, hospital and telecommunications facilities, cultural facilities, parks and open space land, lakes and streams, community streets, off-street parking, bikeways, lighting facilities, water and wastewater, and energy facilities including gas or electric lines or installation.[160]

A new community district is the area of land described by the developer in his or her petition to create an authority; the district area may grow or recede by subsequent petition or resolution passed after the NCA has been established.[161]

NCA Powers

A new community authority is a body corporate and politic under state law, governed by a board of trustees.[162] Once created, an authority operates with a wide array of powers, to include: acquiring property, within or without the new community district, and maintaining or disposing of

[158] *Newfields New Community Authority* v. *Kinney*, 1978 Ohio Tax LEXIS 516 (April 4, 1978).
[159] See R.C. 349.01(A).
[160] See R.C. 349.01(I), as amended by Am. Sub. HB 166 of the 133rd Ohio General Assembly.
[161] See R.C.s 349.01(C), 349.03(A) and 349.03(B). Effective in early 2019, HB 500 was enacted by the 132nd Ohio General Assembly to remove the previous requirement that the proposed district must be at least 1,000 acres. And HB 166 of the 133rd Ohio General Assembly removed references to a district located wholly within a municipal corporation or for a district in which more than half of the area is within a JEDD. Thus, as it stands currently, there are no minimum acreage requirements for a new community district.
[162] See R.C. 349.01(D).

property,[163] providing recreational and amusement activities for district residents,[164] collecting charges to cover the costs of the new community development,[165] enforcing covenants running with land that benefit the authority,[166] and employing staff.[167] Authorities may sue and be sued and enter into contracts,[168] apply for grants and loans,[169] enter into any necessary agreements with political subdivisions (subject to prevailing wages but without competitive bidding),[170] and issue revenue bonds and notes payable from their pledged income (i.e., community development charges).[171] All bonds issued by the NCA become a debt of the NCA rather than of any political subdivision.

Note Authorities do not have power in such matters as zoning, fire or police protection, nor water and sewer service (unless such water or sewer service otherwise is unavailable from other subdivisions).[172]

Community Development Charges

Importantly, a new community authority may earn income from community development charges, of which the obligation to pay is recorded in covenants running with the land in the district.[173] Charges can be determined on the basis of assessed valuation of real property in the district, the income of residents in the district, the profits of businesses operating in the district (including property rental income),[174] a uniform fee on each parcel of property in the district, or a combination of these.[175] The NCA statutes allow the community development charges to be collected by the county treasurer in the same manner as real property taxes.[176]

---

[163] See R.C. 349.06(A) and (B). Note also that any governmental entity may convey to or receive from such an authority any property necessary for the new community development. See R.C. 349.13.
[164] See R.C. 349.06(D).
[165] See R.C. 349.06(E).
[166] See R.C. 349.06(Q).
[167] See R.C. 349.06(G).
[168] See R.C. 349.06(H) and (I).
[169] See R.C. 349.06(J).
[170] See R.C. 349.06(S).
[171] An NCA's bond-issuing powers are fully described within the enabling statutes at ORC sections 349.08 through 349.11.
[172] See R.C. 349.05.
[173] See R.C. 349.01(K) and (L) and R.C. 349.06(Q).
[174] If charges are levied on the basis of rental revenue from leased property in the district, improvements to such property in the district cannot be exempted from taxation under a TIF structure. See R.C. 349.01(L)(2).
[175] See R.C. 349.01(L)(1).
[176] See R.C. 349.07.

Petition to Organize an NCA

The process to organize a new community authority is developer-driven by filing a petition with the clerk of the relevant "organizational board of commissioners."[177] Under the NCA statutes, the organizational board of commissioners generally is the board of county commissioners,[178] or the village or city council if the district will be located (i) entirely within the boundaries of a municipality or (ii) more than half of which is within the most populous municipality in the county.[179] With a change authorized by the 135th General Assembly in the state budget bill, NCA law was expanded to include certain townships as organizational boards of commissioners.[180]

The petition may be required to be approved by the largest city of the county in which the new community authority is located. In some circumstances, approval is also required from the largest city of a neighboring county, even if no part of the proposed district is located within that city or county. If a district is to be located within one or more municipal corporations, each such municipal corporation must approve the petition. If more than half of a district is to be located within a JEDD, but not within a municipal corporation, the petition must be approved by the township containing the greatest portion of the territory of the JEDD.[181]

Depending on which surrounding cities to the proposed district have signed the petition, or which entity constitutes the organizational board of commissioners, a public hearing on the petition may be scheduled to occur as soon as 30 to 45 calendar days after the petition's filing date. Upon the public hearing, the organizational board of commissioners may declare the authority as duly organized with such district boundaries as proposed.[182]

NCA's Board of Trustees

The powers of a new community authority are exercised by its board of trustees. The board oversees, coordinates, constructs, and finances public infrastructure improvements and community facilities for the benefit of the community. Importantly, the NCA statutes specifically deem the

---

[177] See R.C. 349.03(A).
[178] See R.C. 349.01(F)(1) and (2).
[179] See R.C. 349.01(F)(3).
[180] See R.C. 349.01(F)(4), as added by Am. Sub. H.B. 33, 135th Ohio General Assembly, namely: a township with a population of at least 5,000, and located in a county with a population of between 200,000 and 400,000. Similarly, the list of statutory developers in R.C. 349.01 now includes municipalities, counties, and those certain townships. See R.C. 349.01(E).
[181] See R.C. 349.01(M).
[182] See R.C. 349.03(A).

method of selecting the board of trustees as a compelling state interest.[183] The statutes go into great detail as to the appointment to and replacement of members on the board of trustees; initial boards are sized between seven and 13 members.[184] When selecting successor trustees, new community authorities generally must adhere to the process set forth in the NCA statutes unless an alternative selection method is provided in the developer's petition or by the organizational board of commissioners.[185]

Dissolving the NCA

A new community authority generally may be dissolved only by a majority vote of the district's voters in a special election called by the board of trustees. Upon dissolution, the NCA's powers cease to exist and its property and funds vest to the respective municipality, county, or township or to the developer.[186]

In 2022, the Ohio General Assembly made a slight change to the New Community Authority law: namely, to change the deadline – from Dec. 31, 2021 to Dec. 31, 2024 – by which a NCA must have been established in order that a 99-year renewable lease satisfies the ownership or control requirement imposed under the definition of "developer."[187]

Transportation Improvement Districts

Transportation Improvement Districts[188] (TIDs) are multijurisdictional hybrid organizations that combine the powers of government entities with the flexibility of private corporations. The process of creating a TID is simple: the board of county commissioners passes a resolution establishing the TID and the structure of its board of trustees. The TID board of trustees, in turn, may hire an executive director as well as other employees and independent contractors to implement TID projects.

Once established, TIDs have wide latitude to enhance transportation infrastructure. If necessary, TIDs may purchase, lease, or appropriate land. They may drive and oversee every aspect of

---

[183] See R.C. 349.04 and *Perkins* at 221. The court cited the state's compelling interest in a NCA's board of trustees as one of the grounds for finding new community authorities constitutional and able to make contracts.

[184] See R.C. 349.04.

[185] Appointed-citizen members must be replaced by elected citizen members. The organizational board of commissioners establishes the schedule for such replacements. Developer-appointed members must be replaced by elected-citizen members. When electing citizen members to the board, a majority vote of residents of the district determines the outcome; appointed citizen members need not be residents of the district.

[186] See R.C. 349.14.

[187] R.C. 349.01(E), as enacted by Sub. S.B. 61, 134th Ohio General Assembly.

[188] See R.C. Chapter 5540.

improvements, including construction, repair, and maintenance of new and existing transportation infrastructure. In some cases, TIDs may even construct or improve streets connecting to the interstate highway system without first obtaining approval from political subdivisions where the work will take place.

To fund these projects, TIDs may draw financial support from varied sources. TIDs have authority to issue revenue bonds with a maturity of up to 30 years. They may establish and collect tolls or user charges. In addition, TIDs may accept grants from federal, state, and local government subdivisions, transit authorities and commissions, and port authorities. Private entities may support TIDs by making contributions to them. TIDs also may derive revenue from the purchase and sale of land, even if a TID purchases land for investment purposes rather than because it is necessary for a TID project.

TIDs may levy special assessments of up to 10 percent of the assessable value of a lot or parcel of land that a proposed improvement will benefit. These assessments may last as many years as necessary to satisfy any note, bond, instrument, or obligation issued to pay for the improvement. Before assessing property, however, TIDs must notify affected landowners and hold a hearing regarding the assessment. Owners of affected land who improve their property subject to an agreement with a TID may receive credit against the assessments for such improvements. In addition, TIDs must obtain consent of a political subdivision before assessing property in the political subdivision that falls outside the TID.

