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## DEPARTMENT OF DEVELOPMENT

### All Ohio Future Fund

- Renames the Investing in Ohio Fund as the All Ohio Future Fund and expands the fund's economic development purposes.
- Requires the Director of Development to adopt rules, in consultation with JobsOhio, that establish requirements and procedures to provide financial assistance from the fund to eligible economic development projects.
- Requires the Director, when awarding financial assistance from the fund, to give preference to sites that are publicly owned.
- Requires Controlling Board approval to release moneys from the fund and allows the Board to exceed the limit on approving expenditure of unanticipated or excess revenue to the fund, provided there is a sufficient balance in the fund to support the increase.
- Exempts rules adopted from requirements governing the elimination of existing regulatory restrictions.

### Nuclear development in Ohio

#### Ohio Nuclear Development Authority

- Establishes the Ohio Nuclear Development Authority within the Department of Development (DEV) consisting of nine members from certain stakeholder groups.
- Establishes the Authority for the following purposes:
  - To be an information resource for Ohio and certain federal agencies regarding advanced nuclear research reactors, isotopes, and isotope technologies.
  - To make Ohio a leader regarding new-type advanced nuclear research reactors, isotopes, and high-level nuclear waste reduction and storage.
- Grants the Authority extensive power to fulfill its nuclear technology purposes specifically with respect to advanced nuclear reactor commercialization, isotope production, and nuclear waste reduction.
- Requires the Authority to submit an annual report of its activities and post the report on the Authority's website.
- Requires the Authority to adopt rules for the Ohio State Nuclear Technology Research Program, which are exempt from the regulatory restrictions limitations in current law.
- Prohibits rules adopted under continuing law by the Department of Health for radiation control from conflicting with or superseding rules adopted by the Authority.

## **Nominating Council**

- Establishes a seven-member Ohio Nuclear Development Authority Nominating Council to review, evaluate, and make recommendations to the Governor for potential Authority member appointees, from which the Governor must select.
- Designates time limits for appointing members to the Council and for the Council to provide recommendation lists to the Governor, as well as term limits for Council members.
- Creates various requirements regarding Council meetings and activities, such as when meetings must occur, adoption of bylaws, recordkeeping, and selection and duties of the Council chairperson and secretary.

## **Nuclear agreements**

- Permits the Governor, to the same extent as may be done under current law with the U.S. Nuclear Regulatory Commission, to enter into agreements with the U.S. Department of Energy or branches of the U.S. military to permit the state to license and exercise regulatory authority regarding certain radioactive materials.
- Permits the Authority to enter into the same agreements on behalf of the Governor.

## **Legislative intent**

- Provides that it is the General Assembly's intent to encourage the use of these provisions promoting nuclear development in Ohio as a model for future legislation to further the pursuit of innovative research and development for any industry in Ohio.

## **Rural Industrial Park Loan Program**

- Allows a developer who previously received financial assistance under the Rural Industrial Park Loan Program and that, consequently, is currently ineligible to receive additional financial assistance, to apply for and receive additional assistance, provided the developer did not receive any previous assistance in the current fiscal biennium.
- Regarding the program eligibility criterion that prohibits a proposed industrial park from competing with an existing industrial park in the same county, states that the consent of the existing industrial park's owner demonstrates noncompetition.

## **Brownfield and building revitalization programs**

- Limits the requirement that the DEV Director reserve money for each of the 88 counties from the Brownfield Remediation Fund and the Building Demolition and Site Revitalization Fund to appropriations made to each fund in the first fiscal year of the biennium, not both fiscal years, as under current law.
- By so doing, increases the amount of money available through each fund for grants to brownfield and revitalization projects located anywhere in the state.

## **Ohio Capital Access Loan Program**

- Allows state and federally chartered credit unions to participate in the Ohio Capital Access Loan Program.

## **TourismOhio**

- Expands the mission of TourismOhio to include promoting not just tourism, but also “living, learning, and working” in Ohio.

## **Microcredential assistance program**

- Increases the maximum reimbursement amount for microcredential training providers participating in DEV’s Individual Microcredential Assistance Program from \$250,000 to \$500,000 per fiscal year.

## **Ohio Residential Broadband Expansion Grant Program funding**

- Requires gifts, grants, and contributions provided to the DEV Director for the Ohio Residential Broadband Expansion Grant Program to be deposited in the Ohio Residential Broadband Expansion Grant Program Fund.
- Specifies that if the use of these deposits or the appropriation of nonstate funds is contingent upon meeting application, scoring, or other requirements that are different from existing law Broadband Grant Program requirements, DEV must adopt the different requirements.
- Requires a description of any differences in Broadband Grant Program requirements adopted by DEV as described above to be made available with the Broadband Grant Program application on the DEV website at least 30 days before the beginning of the application submission period.

## **Broadband Pole Replacement and Undergrounding Program**

- Creates the Ohio Broadband Pole Replacement and Undergrounding Program within DEV to reimburse providers of qualifying broadband service for utility pole replacements, mid-span pole installations, and undergrounding that accommodate facilities used to provide qualifying broadband service access.
- Defines “qualifying broadband service” as retail wireline broadband service capable of delivering symmetrical internet access at download and upload speeds of at least 100 megabits per second (Mbps) with a latency level sufficient to permit real-time interactive applications.
- Defines “unserved area” as an area in Ohio without current access to fixed terrestrial broadband service capable of delivering internet access at download speeds of at least 25 Mbps and upload speeds of at least 3 Mbps.
- Considers as an “unserved area” an area for which a governmental entity has awarded a broadband grant after determining the area to be an eligible unserved area under that

program and an area that has not been awarded any broadband grant funding, and the most recent federal mapping information indicates that the area is an unserved area.

- Requires DEV to administer the program and to establish the process to provide reimbursements, including adopting rules and establishing an application for reimbursement and the Broadband Expansion Program Authority to review applications and award program reimbursements.

