



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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H.B. 696

132nd General Assembly
(As Introduced)

Reps. Perales, Craig, Cupp, Greenspan, Lanese

BILL SUMMARY

- Establishes the Office of Government and Military Affairs within the Office of the Governor.
 - Authorizes the Office to make loans to defense or NASA communities.
 - Authorizes the Office to make grants to defense or NASA communities, defense or NASA support organizations, and certain state institutions of higher education.
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CONTENT AND OPERATION

Office of Government and Military Affairs

The bill establishes, within the Office of the Governor, the Office of Government and Military Affairs, and requires the Governor to appoint an Executive Director and other staff as may be necessary for the Office to perform its duties.¹

Executive Director duties

The bill requires the Executive Director, not later than six months after being appointed, and every 12 months thereafter, to submit to the Governor and to the General Assembly a strategic plan to support the long-term viability of military installations, and the health and well-being of service members and veterans.² Additionally, the Director must do the following:

¹ R.C. 107.64(B) and (C).

² R.C. 107.64(C)(1).

(1) Annually report to the Governor and the General Assembly regarding the activities of the Office of Government and Military Affairs and the status of military and NASA installations in Ohio;

(2) Endeavor to meet at least annually with each commander of a military and NASA installation to discuss its goals and challenges, develop recommendations for improvements, discuss ways Ohio can enhance and complement the installation's mission, and discuss services available to assist transitioning service members and the member's families;

(3) Administer the defense or NASA community loan program (see "**Loan program**," below);

(4) Administer the defense or NASA community, defense or NASA support organization, and state institution of higher education grant program (see "**Grant program**," below);

(5) Make recommendations to the Governor and to the General Assembly regarding the design and execution of programs that support defense or NASA communities and military and NASA installations, which may include the promotion of strategic regional alliances;

(6) Assist defense or NASA communities in the design and execution of programs that enhance communities' relationships with military and NASA installations and defense-related or NASA-related businesses, which may include regional alliances;

(7) Provide information to defense or NASA communities, the Governor, the General Assembly, Ohio's congressional delegation, and appropriate state agencies regarding federal actions affecting military or NASA installations and missions;

(8) Collect and distribute to the Governor, the General Assembly, and defense or NASA communities information related to the operating costs, missions, and strategic value of military or NASA installations, including employment issues for defense or NASA communities that depend on those installations and defense-related or NASA-related businesses;

(9) Evaluate strategies and programs that other states use to maintain, expand, and attract defense-related or NASA-related businesses;

(10) Provide assistance to defense or NASA communities that have experienced a defense-related closure or realignment; and



(11) Advocate for the preservation and expansion of missions for reservists at military or NASA installations.³

Military Value Revolving Loan Fund

The bill establishes, in the state treasury, the Military Value Revolving Loan Fund and authorizes money in it to be used for loans and grants made by the Office of Government and Military Affairs. All loan payments must be deposited into the state treasury to the credit of the Fund. Money in the Fund must be used to reimburse the General Revenue Fund for money appropriated by the General Assembly, and to pay expenses for administering the Office. Any money remaining in the Military Value Revolving Loan Fund after all appropriations and expenses have been settled must be used to fund loans and grants made under the bill.

The bill authorizes the Office to solicit and accept gifts and grants from any source. Any such funds that come into the Office's possession must be deposited into the state treasury to the credit of the Fund.⁴

Loan program

The bill requires the Executive Director of the Office of Government and Military Affairs to establish a loan program under which the Executive Director may make loans to defense or NASA communities. Loans must be made from the Military Value Revolving Loan Fund.⁵ The Executive Director must adopt rules, under the Administrative Procedure Act,⁶ to administer the program, which must establish at least all of the following:

- (1) An application form and process for a defense or NASA community to receive a loan;
- (2) A procedure for prioritizing the award of loans;
- (3) A requirement that a loan be for an infrastructure project intended to accommodate new or expanded missions assigned to a military or NASA installation located in or near a defense or NASA community;

³ R.C. 107.64(C)(2) through (12).

⁴ R.C. 107.64(D)

⁵ R.C. 107.65(A).

⁶ Chapter 119. of the Revised Code.



(4) A requirement that a loan be documented in a written agreement containing the terms and conditions of the loan, including loan repayment requirements;

(5) A requirement that an infrastructure project financed with a loan be completed not later than five years after the loan is awarded;

(6) A prohibition from the loan amount exceeding the total project cost;

(7) Any other criteria, procedures, or guidelines the Executive Director determines are necessary, including fees, charges, interest rates, and payment schedules.⁷

Before awarding a loan, the Office must make the following determinations:

(1) Whether the infrastructure project is for an infrastructure project intended to accommodate new or expanded missions assigned to a military or NASA installation located in or near a defense or NASA community;

(2) Whether the defense community is creditworthy and has the ability to repay the loan; and

(3) Whether the defense community has pledged a sufficient source of revenue to repay the loan.⁸

Grant program

Additionally, the Executive Director must establish a grant program under which the Executive Director may make grants to defense or NASA communities, defense or NASA support organizations, and state institutions of higher education.⁹ Giving the "credit of the state" to a private entity is limited by the Ohio Constitution and subsequent jurisprudence. NASA communities and state institutions, for purposes of the bill, are public entities. But defense or NASA support organizations are private entities. (See "**Credit of the State**" under the **COMMENT** section of this analysis, for a discussion on the legal issue presented by this provision of the bill.)