Special Improvement Districts

A Special Improvement District[189] (SID) may be created within the boundaries of any one municipal corporation, any one township, or any combination of contiguous municipal corporations and townships. The municipal corporations and townships in which a SID is created are referred to as "participating political subdivisions." To create a SID, property owners within the proposed SID area petition the participating political subdivisions for the creation of the SID and the development and implementation of plans for public improvements and public services that benefit the SID.

The petition must be signed by the owners of at least 60 percent of the front footage of all real property that abuts upon any street, alley, public road, place, boulevard, parkway, park entrance, easement, or other existing public improvement located in the proposed SID, *or* by the owners of

[189] See R.C. Chapter 1710. This section focuses on a traditional SID for public infrastructure or public services. For a discussion of energy special improvement districts, see "STATE OF OHIO LOAN/BOND PROGRAMS – Property Assessed Clean Energy Bonds" above.

at least 75 percent of the area of all real property located within the proposed SID. The SID area automatically excludes church property or property owned by the state, county, township, municipal, or federal government, unless a church, county, township, or municipal corporation has specifically requested in writing that its property be included in the SID.

The petition must include proposed articles of incorporation of a nonprofit corporation, the board of directors of which, if the SID is established, will govern the SID. The "petitioners" may propose an initial plan for public services or public improvements that benefit all or any part of the SID. Any initial plan is to be submitted as part of the petition proposing creation of the district.

Once submitted, each participating political subdivision has 60 days to approve or disapprove, by resolution, the petition including the articles of incorporation and any initial plan. A participating political subdivision may impose reasonable conditions in a resolution of approval. If the petition is approved, the SID is established, the nonprofit corporation—the board of directors of which governs the SID—is incorporated, and any initial plan becomes a plan for public improvements or public services for the SID. The owners of real property within the SID become the members of the SID and of the nonprofit corporation.

The board of directors of the nonprofit corporation established to govern the SID must consist of at least five directors. The directors must include a person appointed by the legislative body of the participating political subdivision and the executive of the participating political subdivision or the executive's designee. The other members of the board must be members or designees of members elected to the board at a meeting of the members. The 134th General Assembly, during its lame duck session, authorized the removal of meetings by SIDs and Energy SIDs from certain open meetings and public records requirements imposed under Ohio's Sunshine Laws and restrictions by the Ohio Ethics Commission.[190]

If an initial plan for the SID was not submitted and approved with the petition establishing the SID, the board of directors may adopt a plan for public improvements or public services for the SID. Whether a plan is an initial plan or a plan adopted after the SID's establishment, the plan may provide, among other things, for creating and operating the SID, including hiring employees, professional services, and contractors; planning, designing, and implementing public improvements and public services; and paying the costs of issuing, paying interest on, and redeeming notes or bonds issued for funding public improvements and public services.

---

[190] See R.C. 102.01(B)(3) and (C)(3)(c), R.C. 121.22(D)(20), and R.C. 1710.02(B)(4), as enacted by Am. Sub. H.B. 45.

As specified in a plan for public improvements or public services, each participating political subdivision is to levy a special assessment within the portion of the SID located within its boundaries to pay for the costs of the plan. The levy shall be for no more than 10 years from the date of the approval of the plan. For purposes of levying an assessment for the plan, the services or improvements included in the plan are deemed a special benefit to property owners within the SID.

Property Assessed Clean Energy Bonds

Property Assessed Clean Energy (PACE) Bonds are a financial tool used by property owners to finance energy efficiency and renewable energy improvements on their properties.[191] The proceeds from the sale of the bonds are loaned to commercial and residential property owners to pay for the project. Property owners in Ohio who take advantage of PACE funding opportunities may use the proceeds for a wide variety of energy-related improvements, including updating existing homes, multi-family residential buildings, office buildings, manufacturing facilities, and warehouses with energy-efficient technologies for existing facilities (i.e., weather sealing, insulation, high-efficiency lighting, energy-efficient boilers and cooling systems, and/or new windows) as well as renewable energy technologies like solar photovoltaic, solar thermal, geothermal, wind, biomass, and gasification. Bonds are repaid through an assessment on the owner's property taxes over a period of up to 30 years.

A key benefit of PACE is that it enables local governments, such as port authorities, to issue bonds to fund improvements without requiring the borrower or the sponsoring local government to pledge its credit. This structure also allows for the repayment obligation to transfer automatically to the next property owner if the property is sold. PACE also raises property values, by making buildings less expensive to heat and cool.

To utilize the PACE program, private property owners and/or governmental entities must create or join an energy special improvement district (Energy SID), which is necessary to implement PACE financing, levy assessments and structure the financing arrangements necessary to fund the improvements. [192] Additionally, PACE financing may be used for related costs like engineering, design, capitalized interest, reserve fund and other professional costs.

[191] R.C. 1710.06 and R.C. 1710.061.
[192] See R.C. Chapter 1710.

Like a traditional SID[193], an Energy SID is established by a petition to a municipal corporation or township, has a board of directors of a nonprofit corporation that governs the Energy SID, and has its main function—the execution of a plan for the development of alternative energy or energy efficiency improvements—capable of being funded by special assessments on real property within the Energy SID.

Distinct from traditional SID, an Energy SID is created for the specific purpose of financing discrete *energy-related improvements*, whereas a traditional SID is established to support plans for *public improvements* and *public services*. Second, an Energy SID may include noncontiguous property, whereas traditional SIDs require contiguity. Third, Energy SID plans are adopted and special assessments are requested by 100 percent of property owners within the Energy SID, whereas traditional SID plans can be adopted and special assessments can be assessed by as few as 60 percent of the front footage of the property owners located within the district.

PACE financing through Energy SIDs can be a powerful tool in a variety of scenarios. Properties with a significant amount of deferred maintenance can use PACE financing to generate energy savings which can be significant and can support rapid recovery of the upfront capital investment in the improvements. Large users of power often find significant energy savings through energy efficiency upgrades or retrofits, and they often need or desire supplemental energy from alternative energy improvements like solar panels, geothermal systems, and wind turbines. Public entities also can use PACE financing to get upfront capital for energy improvements to public buildings without impacting local debt limitations. PACE can be used by local governments and nonprofits. It is a useful tool for municipalities, school districts, counties, and townships as these types of governmental entities can use PACE funding for significant amounts of deferred maintenance or to update or supplement their power sources. A properly structured PACE financing transaction can provide capital to public entities without impacting certain local debt limitations.

Community Improvement Corporations

One particularly common example in Ohio of a limited-purpose entity that assists local economic development efforts is the community improvement corporation (CIC). This organizational form dates back to the early 1960s, with such entities established under Ohio's nonprofit corporation

[193] For a summary of special improvement districts generally, see "LOCAL SPECIAL PURPOSE ECONOMIC DEVELOPMENT DISTRICTS/ENTITIES – Special Improvement Districts" above.

law[194] on either a stand-alone basis or in agency with municipal corporations, townships, and counties. If a corporation is in agency with one or more political subdivisions, it functions under agreement to facilitate those jurisdictions' respective economic development activities (defined specifically for CICs as industrial, commercial, distribution, and research development).[195]

Generally, community improvement corporations enjoy a handful of powers not otherwise available to political subdivisions, several of which are discussed in further detail below. CICs have wide authority to borrow money, make loans, purchase or otherwise acquire, and to sell or otherwise dispose of, real property, and to enter into contracts with political subdivisions.[196] Additionally, CICs may take positions in matters that may be more challenging for the political subdivisions, or for which the local political environment makes it difficult for a municipality, township, or county to take direct action. CICs therefore offer a wide array of powers and increased flexibility to local economic developers, particularly those practitioners who are employed by municipalities, townships, or counties.[197] Importantly, in 2023 the General Assembly authorized changes to CIC law[198] allowing these entities to hold remote (i.e., interactive video or teleconference) meetings otherwise prohibited under Ohio's Sunshine Laws. Very often, these corporations, either in their stand-alone form (i.e., non-agency status) or as local government agents, are found throughout Ohio.

Note that a newer form of CIC was authorized under Ohio law in 2009: county land reutilization corporations (i.e., county land banks).[199] Although traditional CICs and county land banks both are formed under O.R.C. Chapter 1702 (nonprofit corporation law) and Chapter 1724 (community improvement corporation law), county land banks employ an even greater array of powers; one may say county land banks are CICs on caffeine. County land banks are discussed in greater detail in the following section.