### **When reimbursements may not be awarded**

- Prohibits the Authority from awarding reimbursements that are federally funded, if the reimbursements are inconsistent with federal requirements and if the applicant fails to commit to compliance with any federally required conditions in connection with the funds.
- Also prohibits the Authority from awarding of reimbursements if (1) the broadband infrastructure deployed is used only for providing wholesale broadband service and is not used by the applicant to provide qualifying broadband service directly to residences and businesses and (2) a provider (not the applicant) is meeting the terms of a legal commitment to a governmental entity to deploy such service in the unserved area.

### **Who may apply for reimbursements**

- Allows providers (entities, including pole owners or affiliates, that provide qualifying broadband service) to apply for a reimbursement under the program for eligible costs associated with deployed pole replacements, mid-span pole installations, and undergrounding.
- Designates as ineligible for a reimbursement an applicant's costs of deploying qualifying broadband service for which the applicant is entitled to obtain full reimbursement from another governmental entity but allows the applicant to apply for and obtain reimbursement for the portion of costs that were not already reimbursed.
- Allows the Authority to require applicants to maintain accounting records demonstrating that other grant funds do not fully reimburse the same costs as those reimbursed under the program.
- Requires the Authority to review applications and approve reimbursements based on various requirements and limitations.

### **Information and documentation from pole owner**

- Allows a pole owner to require a provider to reimburse the owner for the owner's actual and reasonable administrative expenses related to certain information and documentation for a program application, not to exceed 5% of the pole replacement or mid-span pole installation costs, and specifies that these costs are not reimbursable.

## **Application requirements**

- Requires DEV, not later than 60 days after the Pole Replacement Fund (described below) receives funds for reimbursements, to develop and publish an application form and post it on the DEV website.
- Requires the application form to identify and describe any additional federal conditions required in connection with the use of the federal funds, if any federal funds are used for awards under the program.
- Requires applications to include certain information including, for example, the number, cost, and locations of pole replacements, mid-span pole installations, and undergrounding for which reimbursement is requested; the reimbursement amount requested; and information necessary to demonstrate the applicant's compliance with reimbursement conditions.
- Establishes additional requirements for an application regarding a pole attachment or a mid-span pole installation, if the applicant is the pole owner or affiliate of the pole owner.

## **Applicant duties prior to receiving a reimbursement**

- Requires a provider applying for reimbursement to agree to do certain things such as (1) activating qualifying broadband service to end users utilizing the program-reimbursed broadband infrastructure not later than 90 days after receiving a reimbursement, (2) complying with any federal requirements associated with funds used for awards under the program, and (3) refunding all or any portion of reimbursements received, if the applicant materially violated any program requirements.

## **Reimbursement award timeline and formula**

- Requires the Authority to award reimbursements to an applicant not later than 60 days after it receives an application forwarded by DEV.
- Allows the Authority to award reimbursements equal to the lesser of \$7,500 or 75% of the total amount paid by the applicant for pole replacement or mid-span pole installation costs.
- Allows reimbursement awards for undergrounding costs to be calculated as described above, except that the amount may not exceed the reimbursement amount that would be available if the applicant had attached broadband infrastructure to utility poles instead of undergrounding that infrastructure.

## **Reimbursement refunds**

- Requires applicants that are awarded reimbursements to refund, with interest, reimbursement amounts if the applicant materially violates any program requirement and specifies that at the direction of DEV, refunds are to be deposited into the Broadband Replacement Pole Fund.

## **Broadband Pole Replacement Fund**

- Creates the Broadband Pole Replacement Fund and makes an appropriation in FY 2024 to provide funding for reimbursements awarded under the program and for DEV to administer the program.

## **Program information on DEV website**

- Requires DEV to publish and regularly update certain information regarding the program on its website.

## **DEV report on deployments under program**

- Whenever the fund is exhausted, requires the Authority, not later than one year after, to identify, examine, and report on broadband infrastructure deployment under the program and the technology facilitated by the reimbursements and requires the report to be published on DEV's website.

## **Program audit**

- Requires the Auditor of State to audit the fund annually, beginning not later than one year after the first deposits are made to the credit of the fund.

## **Sunset**

- Except as provided below, effectively sunsets the program by requiring payments under the fund to cease and the fund to no longer be in force or have further application six years after the sunset provision's effective date.
- For the six-month period after the sunset date, requires fund payments to cease, and requires DEV and the Authority to (1) review any applications and award reimbursements, if the applications were submitted prior to that date and (2) to review applications and award reimbursements, if the applications were submitted not later than four months after that date for reimbursements of costs incurred prior to that date.
- Requires any fund balance remaining after final applications are processed (after the sunset date and as described above) to be returned to the original funding sources as determined by DEV.

## **Ohio State Fairgrounds study**

- Requires DEV, not later than 120 days after the provision's effective date, to conduct a study to determine if the Ohio State Fairgrounds should be relocated to an alternative location while redeveloping the existing Fairgrounds and the Ohio Highways Patrol Training Facility site.
- Requires the study to be conducted prior to any state funds being spent on the redevelopment of the existing Fairgrounds and Training Facility site.
- Requires DEV to provide copies of the study to the Senate President, Speaker of the House, and Governor.

## All Ohio Future Fund

(R.C. 126.62)

The bill renames the Investing in Ohio Fund as the All Ohio Future Fund. It also expands the fund's purposes beyond promoting economic development throughout Ohio, including infrastructure improvements. The new expanded purposes include providing financial assistance through loans, grants, or other incentives that promote economic development. Additionally, the fund may be used for electric infrastructure development projects approved by the Public Utilities Commission (see "**Electric infrastructure development**" under the "**PUBLIC UTILITIES COMMISSION**" chapter of this analysis), and electric infrastructure improvements made by electric cooperative and municipal electric utilities. Investment earnings of the fund must be credited to the fund.

The bill requires the DEV Director to adopt rules in accordance with the Administrative Procedure Act that establish requirements and procedures to provide financial assistance from the fund to eligible economic development projects. The Director must consult with JobsOhio in adopting the rules.

