As Reported by the House State and Local Government Committee

132nd General Assembly
Regular Session 2017-2018

Am. H. B. No. 69

Representative Cupp
Cosponsors: Representatives Blessing, Dever, Hambley, Hill, Faber, Seitz, Arndt, Carfagna

A BILL

To amend section 5709.40 of the Revised Code to require reimbursement of certain township fire and emergency medical service levy revenue forgone because of the creation of a municipal tax increment financing district.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 5709.40 of the Revised Code be amended to read as follows:

Sec. 5709.40. (A) As used in this section:

(1) "Blighted area" and "impacted city" have the same meanings as in section 1728.01 of the Revised Code.

(2) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined under section 1.14 of the Revised Code.

(3) "Housing renovation" means a project carried out for residential purposes.

(4) "Improvement" means the increase in the assessed value.
of any real property that would first appear on the tax list and
duplicate of real and public utility property after the
effective date of an ordinance adopted under this section were
it not for the exemption granted by that ordinance.

(5) "Incentive district" means an area not more than three
hundred acres in size enclosed by a continuous boundary in which
a project is being, or will be, undertaken and having one or
more of the following distress characteristics:

(a) At least fifty-one per cent of the residents of the
district have incomes of less than eighty per cent of the median
income of residents of the political subdivision in which the
district is located, as determined in the same manner specified
under section 119(b) of the "Housing and Community Development

(b) The average rate of unemployment in the district
during the most recent twelve-month period for which data are
available is equal to at least one hundred fifty per cent of the
average rate of unemployment for this state for the same period.

(c) At least twenty per cent of the people residing in the
district live at or below the poverty level as defined in the
federal Housing and Community Development Act of 1974, 42 U.S.C.
5301, as amended, and regulations adopted pursuant to that act.

(d) The district is a blighted area.

(e) The district is in a situational distress area as
designated by the director of development services under
division (F) of section 122.23 of the Revised Code.

(f) As certified by the engineer for the political
subdivision, the public infrastructure serving the district is
inadequate to meet the development needs of the district as
evidenced by a written economic development plan or urban
renewal plan for the district that has been adopted by the
legislative authority of the subdivision.

(g) The district is comprised entirely of unimproved land
that is located in a distressed area as defined in section
122.23 of the Revised Code.

(6) "Project" means development activities undertaken on
one or more parcels, including, but not limited to,
construction, expansion, and alteration of buildings or
structures, demolition, remediation, and site development, and
any building or structure that results from those activities.

(7) "Public infrastructure improvement" includes, but is
not limited to, public roads and highways; water and sewer
lines; the continued maintenance of those public roads and
highways and water and sewer lines; environmental remediation;
land acquisition, including acquisition in aid of industry,
commerce, distribution, or research; demolition, including
demolition on private property when determined to be necessary
for economic development purposes; stormwater and flood
remediation projects, including such projects on private
property when determined to be necessary for public health,
safety, and welfare; the provision of gas, electric, and
communications service facilities, including the provision of
gas or electric service facilities owned by nongovernmental
entities when such improvements are determined to be necessary
for economic development purposes; and the enhancement of public
waterways through improvements that allow for greater public
access.

(B) The legislative authority of a municipal corporation,
by ordinance, may declare improvements to certain parcels of
real property located in the municipal corporation to be a public purpose. Improvements with respect to a parcel that is used or to be used for residential purposes may be declared a public purpose under this division only if the parcel is located in a blighted area of an impacted city. For this purpose, "parcel that is used or to be used for residential purposes" means a parcel that, as improved, is used or to be used for purposes that would cause the tax commissioner to classify the parcel as residential property in accordance with rules adopted by the commissioner under section 5713.041 of the Revised Code. Except with the approval under division (D) of this section of the board of education of each city, local, or exempted village school district within which the improvements are located, not more than seventy-five per cent of an improvement thus declared to be a public purpose may be exempted from real property taxation for a period of not more than ten years. The ordinance shall specify the percentage of the improvement to be exempted from taxation and the life of the exemption.