CICs are not a "magic bullet" for challenging elements of economic development

Several notes of caution here as to relying exclusively on CICs to drive success in local economic development efforts.

[194] See R.C. Chapter 1702.
[195] See R.C. 1724.10(B)(1).
[196] See R.C. 1724.02.
[197] See R.C.s 1724.02 and 1724.11.
[198] See R.C. 1724.11(C) and (D), as added by Am. Sub. H.B. 33, 135th General Assembly.
[199] Sub. S.B. 353 enacted by the 127th Ohio General Assembly.

First, if a community is already struggling with a lack of development focus or an enthusiasm deficit among local leaders, a CIC will not necessarily drive new focus or hone energies. In fact, without a viable strategic framework to guide the efforts of a community improvement corporation, the CIC itself may fall victim to a similar milieu and further frustrate the viewing public and decision-makers.

Second… If a community improvement corporation is in agency with one or more political subdivisions, the organization and its governing board are considered under Ohio law as an "employee" of the political subdivision. A community improvement corporation formed under O.R.C. Chapter 1724, in and of itself, does not qualify as a public entity, and thus its board members are not public officials. But a CIC properly designated as the agent of one or more political subdivisions for economic development purposes "falls squarely and unequivocally within the statutory definition of a 'public body' set forth in R.C. 121.22(B)."[200] At the very least, treating CIC board members as public officials requires regular training and onboarding for new directors; at the most, an otherwise private individual board member may be subject to Ohio Ethics Laws and the state's restrictions on public contracts.

Third, one of the CIC's touted benefits is in serving as a political subdivision's arm to sell the subdivision's surplus property. But note that in such property disposal, the political subdivision sets the amount of consideration and other terms of the transaction.[201] Thus, in development projects involving a subdivision's own property, CICs may not be helpful in lowering risk associated with slowed decision-making or public outcry.

CIC in agency with political subdivisions

Any county, township, or municipal corporation, or any combination of these subdivisions, may designate a CIC as the agency of each subdivision for industrial, commercial, distribution, and research development efforts.[202] By adopting legislation, the political subdivision authorizes the execution of an agreement with the CIC to undertake various economic development activities. Specifically, a CIC can help facilitate economic development for the political subdivision primarily in the area of property acquisition, development, and disposal. Further, CICs in agency may sell political subdivision-owned surplus property, or surplus property conveyed to it by the municipality, without public bidding and may keep the sale proceeds as revenue.

[200] 1979 Ohio Op. Atty. Gen. 2-203.
[201] See R.C. 1724.10(B)(2) and (3).
[202] See R.C. 1724.10(A)(1) and (B).

Confidentiality of information held by CICs

CICs may wield two exemptions from public records when they are acting in agency with a political subdivision. First, if the CIC or the political subdivision receives financial and proprietary information, including trade secrets, in connection with a business' relocation or expansion, such information is confidential and is not a public record.[203] Second, any other information submitted to the CIC or the political subdivision in connection with the relocation, location, expansion, improvement, or preservation of a business is confidential information and not a public record *until* the business entity commits in writing to proceed with a given project.[204]

Disposing of political subdivisions' surplus property for limited purposes

CICs acting in agency with political subdivisions may sell or lease any surplus real property owned by such political subdivisions, or property may be conveyed outright to the CIC by the political subdivision, for purposes of promoting the public welfare, stabilizing the economy, providing employment, and assisting in the development of industrial, commercial, distribution, and research activities. Such conveyances are made without advertising or bidding[205] Excess sale proceeds received by the CIC, beyond that amount of consideration paid to the municipality for the property, are to be paid as contracted between the two parties.[206]

County Land Reutilization Corporations

A newer form of CIC is the county land reutilization corporation. More commonly known as county land banks, these organizations have become widespread throughout Ohio during the past 15 years.[207] Specifically, county land banks are CICs formed under O.R.C. Chapter 1724 and deemed "electing subdivisions" under Chapter 5722 to cleanse title and return to productive use real property that has languished into abandonment and tax delinquency. The value provided by county land banks to an economic development practitioner is in their broad powers to acquire and dispose of real property, free of the public bidding processes and minimum purchase price requirements otherwise imposed on political subdivisions.[208] Put simply, county land banks may serve as ideal vehicles to acquire, hold, and site-assemble real property for community and

[203] See R.C. 1724.11(A)(1).
[204] See R.C. 1724.11(A)(2).
[205] See R.C. 1724.10(B).
[206] See R.C. 1724.10(B)(3).
[207] As of the time of this updated Toolkit's publication in 2023, there were 66 county land banks established in the state. The Ohio Land Bank Association, the statewide organization for county land banks, maintains an online map at this link: https://ohiolandbanks.org/, last visited August 7, 2023.
[208] See R.C. 5722.07.

economic development purposes.[209] Added to this notion is the fact county land banks, as CICs, now are authorized to hold remote (i.e., interactive video or teleconference) meetings otherwise prohibited under Ohio's Sunshine Laws. [210]

County land reutilization programs

County land banks are charged with implementing land reutilization programs in their respective communities.[211] Under such authority, county land banks may acquire property in a variety of ways: through tax foreclosure, resulting in the direct transfer of property to a land bank; selecting from county auditors' lists of properties forfeited to the state (i.e., property not sold via two sheriff sales); receiving tax-delinquent properties from private individuals and entities no longer interested in owning worthless property (so-called deeds in lieu of foreclosure); from lending institutions and government agencies; and by donation or arm's length sale transactions involving non-delinquent properties. Real property acquired by county land banks is exempt from taxes as a matter of law; these exemptions do not need the formal approval of the Ohio Tax Commissioner (as is required to attain tax-exempt status under property tax abatement programs described in the previous section of this Toolkit).

Acquiring property from the County Auditor's Forfeited Lands list

County land banks may request title to real property that has been subject to tax foreclosure actions and forfeited to the state after exposure to two sheriff's sales. Specifically, upon request, a county auditor must transfer to the respective county land bank, via auditor's deed for no consideration, title to parcels on the list of forfeited lands. Once transferred to the county land bank, title in the property is cleansed of all taxes, assessments, and charges, and any subordinate liens are discharged.[212]

---

[209] Although not yet subjected to a large volume of case law in Ohio, certain of the foregoing powers of county land banks were discussed favorably by the Eleventh District Court of Appeals as recently as December 2018. In a matter having to do with public bidding requirements for selecting vendors, the appeals court described county land banks as "clothed… with certain attributes of a governmental entity, in other respects they act as non-profit corporation[s]". The court went on to note a county land bank "has authority, as a non-profit corporation, to hold and dispose of land it owns pursuant to *its own demolition policies and procedures*…. [R.C. 5722.06] does not require county land reutilization corporations to comply with competitive bidding requirements" [emphasis added]. *Triple Diamond Trucking & Excavating LLC v. Trumbull County Land Reutilization Corporation*, 2018 WL 6723341, 11th Dist.

[210] See R.C. 1724.11(C) and (D), as added by Am. Sub. H.B. 33, 135th General Assembly.

[211] See R.C. 5722.02.

[212] See R.C. 5723.04(B).

Acquiring abandoned land

Since 2006, county land banks have been bestowed unique authority under Ohio law to directly receive tax-delinquent and unoccupied real property via an expedited foreclosure process in their respective county boards of revision.[213] Many counties in Ohio now use their boards of revision to handle tax foreclosures of abandoned lands.[214]

Complaints in each county to foreclose the state's lien for real estate taxes upon abandoned land are filed in the board of revision by the prosecuting attorney, representing the county treasurer, or the county land bank itself.[215] The purpose of pursuing these limited foreclosures administratively in the boards of revision is to adjudicate the cases more quickly than the courts. By way of example, unlike a normal civil case in the courts, the issues are very limited in tax foreclosure cases, with time deadlines for hearing and adjudicating these cases prescribed by statute[216] rather than the Court Rules of Civil Procedure. Importantly, expedited tax foreclosures can be completely adjudicated within 180 days.[217] Once a case is adjudicated by the board of revision, and upon the expiration of a subsequent 28-day alternative redemption period, the delinquent property may be transferred to the county land bank, with title cleansed of any taxes, penalties, or subordinate liens.[218] In this way, the expedited foreclosure process promotes neighborhood stabilization and revitalization by getting abandoned, tax delinquent properties more quickly into productive hands.

