



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Sam Benham

### **H.B. 740**

132nd General Assembly  
(As Introduced)

**Reps.** Arndt and Miller, Greenspan, Ashford, Hambley, Reineke, Patterson, K. Smith

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### **BILL SUMMARY**

- Creates a state "bond bank" whereby the Treasurer of State may issue state revenue bonds and lend the proceeds to port authorities, community improvement corporations, or community development corporations by purchasing obligations issued by them.
  - Permits the Treasurer, with the advice and consent of the Office of Budget and Management, to adopt rules and enter into agreements to secure payment of bond service charges on obligations.
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### **CONTENT AND OPERATION**

#### **Overview**

The bill creates a state "bond bank" whereby the Treasurer of State issues revenue bonds of the state and then uses the proceeds to purchase obligations issued by port authorities or by community improvement corporations or community development corporations that satisfy certain criteria. As employed in some other states, bond banks in effect consolidate borrowing by local governments or quasi-public agencies into larger pooled issuances of bonds by the state itself or by special-purpose issuers with the intent of reducing total financing costs or securing higher ratings and more favorable borrowing terms. The bonds typically are secured by obligations issued by the local government or agency that are purchased and held by the bond issuer.

#### **Economic Development Bond Bank**

The bill establishes the Economic Development Bond Bank, which consists of the Economic Development Bond Bank Trust Fund and various other funds, accounts, and

subaccounts within the Fund, as described in more detail below. The bond bank and associated funds and accounts are to be administered by the Treasurer of State and used for the purposes described in the bill.<sup>1</sup>

## **Eligible borrowers**

Any port authority created under Ohio law is eligible to participate in the bond bank financing, as are community improvement corporations (CICs) and community development corporations (CDCs) created under Ohio law that satisfy certain other criteria. To participate, a port authority, CIC, or CDC must use its own lawful borrowing authority to issue revenue obligations that are to be purchased by the Treasurer of State. The purchase functions as a loan to the port authority, CIC, or CDC to be repaid as provided in the bill and in the bond proceedings that govern the issuance of the state-issued bonds. In making purchases, the Treasurer must prioritize borrowers "that would otherwise have difficulty accessing capital by selling revenue bonds to other purchasers."<sup>2</sup>

### **Port authorities**

Any port authority created under the "old," pre-1982 port authority law or the "new" 1982 law is eligible to participate in the bond bank. Both classes of port authority are vested by law with authority to issue revenue bonds to finance port authority facilities. The bonds are secured primarily by rentals, fees, and sale proceeds derived from leasing, using, or selling facilities financed with the bond proceeds. The taxing power or general credit of a port authority may not be pledged to secure the bonds.<sup>3</sup> Generally, port authorities' purposes are to provide or promote transportation, economic development, housing, recreation, education, governmental operations, culture, or research within the political subdivisions that created the port authority.<sup>4</sup>

### **Community improvement corporations**

A CDC may participate in the bond bank only if it has been designated by one or more political subdivisions to fulfill certain functions, including being the subdivisions' agency for industrial, commercial, distribution, and research development, or for reutilization of abandoned or tax-delinquent property. They are nonprofit corporations created under Ohio law and governed by a board of directors that, in most cases, is

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<sup>1</sup> R.C. 158.02.

<sup>2</sup> R.C. 158.02(C).

<sup>3</sup> R.C. 4582.06 and 4582.48 to 4582.52, not in the bill.

<sup>4</sup> R.C. 4582.01 and 4582.21, not in the bill.



elected by the corporation's membership. They possess the same corporate powers as other nonprofit corporations and specifically have the power to borrow money for any of their purposes, lend money to others, and hold real and personal property including interests in businesses. They must file an annual financial report with, and must submit themselves to audits by, the Auditor of State.<sup>5</sup>

### **Community development corporations**

A CIC may participate in the bond bank only if it is a nonprofit corporation created under Ohio law, is composed of community residents and business or civic leaders, and has one of the following as a principal purpose: revitalization and development of a low- to moderate-income neighborhood or community; creation of jobs for low- to moderate-income residents; development of commercial facilities and services; providing training, technical assistance, and financial assistance to small businesses; or planning, developing, or managing low-income housing or other community development activities.<sup>6</sup>

### **Economic Development Bond Bank Trust Fund**

The bill creates the Economic Development Bond Bank Trust Fund, which is to be in the custody of the Treasurer but not a part of the state treasury.<sup>7</sup>

Under the bill, all money received by the state and required by the bond proceedings to be credited to this Fund, and any other money received for the purposes of the Fund, must be credited to the Fund without the need for any appropriation act. If the bond proceedings provide that any part of the receipts is to be used to pay for administrative expenses of the Treasurer, those receipts must be deposited into the existing Treasurer of State's Administrative Fund.<sup>8</sup>

### **Accounts of the Fund**

#### **Improvements Account**

The bill creates the Improvements Account within the bond bank's Trust Fund. The net proceeds of obligations issued for the bond bank must be deposited into this

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<sup>5</sup> R.C. 158.01(H); and Chapter 1724., not in the bill.

