

As Passed by the House

124th General Assembly

Regular Session

2001-2002

Sub. H. B. No. 385

REPRESENTATIVES Blasdel, Carey, Grendell, Faber, Gilb, Schmidt,
Widowfield, Evans, Webster, Barrett, Seitz, Setzer, Calvert, Niehaus,
Lendrum, Flowers, Carano, Sferra, Fedor, Woodard, Collier, Barnes, Britton,
Patton, Latell, Key, Coates

A BILL

To amend sections 122.657, 122.658, 164.27, 901.22, 1
and 5301.691, to enact section 126.141 of the 2
Revised Code, and to amend Sections 6 and 7 of Am. 3
Sub. H.B. 3 of the 124th General Assembly to 4
specify that the release of appropriations to the 5
Public Works Commission for purposes of certain 6
projects involving natural resources and parks and 7
recreation does not require the approval of the 8
Controlling Board, to create a revolving loan fund 9
for repayments of loans made from the Clean Ohio 10
Revitalization Fund, to provide that the Department 11
of Agriculture is a coholder of and may share in 12
enforcing local Clean Ohio Agricultural Easement 13
Fund easements, and to provide that Clean Ohio 14
Conservation Fund money cannot be used for 15
recreational trails. 16

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

Section 1. That sections 122.657, 122.658, 164.27, 901.22, 17
and 5301.691 be amended and section 126.141 of the Revised Code be 18

enacted to read as follows: 19

Sec. 122.657. For the purposes of sections 122.65 to 122.658 20
of the Revised Code, the director of development shall establish 21
policies and requirements regarding all of the following: 22

(A) The form and content of applications for grants or loans 23
from the clean Ohio revitalization fund under section 122.652 of 24
the Revised Code. The policies and requirements shall require that 25
each application include, at a minimum, all of the following: 26

(1) The name, address, and telephone number of the applicant; 27

(2) The legal description of the property for which the grant 28
or loan is requested; 29

(3) A summary description of the hazardous substances or 30
petroleum present at the brownfield and a certified copy of the 31
results of an assessment; 32

(4) A detailed explanation of the proposed cleanup or 33
remediation of the brownfield, including an identification of the 34
applicable cleanup standards, and a detailed description of the 35
proposed use of the brownfield after completion of the cleanup or 36
remediation; 37

(5) An estimate of the total cost to clean up or remediate 38
the brownfield in order to comply with the applicable cleanup 39
standards. The total cost shall include the cost of employing a 40
certified professional under section 122.654 of the Revised Code. 41

(6) A detailed explanation of the portion of the estimated 42
total cost of the cleanup or remediation of the brownfield that 43
the applicant proposes to provide as required under sections 44
122.653 and 122.658 of the Revised Code and financial records 45
supporting the proposal; 46

(7) A certified copy of a resolution or ordinance approving 47

the project that the applicant shall obtain from the board of 48
township trustees of the township or the legislative authority of 49
the municipal corporation in which the property is located, 50
whichever is applicable; 51

(8) A description of the estimated economic benefit that will 52
result from a cleanup or remediation of the brownfield; 53

(9) An application summary for purposes of review by an 54
integrating committee or, if applicable, the executive committee 55
of an integrating committee under division (B) of section 122.652 56
of the Revised Code; 57

(10) With respect to applications for loans, information 58
demonstrating that the applicant will implement a financial 59
management plan that includes, without limitation, provisions for 60
the satisfactory repayment of the loan; 61

(11) Any other provisions that the director determines should 62
be included in an application. 63

(B) Procedures for conducting public meetings and providing 64
public notice under division (A) of section 122.652 of the Revised 65
Code; 66

(C) Criteria to be used by integrating committees or, if 67
required under division (C) of section 122.652 of the Revised 68
Code, executive committees of integrating committees when 69
prioritizing projects under division (B) of section 122.652 of the 70
Revised Code. The policies and requirements also shall establish 71
procedures that integrating committees or, if required under 72
division (C) of section 122.652 of the Revised Code, executive 73
committees of integrating committees shall use in applying the 74
criteria. 75

(D) A selection process that provides for the prioritization 76
of brownfield cleanup or remediation projects for which grant or 77
loan applications are submitted under section 122.652 of the 78

