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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 642  
136<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Rep. Demetriou

Mackenzie Damon, Attorney

### SUMMARY

- Removes a five-year limit on municipal income tax net operating loss (NOL) carryforwards.

### DETAILED ANALYSIS

#### Municipal income tax treatment of net operating losses

The bill modifies the municipal income tax treatment of net operating losses (NOLs). Municipal corporations may levy a tax on income pursuant to their home rule powers conferred by Article XVIII, Section 3, Ohio Constitution. However, the General Assembly also has the authority to place limits on this municipal taxing power.<sup>1</sup>

Pursuant to this authority, the General Assembly has prescribed rules for the municipal income tax treatment of NOLs. Generally, an NOL occurs when a business's deductions exceed its income. The taxpayer may be allowed to "carryforward" the NOL to reduce the taxpayer's liability in future tax years.

Current law requires all municipal corporations to allow taxpayers to deduct NOLs and to carry excess NOLs forward for five subsequent years. This standard has generally been in place since 2016. Prior to that time, municipalities could allow NOL deductions and carryforwards but were not required to; if they allowed carryforwards, the maximum carryforward period was set by municipal ordinance.

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<sup>1</sup> Ohio Constitution, Article XIII, Section 6 and Article XVIII, Section 13; *City of Franklin v. Harrison*, 171 Ohio St. 329 (1960) and *Gesler v. Worthington Income Tax Bd. of Appeals*, 138 Ohio St.3d 76 (2013).

The bill removes the five-year limit on NOL carryforwards. Consequently, under the bill, taxpayers with a municipal income tax NOL would be able to carry forward that loss for any number of years necessary for the NOL to be fully deducted.<sup>2</sup>

This bill states that this change applies to taxable years ending on or after the bill's 90-day effective date. However, the bill does not specify whether the change applies only to NOLs incurred in that year, or to losses that were incurred before that year but that have not reached the end of their five-year deduction period.<sup>3</sup>

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## HISTORY

Action	Date
Introduced	01-12-26

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<sup>2</sup> R.C. 718.01, 718.81, and 718.84.

<sup>3</sup> Section 3.