<sup>6</sup> R.C. 158.01(I).

<sup>7</sup> R.C. 158.02(B).

<sup>8</sup> R.C. 158.02(B), referring to R.C. 113.20, not in the bill.

account and used to purchase obligations issued by the participating port authorities, CICs, and CDCs.<sup>9</sup>

### **Reserve Account**

The bill creates the Reserve Account within the Trust Fund, which would hold (1) any money appropriated by the state for the purpose of the Account, (2) the proceeds of obligations required to be deposited into the Account by terms of the bond proceedings or any order of the Treasurer, and (3) any other money the Treasurer determines.

Money in the Account must be applied only to the payment of the interest and principal of obligations issued by the Treasurer under the bond bank law and for the retirement of those obligations. With limited exceptions, money may not be withdrawn from the Account if the withdrawal reduces the amount in the Account to an amount less than the required debt service reserve. Withdrawal is permitted only for (1) the payment of interest and the principal of obligations then due or maturing and (2) the retirement of obligations for which payments of other money of the Trust Fund is not then available.<sup>10</sup>

### **Bond Service Account**

The bill creates the Bond Service Account within the bond bank Trust Fund to pay bond service charges on the obligations issued by the Treasurer. Bond service charges include principal payments, including sinking fund payments, interest, redemption premiums, and, if not prohibited by the bond proceedings, insurance, letters or lines of credit, or other forms of surety related to the obligations (collectively referred to as "credit enhancement facilities"). Payments of bond service charges must be made in accordance with the bond proceedings without the need for any appropriation act.<sup>11</sup>

### **Sources of payment of bond service charges**

Under the bill and to the extent permitted by law, the Treasurer – with the advice and consent of the Office of Budget and Management – may adopt reasonable rules and enter into agreements to secure payment of bond service charges on obligations from the port authorities, CICs, or CDCs participating in the bond bank. Two specific sources of such payment include withholding money the state pays to a port authority, CIC, or

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<sup>9</sup> R.C. 158.02(C).

<sup>10</sup> R.C. 158.02(D).

<sup>11</sup> R.C. 158.02(E).



CDC and directing a state department, agency, or instrumentality or a political subdivision of the state that is a custodian of money payable to a port authority, CIC, or CDC to withhold the money and pay it over, with payment in each case occurring as described in the bond proceedings.<sup>12</sup>

### **Issuance and sale of obligations**

Each issue of obligations by the Treasurer of State for the bond bank must be payable solely from the revenues and special funds pledged to that purpose pursuant to the bond proceedings. The holders of the obligations do not have the right to the levy or imposition of any tax or excise by the state or any political subdivision for the payment of bond service charges. The bond service charges and all other payments required to be made by the bond proceedings must be payable solely from the revenues received by the Economic Development Bond Bank Trust Fund and pledged to the Fund as provided in the bond proceedings.<sup>13</sup> The maximum maturity may not exceed 45 years. The revenue pledged and received by the bond bank Trust Fund are immediately subject to the lien of the pledge without any physical delivery or further act.

The bill requires the Treasurer to create groups for the pooled issuances, so that the revenue bonds issued by the participating port authorities, CICs, and CDCs that are purchased with the proceeds of a particular bond bank issuance are of a similar quality. The Treasurer is required to determine the quality of such bonds, but, regardless of the Treasurer's determination, an obligation of any of the borrowers may be included in a group of a different quality with the consent of all of the borrowers participating in that group.<sup>14</sup>

The bill establishes that once a port authority, CIC, or CDC sells and delivers one of its bonds to the bond bank, the port authority, CIC, or CDC is considered to have agreed to waive all defenses regarding nonpayment of interest or principle due on the bond or arising from an agreement with the State Bond Bank.<sup>15</sup>

The Treasurer may sell the bond bank obligations at public sale or at private sale, and at a price at, above, or below par, as determined in the bond proceedings.<sup>16</sup>

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<sup>12</sup> R.C. 158.02(F).

<sup>13</sup> R.C. 158.03.

<sup>14</sup> R.C. 158.03(E).

<sup>15</sup> R.C. 158.03(F).

<sup>16</sup> R.C. 158.05(B).



The bill permits the Treasurer to issue bond anticipation notes and provide for their renewal. The Treasurer also may refund outstanding bond bank obligations by issuing new ones for the same purpose.<sup>17</sup>

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## HISTORY

ACTION	DATE
Introduced	10-10-18

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<sup>17</sup> R.C. 158.08.