Cases have abounded in federal and state courts during the past several years[219], in which activists, most notably the Pacific Legal Foundation, have alleged that direct transfers of propertyto land banks and local governments amount to "equity theft" in the context of tax foreclosures. In May 2023, the U.S. Supreme Court found such a government "taking" under the federal Constitution in a Minnesota case.[220]The Supreme Court, in its unanimous opinion written by Chief Justice Roberts, recognized Hennepin County's authority to sell the taxpayer's home to recover unpaid

[213] Sub. HB 294 enacted by the 126th Ohio General Assembly, as further amended by Sub. SB 353 during the 127th Ohio General Assembly, set forth statutory guidance in R.C.s 323.65 to 323.79 for county boards of revision to adjudicate certain tax foreclosures and order direct transfers of such foreclosed property to county land banks via sheriff's deeds.
[214] See R.C.s 323.25 and 323.65 to 323.79 for the statutory law framework undergirding expedited foreclosures.
[215] See R.C. 323.69.
[216] See R.C.s 323.65 to 323.79.
[217] Aggrieved parties may appeal to courts of common pleas pursuant to R.C. Chapters 2505 and 2506.
[218] See R.C.s 323.65(J) and 323.78.
[219] Locally, in the federal 6th Circuit, we witnessed sequential lower courts' holdings in an Ohio case, *Harrison v. Montgomery County, Ohio* (997 F.3d 643, decided May 11, 2021), and a Michigan case, *Hall v. Meisner* (51 F.4th 185, decided Oct. 13, 2022) that allowed an owner of abandoned land to raise a federal "takings" argument under the Fifth Amendment of the U.S. Constitution (once a property is deemed abandoned and titled to a county land bank) and declared aspects of another state's tax foreclosure process amounted to a "taking" under the federal Constitution, respectively.
[220] *Tyler v. Hennepin County, Minnesota, et al*., 598 U.S. 631, decided on May 25, 2023.

property taxes, but the County "could not use the toehold of the tax debt to confiscate more property than was due" and the taxpayer, therefore, was entitled to just compensation (here, the $25,000 in excess proceeds from the sale of her condominium).[221]

As to the impact of the U.S. Supreme Court decision on Ohio's tax foreclosure process that directly transfers nonproductive property to county land banks, we know county land banks have resumed pursuing direct transfers of abandoned lands in boards of revision, but only when the subject properties' market values are less than the impositions. And we also point to the Ohio Supreme Court's own upholding of this state's tax foreclosure process in the face of such a taking argument.[222] It appears Ohio's statutory tax foreclosure process – unlike Minnesota's – affords adequate remedies to avoid a takings claim, but this has not yet been tested in federal courts since the *Tyler* decision.[223]

Disposing of property

CICs deemed "electing subdivisions" under R.C. Chapter 5722 are empowered generally to acquire, handle, and dispose of nonproductive land and other acquired land. Put differently, county land banks operate according to even broader authority in maintaining, operating, holding, transacting, and disposing of land acquired pursuant to their respective land reutilization plans and purposes than do traditional CICs under R.C. Chapter 1724.[224]

Once real property is acquired by the county land reutilization corporation, according to whatever means, the county land reutilization corporation may sell such land without competitive bidding and at such times, to such persons, and upon such terms and conditions as deemed necessary, including selling lands for less than fair market value. Finally, all proceeds from the sale of land by a county land reutilization corporation are retained for the purposes for which it was organized.

---

[221] The Court held Hennepin County must return the excess value (i.e., "overplus") in the taxpayer's property after satisfaction of taxes and penalties due.

[222] *State ex rel. US Bank Trust, N.A. v. Cuyahoga County* (2023 WL 2762497, 2023-Ohio-1063, decided on April 4, 2023). The Court held that direct transfers of tax-foreclosed properties did not constitute takings without just compensation under the Fifth Amendment of the U.S. Constitution.

[223] Delinquent taxpayers and their creditors in Ohio's process must receive due notice of pending foreclosures, who then can redeem their properties by paying amounts due on tax liens, or transfer tax foreclosure cases to different venues, or timely appeal tax foreclosure adjudications.

[224] See R.C. 5722.06, R.C. 5722.07 and R.C. 5722.08.

Port Authorities

Many municipalities and counties around the state of Ohio have created port authorities,[225] and a few of them operate seaports and airports. But the majority of the state's port authorities were created as economic development tools to stimulate job growth and economic development in their communities. Port authorities possess a multitude of powers which enable them to fulfill their economic development and job creation missions. The name "port authority" therefore can sometimes be confusing.

Port authorities are political subdivisions whose jurisdictions include the territory of the political subdivision which created them. Each port authority is governed by a board of directors and the political subdivision (city or county) creating the port authority may determine the number of members on the board. The board members are appointed by the leadership of the political subdivision with the advice and consent of that political subdivision's legislative authority.[226] Except under very limited circumstances (typically by special legislation to authorize overlapping port authorities), a political subdivision may be a part of only one port authority, and the port authority has jurisdiction only within its boundaries. However, through the use of cooperative agreements with cities, counties or other port authorities, a port authority can undertake economic development projects outside of its boundaries.

Port authorities' broad powers make them very powerful economic development tools. Examples of a port authority's powers include, but are not limited to:

- Acquiring property
- Issuing revenue bonds
- Facilitating economic development transactions
- Exercising eminent domain power
- Acquiring property to facilitate economic development and housing
- Receiving state and federal grants and loans
- Exercising powers on behalf of another subdivision

[225] R.C. Chapter 4582 regulates port authorities.
[226] See R.C. Chapter 4582.03 for organization of board of directors.

- Issuing general obligation bonds (under very limited circumstances)
- Levying voted property tax
- Engaging in extraterritorial activities

Port authorities have several additional structural advantages (or benefits) to promote economic development. Those include the ability to create and operate a Bond Fund program, limited exceptions to the Sunshine and Public Records laws, exemptions from Prevailing Wage Requirements, as well as federal and state tax exemptions.

Bond Fund

Port authorities can issue taxable or tax-exempt bonds and have created so-called common bond funds, which are pooled security bond issuance programs. Through these bond funds, port authorities can finance a variety of economic development projects. However, in order to create and maintain a new bond fund, a port authority will need: (1) a source of capital or security for the additional reserves needed to make the bond fund creditworthy, and (2) professional administrative capabilities.

Exception to Sunshine Law and Public Records Law

Financial and proprietary information, including trade secrets, submitted to a port authority in connection with the relocation, location, expansion, improvement, or preservation of the business of that employer is not a public record and is therefore kept confidential. Thus, such information is not subject to the Sunshine Law or Public Records Law. This helps facilitate a port authority's ability to foster economic development efforts while working with private businesses. Additionally, port authority boards may now meet telephonically or by videoconference, subject to certain requirements.[227]

Exemption from the Requirement of the Use of Prevailing Wage

Under recent changes to Ohio law, port authorities are exempt from the prevailing wage requirements for public improvements[228] and port authority facilities[229] undertaken by, or under contract for, a port authority. Port authorities have provided assistance to economic development

[227] See R.C.s 4582.03(A) and 4582.60.
[228] See R.C. 4115.03 to 4115.16 (section 4115.04) for public improvements undertaken by, or under contract for, a port authority as defined in section 4582.01 or 4582.21 of the R.C.
[229] See R.C. 4582.12, which exempts a port authority from the prevailing wage requirements when the port authority elects to construct a port authority facility.

projects by offering sales-tax exemptions for building materials purchased for new construction projects without triggering the requirement to pay prevailing wages on the labor component of the building project.

Federal and State Tax Exemptions

A tax exemption for port authority property and securities is an advantage of creating such a structure over other entities, such as CICs or not-for-profit corporations. Port authority facilities are not subject to property, income, or sales and franchise taxes; *provided that such exemptions do not apply to any port authority property leased to a third party under a written lease with a term longer than one year*. The issuance of tax-exempt securities is generally limited by federal tax law to situations where there is a governmental purpose for assets financed with the securities.

Downtown Redevelopment Districts

Municipalities may create downtown redevelopment districts (DRDs) and innovation districts (IDs) for the purposes of rehabilitating historic buildings, creating jobs, encouraging economic development, and supporting technology-oriented businesses.[230] DRDs and IDs will enjoy dedicated financing streams and flexible powers to pay for, finance, and incentivize these projects.

Municipalities may create DRDs through a legislative process that involves notices to affected property owners and school districts, a public hearing, and the creation of an economic development plan outlining the objectives of the DRD. Depending on the financing plans of the DRD, consent may be required from affected property owners and school districts. The territory of the DRD can include up to 10 acres, which must be contiguous. The municipality additionally may designate certain territory within the DRD as an ID; any territory to be included in an ID, however, must be serviced by a high-speed broadband network capable of download speeds of at least 100 gigabits per second.

