

**As Introduced**

**124th General Assembly  
Regular Session  
2001-2002**

**H. B. No. 58**

**REPRESENTATIVES Williams, Young, Seitz**

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**A B I L L**

To amend sections 121.22, 122.02, 122.42, 122.71, 1  
122.72, 122.73, 122.74, 122.75, 122.751, 122.76, 2  
122.77, 122.79, 122.80, 122.81, 122.83, 122.87, 3  
122.88, 122.89, 122.92, 122.93, 122.94, 123.151, 4  
125.08, 125.081, 125.11, 125.111, 135.04, 153.59, 5  
164.07, 166.03, 166.08, 169.05, 307.696, 307.921, 6  
340.12, 340.13, 351.06, 3354.161, 3355.121, 7  
3357.161, 3358.10, 3383.07, 3734.18, 4115.032, 8  
4301.17, 4503.03, 4582.12, 4981.03, 5111.05, 9  
5126.05, and 5126.071 of the Revised Code to change 10  
the term "minority business enterprise" to 11  
"challenged business enterprise" for purposes of 12  
the laws governing public contract set asides, 13  
minority business development loans, and minority 14  
business bonds; to revise the definition of and 15  
criteria for becoming certified as a challenged 16  
business enterprise; to limit the permissible 17  
period of certification as a challenged business 18  
enterprise to five years; to rename the Minority 19  
Development Financing Advisory Board as the 20  
Challenged Business Development Financing Advisory 21  
Board and to rename the Department of Development's 22  
Minority Business Development Division as the 23  
Challenged Business Development Division; and to 24  
eliminate the programs for public contract set 25

asides, challenged business development loans, and 26  
challenged business bonds ten years after the 27  
effective date of this act by repealing sections 28  
122.71, 122.72, 122.73, 122.74, 122.75, 122.751, 29  
122.76, 122.77, 122.78, 122.79, 122.80, 122.81, 30  
122.82, 122.83, 122.87, 122.88, 122.89, 122.92, 31  
122.93, 122.94, 123.151, 125.081, 164.07, 307.921, 32  
340.13, 3354.161, 3355.121, 3357.161, and 5126.071 33  
of the Revised Code on that date. 34  
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**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 121.22, 122.02, 122.42, 122.71, 36  
122.72, 122.73, 122.74, 122.75, 122.751, 122.76, 122.77, 122.79, 37  
122.80, 122.81, 122.83, 122.87, 122.88, 122.89, 122.92, 122.93, 38  
122.94, 123.151, 125.08, 125.081, 125.11, 125.111, 135.04, 153.59, 39  
164.07, 166.03, 166.08, 169.05, 307.696, 307.921, 340.12, 340.13, 40  
351.06, 3354.161, 3355.121, 3357.161, 3358.10, 3383.07, 3734.18, 41  
4115.032, 4301.17, 4503.03, 4582.12, 4981.03, 5111.05, 5126.05, 42  
and 5126.071 of the Revised Code be amended to read as follows: 43

**Sec. 121.22.** (A) This section shall be liberally construed to 44  
require public officials to take official action and to conduct 45  
all deliberations upon official business only in open meetings 46  
unless the subject matter is specifically excepted by law. 47

(B) As used in this section: 48

(1) "Public body" means any of the following: 49

(a) Any board, commission, committee, council, or similar 50  
decision-making body of a state agency, institution, or authority, 51  
and any legislative authority or board, commission, committee, 52  
council, agency, authority, or similar decision-making body of any 53

county, township, municipal corporation, school district, or other political subdivision or local public institution;

(b) Any committee or subcommittee of a body described in division (B)(1)(a) of this section;

(c) A court of jurisdiction of a sanitary district organized wholly for the purpose of providing a water supply for domestic, municipal, and public use when meeting for the purpose of the appointment, removal, or reappointment of a member of the board of directors of such a district pursuant to section 6115.10 of the Revised Code, if applicable, or for any other matter related to such a district other than litigation involving the district. As used in division (B)(1)(c) of this section, "court of jurisdiction" has the same meaning as "court" in section 6115.01 of the Revised Code.

(2) "Meeting" means any prearranged discussion of the public business of the public body by a majority of its members.

(3) "Regulated individual" means either of the following:

(a) A student in a state or local public educational institution;

(b) A person who is, voluntarily or involuntarily, an inmate, patient, or resident of a state or local institution because of criminal behavior, mental illness or retardation, disease, disability, age, or other condition requiring custodial care.