The rules must include the following:

1. All forms and materials required to apply for financial assistance from the fund;
2. Requirements, procedures, and criteria that the Director must use in selecting sites to receive financial assistance from the fund. The rules must require the Director to consider sites that JobsOhio and local and regional economic development organizations have identified for economic development. The criteria adopted in rules for site selection must include a means to identify and designate economic development projects into the following development tiers:
  - a. A tier one project is a megaproject. A megaproject is a large scale development that meets certain wage and investment or payroll thresholds.
  - b. A tier two project is a megaproject supplier. A megaproject supplier is a supplier of tangible personal property to a megaproject that has a substantial manufacturing, assembly, or processing facility in Ohio or meets certain wage and investment or payroll thresholds.
  - c. A tier three project is a project in an industrial park or a site that is zoned industrial.
3. Any other requirements or procedures necessary to administer the bill's provisions governing the fund.

When awarding financial assistance, the Director must do both of the following:

1. Unless a higher amount is approved by the Controlling Board, limit financial assistance amounts as follows:
  - a. For tier one projects, up to \$200 million per project;
  - b. For tier two projects, up to \$75 million per project;
  - c. For tier three projects, up to \$25 million per project.
2. Give preference to sites that are publicly owned.

The Director may provide grants and loans from the fund to port authorities, community improvement corporations, joint economic development districts, and public-private partnerships to aid in the acquisition of land necessary for site development.

The bill requires the Controlling Board to release money appropriated from the fund before the money may be spent. Additionally, the bill allows the Controlling Board to exceed the limit on approving expenditure of unanticipated or excess revenue to the fund, provided there is a sufficient balance in the fund to support the increase. The Controlling Board is otherwise limited to approving such expenditures in amounts less than 0.05% of the GRF appropriations for that fiscal year.<sup>45</sup>

### **Regulatory restriction reduction exemption**

The bill exempts rules adopted by the Director from continuing law requirements concerning reductions in regulatory restrictions. State agencies are required to take actions to reduce regulatory restrictions in accordance with a statutory schedule. Such actions include removing two or more existing regulatory restrictions for each new restriction adopted (often referred to as the “two-for-one-rule”). A “regulatory restriction” is any part of an administrative rule that requires or prohibits an action.<sup>46</sup>

## **Nuclear development in Ohio**

### **Ohio Nuclear Development Authority**

(R.C. 3748.23, 4164.01, 4164.04 to 4164.08, and 4164.10 to 4164.20; Section 259.10)

The bill creates the Ohio Nuclear Development Authority within DEV.

### **Membership and appointment**

#### ***Composition***

The Authority is to consist of nine members appointed by the Governor and representing three stakeholder groups within the nuclear-engineering-and-manufacturing industry. The three stakeholder groups are: Safety, Industry, and Engineering Research and Development.

#### ***Qualifications***

**A member appointed from the Safety group** must hold at least a bachelor’s degree in nuclear, mechanical, chemical, or electrical engineering and at least one of the following must apply to the member:

- Be a recognized professional in nuclear-reactor safety or developing ISO 9000 standards;
- Been employed by, or has worked closely with, the U.S. Department of Energy (USDOE) or the U.S. Nuclear Regulatory Commission (USNRC), and the member has a professional

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<sup>45</sup> R.C. 131.35, not in the bill.

<sup>46</sup> R.C. 122.183(D); R.C. 121.95, unchanged by this provision; R.C. 122.951 to 121.953, not in the bill.



background in nuclear-energy-technology development or advanced-nuclear-reactor concepts;

- Been employed by a contractor that has built concept reactors and also worked with hazardous substances, either nuclear or chemical, during that employment.

**A member appointed from the Industry group** must have at least five years of experience in one or more of the following:

- Nuclear-power-plant operation;
- Processing and extracting isotopes;
- Managing a facility that deals with hazardous substances, either nuclear or chemical;
- Handling and storing nuclear waste.

**A member appointed from the Engineering Research and Development group** must hold at least a bachelor's degree in nuclear, mechanical, chemical, or electrical engineering and that member shall also be a recognized professional in at least one of the following areas of study:

- Advanced-nuclear reactors;
- Materials science involving the study of alloys and metallurgy, ceramics, or composites;
- Molten-salt chemistry;
- Solid-state chemistry;
- Chemical physics;
- Actinide chemistry;
- Instrumentation and sensors;
- Control systems.

Additionally, each member of the Authority must be a citizen of the U.S. and resident of Ohio.

### ***Term of service***

Each member of the Authority serves a five-year term.

### ***Appointment requirements***

The bill requires Senate confirmation of all appointments to the Authority. The Governor must appoint members and fill vacancies in the membership of the Authority from lists of nominees recommended by the Ohio Nuclear Development Authority Nominating Council (see below). The Governor has discretion to reject the Council's nominations and reconvene the Council to recommend additional nominees. If the Council is reconvened and provides the Governor with a second list of nominees, the Governor must make the required appointments to the Authority from the names on the Council's first or second list.

Initial appointments to the Authority must be made no later than 120 days after the effective date of this provision. Members are to begin performing their duties immediately after appointment.

### ***Other employment not forfeited***

The bill provides that, notwithstanding any law to the contrary, no officer or employee of the state of Ohio can be deemed to have forfeited, or actually have forfeited, the officer's or employee's office or employment due to acceptance of membership on the Authority or by providing service to the Authority.

### ***Vacancies***

Any appointment to fill a vacancy on the Authority must be made for the unexpired term of the member whose death, resignation, or removal created the vacancy. The Governor must fill a vacancy not later than 30 days after receiving the Council's recommendations.

### ***Open meetings***

The bill requires Authority meetings to be held in accordance with Ohio's Open Meetings Law.<sup>47</sup>

### ***Use of DEV staff and experts***

The bill allows the Authority to use DEV staff and experts for the purpose of carrying out the Authority's duties. This use is to occur in the manner provided by mutual arrangement between the Authority and DEV.

