

As Re-Referred by the House Rules and Reference Committee

135th General Assembly

Regular Session

2023-2024

Sub. H. B. No. 349

Representatives Barhorst, Jones

A BILL

To amend section 166.01 and to enact sections 1
122.161, 122.162, and 5727.76 of the Revised 2
Code to authorize the creation of areas within 3
which incentives are available to encourage the 4
development of natural gas pipelines and other 5
infrastructure and to make an appropriation. 6

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

Section 1. That section 166.01 be amended and sections 7
122.161, 122.162, and 5727.76 of the Revised Code be enacted to 8
read as follows: 9

Sec. 122.161. (A) As used in this section: 10

(1) "Subdivision" means a municipal corporation, township, 11
or county. 12

(2) "Legislative authority" means the legislative 13
authority of a municipal corporation, a board of the township 14
trustees, or a board of county commissioners. 15

(3) "Subdivision's territory" means, in the case of a 16
municipal corporation, the territory of the municipal 17
corporation; in the case of a township, the unincorporated 18

territory of the township; or, in the case of a county, the 19
unincorporated territory of the county. 20

(4) "Qualifying property" has the same meaning as in 21
section 5727.76 of the Revised Code. 22

(B) A legislative authority may adopt and certify to the 23
director of development an ordinance or resolution requesting 24
that the director designate all or a portion of the 25
subdivision's territory as an EnergizeOhio zone. The ordinance 26
or resolution shall describe the boundaries of the proposed area 27
and shall specify the percentage of qualifying property in the 28
EnergizeOhio zone that shall be exempt from taxation pursuant to 29
section 5727.76 of the Revised Code. That percentage shall be at 30
least twenty-five per cent but not more than seventy-five per 31
cent. 32

The director, upon receipt of that certification, shall 33
designate the proposed area as an EnergizeOhio zone if the 34
director determines that deficiencies in natural gas 35
infrastructure in the proposed area adversely affect economic 36
conditions or potential for economic growth. 37

The director shall notify the legislative authority of the 38
director's decision within sixty days after receiving the 39
certified ordinance or resolution. An EnergizeOhio zone 40
designation is effective for the five calendar years following 41
the date of the director's decision to approve the designation. 42

(C) On or before the first day of December of a calendar 43
year in which an EnergizeOhio zone designation is scheduled to 44
expire, the legislative authority that adopted the ordinance or 45
resolution described in division (B) of this section may adopt 46
and certify an ordinance or resolution to the director of 47

development proposing to continue the EnergizeOhio zone 48
designation for an additional five years. The director shall 49
continue the EnergizeOhio zone designation if the director 50
determines that deficiencies in natural gas infrastructure in 51
the zone continue to adversely affect economic conditions or 52
potential for economic growth. The director shall notify the 53
legislative authority of the director's decision within sixty 54
days after receiving the certified ordinance or resolution. The 55
continuation of an EnergizeOhio zone designation is effective 56
for the five calendar years immediately following the expiration 57
of the initial five-year period. An EnergizeOhio zone 58
designation may be continued only once pursuant to this 59
division. 60

(D) The director of development shall immediately notify 61
the tax commissioner if the director approves the designation or 62
continuation of an EnergizeOhio zone under division (B) or (C) 63
of this section. The director shall publish maps displaying each 64
designated EnergizeOhio zone on the department of development's 65
web site. 66

Sec. 122.162. (A) As used in this section: 67

(1) "Eligible applicant" means a municipal corporation, 68
township, county, port authority, qualifying economic 69
development organization, community improvement corporation 70
organized under Chapter 1724. of the Revised Code, or regional 71
council of government established in accordance with Chapter 72
167. of the Revised Code or a partnership existing between any 73
of the foregoing and another person. 74

(2) "Qualifying economic development organization" means 75
an economic development organization providing services for, or 76
advocating on behalf of, businesses operating in any of five or 77

more counties.