Revised Code. The policies and requirements shall require the selection process to give priority to projects in which the post-cleanup or remediation use will be for a combination of residential, commercial, or industrial purposes, which may include the conversion of a portion of a brownfield to a recreation, park, or natural area that is integrated with the residential, commercial, or industrial use of the brownfield after cleanup or remediation, or will incorporate projects that are funded by grants awarded under sections 164.20 to 164.27 of the Revised Code. The policies and requirements shall require the selection process to incorporate and emphasize all of the following factors:

(1) The potential economic benefit that will result from the cleanup or remediation of a brownfield;

(2) The potential environmental improvement that will result from the cleanup or remediation of a brownfield;

(3) The amount and nature of the match provided by an applicant as required under sections 122.653 and 122.658 of the Revised Code;

(4) Funding priorities recommended by integrating committees or, if required under division (C) of section 122.652 of the Revised Code, executive committees of integrating committees under division (B) of section 122.652 of the Revised Code;

(5) The potential benefit to low-income communities, including minority communities, that will result from the cleanup or remediation of a brownfield;

(6) Any other factors that the director considers appropriate.

(E) The development of criteria that the director shall use when awarding grants under section 122.656 of the Revised Code. The criteria shall give priority to public health projects. In addition, the director, in consultation with the director of

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environmental protection, shall establish policies and 110
requirements that require the criteria to include a public health 111
project selection process that incorporates and emphasizes all of 112
the following factors: 113

(1) The potential environmental improvement that will result 114
from the cleanup or remediation; 115

(2) The ability of an applicant to access the property for 116
purposes of the cleanup or remediation; 117

(3) The name and qualifications of the cleanup or remediation 118
contractor; 119

(4) Any other factors that the director of development 120
considers appropriate. 121

The director of development may develop any other policies 122
and requirements that the director determines are necessary for 123
the administration of section 122.656 of the Revised Code. 124

(F) The development of a brownfield cleanup and remediation 125
oversight program to ensure compliance with sections 122.65 to 126
122.658 of the Revised Code and policies and requirements 127
established under this section. The policies and requirements 128
shall require the program to include, at a minimum, both of the 129
following: 130

(1) Procedures for the accounting of invoices and receipts 131
and any other documents that are necessary to demonstrate that a 132
cleanup or remediation was properly performed; 133

(2) Procedures that are necessary to provide a detailed 134
explanation of the status of the property five years after the 135
completed cleanup or remediation. 136

(G) A delineation of what constitutes administrative costs 137
for purposes of divisions (C) and (E) of section 122.658 of the 138
Revised Code; 139

(H) Procedures and requirements for making loans and loan agreements that include at least all of the following:

(1) Not more than fifteen per cent of moneys annually allocated to the clean Ohio revitalization fund shall be used for loans.

(2) The loans shall be made at or below market rates of interest, including, without limitation, interest-free loans.

(3) The recipient of a loan shall identify a source of security and a source of repayment of the loan.

(4) All payments of principal and interest on a loan shall be deposited in the state treasury and credited to the clean Ohio revitalization revolving loan fund.

(5) The clean Ohio council may accept notes and other forms of obligation to evidence indebtedness, accept mortgages, liens, pledges, assignments, and other security interests to secure such indebtedness, and take any actions that are considered by the council to be appropriate to protect such security and safeguard against losses, including, without limitation, foreclosure and bidding on the purchase of property upon foreclosure or other sale.

(I) Any other policies and requirements that the director determines are necessary for the administration of sections 122.65 to 122.658 of the Revised Code.

Sec. 122.658. (A) The clean Ohio revitalization fund is hereby created in the state treasury. The fund shall consist of moneys credited to it pursuant to section 151.40 of the Revised Code ~~and of payments of principal and interest on loans that are made from the fund in accordance with policies and requirements established under section 122.657 of the Revised Code.~~ Moneys in the fund shall be used to make grants or loans for projects that

have been approved by the clean Ohio council in accordance with 170
section 122.653 of the Revised Code, except that the council 171
annually shall devote twenty per cent of the net proceeds of 172
obligations deposited in the clean Ohio revitalization fund for 173
the purposes of section 122.656 of the Revised Code. 174

Moneys in the clean Ohio revitalization fund may be used to 175
pay reasonable costs incurred by the department of development and 176
the environmental protection agency in administering sections 177
122.65 to 122.658 of the Revised Code. All investment earnings of 178
the fund shall be credited to the fund. For two years after ~~the~~ 179
~~effective date of this section~~ July 26, 2001, investment earnings 180
credited to the clean Ohio revitalization fund may be used to pay 181
costs incurred by the department of development and the 182
environmental protection agency pursuant to sections 122.65 to 183
122.658 of the Revised Code. 184