An ordinance adopted or amended under this division shall designate the specific public infrastructure improvements made, to be made, or in the process of being made by the municipal corporation that directly benefit, or that once made will directly benefit, the parcels for which improvements are declared to be a public purpose. The service payments provided for in section 5709.42 of the Revised Code shall be used to finance the public infrastructure improvements designated in the ordinance, for the purpose described in division (D)(1) of this section or as provided in section 5709.43 of the Revised Code.

(C)(1) The legislative authority of a municipal corporation may adopt an ordinance creating an incentive district and declaring improvements to parcels within the
district to be a public purpose and, except as provided in
division (F) of this section, exempt from taxation as provided
in this section, but no legislative authority of a municipal
corporation that has a population that exceeds twenty-five
thousand, as shown by the most recent federal decennial census,
shall adopt an ordinance that creates an incentive district if
the sum of the taxable value of real property in the proposed
district for the preceding tax year and the taxable value of all
real property in the municipal corporation that would have been
taxable in the preceding year were it not for the fact that the
property was in an existing incentive district and therefore
exempt from taxation exceeds twenty-five per cent of the taxable
value of real property in the municipal corporation for the
preceding tax year. The ordinance shall delineate the boundary
of the district and specifically identify each parcel within the
district. A district may not include any parcel that is or has
been exempted from taxation under division (B) of this section
or that is or has been within another district created under
this division. An ordinance may create more than one such
district, and more than one ordinance may be adopted under
division (C)(1) of this section.

(2) Not later than thirty days prior to adopting an
ordinance under division (C)(1) of this section, if the
municipal corporation intends to apply for exemptions from
taxation under section 5709.911 of the Revised Code on behalf of
owners of real property located within the proposed incentive
district, the legislative authority of a municipal corporation
shall conduct a public hearing on the proposed ordinance. Not
later than thirty days prior to the public hearing, the
legislative authority shall give notice of the public hearing
and the proposed ordinance by first class mail to every real
property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed ordinance.

(3)(a) An ordinance adopted under division (C)(1) of this section shall specify the life of the incentive district and the percentage of the improvements to be exempted, shall designate the public infrastructure improvements made, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The ordinance also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the ordinance. The project identified may, but need not be, the project under division (C)(3)(b) of this section that places real property in use for commercial or industrial purposes. Except as otherwise permitted under that division, the service payments provided for in section 5709.42 of the Revised Code shall be used to finance the designated public infrastructure improvements, for the purpose described in division (D)(1) or (E) or (F) of this section, or as provided in section 5709.43 of the Revised Code.

An ordinance adopted under division (C)(1) of this section on or after March 30, 2006, shall not designate police or fire equipment as public infrastructure improvements, and no service payment provided for in section 5709.42 of the Revised Code and received by the municipal corporation under the ordinance shall be used for police or fire equipment.

(b) An ordinance adopted under division (C)(1) of this section may authorize the use of service payments provided for in section 5709.42 of the Revised Code for the purpose of...
housing renovations within the incentive district, provided that
the ordinance also designates public infrastructure improvements
that benefit or serve the district, and that a project within
the district places real property in use for commercial or
industrial purposes. Service payments may be used to finance or
support loans, deferred loans, and grants to persons for the
purpose of housing renovations within the district. The
ordinance shall designate the parcels within the district that
are eligible for housing renovation. The ordinance shall state
separately the amounts or the percentages of the expected
aggregate service payments that are designated for each public
infrastructure improvement and for the general purpose of
housing renovations.

(4) Except with the approval of the board of education of
each city, local, or exempted village school district within the
territory of which the incentive district is or will be located,
and subject to division (E) of this section, the life of an
incentive district shall not exceed ten years, and the
percentage of improvements to be exempted shall not exceed
seventy-five per cent. With approval of the board of education,
the life of a district may be not more than thirty years, and
the percentage of improvements to be exempted may be not more
than one hundred per cent. The approval of a board of education
shall be obtained in the manner provided in division (D) of this
section.