### **Authority purposes**

The bill establishes the Authority for the following purposes:

- To be an information resource on advanced-nuclear-research reactors, isotopes, and isotope technologies for the state, USNRC, all branches of the U.S. military, and the USDOE;
- To make Ohio a leader in the development and construction of new-type advanced-nuclear-research reactors, a national and global leader in the commercial production of isotopes and research, and a leader in the research and development of high-level-nuclear-waste reduction and storage technology.

### **Authority powers**

#### ***Necessary and convenient powers***

The bill grants the Authority all powers, including the following, that are necessary and convenient:

- To adopt bylaws for the management and regulation of its affairs;

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<sup>47</sup> R.C. 121.22, not in the bill.

- To develop and adopt a strategic plan for carrying the Authority's purposes;
- To foster innovative partnerships and relationships in Ohio and among Ohio's public institutions of higher education, private companies, federal laboratories, and nonprofit organizations to accomplish the Authority's purposes;
- To identify and support, in cooperation with the public and private sectors, the development of education programs related to Ohio's isotope industry;
- To assume, with the advice and consent of the Senate, any regulatory powers delegated from USNRC, USDOE, any U.S. military branch, or similar federal agencies, departments, or programs, governing the construction and operation of noncommercial power-producing nuclear reactors and the handling of radioactive materials. The bill does not specify a procedure for the Senate to give its advice and consent in this context.
- To act in place of the Governor in approving agreements with USNRC and joint-development agreements with USDOE or an equivalent regulatory agency in the event that the Authority requests any of the following:
  - USNRC to delegate rules for a state-based nuclear research-and-development program;
  - To jointly develop advanced-nuclear-research-reactor technology with USDOE under USDOE's authority;
  - To jointly develop advanced-nuclear-research-reactor technology with the U.S. Department of Defense (USDOD) or another U.S. military agency under the authority of the department or agency.

### ***Advanced-nuclear-reactor-component commercialization***

The bill requires the Authority to work with industrial and academic institutions and USDOE or U.S. military branches to approve designs for the commercialization of advanced-nuclear-reactor components. The bill states that those components may include neutronics analysis and experimentation; reactor safety and plant safety; fuels and materials; steam-supply systems and associated components and equipment; engineered-safety features and associated components; building; instrumentation, control, and application of computer science; quality and inspection practices; plant design and construction, debug, test-run, operation, maintenance, and decommissioning technology; economic methodology and evaluation technology; treatment, storage, recycling, and disposal technology for advanced-nuclear-reactor and system-spent fuel; treatment, storage, and disposal technology for advanced-nuclear-reactor and system radioactive waste; and other areas that the parties and their executive agents agree upon in writing.

### ***Nuclear waste and isotope production***

The bill requires the Authority to give priority to projects that reduce nuclear waste and produce isotopes.

### ***Essential governmental function***

The bill labels the Authority's exercise of its powers as a performance of an essential governmental function that addresses matters of public necessity for which public moneys may be spent.

### **Annual report**

The bill requires that on or before July 4 each year, the Authority must submit an annual report of its activities to the Governor, the Speaker of the House, the Senate President, and the chairpersons of the House and Senate committees that oversee energy-related issues. This report must also be posted to the Authority's website.

### **Rules**

#### ***Rules governing reactors and nuclear waste***

The bill requires the Authority to adopt rules, under the Ohio Administrative Procedure Act (R.C. Chapter 119), provided for by USNRC, USDOE, USDOD, or another U.S. military agency, or a comparable federal agency for an Ohio State Nuclear Technology Research Program for the purposes of developing and studying advanced-nuclear-research reactors to produce isotopes and to reduce Ohio's high-level nuclear waste. The rules must reasonably ensure Ohioans of their safety with respect to nuclear-technology research and development and radioactive materials. The rules also are exempt from the regulatory restriction limitation in current law.

#### ***Rules not superseded***

The bill prohibits rules adopted under continuing law by the Director of the Ohio Department of Health (ODH) for radiation control from conflicting with or superseding the rules adopted by the Authority under the bill. Similarly, the bill states that its provisions are not to be construed as superseding any agreement between ODH and the USNRC (see "**Nuclear agreements**," below) with respect to regulating activities not within the scope of activities of the Authority.

### **Nominating Council**

(R.C. 4164.09 to 4164.0918; Section 741.10)

The bill also creates the Ohio Nuclear Development Authority Nominating Council.

### **Membership, appointments, and meetings**

#### ***Composition***

The bill provides that the Council is composed of the following seven members:

- The President of the Senate, or designee;
- The Speaker of the House, or designee;
- Five members of the Ohio State University's Nuclear External Advisory Board, each appointed by the Governor.

### ***Term of service***

The bill sets the term of office for each Council member appointed by the Governor at two years, beginning at the date of appointment. However, an appointed member must continue the member's term beyond the two-year expiration date until either (1) the member's successor takes office, or (2) 60 days have elapsed; whichever occurs first.

For the President of the Senate, the Speaker of the House, or their respective designees, the term of office on the Council is for the duration of the President's or Speaker's tenure.

### ***Initial appointment***

Under the bill, the Governor's initial appointments to the Council must be made no later than 30 days after the effective date of this provision.

### ***Vacancies***

The bill requires the Governor to fill any vacancy that occurs on the Council not later than 60 days after the vacancy occurs, in the same manner as the original appointment. Any member appointed to fill a vacancy on the Council retains the position for the remainder of the vacant member's original term.

### ***Meetings***

The bill provides the following regarding Council meetings:

- The Council must hold its initial meeting not later than 60 days after the effective date of this provision. At this initial meeting the Council must elect a chairperson and a secretary.
- Subsequent meetings may be called by the chairperson. However, the chairperson must call a special meeting upon receipt of a written request for a meeting signed by two or more Council members.
- Written advance notice of the time and place of each meeting must be sent to each Council member via mail or electronic mail.
- Four Council members, or their alternates, constitute a quorum. The Council cannot vote on a measure or take any action unless a quorum is present.
- The Council must keep a record of its proceedings.
- The Council may adopt bylaws governing its proceedings.

### ***Members uncompensated***

Council members must serve without compensation.