The department of development shall administer the clean Ohio 185
revitalization fund in accordance with this section, policies and 186
requirements established under section 122.657 of the Revised 187
Code, and the terms of agreements entered into by the council 188
under section 122.653 of the Revised Code. 189

(B) Grants awarded and loans made under section 122.653 of 190
the Revised Code shall provide not more than seventy-five per cent 191
of the estimated total cost of a project. A grant or loan to any 192
one project shall not exceed three million dollars. An applicant 193
shall provide at least twenty-five per cent of the estimated total 194
cost of a project. The applicant's share may consist of one or a 195
combination of any of the following: 196

(1) Payment of the cost of acquiring the property for the 197
purposes of sections 122.65 to 122.658 of the Revised Code; 198

(2) Payment of the reasonable cost of an assessment at the 199
property; 200

(3) The reasonable value, as determined by the council, of labor and materials that will be contributed by the applicant in performing the cleanup or remediation;

(4) Moneys received by the applicant in any form for use in performing the cleanup or remediation;

(5) Loans secured by the applicant for the purpose of the cleanup or remediation of the brownfield.

Costs that were incurred more than two years prior to the submission of an application to the clean Ohio council for the acquisition of property, assessments, and labor and materials shall not be used as part of the applicant's matching share.

(C) The department of development shall not make any payment to an applicant from the clean Ohio revitalization fund to pay costs of the applicant that were not included in an application for a grant or loan under section 122.653 of the Revised Code or that exceed the amount of the estimated total cost of the project included in the application. If, upon completion of a project, the costs of the project are less than the amounts included in the application, the amounts included in the application less the amounts of the actual costs of the project shall be credited to the clean Ohio revitalization fund. However, the amounts credited shall be equivalent in percentage to the percentage of the costs of the project that were to be funded by the grant or loan from the fund.

(D) Grants awarded or loans made under section 122.653 of the Revised Code from the clean Ohio revitalization fund shall be used by an applicant only to pay the costs of the actual cleanup or remediation of a brownfield and shall not be used by an applicant to pay any administrative costs incurred by the applicant. Costs related to the use of a certified professional for purposes of section 122.654 of the Revised Code are not administrative costs

and may be paid with moneys from grants awarded or loans made 232
under section 122.653 of the Revised Code. 233

(E) The portion of net proceeds of obligations devoted under 234
division (A) of this section for the purposes of section 122.656 235
of the Revised Code shall be used to make grants for assessments, 236
cleanup or remediation of brownfields, and public health projects 237
that have been approved by the director of development under that 238
section. The department of development shall administer section 239
122.656 of the Revised Code in accordance with this section, 240
policies and requirements established under section 122.657 of the 241
Revised Code, and the terms of agreements entered into by the 242
director under section 122.656 of the Revised Code. The director 243
shall not grant more than twenty-five million dollars for public 244
health projects under section 122.656 of the Revised Code. 245
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(F) Grants awarded under section 122.656 of the Revised Code 247
shall be used by an applicant only to pay the costs of actually 248
conducting an assessment, a cleanup or remediation of a 249
brownfield, or a public health project and shall not be used by an 250
applicant to pay any administrative costs incurred by the 251
applicant. Costs related to the use of a certified professional 252
for purposes of section 122.654 of the Revised Code are not 253
administrative costs and may be paid with moneys from grants 254
awarded under section 122.656 of the Revised Code. 255

(G)(1) The clean Ohio revitalization revolving loan fund is 256
hereby created in the state treasury. Payments of principal and 257
interest on loans made from the clean Ohio revitalization fund 258
shall be credited to this revolving loan fund, as shall payments 259
of principal and interest on loans made from the revolving loan 260
fund itself. The revolving loan fund's investment earnings shall 261
be credited to it. 262

(2) The clean Ohio revitalization revolving loan fund shall 263

be used to make loans for the same purposes and subject to the 264
same policies, requirements, criteria, and application procedures 265
as loans made from the clean Ohio revitalization fund. 266

Sec. 126.141. Notwithstanding section 126.14 of the Revised 267
Code, appropriations from the clean Ohio conservation fund created 268
in section 164.27 of the Revised Code to the public works 269
commission for the purpose of projects that have been approved for 270
grants under sections 164.20 to 164.27 of the Revised Code shall 271
be released upon the presentation of a request to release the 272
moneys that is made by the commission to the director of budget 273
and management. Such a release does not require the approval of 274
the controlling board. 275