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(B) There is hereby created in the department of
development the EnergizeOhio loan program. An eligible applicant
may apply to the director of development, on forms prescribed by
the director, for a loan from the EnergizeOhio loan fund. The
director shall evaluate each application using the evaluation
criteria adopted under division (C) (3) of this section to
determine whether to award a loan to an eligible applicant. A
loan awarded under this program shall not bear interest for up
to five years from the date the loan is disbursed, as determined
by the director.

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An eligible applicant receiving a loan under this section
may use the proceeds solely to purchase or lease easements on
property located in an EnergizeOhio zone designated under
section 122.161 of the Revised Code for the purpose of
installing natural gas pipelines or other natural gas
infrastructure on the property. An eligible applicant may not
use loan proceeds to acquire easements by appropriation pursuant
to sections 163.01 to 163.22 of the Revised Code. A loan shall
be repaid from proceeds obtained by the eligible applicant in
selling or leasing easements purchased or leased in whole or in
part with loan proceeds and from any other lawful source of
revenue. The director shall credit repayments to the
EnergizeOhio loan fund.

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(C) The director of development, in consultation with the
chief investment officer of JobsOhio, shall adopt rules in
accordance with Chapter 119. of the Revised Code prescribing all
of the following:

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(1) The terms and conditions of any loan awarded under
division (B) of this section, including the manner in which the

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<u>loan amounts are to be repaid;</u>	108
<u>(2) The manner in which the director shall enforce loan amounts that are not repaid according to those terms;</u>	109
<u>(3) Criteria the director will use to evaluate loan applications.</u>	110
<u>Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under this section is not subject to sections 121.95 to 121.953 of the Revised Code.</u>	111
<u>(D) There is hereby created in the state treasury the EnergizeOhio loan fund, which shall consist of revenue transferred to the fund or loan amounts repaid to the fund under this section. Money in the fund shall be used by the director of development to fund the loan program authorized under this section. Interest earned on money in the fund shall be credited to the fund.</u>	112
Sec. 166.01. As used in this chapter:	113
(A) "Allowable costs" means all or part of the costs of project facilities, eligible projects, eligible innovation projects, eligible research and development projects, eligible advanced energy projects, or eligible logistics and distribution projects, including costs of acquiring, constructing, reconstructing, rehabilitating, renovating, enlarging, improving, equipping, or furnishing project facilities, eligible projects, eligible innovation projects, eligible research and development projects, eligible advanced energy projects, or eligible logistics and distribution projects, site clearance and preparation, supplementing and relocating public capital improvements or utility facilities, designs, plans,	114
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specifications, surveys, studies, and estimates of costs, 137
expenses necessary or incident to determining the feasibility or 138
practicability of assisting an eligible project, an eligible 139
innovation project, an eligible research and development 140
project, an eligible advanced energy project, or an eligible 141
logistics and distribution project, or providing project 142
facilities or facilities related to an eligible project, an 143
eligible innovation project, an eligible research and 144
development project, an eligible advanced energy project, or an 145
eligible logistics and distribution project, architectural, 146
engineering, and legal services fees and expenses, the costs of 147
conducting any other activities as part of a voluntary action, 148
and such other expenses as may be necessary or incidental to the 149
establishment or development of an eligible project, an eligible 150
innovation project, an eligible research and development 151
project, an eligible advanced energy project, or an eligible 152
logistics and distribution project, and reimbursement of moneys 153
advanced or applied by any governmental agency or other person 154
for allowable costs. 155

(B) "Allowable innovation costs" includes allowable costs 156
of eligible innovation projects and, in addition, includes the 157
costs of research and development of eligible innovation 158
projects; obtaining or creating any requisite software or 159
computer hardware related to an eligible innovation project or 160
the products or services associated therewith; testing 161
(including, without limitation, quality control activities 162
necessary for initial production), perfecting, and marketing of 163
such products and services; creating and protecting intellectual 164
property related to an eligible innovation project or any 165
products or services related thereto, including costs of 166
securing appropriate patent, trademark, trade secret, trade 167

dress, copyright, or other form of intellectual property 168
protection for an eligible innovation project or related 169
products and services; all to the extent that such expenditures 170
could be capitalized under then-applicable generally accepted 171
accounting principles; and the reimbursement of moneys advanced 172
or applied by any governmental agency or other person for 173
allowable innovation costs. 174