Similar to existing tax-increment financing (TIF) districts, DRDs enable municipalities to divert increases in property tax revenue relating to improvements to certain uses benefitting the DRD. With DRDs, the exemption may apply to up to 70 percent of increases in valuation, and it may last for up to 10 years (30 years with school district approval). In addition, DRDs can impose redevelopment charges that operate like special assessments levied within special improvement districts or community development charges levied by new community authorities. The charges require property owner approval and can be predetermined or calculated based on a formula

[230] R.C. 5709.45-.47

established by the municipality. They will apply to subsequent property owners and can be certified to, and collected by, the county auditor.

Service payments and redevelopment charges received by DRDs can be applied (i) to offer loans or grants to owners of historic buildings within DRD for rehabilitation efforts; (ii) to pay costs of operating expenses necessary to promote historic redevelopment efforts through contributions to community improvement corporations, special improvement districts, or certain nonprofits (up to 20 percent of DRD revenue); (iii) to make loans to owners of non-historic buildings within the DRD; and (iv) to finance certain public infrastructure improvements within the DRD that are necessitated by the redevelopment efforts.

DRDs that include an ID will have several additional powers designed to promote innovation-oriented businesses. For example, DRD revenues can be applied within an ID to finance or support loans, deferred loans, or grants to qualified businesses within the ID. Qualified businesses include trades or businesses that involve research and development, technology transfer, bio-technology, information technology, or the application of new technology developed through research and development or acquired through technology transfer. Additionally, DRD revenue can be contributed to business accelerators or incubators within the ID to assist businesses within the ID.

FEDERAL TAX CREDIT PROGRAMS

Programs Discussed:

- Historic Preservation Tax Credit Program
- New Market Tax Credit Program
- Opportunity Zones

Historic Preservation Tax Credit Program

The Federal Historic Preservation Tax Credit (HPTC) is a nonrefundable tax credit that encourages private sector investment in the rehabilitation and re-use of certified historic and older buildings by providing federal income tax incentives for the rehabilitation of historic income producing properties. The National Park Service (NPS) and the Internal Revenue Service (IRS) administer the program in partnership with state historic preservation offices around the country.

To qualify, one must have a certified historic structure. To be certified, the building must be listed individually on the National Register of Historic Places (National Register) *or* be a contributing part of a historic district that is either listed on the National Register or certified as eligible for the

National Register. Under the provisions of the Tax Reform Act of 1986,[231] the program provides a 20 percent and a 10 percent tax credit.

20 Percent Tax Credit

A 20 percent HPTC income tax credit is available for the rehabilitation of historic, income producing buildings that are determined by the Secretary of the Interior, through the NPS, to be "certified historic structures." The state historic preservation offices and the NPS review the rehabilitation work to ensure that it complies with the Secretary of the Interior's Standards for Rehabilitation prior to receiving the HPTC. The IRS defines qualified rehabilitation expenses on which the credit may be taken. Owner-occupied residential properties do not qualify for the HPTC.

10 Percent Tax Credit

The 10 percent HPTC tax credit is available for the rehabilitation of non-historic buildings placed in service before 1936. The building must be rehabilitated for nonresidential use. In order to qualify for the tax credit, the rehabilitation must meet three criteria: (1) at least 50 percent of the existing external walls must remain in place as external walls, (2) at least 75 percent of the existing external walls must remain in place as either external or internal walls, and (3) at least 75 percent of the internal structural framework must remain in place. There is no formal review process for rehabilitations of non-historic buildings.

In all cases, the rehabilitation must be a substantial one and must involve a depreciable building. The credit may be subtracted directly from federal income taxes owed by the owner.[232] Projects must meet the minimum expenditure test within a two-year measuring period, but applicants may take up to five years to complete a phased project if the plans and specifications are approved in advance of construction. Lastly, the applicant must pay a fee to the NPS; the fee shall be no less than $250 and no greater than $2,500, and shall be based on the qualifying rehabilitation expenditures.

New Market Tax Credit Program

The New Markets Tax Credit[233] (NMTC) is a nonrefundable tax credit established by Congress in 2000 to attract new or increased investments into existing companies and real estate projects located in low-income communities. The NMTC attracts investment capital by permitting

---

[231] See PL 99-514; Internal Revenue Code Section 47 [formerly Section 48(g)].
[232] The Internal Revenue Service is the final judge of economic matters relative to certified rehabilitations. Therefore, it is advisable that you consult with a tax accountant or lawyer before completing your tax return.
[233] See Section 305 of H.R. 8 of the American Taxpayer Relief Act of 2012.

individual and corporate investors to receive a tax credit against their federal income tax return in exchange for making equity investments in specialized financial institutions called Community Development Entities (CDEs).

CDEs apply to the Community Development Financial Institutions (CDFI) Fund through a competitive application process each year, not for tax credits directly, but for an award of "allocation authority" — that is, the authority to raise a certain amount of capital through qualified equity investments from investors. The CDFI Fund in the U.S. Department of the Treasury has been authorized to administer the program. The credit totals 39 percent of the original investment amount and is claimed over a period of seven years (five percent for each of the first three years, and six percent for each of the remaining four years). The investment in the CDE cannot be redeemed before the end of the seven-year period.

The NMTC is a nonpermanent program. It has required program renewal during each session of Congress. The most recent extension, enacted by the Taxpayer Certainty and Disaster Tax Relief Act of 2019, extended the NMTC through the end of 2020 and provided an increase in allocation authority from $3.5 billion to $5 billion in 2020.

Opportunity Zones

Opportunity Zones are the newest federal tax incentive for economic development purposes. They are designed to spur economic development in distressed communities through federal income tax incentives.

The Opportunity Zone[234] program, created by the Tax Cuts and Jobs Act of 2017[235], allows a taxpayer to reinvest proceeds from the sale of an eligible business or property into an Opportunity Fund. This Opportunity Fund, in turn, will invest in one or more businesses or properties located within qualified Opportunity Zones. Qualified Opportunity Zones are low-income areas that have been specifically designated by the state and federal government.

By investing in an Opportunity Zone through an Opportunity Fund, a taxpayer can take advantage of up to three benefits, depending on the length of the investment.

1. Temporary deferral

[234] Source: http://www.bricker.com/industries-practices/economic-development/insights-resources/publications/opportunity-zones, last visited August 7, 2023.
[235] Source: https://www.irs.gov/newsroom/opportunity-zones-frequently-asked-questions, last visited August 7, 2023.

- A taxpayer can defer any tax owed on capital gains by investing the realized gain in an Opportunity Zone. The tax liability is deferred until December 31, 2026, or at such earlier time that the taxpayer disposes of the Opportunity Zone investment.

2. Reduction in gain realized through basis adjustment

- For capital gains that are reinvested into an Opportunity Zone, the basis of the investment will increase by 10 percent if the taxpayer holds the investment for at least five years and by an additional five percent if the investment is held by the taxpayer for at least seven years. Therefore, a taxpayer can raise the basis of an investment in an Opportunity Zone by 15 percent of the amount of the initial investment by holding the investment in the Opportunity Zone for at least seven years.

3. Exclusion for capital gains on the Opportunity Zone investment

- If an investor holds the Opportunity Zone investment for at least 10 years, then the basis of the investment is its fair market value as of the date on which the investment is disposed. Therefore, a taxpayer will generally not be taxed on the gain realized from the disposition of the Opportunity Zone investment after 10 years.

A taxpayer must invest in an Opportunity Fund within 180 days of the disposition of the existing property to be eligible for the tax benefits under the program.

Nationwide, more than 8,000 Opportunity Zones have been qualified as being eligible to participate in the program, 320 of which are located in Ohio. Ohio's Development Services Agency and the economic development professions in communities with designated Opportunity Zones are poised to assist investors with identifying potential opportunities in these local Opportunity Zones. For a complete list and interactive map of the 320 qualified Ohio Opportunity Zone tracts please visit https://development.ohio.gov/business/state-incentives/ohio-opportunity-zones (last visited August 7, 2023).

To enjoy the tax benefits under the program, a taxpayer's investment in an Opportunity Zone must take place via an Opportunity Fund. An Opportunity Fund is an entity organized to acquire and hold for investment purposes equity interests in businesses or properties located in Opportunity Zones. While the IRS is expected to issue additional guidance regarding Opportunity Funds, it is anticipated that the regulations will be relatively limited. The IRS has indicated that any entity will be able to self-certify as being an Opportunity Fund without approval or action by the IRS and that the self-certification process will merely involve a yet-to-be-released form attached to the taxpayer's tax return.