Sec. 164.27. (A) The clean Ohio conservation fund is hereby 276
created in the state treasury. Seventy-five per cent of the net 277
proceeds of obligations issued and sold by the issuing authority 278
pursuant to sections 151.01 and 151.09 of the Revised Code shall 279
be deposited into the fund. Investment earnings of the fund shall 280
be credited to the fund. For two years after the effective date of 281
this section, investment earnings credited to the fund may be used 282
to pay costs incurred by the Ohio public works commission in 283
administering sections 164.20 to 164.27 of the Revised Code. 284
Moneys in the clean Ohio conservation fund shall be used to make 285
grants to local political subdivisions and nonprofit organizations 286
for projects that have been approved for grants under sections 287
164.20 to 164.27 of the Revised Code. 288

The clean Ohio conservation fund shall be administered by the 289
Ohio public works commission. 290

(B) For the purpose of grants issued under sections 164.20 to 291
164.27 of the Revised Code, moneys shall be allocated on an annual 292
basis from the clean Ohio conservation fund to districts 293

represented by natural resources assistance councils as follows: 294

(1) Each district shall receive an amount that is equal to 295
one-fourth of one per cent of the total annual amount allocated to 296
all districts each year for each county that is represented by the 297
district. 298

(2) The remaining moneys shall be allocated to each district 299
annually on a per capita basis. 300

(C) A grant that is awarded under sections 164.20 to 164.27 301
of the Revised Code may provide up to seventy-five per cent of the 302
estimated cost of a project. Matching funds from a grant recipient 303
may consist of contributions of money by any person, any local 304
political subdivision, or the federal government or of 305
contributions in-kind by such entities through the purchase or 306
donation of equipment, land, easements, interest in land, labor, 307
or materials necessary to complete the project. 308

(D) The director of the Ohio public works commission shall 309
notify the director of budget and management of the amounts 310
allocated pursuant to this section, and that information shall be 311
entered in the state accounting system. The director of budget and 312
management may establish appropriate line items or other 313
mechanisms that are needed to track the allocations. 314

(E) Grants awarded under sections 164.20 to 164.27 of the 315
Revised Code from the clean Ohio conservation fund shall be used 316
by a local political subdivision or nonprofit organization only to 317
pay the costs related to the purposes for which grants may be 318
issued under section 164.22 of the Revised Code and shall not be 319
used by a local political subdivision or nonprofit organization to 320
pay any administrative costs incurred by the local political 321
subdivision or nonprofit organization. 322

(F) No money from the clean Ohio conservation fund shall be 323
used for recreational trails, as the term "recreational trail" is 324

used in Chapter 1519. of the Revised Code.

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Sec. 901.22. (A) The director of agriculture, in accordance
with Chapter 119. of the Revised Code, shall adopt rules that do
all of the following:

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(1) Establish procedures and eligibility criteria for making
matching grants to municipal corporations, counties, townships,
and charitable organizations described in division (B) of section
5301.69 of the Revised Code for the purchase of agricultural
easements. With respect to agricultural easements that are
purchased or proposed to be purchased with such matching grants
that consist in whole or in part of moneys from the clean Ohio
agricultural easement fund created in section 901.21 of the
Revised Code, the rules shall establish all of the following:

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(a) Procedures for all of the following:

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(i) Soliciting and accepting applications for matching
grants;

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(ii) Participation by local governments and by the public in
the process of making matching grants to charitable organizations;

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(iii) Notifying local governments, charitable organizations,
and organizations that represent the interests of farmers of the
ranking system established in rules adopted under division
(A)(1)(b) of this section.