## **Council roles**

### ***Tasks***

The bill requires the Council to review, evaluate, and make recommendations to the Governor for potential appointees to serve as members of the Authority. The Council must provide the Governor with a list of individuals who are, in the judgement of the Council, the

most qualified to be members of the Authority, for the purposes of initial and subsequent appointments, as well as for filling vacancies. All recommendations by the Council must be consistent with the qualifications for membership on the Authority (see “**Qualifications,**” above).

### ***List of possible appointees***

The bill directs the Council to supply a list of four possible appointees to the Governor for each initial, subsequent, or vacancy appointment. The Council must provide the list to the Governor at the following times:

- For possible initial appointments, not later than 90 days after the effective date of this provision;
- For each subsequent appointment, not less than 60, nor more than 85, days before the term of an Authority member expires;
- For each vacancy appointment, not more than 30 days after the death, resignation, or termination of service of an Authority member.

### ***Solicit comments***

The bill permits the Council to solicit, accept comments from, and cooperate with any individual in reviewing, evaluating, or recommending potential appointees to serve as a member of the Authority.

### ***Recommendations to the General Assembly***

The bill allows the Council to make recommendations to the General Assembly for changes in law that would assist the Council in the performance of its duties.

## **Nuclear agreements**

(R.C. 3748.03)

The bill makes changes to Ohio law governing agreements with the Federal government regarding nuclear licensing and regulatory issues.

### **Governor**

The bill provides that the Governor may enter into agreements with USDOE or branches of the U.S. military to permit the state to license and exercise related regulatory authority with respect to byproduct material, source material, the commercial disposal of low-level radioactive waste, and special nuclear material in quantities not sufficient to form a critical mass. Under continuing law, the Governor may make the same agreements with the USNRC.

### **Authority**

The bill allows the Authority to pursue the same agreements with the USNRC, USDOE, or branches of the U.S. military, and to do so on behalf of the Governor. Under current law, ODH is the only agency authorized to pursue such an agreement. The bill permits the Authority and, under continuing law, requires ODH to enter into negotiations for such an agreement.

## **Legislative intent**

(R.C. 4164.02)

The General Assembly declares its intent is to encourage the use of these provisions promoting nuclear development in Ohio as a model for future legislation to further the pursuit of innovative research and development for any industry in Ohio.

## **Rural Industrial Park Loan Program**

(R.C. 122.23)

The bill alters two eligibility criteria for assistance from the Rural Industrial Park Loan Program. First, it allows a developer that previously received financial assistance under the program to receive additional financial assistance. However, the developer is still not eligible if the previous financial assistance was received in the current fiscal biennium. Currently, a program applicant that previously received any financial assistance via the program is ineligible for further assistance.

Second, the bill allows a proposed industrial park that would compete with an existing industrial park in the same county to receive assistance, provided the existing industrial park's owner consents. Under current law, if there is competition with an existing industrial park, a proposed industrial park is ineligible for assistance.

The Rural Industrial Park Loan Program is a program under which the DEV Director may make loans and loan guarantees for the development and improvement of industrial parks. To be eligible, the proposed location of the park must be in an economically distressed area, an area with a labor surplus, or a rural area as designated by the Director. The Director must use the Rural Industrial Park Loan Fund to support the program.

## **Brownfield and building revitalization programs**

(R.C. 122.6511 and 122.6512)

Current law creates both the Brownfield Remediation Fund (brownfield fund), and the Building Demolition and Site Revitalization Fund (building fund). The brownfield fund is used to fund a grant program for the remediation of brownfield sites. The building fund is used to fund a grant program for the demolition of commercial and residential properties and revitalization of surrounding properties that are not brownfields.

From appropriations made to each fund, the Director of Development must reserve money for each county (88 counties) in Ohio. For the brownfield fund, the amount reserved is \$1 million per county or a proportionate amount if the appropriations are less than \$88 million. For the building fund, the amount reserved is \$500,000 per county or a proportionate amount if the appropriations are less than \$44 million. The Director must make appropriated money that exceeds the amount to be reserved for each county available for grants for projects located anywhere in Ohio on a first-come, first-served basis.

The bill limits the reserved appropriations to appropriations made to each fund in the first fiscal year of the fiscal biennium, not both fiscal years. Thus, all appropriations made in the

second fiscal year of a biennium are available through each fund for grants for projects located anywhere in Ohio on a first-come, first-serve basis.

For example, if the General Assembly appropriates \$50 million in FY 2024 and \$50 million in FY 2025 for the brownfield fund, the \$50 million in the first fiscal year will be reserved proportionally for each of the 88 counties. The \$50 million appropriated in FY 2025 will be made available for projects located anywhere in the state on a first-come, first-serve basis. Under current law, the \$50 million in both FY 2024 and FY 2025 would be reserved proportionally for each of the 88 counties because the total amount appropriated in each fiscal year is less than \$88 million.

## **Ohio Capital Access Loan Program**

(R.C. 122.60)

The bill allows state and federally chartered credit unions to participate in the Ohio Capital Access Loan Program. Currently, only banks, trust companies, and savings and loan associations are eligible to participate. The bill retains the requirement that a participating financial institution have a significant presence in Ohio. It also retains the DEV Director's authority to determine the eligibility of a financial institution to participate in the program and to set limits on the number of financial institutions that may participate.<sup>48</sup>

### **Background**

Under the Ohio Capital Access Loan Program, DEV assists participating financial institutions in making loans to businesses and nonprofit entities “that face barriers in accessing working capital and obtaining fixed asset financing” and agree to use the loan proceeds to create or preserve jobs in Ohio.<sup>49</sup> When a participating financial institution makes a capital access loan, it must establish a program reserve account. The business receiving the loan must pay a percentage of the loan amount to the financial institution for deposit in its reserve account. The financial institution must then deposit the same amount of its own funds into the reserve account. Once those deposits are made, DEV disburses up to 50% of the principal amount of the loan or, if the borrower is a minority business enterprise, up to 80% of the principal amount, for deposit into the financial institution's reserve account.<sup>50</sup> If any portion of the capital access loan is uncollectible, the financial institution may seek the release of money from its reserve account to recover unpaid principal and interest.<sup>51</sup>

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<sup>48</sup> R.C. 122.602(B), not in the bill.