(C) "Eligible innovation project" includes an eligible 175
project, including any project facilities associated with an 176
eligible innovation project and, in addition, includes all 177
tangible and intangible property related to a new product or 178
process based on new technology or the creative application of 179
existing technology, including research and development, product 180
or process testing, quality control, market research, and 181
related activities, that is to be acquired, established, 182
expanded, remodeled, rehabilitated, or modernized for industry, 183
commerce, distribution, or research, or any combination thereof, 184
the operation of which, alone or in conjunction with other 185
eligible projects, eligible innovation projects, or innovation 186
property, will create new jobs or preserve existing jobs and 187
employment opportunities and improve the economic welfare of the 188
people of the state. 189

(D) "Eligible project" means project facilities to be 190
acquired, established, expanded, remodeled, rehabilitated, or 191
modernized for industry, commerce, distribution, or research, or 192
any combination thereof, the operation of which, alone or in 193
conjunction with other facilities, will create new jobs or 194
preserve existing jobs and employment opportunities and improve 195
the economic welfare of the people of the state. "Eligible 196
project" includes, without limitation, a voluntary action. 197
"Eligible project" includes eligible natural gas infrastructure 198

projects. For purposes of this division, "new jobs" does not 199
include existing jobs transferred from another facility within 200
the state, and "existing jobs" includes only those existing jobs 201
with work places within the municipal corporation or 202
unincorporated area of the county in which the eligible project 203
is located. 204

"Eligible project" does not include project facilities to 205
be acquired, established, expanded, remodeled, rehabilitated, or 206
modernized for industry, commerce, distribution, or research, or 207
any combination of industry, commerce, distribution, or 208
research, if the project facilities consist solely of point-of- 209
final-purchase retail facilities. If the project facilities 210
consist of both point-of-final-purchase retail facilities and 211
nonretail facilities, only the portion of the project facilities 212
consisting of nonretail facilities is an eligible project. If a 213
warehouse facility is part of a point-of-final-purchase retail 214
facility and supplies only that facility, the warehouse facility 215
is not an eligible project. Catalog distribution facilities are 216
not considered point-of-final-purchase retail facilities for 217
purposes of this paragraph, and are eligible projects. 218

(E) "Eligible research and development project" means an 219
eligible project, including project facilities, comprising, 220
within, or related to, a facility or portion of a facility at 221
which research is undertaken for the purpose of discovering 222
information that is technological in nature and the application 223
of which is intended to be useful in the development of a new or 224
improved product, process, technique, formula, or invention, a 225
new product or process based on new technology, or the creative 226
application of existing technology. 227

(F) "Financial assistance" means inducements under 228

division (B) of section 166.02 of the Revised Code, loan 229
guarantees under section 166.06 of the Revised Code, and direct 230
loans under section 166.07 of the Revised Code. 231

(G) "Governmental action" means any action by a 232
governmental agency relating to the establishment, development, 233
or operation of an eligible project, eligible innovation 234
project, eligible research and development project, eligible 235
advanced energy project, or eligible logistics and distribution 236
project, and project facilities that the governmental agency 237
acting has authority to take or provide for the purpose under 238
law, including, but not limited to, actions relating to 239
contracts and agreements, zoning, building, permits, acquisition 240
and disposition of property, public capital improvements, 241
utility and transportation service, taxation, employee 242
recruitment and training, and liaison and coordination with and 243
among governmental agencies. 244

(H) "Governmental agency" means the state and any state 245
department, division, commission, institution or authority; a 246
municipal corporation, county, or township, and any agency 247
thereof, and any other political subdivision or public 248
corporation or the United States or any agency thereof; any 249
agency, commission, or authority established pursuant to an 250
interstate compact or agreement; and any combination of the 251
above. 252

(I) "Innovation financial assistance" means inducements 253
under division (B) of section 166.12 of the Revised Code, 254
innovation Ohio loan guarantees under section 166.15 of the 255
Revised Code, and innovation Ohio loans under section 166.16 of 256
the Revised Code. 257