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(b) A ranking system for applications for the matching grants
that is based on the soil type, proximity of the land or other
land that is conducive to agriculture as defined by rules adopted
under this section and that is the subject of an application to
other agricultural land or other land that is conducive to
agriculture as defined by rules adopted under this section and
that is already or is in the process of becoming permanently
protected from development, farm stewardship, development

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pressure, and, if applicable, a local comprehensive land use plan 355
involved with a proposed agricultural easement. The rules shall 356
require that preference be given to proposed agricultural 357
easements that involve the greatest proportion of all of the 358
following: 359

(i) Prime soils, unique or locally important soils, 360
microclimates, or similar features; 361

(ii) Land that is adjacent to or that is in close proximity 362
to other agricultural land or other land that is conducive to 363
agriculture as defined by rules adopted under this section and 364
that is already or is in the process of becoming permanently 365
protected from development, by agricultural easement or otherwise, 366
so that a buffer would exist between the land involving the 367
proposed agricultural easement and areas that have been developed 368
or likely will be developed for purposes other than agriculture; 369

(iii) The use of best management practices, including 370
federally or state approved conservation plans, and a history of 371
substantial compliance with applicable federal and state laws; 372

(iv) Development pressure that is imminent, but not a result 373
of current location in the direct path of urban development; 374

(v) Areas identified for agricultural protection in local 375
comprehensive land use plans. 376

(c) Any other criteria that the director determines are 377
necessary for selecting applications for matching grants; 378

(d) Requirements regarding the information that must be 379
included in the annual monitoring report that must be prepared for 380
an agricultural easement under division (D)(2) of section 5301.691 381
of the Revised Code, procedures for submitting a copy of the 382
report to the office of farmland preservation in the department of 383
agriculture, and requirements and procedures governing corrective 384
actions that may be necessary to enforce the terms of the 385

agricultural easement. 386

(2) Establish provisions that shall be included in the 387
instrument conveying to a municipal corporation, county, township, 388
or charitable organization any agricultural easement purchased 389
with matching grant funds provided by the director under this 390
section, including, without limitation, all of the following 391
provisions: 392

(a) A provision stating that an easement so purchased may be 393
extinguished only if an unexpected change in the conditions of or 394
surrounding the land that is subject to the easement makes 395
impossible or impractical the continued use of the land for the 396
purposes described in the easement, or if the requirements of the 397
easement are extinguished by judicial proceedings; 398

(b) A provision requiring that, upon the sale, exchange, or 399
involuntary conversion of the land subject to the easement, the 400
holder of the easement shall be paid an amount of money that is at 401
least equal to the proportionate value of the easement compared to 402
the total value of the land at the time the easement was acquired; 403

(c) A provision requiring that, upon receipt of the portion 404
of the proceeds of a sale, exchange, or involuntary conversion 405
described in division (A)(2)(b) of this section, the municipal 406
corporation, county, township, or charitable organization remit to 407
the director an amount of money equal to the percentage of the 408
cost of purchasing the easement it received as a matching grant 409
under this section. 410

Moneys received by the director pursuant to rules adopted 411
under division (A)(2)(c) of this section shall be credited to the 412
agricultural easement purchase fund created in section 901.21 of 413
the Revised Code. 414

(3) Establish a provision that provides a charitable 415
organization described in division (B) of section 5301.69 of the 416

Revised Code, municipal corporation, township, or county with the
option of purchasing agricultural easements either in installments
or with a lump sum payment. The rules shall include a requirement
that a charitable organization, municipal corporation, township,
or county negotiate with the seller of the agricultural easement
concerning any installment payment terms, including the dates and
amounts of payments and the interest rate on the outstanding
balance. The rules also shall require the director to approve any
method of payment that is undertaken in accordance with the rules
adopted under division (A)(3) of this section.

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(4) Establish any other requirements that the director
considers to be necessary or appropriate to implement or
administer a program to make matching grants under this section
and monitor those grants.

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(B) The director may develop guidelines regarding the
acquisition of agricultural easements by the department of
agriculture and the provisions of instruments conveying those
easements. The director may make the guidelines available to
public and private entities authorized to acquire and hold
agricultural easements.

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(C) The director may provide technical assistance in
developing a program for the acquisition and monitoring of
agricultural easements to public and private entities authorized
to hold agricultural easements. The technical assistance may
include, without limitation, reviewing and providing advisory
recommendations regarding draft instruments conveying agricultural
easements.

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(D) The director may make matching grants from the
agricultural easement purchase fund and the clean Ohio
agricultural easement fund to municipal corporations, counties,
townships, and charitable organizations described in division (B)
of section 5301.69 of the Revised Code, to assist those political

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subdivisions and charitable organizations in purchasing
agricultural easements. Application for a matching grant shall be
made on forms prescribed and provided by the director. The
matching grants shall be made in compliance with the criteria and
procedures established in rules adopted under this section.
Instruments conveying agricultural easements purchased with
matching grant funds provided under this section, at a minimum,
shall include the mandatory provisions set forth in those rules.