<sup>49</sup> R.C. 122.60(B), unchanged by the bill; R.C. 122.602, not in the bill.

<sup>50</sup> R.C. 122.603, not in the bill.

<sup>51</sup> R.C. 122.604, not in the bill.



## **TourismOhio mission**

(R.C. 122.07 and 122.072)

The bill expands the mission of TourismOhio, which is the office within DEV responsible for promoting Ohio tourism. Under the bill, the office will be charged with promoting not just tourism, but also “living, learning, and working” in Ohio.

## **Microcredential assistance program reimbursement**

(R.C. 122.1710)

The bill increases the maximum reimbursement amount for a training provider from the Individual Microcredential Assistance Program (IMAP) from \$250,000 to \$500,000 per fiscal year.

Under continuing law, approved training providers may seek reimbursement through IMAP for the cost to provide training that allows an individual to receive a microcredential, i.e., an industry-recognized credential or certificate, approved by the Chancellor of Higher Education, that a person can complete in one year or less.<sup>52</sup> Continuing law limits a training provider’s IMAP reimbursement to \$3,000 per training credential that an individual receives.

## **Ohio Residential Broadband Expansion Grant Program funding**

(R.C. 122.4017, 122.4037, and 122.4040)

Ongoing law requires the Ohio Broadband Expansion Program Authority to award grants under the Ohio Residential Broadband Expansion Grant Program using funds from the Ohio Residential Broadband Expansion Grant Program Fund. The bill specifies that any gift, grant, and contribution received by the DEV Director for the Broadband Grant Program must be deposited in the fund. (Currently, the only funds that the law expressly requires to be deposited in the fund are payments from certain broadband providers that fail to provide tier two service as described in a challenge upheld by the Authority.<sup>53</sup>)

Under the bill, if an appropriation for the Broadband Grant Program includes funds that are not state funds, or if the Director receives funds that are in the form of a gift, grant, or contribution to the fund, the Authority must award grants from those funds. However, if those funds are contingent on meeting application, scoring, or other requirements that are different from existing law requirements under the Broadband Grant Program, the following must occur:

- DEV must adopt the different requirements and publish a description of them with the program application on the DEV website.

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<sup>52</sup> R.C. 122.178, not in the bill.

<sup>53</sup> R.C. 122.4036, not in the bill.

- A description of any differences in application, scoring, or other program requirements must be available with the application on the DEV website at least 30 days before the beginning of the application submission period.

## Background

The Broadband Grant Program awards grants to broadband providers for projects to provide “tier two broadband service” to residences in areas of the state that are “tier one areas” or “unserved areas.” DEV administers the program and works in conjunction with the Authority, the entity that awards the grants according to a weighted scoring system developed by DEV in consultation with the Authority.

“Tier two broadband service” is retail wireline or wireless broadband service capable of delivering internet access at speeds of at least 25 megabits per second downstream and 3 megabits per second upstream. A “tier one area” is an area with “tier one broadband service,” internet access delivered at speeds of at least 10 but less than 25 megabits per second downstream and at least 1 but less than 3 megabits upstream. An “unserved area” is an area without access to tier one service or tier two service, excluding an area where construction of a network to provide tier one service or tier two service is in progress and scheduled to be completed within a two-year period.<sup>54</sup>

## Broadband Pole Replacement and Undergrounding Program

(R.C. 191.01 to 191.45)

The bill creates the Ohio Broadband Pole Replacement and Undergrounding Program within DEV to advance the provision of qualifying broadband service access to residences and businesses in an unserved area. To accomplish this, the program reimburses certain costs of pole replacements, mid-span pole installations, and undergrounding incurred by providers.

Under the bill, DEV must administer and provide staff assistance for the program. It also is responsible for (1) receiving and reviewing program applications, (2) sending completed applications to the Broadband Expansion Program Authority for final review and the award of program reimbursements (reimbursements), and (3) establishing an administrative process for reimbursements. The Authority must award the reimbursements after reviewing applications and determining whether they meet the requirements for reimbursement.

DEV must adopt rules necessary for the successful and efficient administration of the program not later than 90 days after the effective date of the program. Under the bill, the rules are not subject to the current law addressing regulatory restriction limitation.<sup>55</sup>

## Definitions

Program terms defined in the bill include the following:

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<sup>54</sup> R.C. 122.40 to 122.4077, all but R.C. 122.4017, 122.4037, and 122.4040, not in the bill.

<sup>55</sup> R.C. 121.951 to 121.953, not in the bill.

Term	Definition
Affiliate	A person or entity under common ownership or control with, or a participant in a joint venture, partnership, consortium, or similar business arrangement with, another person or entity pertaining to the provision of broadband service.
Broadband infrastructure	Facilities that are used, in whole or in part, to provide qualifying broadband service access to residences and businesses.
Mid-span pole installation	The installation of, and attachment of broadband infrastructure to, a new utility pole that is installed between or adjacent to one or more existing utility poles or replaced utility poles to which poles broadband infrastructure is attached.
Pole owner	Any person or entity that owns or controls a utility pole.
Pole replacement	The removal of an existing utility pole and replacement of that pole with a new utility pole to which a provider attaches broadband infrastructure.
Provider	An entity, including a pole owner or affiliate, that provides qualifying broadband service.
Qualifying broadband service	A retail wireline broadband service that is capable of delivering symmetrical internet access at download and upload speeds of at least 100 megabits per second (Mbps) with a latency level sufficient to permit real-time, interactive applications.
Undergrounding	The placement of broadband infrastructure underground, including by directly burying the infrastructure or through the underground placement of new ducts or conduits and installation of the infrastructure in them.
Unserved area	An area of Ohio that is without access to fixed, terrestrial broadband service capable of delivering internet access at download speeds of at least 25 Mbps and upload speeds of at least 3 Mbps.
Utility pole	Any pole used, in whole or in part, for any wired communications or electric distribution, irrespective of who owns or operates the pole.