(J) "Innovation Ohio loan guarantee reserve requirement" 258

means, at any time, with respect to innovation loan guarantees 259
made under section 166.15 of the Revised Code, a balance in the 260
innovation Ohio loan guarantee fund equal to the greater of 261
twenty per cent of the then-outstanding principal amount of all 262
outstanding innovation loan guarantees made pursuant to section 263
166.15 of the Revised Code or fifty per cent of the principal 264
amount of the largest outstanding guarantee made pursuant to 265
section 166.15 of the Revised Code. 266

(K) "Innovation property" includes property and also 267
includes software, inventory, licenses, contract rights, 268
goodwill, intellectual property, including without limitation, 269
patents, patent applications, trademarks and service marks, and 270
trade secrets, and other tangible and intangible property, and 271
any rights and interests in or connected to the foregoing. 272

(L) "Loan guarantee reserve requirement" means, at any 273
time, with respect to loan guarantees made under section 166.06 274
of the Revised Code, a balance in the loan guarantee fund equal 275
to the greater of twenty per cent of the then-outstanding 276
principal amount of all outstanding guarantees made pursuant to 277
section 166.06 of the Revised Code or fifty per cent of the 278
principal amount of the largest outstanding guarantee made 279
pursuant to section 166.06 of the Revised Code. 280

(M) "Person" means any individual, firm, partnership, 281
association, corporation, or governmental agency, and any 282
combination thereof. 283

(N) "Project facilities" means buildings, structures, and 284
other improvements, and equipment and other property, excluding 285
small tools, supplies, and inventory, and any one, part of, or 286
combination of the above, comprising all or part of, or serving 287
or being incidental to, an eligible project, an eligible 288

innovation project, an eligible research and development 289
project, an eligible advanced energy project, or an eligible 290
logistics and distribution project, including, but not limited 291
to, public capital improvements or, in the case of an eligible 292
natural gas infrastructure project, the purchase or lease of 293
easements on property. 294

(O) "Property" means real and personal property and 295
interests therein. 296

(P) "Public capital improvements" means capital 297
improvements or facilities that any governmental agency has 298
authority to acquire, pay the costs of, own, maintain, or 299
operate, or to contract with other persons to have the same 300
done, including, but not limited to, highways, roads, streets, 301
water and sewer facilities, railroad and other transportation 302
facilities, and air and water pollution control and solid waste 303
disposal facilities. For purposes of this division, "air 304
pollution control facilities" includes, without limitation, 305
solar, geothermal, biofuel, biomass, wind, hydro, wave, and 306
other advanced energy projects as defined in section 3706.25 of 307
the Revised Code. 308

(Q) "Research and development financial assistance" means 309
inducements under section 166.17 of the Revised Code, research 310
and development loans under section 166.21 of the Revised Code, 311
and research and development tax credits under sections 5733.352 312
and 5747.331 of the Revised Code. 313

(R) "Targeted innovation industry sectors" means industry 314
sectors involving the production or use of advanced materials, 315
instruments, controls and electronics, power and propulsion, 316
biosciences, and information technology, or such other sectors 317
as may be designated by the director of development. 318

(S) "Voluntary action" means a voluntary action, as 319
defined in section 3746.01 of the Revised Code, that is 320
conducted under the voluntary action program established in 321
Chapter 3746. of the Revised Code. 322

(T) "Project financing obligations" means obligations 323
issued pursuant to section 166.08 of the Revised Code other than 324
obligations for which the bond proceedings provide that bond 325
service charges shall be paid from receipts of the state 326
representing gross profit on the sale of spirituous liquor as 327
referred to in division (B) (4) of section ~~4310.10~~4301.10 of the 328
Revised Code. 329

(U) "Regional economic development entity" means an entity 330
that is under contract with the director to administer a loan 331
program under this chapter in a particular area of this state. 332

(V) "Eligible advanced energy project" means an eligible 333
project that is an "advanced energy project" as defined in 334
section 3706.25 of the Revised Code. 335