Unlike the types of institutional investors that typically invest in low-income or distressed communities (e.g., investors seeking tax credits through low-income housing tax credit projects or community reinvestment area tax credits), Opportunity Zone investors are most likely to be high-net-worth individuals and investment oriented companies, such as life insurance companies, managed investment funds and mutual funds, that regularly realize significant capital gains. Consequently, Opportunity Funds will seek to balance risk and return and to structure investments in ways that meet the goals of the original taxpayers invested in the Opportunity Fund (i.e., to achieve temporary deferral, step up in basis or the permanent exclusion with a longer term investment under the program). Many mission-driven institutions are taking a lead in establishing impact-oriented Opportunity Funds to attract investors with specific fields of interest, such as development of affordable housing, investment in small business ventures that align with the community's goals, renewable energy development, and health care delivery.

Since the law imposes no cap on the size of a given Opportunity Fund, it is expected that large-scale Opportunity Funds will be competing in the market for investors seeking to benefit from the program. However, the flexibility afforded by the self-certification process means that any taxpayer with appreciated assets can benefit by establishing an Opportunity Fund in order to invest in an Opportunity Zone. For example, local businesses may seek to redeploy equity in appreciated assets in order to reinvest in a local Opportunity Zone. Local economic development professionals and business advisors need to have the tools in place to help investors leverage such opportunities.

Attracting investments from Opportunity Funds will be critical for developers and economic development professionals looking to promote economic and community development in distressed Opportunity Zone communities. To date, many communities are working hard to make their Opportunity Zones attractive to investment. Strategies include aligning existing and proposed projects with other sources of capital to reduce potential risk profiles, pairing Opportunity Fund investment with other local and state incentives and programs, and deploying wrap-around resources such as workforce development to support projects and retain mission-driven goals for the community.

FEDERAL LOAN PROGRAMS

Programs Discussed:

- 7(a) Loan Program
- 504 Loan Program

7(a) Loan Program

The 7(a) Loan Program[236] is the Small Business Administration's (SBA) primary loan program for assisting start-up and existing small businesses with financing for a variety of general business purposes. The SBA does not make loans itself, but rather guarantees loans made by participating lending institutions. In this way, taxpayer funds are only used in the event of borrower default. This reduces the risk to the lender, but not to the borrower, who remains obligated for the full debt, even in the event of default.

While the vast majority of companies are eligible for financial assistance from the SBA, some are not. Ineligible companies include those engaged in illegal activities, loan packaging, speculation, multi-sales distribution, gambling, investment or lending, and companies the owner of which is on parole.

The specific terms of SBA loans are negotiated between the applicant and the participating financial institution, subject to the requirements of the SBA. The SBA can guarantee as much as 85 percent on loans of up to $150,000 and 75 percent on loans of more than $150,000. 7(a) loans have a maximum loan amount of $5 million. Interest rates may be fixed or variable and are pegged to the prime rate, the LIBOR rate or an optional peg rate.

Loan terms are based on the ability to repay, the purpose of the loan proceeds, and the useful life of the assets financed. The maximum term of loans used to finance fixed assets, other than real estate, will be limited to the economic life of the asset, not to exceed 25 years. The 25-year maximum will generally apply to the acquisition of land and buildings or the refinancing of debt incurred in their acquisition. Terms for a working capital or inventory loan should be appropriate to the borrower's ability to repay within up to 10 years. When loan proceeds will be used for a combination of purposes, the maximum term can be a blended term based on the use of proceeds or up to the maximum for the asset class comprising the largest percentage of the use of proceeds.

[236] See Small Business Act of 1953 (P.L. 83-163, as amended). There are several 7(a) subprograms that offer streamlined and expedited loan procedures, including the SBA Express, Patriot Express, Small Loan Advantage and Community Advantage Pilot programs.

504 Loan Program

The SBA's 504 Loan[237] is an economic development loan program that offers small businesses another avenue for business financing, while promoting business growth and job creation. The 504 Loan provides approved small businesses with long-term, fixed-rate financing used to acquire fixed assets for acquisition or eligible refinance of fixed assets. 504 Loans are made available through Certified Development Companies (CDCs), the SBAs community-based partners for providing 504 Loans. CDCs are certified and regulated by the SBA and work with the SBA and participating lenders (typically banks) to provide financing to small businesses, which accomplishes the goal of community economic development.

504 Loans are typically structured with the SBA providing 40 percent of the total project costs, a participating lender covering up to 50 percent of the total project costs and the borrower contributing 10 percent of the project costs. Under certain circumstances, a borrower may be required to contribute up to 20 percent of the total project costs. Total project costs may include the following:

- Building purchases and renovations
- Land and land improvements
- Equipment and fixtures
- Long-term machinery
- Certain furniture
- Refinancing of debt for an expansion of the company's facilities or equipment
- Professional fees, soft costs, and closing costs

It is possible to fully finance project costs with a 504 Loan. Most commercial bank loans finance only a percentage of the purchase price/appraised value, which requires borrowers to pay closing and soft costs out of pocket. If borrowers opt to sell their property at a later time, 504 Loans are assumable.

---

[237] See Small Business Investment Act of 1958, Title V, Section 504, Public Law 85-699.

To be eligible for a 504 Loan, the company must be a for-profit corporation, partnership, or proprietorship and fall within the size standards[238] set by the SBA. The company must plan to use over half (51 percent) of the property for its own operations within one year of ownership; if the building is to be newly constructed, the borrower must use 60 percent at once and plan to occupy 80 percent. Loans cannot be made to companies engaged in nonprofit, passive, or speculative activities.

[238] Businesses whose net worth does not exceed $15 million and net after-tax profits average less than $5 million during the previous two years prior to application.

FEDERAL GRANT/SPECIAL PURPOSE PROGRAMS

Programs Discussed:

- EB-5 Immigrant Investor Program
- COVID-19 Stimulus Responses
- U.S. Foreign-Trade Zone Program

EB-5 Immigrant Investor Program

The U.S. Congress created the fifth employment-based preference (EB-5) immigrant visa category[239] in 1990 for qualified foreigners seeking to invest in job-creating economic development projects or companies that will benefit the U.S. economy in return for a U.S. green card. On November 21, 2019, a new Department of Homeland Security rule governing the EB-5 program became effective. It provided priority date retention to certain EB-5 investors, increased the required minimum investment amounts, reformed targeted employment area designations, and clarified U.S. Citizenship and Immigration Services (USCIS) procedures for the removal of conditions on permanent residence.

To be eligible for the program, the project or business must create or save at least 10 full-time jobs for U.S. workers. The minimum amount required to invest is $1.8 million, although that amount is reduced to $900,000 if the investment is made in a rural area or an area with high unemployment (referred to as "Targeted Employment Areas").

Once the investment in a qualifying project or company has been made, the investor receives a conditional green card for two years. After that period, the investor must prove that their investment has been maintained and that the 10 or more jobs continue to exist. Once this evidentiary threshold is satisfied, the conditional status is removed.

Of the 10,000 EB-5 green cards available each year through the USCIS[240], the managing federal agency, 3,000 are reserved for foreign nationals who invest through an EB-5 Regional Center (Regional Center). The 3,000 is not a limit, but the amount reserved specifically for Regional Center-based investments.

---

[239] See Section 203(b)(5) of the Immigration and Nationality Act and 8 CFR 204.6 and 8 CFR 216.6, respectively.
[240] More information on the program can be found at https://www.uscis.gov/eb-5, last visited July 13, 2021.

EB-5 Regional Center Program

To encourage foreign investment in the U.S. economy through the EB-5 category, Congress created an EB-5 Regional Center Pilot Program[241] in 1992. By so doing, Congress permitted the managing federal immigration agency — the Immigration and Naturalization Service, which became the USCIS in 2003 — to designate qualified applicants as Regional Centers, eligible to accept EB-5 capital for economic development in the United States. A Regional Center is a private enterprise or a regional governmental agency with a targeted investment program within a defined geographic region.

The EB-5 Regional Center Program does not require that the foreign investor's enterprise itself directly employ 10 U.S. workers. Instead, it is enough if 10 or more jobs will be created directly or indirectly as a result of the investment. The Regional Center Investment Program aids foreign investors by directing and professionally managing their investment in the designated business and geographic focus of their Regional Center.