### **Areas considered “unserved areas”**

The bill further specifies that areas of Ohio are to be considered to be an “unserved area” under the program if one of the following applies:

- Under a program to deploy broadband service to unserved areas (which may include programs other than the Ohio Broadband Pole Replacement and Undergrounding Program), a governmental entity has awarded a broadband grant for the area after determining it to be an eligible unserved area under that program.

- The area has not been awarded any broadband grant funding, and the most recent mapping information published by the Federal Communications Commission (FCC) indicates that the area is an unserved area. (The searchable FCC National Broadband Map is available on the Broadband Data Collection page of the FCC website: [fcc.gov/BroadbandData](http://fcc.gov/BroadbandData).)

### **When reimbursements may not be awarded**

The Authority is not permitted to award reimbursements that are federally funded if the reimbursements are inconsistent with federal requirements and is not permitted to award reimbursements under certain other circumstances specified in the bill. Those other circumstances are:

- The broadband infrastructure deployed is used only for the provision of wholesale broadband service and is not used by the program applicant to provide qualifying broadband service directly to residences and businesses.
- A provider, other than the applicant, is meeting the terms of a legally binding commitment to a governmental entity to deploy qualifying broadband service in the unserved area.
- For reimbursements that are funded by federal funds deposited in the Pole Replacement Fund (see **“Pole Replacement Fund”** below), the applicant fails to commit to compliance with any conditions in connection with the funds that the federal government requires.

### **Who may apply for reimbursements**

A provider may submit an application on a form prescribed by DEV for a reimbursement under the program if the provider has deployed “qualifying broadband infrastructure” in an unserved area and has paid any costs specified in the bill that are in connection with its deployment.

The bill does not define “qualifying broadband infrastructure,” which must be deployed before submitting a program application. But, it does define “broadband infrastructure” as “facilities that are used, in whole or in part, to provide qualifying broadband service access to residences and businesses” and defines “qualifying broadband service” as “retail wireline broadband service that is capable of delivering symmetrical internet access at download and upload speeds of at least 100 [Mbps] with a latency level sufficient to permit real-time, interactive applications.” This use of a similar, but undefined, term in the bill may create some confusion about how “qualifying broadband infrastructure” differs from “broadband infrastructure.” See also **“DEV report on deployments under program.”**

### **Costs eligible for reimbursement**

Costs eligible for reimbursement under the program include (1) pole replacement costs, (2) mid-span pole installations, and (3) undergrounding costs. Specifically, reimbursements may be made for actual and reasonable costs to perform a pole replacement or mid-span pole installation, including the amount of any expenditures to remove and dispose of an existing

utility pole, purchase and install a replacement utility pole, and transfer any existing facilities to the new pole. Also reimbursable are actual and reasonable undergrounding costs, including the costs to dig a trench, perform directional boring, install conduit, and seal the trench, but only if undergrounding is required by law, regulation, or local ordinance or if it is more economical than the cost of performing a pole replacement.

### **Costs not eligible for reimbursement**

If an applicant's costs of deploying broadband infrastructure are eligible for full reimbursement from another governmental entity, those costs generally are ineligible for reimbursements. However, if the costs are reimbursed in part by a governmental entity, the applicant may apply for and obtain a reimbursement for the portion of the eligible costs that were not reimbursed by the other governmental entity.

### **Reimbursement accounting records**

The bill allows the Authority to require applicants that obtain broadband grant funding from sources other than reimbursements under the program to maintain accounting records sufficient to demonstrate that the other grant funds do not fully reimburse the same costs as those reimbursed under the program. Since the bill's reference to broadband grant funding in the provision does not specify funding from another governmental entity, the accounting record that the Authority may require might also apply to broadband grants from the private sector.

### **Information and documentation from pole owner**

If a pole owner provides information and documentation to a provider that enables the provider to submit an application, the pole owner may require the provider to reimburse the owner for the owner's actual and reasonable administrative expenses. The amount a pole owner may charge for those expenses may not exceed 5% of the pole replacement or mid-span pole installation costs. The bill specifies that these costs are not reimbursable under the program.

### **Application requirements**

Not later than 60 days after the Broadband Pole Replacement Fund (see below) receives funds for reimbursements, DEV must develop and publish an application form and post it on the DEV website. The application form must identify and describe any additional federal conditions required in connection with the use of the federal funds, if any federal funds are used for awards under the program. Applications must include the following information:

- The number, cost, and locations of pole replacements, mid-span pole installations, and undergrounding for which reimbursement is requested;
- Documentation sufficient to establish that the pole replacements, mid-span pole installations, and undergrounding described in the application have been completed;
- Documentation sufficient to establish how the costs for which reimbursement is requested comport with the reimbursement requirements under the program;
- The reimbursement amount requested under the program;

- Documentation of any broadband grant funding awarded or received for the area described in the application and accounting information sufficient to demonstrate the reimbursement costs requested are eligible because they have not been fully reimbursed by another governmental entity or by a broadband grant (see “**Costs not eligible for reimbursement**” above);
- A notarized statement, from an officer or agent of the applicant, that the contents of the application are true and accurate and that the applicant accepts the requirements of the program as a condition of receiving a reimbursement;
- Any information necessary to demonstrate the applicant’s compliance, and agreement to comply, with any conditions associated with the reimbursement awarded to the applicant;
- Any other information DEV considers necessary for final review and for the award and payment of reimbursements.

### **Applicant duties prior to receiving a reimbursement**

Applicants for the program must agree to do certain things before receiving a reimbursement. Specifically, all applicants must agree to:

- Not later than 90 days after receipt of a reimbursement, activate qualifying broadband service to end users utilizing the broadband infrastructure for which the applicant has received the reimbursement for deployment costs for pole replacement, mid-span pole installation, or undergrounding;
- Certify the applicant’s compliance with program requirements;
- Comply with any federal requirements associated with the funding used by the Authority in connection with the award;
- Refund all or any portion of reimbursements received under the program if the applicant is found to have materially violated any of the program requirements.