(C) All meetings of any public body are declared to be public meetings open to the public at all times. A member of a public body shall be present in person at a meeting open to the public to be considered present or to vote at the meeting and for purposes of determining whether a quorum is present at the meeting.

The minutes of a regular or special meeting of any public body shall be promptly prepared, filed, and maintained and shall be open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions authorized under division (G) or (J) of this section.

(D) This section does not apply to any of the following:

(1) A grand jury;

(2) An audit conference conducted by the auditor of state or independent certified public accountants with officials of the public office that is the subject of the audit;

(3) The adult parole authority when its hearings are conducted at a correctional institution for the sole purpose of interviewing inmates to determine parole or pardon;

(4) The organized crime investigations commission established under section 177.01 of the Revised Code;

(5) Meetings of a child fatality review board established under section 307.621 of the Revised Code and meetings conducted pursuant to sections 5153.171 to 5153.173 of the Revised Code;

(6) The state medical board when determining whether to suspend a certificate without a prior hearing pursuant to division (G) of either section 4730.25 or 4731.22 of the Revised Code;

(7) The board of nursing when determining whether to suspend a license or certificate without a prior hearing pursuant to division (B) of section 4723.281 of the Revised Code;

(8) The state board of pharmacy when determining whether to suspend a license without a prior hearing pursuant to division (D) of section 4729.16 of the Revised Code;

(9) The executive committee of the emergency response commission when determining whether to issue an enforcement order or request that a civil action, civil penalty action, or criminal

action be brought to enforce Chapter 3750. of the Revised Code. 114

(E) The controlling board, the development financing advisory 115  
council, the industrial technology and enterprise advisory 116  
council, the tax credit authority, or, until ten years after the 117  
effective date of this amendment, the minority challenged business 118  
development financing advisory board, when meeting to consider 119  
granting assistance pursuant to Chapter 122. or 166. of the 120  
Revised Code, in order to protect the interest of the applicant or 121  
the possible investment of public funds, by unanimous vote of all 122  
board, council, or authority members present, may close the 123  
meeting during consideration of the following information 124  
confidentially received by the authority, council, or board from 125  
the applicant: 126

(1) Marketing plans; 127

(2) Specific business strategy; 128

(3) Production techniques and trade secrets; 129

(4) Financial projections; 130

(5) Personal financial statements of the applicant or members 131  
of the applicant's immediate family, including, but not limited 132  
to, tax records or other similar information not open to public 133  
inspection. 134

The vote by the authority, council, or board to accept or 135  
reject the application, as well as all proceedings of the 136  
authority, council, or board not subject to this division, shall 137  
be open to the public and governed by this section. 138

(F) Every public body, by rule, shall establish a reasonable 139  
method whereby any person may determine the time and place of all 140  
regularly scheduled meetings and the time, place, and purpose of 141  
all special meetings. A public body shall not hold a special 142  
meeting unless it gives at least twenty-four hours' advance notice 143

to the news media that have requested notification, except in the  
event of an emergency requiring immediate official action. In the  
event of an emergency, the member or members calling the meeting  
shall notify the news media that have requested notification  
immediately of the time, place, and purpose of the meeting.

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The rule shall provide that any person, upon request and  
payment of a reasonable fee, may obtain reasonable advance  
notification of all meetings at which any specific type of public  
business is to be discussed. Provisions for advance notification  
may include, but are not limited to, mailing the agenda of  
meetings to all subscribers on a mailing list or mailing notices  
in self-addressed, stamped envelopes provided by the person.

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(G) Except as provided in division (J) of this section, the  
members of a public body may hold an executive session only after  
a majority of a quorum of the public body determines, by a roll  
call vote, to hold an executive session and only at a regular or  
special meeting for the sole purpose of the consideration of any  
of the following matters:

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(1) To consider the appointment, employment, dismissal,  
discipline, promotion, demotion, or compensation of a public  
employee or official, or the investigation of charges or  
complaints against a public employee, official, licensee, or  
regulated individual, unless the public employee, official,  
licensee, or regulated individual requests a public hearing.  
Except as otherwise provided by law, no public body shall hold an  
executive session for the discipline of an elected official for  
conduct related to the performance of the elected official's  
official duties or for the elected official's removal from office.  
If a public body holds an executive session pursuant to division  
(G)(1) of this section, the motion and vote to hold that executive  
session shall state which one or more of the approved purposes  
listed in division (G)(1) of this section are the purposes for