(D)(1) If the ordinance declaring improvements to a parcel
to be a public purpose or creating an incentive district
specifies that payments in lieu of taxes provided for in section
5709.42 of the Revised Code shall be paid to the city, local, or
exempted village, and joint vocational school district in which
the parcel or incentive district is located in the amount of the
taxes that would have been payable to the school district if the
improvements had not been exempted from taxation, the percentage
of the improvement that may be exempted from taxation may exceed
seventy-five per cent, and the exemption may be granted for up
to thirty years, without the approval of the board of education
as otherwise required under division (D)(2) of this section.

(2) Improvements with respect to a parcel may be exempted
from taxation under division (B) of this section, and
improvements to parcels within an incentive district may be
exempted from taxation under division (C) of this section, for
up to ten years or, with the approval under this paragraph of
the board of education of the city, local, or exempted village
school district within which the parcel or district is located,
for up to thirty years. The percentage of the improvement
exempted from taxation may, with such approval, exceed seventy-
five per cent, but shall not exceed one hundred per cent. Not
later than forty-five business days prior to adopting an
ordinance under this section declaring improvements to be a
public purpose that is subject to approval by a board of
education under this division, the legislative authority shall
deliver to the board of education a notice stating its intent to
adopt an ordinance making that declaration. The notice regarding
improvements with respect to a parcel under division (B) of this
section shall identify the parcels for which improvements are to
be exempted from taxation, provide an estimate of the true value
in money of the improvements, specify the period for which the
improvements would be exempted from taxation and the percentage
of the improvement that would be exempted, and indicate the date
on which the legislative authority intends to adopt the
ordinance. The notice regarding improvements to parcels within
an incentive district under division (C) of this section shall
delineate the boundaries of the district, specifically identify each parcel within the district, identify each anticipated improvement in the district, provide an estimate of the true value in money of each such improvement, specify the life of the district and the percentage of improvements that would be exempted, and indicate the date on which the legislative authority intends to adopt the ordinance. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice; may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both; or may approve the exemption on the condition that the legislative authority and the board negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvement in excess of seventy-five per cent were that portion to be subject to taxation, or other mutually agreeable compensation. If an agreement is negotiated between the legislative authority and the board to compensate the school district for all or part of the taxes exempted, including agreements for payments in lieu of taxes under section 5709.42 of the Revised Code, the legislative authority shall compensate the joint vocational school district within which the parcel or district is located at the same rate and under the same terms received by the city, local, or exempted village school district.
(3) The board of education shall certify its resolution to the legislative authority not later than fourteen days prior to the date the legislative authority intends to adopt the ordinance as indicated in the notice. If the board of education and the legislative authority negotiate a mutually acceptable compensation agreement, the ordinance may declare the improvements a public purpose for the number of years specified in the ordinance or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the ordinance. In either case, if the board and the legislative authority fail to negotiate a mutually acceptable compensation agreement, the ordinance may declare the improvements a public purpose for not more than ten years, and shall not exempt more than seventy-five per cent of the improvements from taxation. If the board fails to certify a resolution to the legislative authority within the time prescribed by this division, the legislative authority thereupon may adopt the ordinance and may declare the improvements a public purpose for up to thirty years, or, in the case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the ordinance. The legislative authority may adopt the ordinance at any time after the board of education certifies its resolution approving the exemption to the legislative authority, or, if the board approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board and the legislative authority.