Applicants regarding a pole replacement or a mid-span pole installation, must meet the requirements described above, if the applicant is the pole owner or affiliate of the pole owner. In addition, these applicants must do the following:

- Commit that the pole owner will comply with all applicable pole attachment regulations and requirements imposed by state or federal requirements;
- Commit that the pole owner will exclude from its costs (specifically the costs used to calculate its rates or charges for access to its utility poles) the reimbursements received:
  - From the program or any other broadband grant program; or
  - By a provider, for make-ready charges.
- Commit that the pole owner will maintain and make available, upon reasonable request, to DEV, or to a party subject to the rates and charges, documentation sufficient to

demonstrate compliance with the requirement that rates and charges were excluded as required.

Under the bill, the rates and charges documentation requirement does not apply to an electric distribution utility, unless the electric distribution utility is the applicant.

### **Reimbursement award timeline and formula**

The bill requires the Authority to award reimbursements to an applicant not later than 60 days after it receives an application forwarded by DEV.

Reimbursements must equal the lesser of \$7,500 or 75% of the total amount the applicant paid for each pole replacement or mid-span pole installation. For undergrounding costs, the Authority must approve reimbursements according to the same calculation, except that reimbursements may not exceed the reimbursement amount that would be available if the applicant had attached broadband infrastructure to utility poles instead of undergrounding that infrastructure.

At the Authority's direction, DEV must issue reimbursements for approved applications using the money available for them in the Broadband Pole Replacement Fund (described below). The Authority must award, and DEV must fund, reimbursements under the program until funds are no longer available. If there are any pending applications at the point when funds have been exhausted, those applications must be denied. However, applications that have been denied may be resubmitted to DEV and reimbursements awarded according to the application and award process, if sufficient money is later deposited into the fund.

### **Reimbursement refunds**

If DEV finds that an applicant that received a reimbursement materially violated any program requirements, DEV must direct the applicant to refund, with interest, all or any portion of the reimbursements the applicant received. As required by the bill, DEV must direct the refund to be made if it finds substantial evidence of the violation and after providing the applicant notice and the opportunity to respond. At DEV's direction, refunds must be deposited to the credit of the Broadband Pole Replacement Fund (described below). Interest on refunds must be at the applicable federal funds rate as determined in current law.<sup>56</sup>

### **Broadband Pole Replacement Fund**

The bill creates the Broadband Pole Replacement Fund in the state treasury. The fund is to be used by DEV to provide reimbursements awarded under the program and by the DEV Director to administer the program. The fund consists of money credited or transferred to it, money appropriated by the General Assembly, including from available federal funds, or money that the Controlling Board authorizes for expenditure from available federal funds, and grants, gifts, and contributions made directly to the fund. The bill makes an appropriation in FY 2024 to the Broadband Pole Replacement Fund from the State Fiscal Recovery Fund.

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<sup>56</sup> R.C. 1304.84, not in the bill.

## **Program information on DEV website**

The bill requires DEV to publish and regularly update its website with program information not later than 60 days after money is first deposited into the Broadband Pole Replacement Fund. The information that must be published includes the following:

- The number of program applications received, processed, and rejected by the Authority;
- The number, reimbursement amount, and status of reimbursements awarded;
- The number of providers receiving reimbursements;
- The balance remaining in the fund at the time of the latest program update on the website.

## **DEV report on deployments under program**

Whenever the money in the Broadband Pole Replacement Fund is exhausted, the Authority, not later than one year after, must identify, examine, and report on the deployment of qualifying broadband infrastructure under the program and the technology facilitated by the reimbursements. The report must be published on the DEV website.

As described in more detail above, the bill does not define “qualifying broadband infrastructure.” But, the bill does define “broadband infrastructure” and “qualifying broadband service.” The use of a similar but undefined term in the bill may create some confusion about what DEV must report and how “qualifying broadband infrastructure” differs from “broadband infrastructure.”

## **Program audit**

The bill also requires the Auditor of State to audit the Broadband Pole Replacement Fund and its administration by the Authority and DEV for compliance with the program’s requirements. The first audit must begin not later than one year after money is first deposited into the fund with subsequent audits to take place annually.

## **Sunset**

The bill effectively sunsets the program by requiring payments under the Broadband Pole Replacement Fund to cease, and the fund to no longer be in force or have further application, on the date six years after the section creating this sunset provision takes effect.

The bill creates two exceptions to the sunset provision. For the period ending six months after the sunset date, DEV, in coordination with the Authority, must (1) complete the review of any applications that were submitted prior to the sunset date and pay reimbursements of the approved applications and (2) complete the review of any applications submitted not later than four months after the sunset date and pay reimbursements for the approved applications, if the reimbursements are for costs that were incurred prior to the sunset date.

After the reimbursements are paid as described in the exceptions above, if there is an outstanding balance in the fund, the bill requires the remaining balance to be returned to the original funding sources as determined by DEV.



## Ohio State Fairgrounds study

(Section 701.30)

The bill requires DEV, not later than 120 days after the effective date of this provision, to conduct a study to determine if the Ohio State Fairgrounds should be relocated to an alternative location while redeveloping the existing Fairgrounds and Ohio Highway Patrol Training Facility site. The study must be conducted before the expenditure of any state funds on the redevelopment of the Fairgrounds and Training Facility site, including any engineering and architectural plans, infrastructure development, building demolition, and building construction on the current site.

The study must determine the following:

- The value of the existing Fairgrounds and Training Facility site and how the sale, lease, and rental of all or part of it can assist in funding the development of an alternative Fairgrounds site inside Franklin County or a contiguous county;
- The economic development benefits, using an input-output model, for the redevelopment of the existing Fairgrounds and Training Facility site into a mixed-use or other private sector development that may or may not include existing Ohio Exposition Commission facilities;
- A plan, potential cost, and financing structure for the development of an alternative Fairgrounds site in Franklin County or a contiguous county.

DEV must provide a copy of the completed survey to the Senate President, the Speaker of the House, and the Governor.