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which the executive session is to be held, but need not include 176  
the name of any person to be considered at the meeting. 177

(2) To consider the purchase of property for public purposes, 178  
or for the sale of property at competitive bidding, if premature 179  
disclosure of information would give an unfair competitive or 180  
bargaining advantage to a person whose personal, private interest 181  
is adverse to the general public interest. No member of a public 182  
body shall use division (G)(2) of this section as a subterfuge for 183  
providing covert information to prospective buyers or sellers. A 184  
purchase or sale of public property is void if the seller or buyer 185  
of the public property has received covert information from a 186  
member of a public body that has not been disclosed to the general 187  
public in sufficient time for other prospective buyers and sellers 188  
to prepare and submit offers. 189

If the minutes of the public body show that all meetings and 190  
deliberations of the public body have been conducted in compliance 191  
with this section, any instrument executed by the public body 192  
purporting to convey, lease, or otherwise dispose of any right, 193  
title, or interest in any public property shall be conclusively 194  
presumed to have been executed in compliance with this section 195  
insofar as title or other interest of any bona fide purchasers, 196  
lessees, or transferees of the property is concerned. 197

(3) Conferences with an attorney for the public body 198  
concerning disputes involving the public body that are the subject 199  
of pending or imminent court action; 200

(4) Preparing for, conducting, or reviewing negotiations or 201  
bargaining sessions with public employees concerning their 202  
compensation or other terms and conditions of their employment; 203

(5) Matters required to be kept confidential by federal law 204  
or regulations or state statutes; 205

(6) Specialized details of security arrangements if 206

disclosure of the matters discussed might reveal information that  
could be used for the purpose of committing, or avoiding  
prosecution for, a violation of the law;

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(7) In the case of a county hospital operated pursuant to  
Chapter 339. of the Revised Code, to consider trade secrets, as  
defined in section 1333.61 of the Revised Code.

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If a public body holds an executive session to consider any  
of the matters listed in divisions (G)(2) to (7) of this section,  
the motion and vote to hold that executive session shall state  
which one or more of the approved matters listed in those  
divisions are to be considered at the executive session.

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A public body specified in division (B)(1)(c) of this section  
shall not hold an executive session when meeting for the purposes  
specified in that division.

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(H) A resolution, rule, or formal action of any kind is  
invalid unless adopted in an open meeting of the public body. A  
resolution, rule, or formal action adopted in an open meeting that  
results from deliberations in a meeting not open to the public is  
invalid unless the deliberations were for a purpose specifically  
authorized in division (G) or (J) of this section and conducted at  
an executive session held in compliance with this section. A  
resolution, rule, or formal action adopted in an open meeting is  
invalid if the public body that adopted the resolution, rule, or  
formal action violated division (F) of this section.

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(I)(1) Any person may bring an action to enforce this  
section. An action under division (I)(1) of this section shall be  
brought within two years after the date of the alleged violation  
or threatened violation. Upon proof of a violation or threatened  
violation of this section in an action brought by any person, the  
court of common pleas shall issue an injunction to compel the  
members of the public body to comply with its provisions.

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(2)(a) If the court of common pleas issues an injunction 238  
pursuant to division (I)(1) of this section, the court shall order 239  
the public body that it enjoins to pay a civil forfeiture of five 240  
hundred dollars to the party that sought the injunction and shall 241  
award to that party all court costs and, subject to reduction as 242  
described in division (I)(2) of this section, reasonable 243  
attorney's fees. The court, in its discretion, may reduce an award 244  
of attorney's fees to the party that sought the injunction or not 245  
award attorney's fees to that party if the court determines both 246  
of the following: 247

(i) That, based on the ordinary application of statutory law 248  
and case law as it existed at the time of violation or threatened 249  
violation that was the basis of the injunction, a well-informed 250  
public body reasonably would believe that the public body was not 251  
violating or threatening to violate this section; 252

(ii) That a well-informed public body reasonably would 253  
believe that the conduct or threatened conduct that was the basis 254  
of the injunction would serve the public policy that underlies the 255  
authority that is asserted as permitting that conduct or 256  
threatened conduct. 257