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Matching grants made under this division using moneys from
the clean Ohio agricultural easement fund created in section
901.21 of the Revised Code may provide up to seventy-five per cent
of the value of an agricultural easement as determined by a
general real estate appraiser who is certified under Chapter 4763.
of the Revised Code. Not less than twenty-five per cent of the
value of the agricultural easement shall be provided by the
recipient of the matching grant or donated by the person who is
transferring the easement to the grant recipient. The amount of
such a matching grant used for the purchase of a single
agricultural easement shall not exceed one million dollars.

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(E) For any agricultural easement purchased with a matching
grant that consists in whole or in part of moneys from the clean
Ohio agricultural easement fund, the director shall be named as a
grantee on the instrument conveying the easement, as shall the
municipal corporation, county, township, or charitable
organization that receives the grant.

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(F)(1) The director shall monitor and evaluate the
effectiveness and efficiency of the agricultural easement program
as a farmland preservation tool. On or before July 1, 1999, and
the first day of July of each year thereafter, the director shall
prepare and submit a report to the chairpersons of the standing
committees of the senate and the house of representatives that
consider legislation regarding agriculture. The report shall

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consider and address the following criteria to determine the 481
program's effectiveness: 482

(a) The number of agricultural easements purchased during the 483
preceding year; 484

(b) The location of those easements; 485

(c) The number of acres of land preserved for agricultural 486
use; 487

(d) The amount of money used by a municipal corporation, 488
township, or county from its general fund or special fund to 489
purchase the agricultural easements; 490

(e) The number of state matching grants given to purchase the 491
agricultural easements; 492

(f) The amount of state matching grant moneys used to 493
purchase the agricultural easements. 494

(2) The report also shall consider and include, at a minimum, 495
the following information for each county to determine the 496
program's efficiency: 497

(a) The total number of acres in the county; 498

(b) The total number of acres in current agricultural use; 499

(c) The total number of acres preserved for agricultural use 500
in the preceding year; 501

(d) The average cost, per acre, of land preserved for 502
agricultural use in the preceding year. 503

Sec. 5301.691. (A)(1) Subject to divisions (A)(2) and (E) of 504
this section, the director of agriculture, with moneys credited to 505
the agricultural easement purchase fund created in section 901.21 506
of the Revised Code, may purchase agricultural easements in the 507
name of the state. 508

(2) Not less than thirty days prior to the acquisition of an agricultural easement under division (A)(1) of this section or the extinguishment of such an easement purchased under that division, the director shall provide written notice of the intention to do so to the board of county commissioners of the county in which the land that is or is proposed to be subject to the easement or extinguishment is located, and either to the legislative authority of the municipal corporation in which the land is located, if it is located in an incorporated area, or to the board of township trustees of the township in which the land is located, if it is located in an unincorporated area. If, within thirty days after the director provides the notice, the board of county commissioners, legislative authority, or board of township trustees requests an informational meeting with the director regarding the proposed acquisition or extinguishment, the director shall meet with the legislative authority or board to respond to the board's or authority's questions and concerns. If a meeting is timely requested under division (A)(2) of this section, the director shall not undertake the proposed acquisition or extinguishment until after the meeting has been concluded.

The director, upon the director's own initiative and prior to the purchase of an agricultural easement under division (A)(1) of this section or the extinguishment of such an easement, may hold an informational meeting with the board of county commissioners and the legislative authority of the municipal corporation or board of township trustees in which land that would be affected by the proposed acquisition or extinguishment is located, to respond to any questions and concerns of the board or authority regarding the proposed acquisition or extinguishment.

(B)(1) Subject to division (E) of this section, the legislative authority of a municipal corporation, board of county commissioners of a county, or board of trustees of a township,

with moneys in the political subdivision's general fund not 541
required by law or charter to be used for other specified purposes 542
or with moneys in a special fund of the political subdivision to 543
be used for the purchase of agricultural easements, may purchase 544
agricultural easements in the name of the municipal corporation, 545
county, or township. 546

(2) Subject to division (E) of this section, the legislative 547
authority of a municipal corporation, board of county 548
commissioners of a county, or board of township trustees of a 549
township may acquire agricultural easements by gift, devise, or 550
bequest. Any terms may be included in an agricultural easement so 551
acquired that are necessary or appropriate to preserve on behalf 552
of the grantor of the easement the favorable tax consequences of 553
the gift, devise, or bequest under the "Internal Revenue Act of 554
1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 555