(4) If a board of education has adopted a resolution waiving its right to approve exemptions from taxation under this section and the resolution remains in effect, approval of
exemptions by the board is not required under division (D) of this section. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under division (D) of this section fewer than forty-five business days prior to the legislative authority's adoption of the ordinance, the legislative authority shall deliver the notice to the board not later than the number of days prior to such adoption as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(5) If the legislative authority is not required by division (D) of this section to notify the board of education of the legislative authority's intent to declare improvements to be a public purpose, the legislative authority shall comply with the notice requirements imposed under section 5709.83 of the Revised Code, unless the board has adopted a resolution under that section waiving its right to receive such a notice.

(E)(1) If a proposed ordinance under division (C)(1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the ordinance the legislative authority of the municipal corporation shall deliver to the board of county commissioners of the county within which the incentive district will be located a notice that states its intent to adopt an ordinance creating an incentive district. The notice shall
include a copy of the proposed ordinance, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period of time for which the improvements would be exempted from taxation, specify the percentage of the improvements that would be exempted from taxation, and indicate the date on which the legislative authority intends to adopt the ordinance.

(2) The board of county commissioners, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both. If the board of county commissioners objects, the board may negotiate a mutually acceptable compensation agreement with the legislative authority. In no case shall the compensation provided to the board exceed the property taxes forgone due to the exemption. If the board of county commissioners objects, and the board and legislative authority fail to negotiate a mutually acceptable compensation agreement, the ordinance adopted under division (C) (1) of this section shall provide to the board compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the county or, if the board's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the county, on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of county commissioners shall certify its resolution to the legislative authority not later than thirty days after receipt
(3) If the board of county commissioners does not object or fails to certify its resolution objecting to an exemption within thirty days after receipt of the notice, the legislative authority may adopt the ordinance, and no compensation shall be provided to the board of county commissioners. If the board timely certifies its resolution objecting to the ordinance, the legislative authority may adopt the ordinance at any time after a mutually acceptable compensation agreement is agreed to by the board and the legislative authority, or, if no compensation agreement is negotiated, at any time after the legislative authority agrees in the proposed ordinance to provide compensation to the board of fifty per cent of the taxes that would be payable to the county in the eleventh and subsequent years of the exemption period or on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation.

(F) Service payments in lieu of taxes that are attributable to any amount by which the effective tax rate of either a renewal levy with an increase or a replacement levy exceeds the effective tax rate of the levy renewed or replaced, or that are attributable to an additional levy, for a levy authorized by the voters for any of the following purposes on or after January 1, 2006, and which are provided pursuant to an ordinance creating an incentive district under division (C)(1) of this section that is adopted on or after January 1, 2006 or a later date as specified in this division, shall be distributed to the appropriate taxing authority as required under division (C) of section 5709.42 of the Revised Code in an amount equal to the amount of taxes from that additional levy or from the increase in the effective tax rate of such renewal or
replacement levy that would have been payable to that taxing  
authority from the following levies were it not for the  
exemption authorized under division (C) of this section:

(1) A tax levied under division (L) of section 5705.19 or  
section 5705.191 or 5705.222 of the Revised Code for community  
developmental disabilities programs and services pursuant to  
Chapter 5126. of the Revised Code;

(2) A tax levied under division (Y) of section 5705.19 of  
the Revised Code for providing or maintaining senior citizens  
services or facilities;

(3) A tax levied under section 5705.22 of the Revised Code  
for county hospitals;

(4) A tax levied by a joint-county district or by a county  
under section 5705.19, 5705.191, or 5705.221 of the Revised Code  
for alcohol, drug addiction, and mental health services or  
facilities;

(5) A tax levied under section 5705.23 of the Revised Code  
for library purposes;

(6) A tax levied under section 5705.24 of the Revised Code  
for the support of children services and the placement and care  
of children;

(7) A tax levied under division (Z) of section 5705.19 of  
the Revised Code for the provision and maintenance of zoological  
park services and facilities under section 307.76 of the Revised  
Code;

(8) A tax levied under section 511.27 or division (H) of  
section 5705.19 of the Revised Code for the support of township  
park districts;
(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;

(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;