The Executive Director must adopt rules, under the Administrative Procedure Act, to administer the program, which must establish at least all of the following:

(1) An application form and the process to receive a grant;

⁷ R.C. 107.65(B)(1) through (7).

⁸ R.C. 107.65(C).

⁹ R.C. 107.66(A).



(2) A procedure for prioritizing the award of grants;

(3) A requirement that the Office consider, as part its grant award criteria, whether or not the applicant has been or may be affected by an anticipated, planned, announced, or implemented action, of the U.S. Department of Defense, to close, reduce, increase, or otherwise realign military or NASA installations;

(4) A requirement that a grant must not be less than \$50,000;

(5) A requirement that a grant must not be more than the least of any one of the following:

(a) If the applicant desires to use the grant to fulfill a requirement to provide matching funds in order to be eligible to receive funding from another source, 50% of the amount of matching money the applicant is required to provide, or, if the applicant demonstrates that the applicant lacks the necessary resources to provide that amount, 80% of the amount of matching money;

(b) 50% of the applicant's investment if federal assistance is unavailable; or

(c) \$5,000,000.

(6) A requirement that, in order to award a grant, the Office must determine that the grant enables the recipient to do at least one of the following:

(a) Match money or meet an investment requirement necessary to receive federal assistance;

(b) Match the applicant's contribution at a closed or realigned military or NASA installation;

(c) Construct infrastructure and other projects necessary to accommodate a new, expanded, or retained mission at a military or NASA installation or to reduce the impact of an action of the U.S. Department of Defense that negatively impacts a military or NASA installation located in or near the applicant; or

(d) Construct infrastructure or other projects necessary to prevent the reduction or closing of a military or NASA installation or to increase the overall value of the installation to the military or to NASA.¹⁰

¹⁰ R.C. 107.66(B)(1) through (6).



Definitions

The bill includes the following definitions which apply to its provisions:¹¹

"Defense or NASA community" means a county, township, municipal corporation, or regional planning commission with a military or NASA installation located in or near its jurisdictional boundaries.

"Defense-related or NASA-related business" means a business in Ohio that is engaged in providing significant and substantial defense-related or NASA-related systems, products, or services to a military or NASA installation.

"Defense or NASA support organization" means a nonprofit corporation formed under Ohio law that is located in or near a defense or NASA community and is engaged in activities to address exigencies of the community, which are not being met by a government entity, therein serving a public purpose.

"Military installation" means a base, camp, post, station, yard, center, homeport facility for a ship, or other activity under the jurisdiction of the U.S. Department of Defense, including a leased facility, that is located in Ohio.

"NASA installation" means any scientific research, test, simulation, development facility, or operations center under the jurisdiction of the National Aeronautics and Space Administration (NASA) that is located in Ohio.

"State institution of higher education" means any of the following institutions when in a collaborative or contractual relationship with a military or NASA installation: The University of Akron, Bowling Green State University, Central State University, University of Cincinnati, Cleveland State University, Kent State University, Miami University, Ohio University, Ohio State University, Shawnee State University, University of Toledo, Wright State University, Youngstown State University, the Northeast Ohio Medical University, and any community college, state community college, university branch,¹² or technical college.¹³

¹¹ R.C. 107.64(A).

¹² A university branch established under Chapter 3355. of the Revised Code.

¹³ R.C. 3345.011 and 3345.12(A)(1), not in the bill.



COMMENT

Credit of the state

Under the Ohio Constitution, "The credit of the state shall not, in any manner, be given or loaned to, or in aid of, any individual association or corporation whatever" ¹⁴ This restricts the state's authority to make loans and grants to private entities. However, courts have held that the appropriation of public money to a private corporation, when extended for a public purpose, is a valid act of the legislative body. ¹⁵ The bill authorizes the Office of Government and Military Affairs to make grants to certain private entities referred to as "defense or NASA support organizations" (see definition, above).

Whether or not the bill's language is sufficient to avoid the constitution's prohibition on lending aid and credit is ultimately a matter for the courts.

HISTORY

ACTION	DATE
Introduced	05-22-18

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¹⁴ Ohio Const., art VIII, sec. 4.

¹⁵ *State ex rel. Dickman v. Defenbacher*, 164 Ohio St. 142 (1955).