(C)(1) The term of an agricultural easement purchased wholly 556
or in part with money from the agricultural easement purchase fund 557
shall be perpetual and shall run with the land. 558

(2) The term of an agricultural easement purchased by such a 559
legislative authority or board without the use of any money from 560
the agricultural easement purchase fund may be perpetual or for a 561
specified period. The agricultural easement shall run with the 562
land. The instrument conveying an agricultural easement for a 563
specified period shall include provisions specifying, at a 564
minimum, all of the following: 565

(a) The consideration to be paid for the easement and manner 566
of payment; 567

(b) Whether the easement is renewable and, if so, procedures 568
for its renewal; 569

(c) The circumstances under which the easement may be 570
extinguished; 571

(d) The method for determining the amount of money, if any, 572
due the holder of the easement upon extinguishment and for payment 573
of that amount to the holder. 574

(D)(1) The director and each legislative authority of a 575
municipal corporation, board of county commissioners, or board of 576
township trustees, upon acquiring an agricultural easement by 577
purchase, gift, devise, or bequest under this section or section 578
901.21 of the Revised Code, shall name an appropriate 579
administrative officer, department, or division to supervise and 580
enforce the easement. A legislative authority or board may enter 581
into a contract with the board of park commissioners of a park 582
district established under Chapter 1545. of the Revised Code, the 583
board of park commissioners of a township park district 584
established under section 511.18 of the Revised Code, or the board 585
of supervisors of a soil and water conservation district 586
established under Chapter 1515. of the Revised Code having 587
territorial jurisdiction within the municipal corporation, county, 588
or township, or with a charitable organization described in 589
division (B) of section 5301.69 of the Revised Code, to supervise 590
on behalf of the legislative authority or board an agricultural 591
easement so acquired. The contract may be entered into on such 592
terms as are agreeable to the parties and shall specify or 593
prescribe a method for determining the amounts of any payments to 594
be made by the legislative authority or board of county 595
commissioners or township trustees for the performance of the 596
contract. 597

(2) With respect to an agricultural easement purchased with a 598
matching grant that is made under division (D) of section 901.22 599
of the Revised Code and that consists in whole or in part of 600
moneys from the clean Ohio agricultural easement fund created in 601
section 901.21 of the Revised Code, the recipient of the matching 602
grant shall make an annual monitoring visit to the land that is 603

the subject of the easement. The purpose of the visit is to ensure
that no development that is prohibited by the terms of the
easement has occurred or is occurring. In accordance with rules
adopted under division (A)(1)(d) of section 901.22 of the Revised
Code, the grant recipient shall prepare a written annual
monitoring report and submit it to the office of farmland
preservation in the department of agriculture. If necessary to
enforce the terms of the easement, the grant recipient shall take
corrective action in accordance with those rules. The director may
agree to share these monitoring and enforcement responsibilities
with the grant recipient.

(E) The director; a municipal corporation, county, or
township; or a charitable organization described in division (B)
of section 5301.69 of the Revised Code, may acquire agricultural
easements by purchase, gift, devise, or bequest only on land that
is valued for purposes of real property taxation at its current
value for agricultural use under section 5713.31 of the Revised
Code or that constitutes a homestead when the easement is granted.

(F) An agricultural easement acquired by the director under
division (A) of this section may be extinguished if an unexpected
change in the conditions of or surrounding the land that is
subject to the easement makes impossible or impractical the
continued use of the land for the purposes described in the
agricultural easement, or if the requirements of the easement are
extinguished by judicial proceedings. Upon the sale, exchange, or
involuntary conversion of the land subject to the easement, the
director shall be paid an amount of money that is at least equal
to the proportionate value of the easement compared to the total
value of the land at the time the easement was acquired. Moneys so
received shall be credited to the agricultural easement purchase
fund.

An agricultural easement acquired by a municipal corporation,

county, or township under division (B) of this section may be
extinguished under the circumstances prescribed, and in accordance
with the terms and conditions set forth, in the instrument
conveying the agricultural easement. An agricultural easement
acquired by a charitable organization described in division (B) of
section 5301.69 of the Revised Code may be extinguished under the
circumstances prescribed, and in accordance with the terms and
conditions set forth, in the instrument conveying the agricultural
easement.

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Any instrument extinguishing an agricultural easement shall
be executed and recorded in the same manner as other instruments
conveying or terminating interests in real property.