(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;

(12) A tax levied under section 3709.29 of the Revised Code for a general health district program;

(13) A tax levied by a township under section 505.39, division (I) of section 5705.19, or division (JJ) of section 5705.19 of the Revised Code to the extent the proceeds are used for the purposes described in division (I) of that section, for the purpose of funding fire, emergency medical, and ambulance services as described in that section and those divisions. Division (F)(13) of this section applies only if the township levying the tax provides fire, emergency medical, or ambulance services in the incentive district, and only to incentive districts created by an ordinance adopted on or after the effective date of the amendment of this section by H.B. 69 of the 132nd general assembly. The board of township trustees may, by resolution, waive the application of this division or negotiate with the municipal corporation that created the district for a lesser amount of payments in lieu of taxes.

(G) An exemption from taxation granted under this section
commences with the tax year specified in the ordinance so long as the year specified in the ordinance commences after the effective date of the ordinance. If the ordinance specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the ordinance. In lieu of stating a specific year, the ordinance may provide that the exemption commences in the tax year in which the value of an improvement exceeds a specified amount or in which the construction of one or more improvements is completed, provided that such tax year commences after the effective date of the ordinance. With respect to the exemption of improvements to parcels under division (B) of this section, the ordinance may allow for the exemption to commence in different tax years on a parcel-by-parcel basis, with a separate exemption term specified for each parcel.

Except as otherwise provided in this division, the exemption ends on the date specified in the ordinance as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the public infrastructure improvements and housing renovations are paid in full from the municipal public improvement tax increment equivalent fund established under division (A) of section 5709.43 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel or within an incentive district may end on a later date, as specified in the ordinance, if the legislative authority and the board of education of the city, local, or exempted village school district within which the parcel or district is located have
entered into a compensation agreement under section 5709.82 of
the Revised Code with respect to the improvement, and the board
of education has approved the term of the exemption under
division (D)(2) of this section, but in no case shall the
improvement be exempted from taxation for more than thirty
years. Exemptions shall be claimed and allowed in the same
manner as in the case of other real property exemptions. If an
exemption status changes during a year, the procedure for the
apportionment of the taxes for that year is the same as in the
case of other changes in tax exemption status during the year.

(H) Additional municipal financing of public
infrastructure improvements and housing renovations may be
provided by any methods that the municipal corporation may
otherwise use for financing such improvements or renovations. If
the municipal corporation issues bonds or notes to finance the
public infrastructure improvements and housing renovations and
pledges money from the municipal public improvement tax
increment equivalent fund to pay the interest on and principal
of the bonds or notes, the bonds or notes are not subject to
Chapter 133. of the Revised Code.

(I) The municipal corporation, not later than fifteen days
after the adoption of an ordinance under this section, shall
submit to the director of development services a copy of the
ordinance. On or before the thirty-first day of March of each
year, the municipal corporation shall submit a status report to
the director of development services. The report shall indicate,
in the manner prescribed by the director, the progress of the
project during each year that an exemption remains in effect,
including a summary of the receipts from service payments in
lieu of taxes; expenditures of money from the funds created
under section 5709.43 of the Revised Code; a description of the
public infrastructure improvements and housing renovations financed with such expenditures; and a quantitative summary of changes in employment and private investment resulting from each project.

(J) Nothing in this section shall be construed to prohibit a legislative authority from declaring to be a public purpose improvements with respect to more than one parcel.

(K) If a parcel is located in a new community district in which the new community authority imposes a community development charge on the basis of rentals received from leases of real property as described in division (L)(2) of section 349.01 of the Revised Code, the parcel may not be exempted from taxation under this section.

Section 2. That existing section 5709.40 of the Revised Code is hereby repealed.

Section 3. Section 5709.40 of the Revised Code is presented in this act as a composite of the section as amended by Sub. H.B. 158, Sub. H.B. 413, and Am. Sub. H.B. 483, all of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.