Before an investor can participate in a Regional Center's EB-5 Investment Program, each investor must independently petition USCIS for an EB-5 visa. USCIS solely determines whether the investor qualifies for the EB-5 visa. USCIS's due diligence includes a full background check, including detailed review of the sources of the investor's funds (to confirm their lawful origin), family history, and other representations of the head of household and immediate family members under the age of 21.

As with the regular EB-5 Program, qualified investors investing through a Regional Center first receive a conditional green card valid for two years. At the end of that time, the investor files another application with USCIS showing that their money was "at risk" during the two-year period and that the jobs have been created. Once those applications have been approved, the investor and the investor's immediate family become permanent green card holders and can later apply to become U.S. citizens.

For investors, the whole EB-5 process takes approximately three to five years or longer depending upon the timeliness, quality, and validity of the investor's submissions. The program has been renewed several times and in December 2019, the Regional Center Program was extended again through September 30, 2020.

[241] See Section 610 of Public Law 102-395.

U.S. Foreign-Trade Zone Program

The U.S. Foreign-Trade Zone[242] (FTZ) is a special-purpose district created to encourage U.S.-based companies to maintain and expand their operations in the United States by removing certain disincentives associated with manufacturing in the U.S. The duty on a product manufactured abroad and imported into the United States is assessed on the finished product rather than by its individual parts or components. The U.S.-based manufacturer finds itself at a disadvantage compared with its foreign competitors when it must pay a higher rate on parts, materials, or components imported for use in a manufacturing process. Therefore, the goal of the FTZ Program is to correct this imbalance by treating products made in the FTZ, for the purpose of tariff assessment, as if they were manufactured abroad. At the same time, the United States benefits because the company uses U.S. labor, services and inputs to manufacture its product.

The Foreign-Trade Zones Act of 1934 created the FTZ Program, which establishes secure areas under U.S. Customs and Border Protection (CBP) supervision that are generally considered outside CBP territory upon activation. Typically located in or adjacent to CBP ports of entry, FTZs are the U.S.'s version of what are known internationally as free-trade zones. The act also created the interagency Foreign-Trade Zones Board, comprised of representatives from the departments of Commerce and Treasury and the Army, to review and approve applications to establish, operate, and maintain FTZs. The board issues FTZ "grants" to municipal governments, port authorities, and nonprofit corporations to establish FTZs, which are known as "general purpose" FTZs. The board may approve any FTZ or FTZ "subzone" that it deems necessary to adequately serve "the public interest." The board also regulates the administration of FTZs and the rates charged by FTZ "grantees."

Foreign and domestic merchandise may be moved into FTZs for operations, not otherwise prohibited by law, including storage, exhibition, assembly, manufacturing, and processing. FTZ sites are subject to the laws and regulations of the United States as well as those of the states and communities in which they are located. Under FTZ procedures, the usual formal CBP entry procedures and payments of duties are not required on the foreign merchandise unless and until it enters CBP territory for domestic consumption, at which point the importer generally has the choice of paying duties at the rate of either the original foreign materials or the finished product.

[242] See Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a-81u). The Foreign-Trade Zones Act is administered through two sets of regulations, the FTZ Regulations (15 CFR Part 400) and CBP Regulations (19 CFR Part 146).

Domestic goods moved into the FTZ for export may be considered exported upon admission to the FTZ for purposes of excise tax rebates and drawback.

More information is at: https://www.trade.gov/foreign-trade-zones-board (last visited August 7, 2023).

Foreign-Trade Sub Zones

FTZs are divided into general-purpose zones and Subzones. General-purpose FTZs involve public facilities that can be used by more than one firm, and are most commonly ports or industrial parks used by small to medium sized businesses for warehousing and distribution and some processing and assembly. FTZ Subzones, on the other hand, are sponsored by general-purpose FTZs, but typically involve a single firm's site which is used for more extensive manufacturing and processing or warehousing and distribution that cannot easily be accomplished in a general-purpose FTZ.

An initial step for companies interested in obtaining FTZ Subzone status for some or all of the company's U.S. facilities is to ask the grantee of the appropriate general purpose FTZ to submit an application that designates the company's facilities as a Subzone of the general purpose FTZ. While the company seeking FTZ Subzone status would prepare the applications, the applications would be submitted to the FTZ board under the name of the FTZ grantee.

When a company receives authorization to operate a facility as an FTZ Subzone, it must implement security and inventory control measures that will ensure the protection of Customs revenues. The designated FTZ area must have appropriate security and the FTZ and FTZ Subzone operators must file an annual report with the Board that summarizes the activities at the FTZ Subzone.

Federal COVID-19 Stimulus Responses

State and local governments in Ohio received sizable federal relief payments in response to the COVID-19 pandemic. The U.S. Congress enacted three separate response bills during the public health emergency that transpired from March 2020 until May 2023, which collectively provided significant federal funding support to local government operations.

First, the Coronavirus Aid, Relief, and Economic Security (CARES) Act[243] was signed into law on March 27, 2020 to provide ready funding to address unforeseen financial needs and risks created by the COVID-19 public health emergency. The CARES Act appropriated $150 billion to the

[243] H.R. 798, Public Law 116-136.

Coronavirus Relief Fund, of which the U.S. Treasury allocated approximately $4.5 billion to the State of Ohio. The state, in turn, appropriated a portion of those funds to local governments, including cities and townships by way of the counties, under several legislative enactments and Controlling Board actions during the 133rd General Assembly (e.g., House Bill 481, House Bill 614). Accordingly, local governments received CARES Act stimulus funds via county auditors, provided each legislative authority passed a resolution affirming that funds received only would be used for expenses incurred in connection with COVID-19. In its drafting, the CARES Act specified that Coronavirus Relief Funds had to have been appropriated (and expended) by December 30, 2020; U.S. Treasury guidance subsequently allowed for stimulus funds to be encumbered by that date, with actual expenditure of funds to occur generally within 90 days hence.

Second, the Consolidated Appropriations Act of 2021[244] was signed into law on December 27, 2020.

Third, and most significantly for Ohio and its local governments, the American Rescue Plan Act of 2021[245] was signed into law on March 11, 2021 (commonly known as ARPA). This $1.856 trillion COVID relief package appropriated $350 billion to State and Local Fiscal Recovery Funds. Such Fiscal Recovery Fund payments may be directed by the state, counties, metropolitan cities, and non-entitlement units of local government (NEUs) to finance costs incurred from March 3, 2021, through December 31, 2024, for the following purposes: (A) to respond to the COVID-19 public health emergency or its negative economic impacts; (B) to respond to workers performing essential work; (C) to provide government services to extent of reduction in revenue caused by the pandemic; and (D) to make necessary investments in water, sewer, or broadband infrastructure.

U.S. Treasury guidance for the State and Local Fiscal Recovery Funds was initially issued under an Interim Rule basis, with a Final Rule published in January 2022 (and that took effect on April 1, 2022).[246]

Local governments in Ohio are authorized under the Final Rule to designate, in some cases, the entirety of their respective Local Fiscal Recovery Fund allocation to the provision of government services (the so-called 3rd bucket of use) of up to $10 million in presumed revenue reduction caused by the pandemic, or according to a calculated loss of revenue that exceeds such a "standard allowance" amount.

---

[244] H.R. 133, Public Law 116-260.
[245] H.R. 1319, Public Law 117-2.
[246] 31 C.F.R. 35.1 *et seq.* and Final Rule Supplementary Information.

As to deploying such ARPA funds, we note here two specific uses that may be of interest to local and state economic developers: (i) the demolition of commercial and industrial buildings, and related site clean-up, as a "response to COVID-19" and (ii) seeding revolving loan funds.

First, the ARPA statute and the Treasury's Final Rule includes capital expenditures and other services to address vacant or abandoned properties as an eligible use of funds in response to the negative economic impacts of the pandemic. Specifically, the Treasury expressly lists certain services for vacant or abandoned properties, when undertaken in so-called *disproportionately impacted communities*, as properly in response to the public health emergency. Here, the Treasury presumes as eligible uses of ARPA funds the following: rehabilitation costs of vacant or abandoned properties, the costs of acquiring and marketing such properties, associated environmental remediation costs, demolishing such properties, – *across the residential, commercial, and industrial land use spectrum* – and converting such properties to affordable housing.[247]

Second, a local government recipient may seed a Revolving Loan Fund (RLF) with its ARPA funds, so long as the resulting loans are for uses that are otherwise eligible under ARPA. We underscore here the benefit of seeding a RLF under the third bucket-use-of funds analysis (i.e., as a provision of government services, to the extent of a loss of revenue): updated Treasury guidance authorizes a more permissive manner of capitalizing such loans under this use-of-funds than under the other three buckets (i.e., response to COVID, premium pay, and necessary infrastructure). In effect, RLF loans funded under a third-bucket rationale are deemed by Treasury to have been expended in full, and therefore may be charged for the full amount against the recipient's ARPA special revenue fund account at the time of disbursement, and such loans are not restricted as to purpose. [248]

[247] For a deeper discussion on this subject, we refer to Bricker Graydon's published article at the following link: https://www.bricker.com/insights-resources/publications/arpa-cash-demolition-and-capital-expenses-related-to-vacant-and-abandoned-buildings (last visited August 7, 2023).