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(G) Promptly after the recording and indexing of an
instrument conveying an agricultural easement to any person or to
a municipal corporation, county, or township or of an instrument
extinguishing an agricultural easement held by any person or such
a political subdivision, the county recorder shall mail, by
regular mail, a photocopy of the instrument to the office of
farmland preservation in the department of agriculture. The
photocopy shall be accompanied by an invoice for the applicable
fee established in section 317.32 of the Revised Code. Promptly
after receiving the photocopy and invoice, the office of farmland
preservation shall remit the fee to the county recorder.

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(H) The director, the legislative authority of a municipal
corporation, a board of county commissioners, or a board of
township trustees may receive and expend grants from any public or
private source for the purpose of purchasing agricultural
easements and supervising and enforcing them.

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Section 2. That existing sections 122.657, 122.658, 164.27,
901.22, and 5301.691 of the Revised Code are hereby repealed.

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Section 3. That Sections 6 and 7 of Am. Sub. H.B. 3 of the 124th General Assembly be amended to read as follows:

"Sec. 6. All items in this section are hereby appropriated as designated out of any moneys in the state treasury to the credit of the Clean Ohio Trail Fund (Fund 058 061). The appropriations made in this act are in addition to any other capital appropriations made for the 2000-2002 biennium.

DNR DEPARTMENT OF NATURAL RESOURCES

Clean Ohio Trail Fund				674
058 CAP-014	Clean Ohio Trail	\$	6,250,000	675
<u>061</u>				
TOTAL 058 <u>061</u>	Clean Ohio Trail Fund	\$	6,250,000	676
TOTAL ALL BUDGET FUND GROUPS		\$	6,250,000	677

CLEAN OHIO TRAIL

The foregoing appropriation item CAP-014, Clean Ohio Trail, shall be used in accordance with section 1519.05 of the Revised Code. The Director of the Department of Natural Resources may certify to the Director of Budget and Management that a need exists to appropriate investment earnings to be used in accordance with section 1519.05 of the Revised Code. If the Director of Budget and Management determines pursuant to section 1519.05 of the Revised Code that investment earnings are available to support additional appropriations, such amounts are hereby appropriated.

Within the limits set forth in this act, the Director of Budget and Management shall establish accounts indicating source and amount of funds for each appropriation made in this act, and shall determine the form and manner in which appropriation accounts shall be maintained. Expenditures from appropriations contained in this act shall be accounted for as though made in Am. Sub. H.B. 640 of the 123rd General Assembly.

The appropriations made in this act are subject to all 695
provisions of Am. Sub. H.B. 640 of the 123rd General Assembly that 696
are generally applicable to such appropriations. 697

Sec. 7. All items in this section are hereby appropriated as 698
designated out of any moneys in the state treasury to the credit 699
of the Clean Ohio Trail Fund (Fund ~~058~~ 061). For all 700
appropriations made in this act, those in the first column are for 701
fiscal year 2002 and those in the second column are for fiscal 702
year 2003. The appropriations made in this act are in addition to 703
any other appropriations made for the 2001-2003 biennium. 704

DNR DEPARTMENT OF NATURAL RESOURCES 705

Clean Ohio Trail Fund 706

~~058~~ 725-405 Clean Ohio - Operating \$ 150,000 \$ 155,000 707
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TOTAL ~~058~~ 061 Clean Ohio Trail Fund \$ 150,000 \$ 155,000 708

TOTAL ALL BUDGET FUND GROUPS \$ 150,000 \$ 155,000 709

CLEAN OHIO - OPERATING 710

The foregoing appropriations item 725-405, Clean Ohio - 711
Operating, shall be used by the Ohio Department of Natural 712
Resources in administering section 1519.05 of the Revised Code. 713

Within the limits set forth in this act, the Director of 714
Budget and Management shall establish accounts indicating source 715
and amount of funds for each appropriation made in this act, and 716
shall determine the form and manner in which appropriation 717
accounts shall be maintained. Expenditures from appropriations 718
contained in this act shall be accounted for as though made in Am. 719
Sub. H.B. 94 of the 124th General Assembly. 720

The appropriations made in this act are subject to all 721
provisions of Am. Sub. H.B. 94 of the 124th General Assembly that 722
are generally applicable to such appropriations." 723

Section 4. That existing Sections 6 and 7 of Am. Sub. H.B. 3 724
of the 124th General Assembly are hereby repealed. 725