(W) "Eligible logistics and distribution project" means an 336
eligible project, including project facilities, to be acquired, 337
established, expanded, remodeled, rehabilitated, or modernized 338
for transportation logistics and distribution infrastructure 339
purposes. As used in this division, "transportation logistics 340
and distribution infrastructure purposes" means promoting, 341
providing for, and enabling improvements to the ground, air, and 342
water transportation infrastructure comprising the 343
transportation system in this state, including, without 344
limitation, highways, streets, roads, bridges, railroads 345
carrying freight, and air and water ports and port facilities, 346
and all related supporting facilities. 347

(X) "Eligible natural gas infrastructure project" means 348
the purchase or lease of easements on property located in an 349
EnergizeOhio zone designated under section 122.161 of the 350
Revised Code for the purpose of installing natural gas pipelines 351
or other natural gas infrastructure on the property. An 352
"eligible natural gas infrastructure project" does not include 353
the acquisition of easements by appropriation pursuant to 354
sections 163.01 to 163.22 of the Revised Code. 355

Sec. 5727.76. (A) As used in this section: 356

(1) "Natural gas property" means the taxable property of a 357
natural gas company; the taxable property of a combined company 358
attributable to a natural gas company activity under section 359
5727.03 of the Revised Code; or the taxable property of a 360
pipeline company dedicated to transporting natural gas through 361
pipes or tubing, either wholly or partially within this state. 362

(2) "Qualifying property" means natural gas property 363
placed into service in an EnergizeOhio zone designated under 364
section 122.161 of the Revised Code during a time when that 365
designation is in effect pursuant to either division (B) or (C) 366
of that section. 367

(3) "Authorizing ordinance or resolution" means an 368
ordinance or resolution adopted under division (B) of section 369
122.161 of the Revised Code. 370

(B) Qualifying property shall be partially exempt from 371
taxation. The percentage of qualifying property to be exempted 372
shall equal the percentage specified in the authorizing 373
ordinance or resolution for the EnergizeOhio zone in which the 374
property is located. The qualifying property shall be exempt for 375
the tax year following the year in which the property is placed 376

into service and for the ensuing four tax years. If the property 377
is placed into service during the initial five-year period of an 378
EnergizeOhio designation and that designation is extended 379
pursuant to division (C) of section 122.161 of the Revised Code, 380
the exemption shall be extended for an additional five years. 381

Section 2. That existing section 166.01 of the Revised 382
Code is hereby repealed. 383

Section 3. The Director of Development shall adopt the 384
rules required under division (C) of section 122.162 of the 385
Revised Code not later than the earliest date possible for such 386
rules to be adopted after the effective date of this section 387
under Chapter 119. of the Revised Code. 388

Section 4. All items in this act are hereby appropriated 389
as designated out of any moneys in the state treasury to the 390
credit of the designated fund. For all operating appropriations 391
made in this act, those in the first column are for fiscal year 392
2024 and those in the second column are for fiscal year 2025. 393
The operating appropriations made in this act are in addition to 394
any other operating appropriations made for these fiscal years. 395

Section 5. 396

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A	DEV DEPARTMENT OF DEVELOPMENT				
B	Dedicated Purpose Fund Group				
C	5BU1	1956H9	EnergizeOhio	Loan Program	\$0 \$20,000,000

D	TOTAL Dedicated Purpose Fund Group	\$0	\$20,000,000
E	TOTAL ALL BUDGET FUND GROUPS	\$0	\$20,000,000

ENERGIZEOHIO LOAN PROGRAM 398

The foregoing appropriation item 1956H9, EnergizeOhio Loan Program, shall be used for the EnergizeOhio Loan Program as described in section 122.162 of the Revised Code. On the effective date of this section, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$20,000,000 cash from the General Revenue Fund to the EnergizeOhio Loan Fund (Fund 5BU1).

Section 6. Within the limits set forth in this act, the Director of Budget and Management shall establish accounts indicating the source and amount of funds for each appropriation made in this act, and shall determine the manner in which appropriation accounts shall be maintained. Expenditures from operating appropriations contained in this act shall be accounted for as though made in, and are subject to all applicable provisions of, H.B. 33 of the 135th General Assembly.