[248] Likewise, for a deeper discussion on the matter of seeding a RLF with ARPA funds, we refer to another Bricker Graydon-published article: https://www.bricker.com/insights-resources/publications/arpa-final-rule-the-%E2%80%9Cb-sides-collection%E2%80%9D-seeding-revolving-loan-funds (last visited August 7, 2023).

OHIO WORKFORCE DEVELOPMENT PROGRAMS

Programs Discussed:

- Ohio Means Jobs
- On the Job Training
- ApprenticeOhio
- Ohio Means Internships
- Ohio Export Internship Program
- Work Opportunity Tax Credits

The state of Ohio, in conjunction with its varied partner agencies in each of the 88 counties, offers a variety of educational opportunities from early childhood education to collegiate degree programs, adult-oriented training programs, and employer-specific training initiatives, all focused on developing a high quality workforce at the local, regional, and state levels.

Given that economic development programming often is keyed to the number of new or retained jobs in a project, it follows that employers must have access to good workers who are willing and capable of filling job openings. In this way, workforce development must be considered an essential element of any economic development strategy. Today, we again find that employers are facing a tight labor market, just as in the period immediately prior to the COVID-19 pandemic; finding available workers is *the* base-level concern of job-creators and policy leaders trying to grow Ohio's economy.

Historical approaches to workforce development in Ohio

Workforce development programs and policies have existed in Ohio since the end of World War II. Most of the earliest programs grew out of federally created and funded initiatives, for which state-level participation required no more than an executive order from the sitting governor.[289]

Beginning in the 1960s, the state became more involved in workforce development as shifts occurred in the economy. Policy leaders at the state level created numerous programs, aimed at offering job training to fit employers' needs, as well as financial incentives tied to businesses' employment opportunities. By 1991, Ohio offered 51 different workforce programs delivered

[289] Source: https://www.lsc.ohio.gov/assets/organizations/legislative-service-commission/files/1990-1999-special-reports-ohio-job-training-and-workforce-development-programs-administrative-consolidation.pdf, last visited August 7, 2023.

through a network of local service providers, specific state agencies, and nonprofits administering funds from the state.[290]

The trend continued into the last decade, when then-Governor Kasich announced the creation of the Office of Workforce Transformation to streamline what was then 77 programs spread across 13 state agencies.

Current trends across Ohio

In this scrum of varied programs, employers understandably have been put off trying to untangle Ohio's workforce development system. In response, local leaders have been developing new approaches to workforce development at the county level in Ohio.

Notwithstanding state program offerings, county workforce developers emphasize career fairs focused on their respective industry strengths (i.e., local economic drivers). During periods of low unemployment career fairs may foster career awareness for local high school students regarding job opportunities in the area. Conversely, when unemployment rises and Ohio enters more recession-like circumstances, job fairs may be re-directed to working and mid-career adults.

New models in career fairs are being deployed at the county level in Ohio. One successful approach is to gather small groups of high school students, each of whom are pre-sorted before each fair based on career interest areas, to meet with individual employer representatives in small break-out rooms; each student-job seeker is part of a rotating group that meets with two to three employers during the career fair.[291]

County-level workforce development efforts also rely on the tried-and-true practice of regularly touring local employer sites. Employers and policy leaders find value in facilitating groups of high school students, teachers, guidance counselors, and parents to tour manufacturing facilities, healthcare centers, and the workplaces of other local economic drivers. Such events raise awareness among students as to local employment options and help parents understand the value of non-college based careers in manufacturing and other sectors.

Finally, there is a growing conversation among workforce developers that not every graduating high school senior should be directed, by default, to the traditional four-year college track. Many young adults may be better served working locally with their hands, and (in many instances) making more money on factory floors, taking pride in their labors, and/or becoming members of

---

[290] Supra.
[291] Source: https://ambealliance.org/, last visited August 7, 2023.

the skilled trades. This mindset is taking shape with so-called career navigators around Ohio who coordinate career development services to high school and adult students, teachers, school guidance counselors, and parents to connect them with business and industry partners. The goal of such positions is to increase the local pool of new workers coming out of traditional high schools. Graduates are directed to consider high-demand occupations available in the community (which may not require a four-year college degree).

Specific workforce programs currently available in Ohio

As noted, Ohio offers many workforce development programs delivered by many service providers. A comprehensive program list is available online at: https://jobseeker.ohiomeansjobs.monster.com/FindIt/OWT.aspx, but Bricker Graydon cannot cover every program, for the reasons stated above. That said, a couple workforce programs are worthy of note and should feature in a community's workforce development strategy.

Ohio Means Jobs: This program provides employers free access to millions of resumes and job seekers access to tens of thousands of electronic job postings. This enhanced site has special features dedicated to assisting 1) Jobseekers in budget planning; skills assessments, resume building, career planning, identifying possible education and training opportunities; and online training to increase skills; 2) All Ohioans in learning which good-paying jobs are most in-demand in Ohio based on growth and the number of openings; 3) K-12 Students in career exploration and planning; budget planning; improving math and reading skills (3rd grade and up); planning post-secondary education and training; and preparing for college prep (i.e., ACT, SAT, etc.) and career testing; and 4) Unemployment Compensation claimants in resume building, career planning, and skills assessment to obtain new employment quickly. Ohio developed OhioMeansJobs.com through a partnership with Monster.com and became the first state in the nation to adopt this groundbreaking model of public-private collaboration. The site is available at https://jobseeker.ohiomeansjobs.monster.com/FindIt/OWTDetails.aspx?id=57 (last visited August 7, 2023).

On the Job Training: This is a federally funded program that helps employers hire and train individuals for long-term employment. This is an opportunity for an employer to work with his or her county OhioMeansJobs Center to recruit, pre-screen, and hire new employees, and to train them in specific skills. The employer is reimbursed for the costs of training, up to 50 percent of trainees' wages during training period. Information is available at https://jobseeker.ohiomeansjobs.monster.com/FindIt/OWTDetails.aspx?id=58 (last visited August 7, 2023).

ApprenticeOhio: This program is offered by the Office of Workforce Development at the Ohio Department of Jobs and Family Services and provides apprenticeship opportunities that teach high-level skills for today's workplace in partnership with employers, employer associations, and joint labor/management sponsors. Apprenticeship programs combine on-the-job training with practical classroom instruction to prepare workers for employment in a variety of industries. Ohio has over 600 Registered Apprenticeship programs in fields such as construction, energy, health care, manufacturing, and utilities. Each program includes, at a minimum, 2,000 hours of structured on-the-job training and 144 hours per year of related classroom instruction. More information is available at https://jfs.ohio.gov/job-services-and-unemployment/job-services/job-programs-and-services/apprentice-ohio/about-apprentice-ohio (last visited August 7, 2023).

Ohio Export Internship Program: This program provides an export-focused college intern to Ohio companies that wish to expand their international efforts and expertise. The Ohio Department of Development partners with four universities to match Ohio companies with undergraduate student interns who have taken export-focused course work. The university partners are Cleveland State University, the University of Dayton, The Ohio State University, and Youngstown State University. The program provides companies 50 percent reimbursement for internship wages and ongoing export support for companies and students during the internship. Information is available at https://jobseeker.ohiomeansjobs.monster.com/FindIt/OWTDetails.aspx?id=51 (last visited August 7, 2023).

Work Opportunity Tax Credits: This program gives eligible Ohio employers a federal tax credit for hiring individuals from nine target groups of disadvantaged job seekers. Depending on the target group and duration of employment, tax credits can range from $1,200 to $9,600 per eligible employee. The nine target groups include but are not limited to veterans, members of families that receive public assistance, those with past felony convictions, and those with long-term employment. More information is available at https://jobseeker.ohiomeansjobs.monster.com/FindIt/OWTDetails.aspx?id=76 (last visited August 7, 2023).