(b) If the court of common pleas does not issue an injunction 258  
pursuant to division (I)(1) of this section and the court 259  
determines at that time that the bringing of the action was 260  
frivolous conduct, as defined in division (A) of section 2323.51 261  
of the Revised Code, the court shall award to the public body all 262  
court costs and reasonable attorney's fees, as determined by the 263  
court. 264

(3) Irreparable harm and prejudice to the party that sought 265  
the injunction shall be conclusively and irrebuttably presumed 266  
upon proof of a violation or threatened violation of this section. 267

(4) A member of a public body who knowingly violates an 268

injunction issued pursuant to division (I)(1) of this section may  
be removed from office by an action brought in the court of common  
pleas for that purpose by the prosecuting attorney or the attorney  
general.

(J)(1) Pursuant to division (C) of section 5901.09 of the  
Revised Code, a veterans service commission shall hold an  
executive session for one or more of the following purposes unless  
an applicant requests a public hearing:

(a) Interviewing an applicant for financial assistance under  
sections 5901.01 to 5901.15 of the Revised Code;

(b) Discussing applications, statements, and other documents  
described in division (B) of section 5901.09 of the Revised Code;

(c) Reviewing matters relating to an applicant's request for  
financial assistance under sections 5901.01 to 5901.15 of the  
Revised Code.

(2) A veterans service commission shall not exclude an  
applicant for, recipient of, or former recipient of financial  
assistance under sections 5901.01 to 5901.15 of the Revised Code,  
and shall not exclude representatives selected by the applicant,  
recipient, or former recipient, from a meeting that the commission  
conducts as an executive session that pertains to the applicant's,  
recipient's, or former recipient's application for financial  
assistance.

(3) A veterans service commission shall vote on the grant or  
denial of financial assistance under sections 5901.01 to 5901.15  
of the Revised Code only in an open meeting of the commission. The  
minutes of the meeting shall indicate the name, address, and  
occupation of the applicant, whether the assistance was granted or  
denied, the amount of the assistance if assistance is granted, and  
the votes for and against the granting of assistance.

**Sec. 122.02.** The department of development may apply for, 299  
receive, and accept grants, gifts, contributions, loans, and any 300  
other assistance in any form from public and private sources, 301  
including assistance from agencies and instrumentalities of the 302  
United States and including the application for, receipt, and 303  
acceptance, on behalf of this state, of assistance from agencies 304  
and instrumentalities of the United States for the purposes of 305  
~~Chapter 122. of the Revised Code except that~~ this chapter. Until 306  
ten years after the effective date of this amendment, nothing in 307  
this section prohibits the minority challenged business 308  
development division from exercising its authority under section 309  
122.93 of the Revised Code. The department shall do all things 310  
necessary to apply for, receive, and administer such assistance in 311  
accordance with the laws of ~~Ohio~~ this state. It may contract or 312  
enter into agreements with any person, governmental agency, or 313  
public or private organization, and any local or regional agency 314  
or political subdivision of the state may contract with it, to 315  
carry out the purposes of ~~Chapter 122. of the Revised Code~~ this 316  
chapter. The department may require, in all contracts for 317  
assistance, stipulations that the contractors and any 318  
subcontractors comply with requirements as to minimum wages, hours 319  
of work, equal employment, and any other conditions ~~which~~ that the 320  
United States has attached to its financial aid to the projects. 321

**Sec. 122.42.** (A) The director of development shall do all of 322  
the following: 323

(1) Receive applications for assistance under sections 122.39 324  
to 122.62 of the Revised Code, and, after processing, forward 325  
them, until ten years after the effective date of this amendment, 326  
to the challenged business development financing advisory board 327  
together with necessary supporting information; 328

(2) Receive the recommendations of the board and make a final 329

determination whether to approve the application for assistance;	330
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(3) Transmit determinations to approve assistance to the	332
controlling board together with any information the controlling	333
board requires for the board's review and decision as to whether	334
to approve the assistance;	335
(4) Issue revenue bonds of the state through the treasurer of	336
state, as necessary, payable solely from revenues and other	337
sources as provided in sections 122.39 to 122.62 of the Revised	338
Code.	339
(B) The director may do all of the following:	340
(1) Fix the rate of interest and charges to be made upon or	341
with respect to moneys loaned by the director and the terms upon	342
which mortgages and lease rentals may be guaranteed and the rates	343
of charges to be made for the loans and guarantees and to make	344
provisions for the operation of the funds established by the	345
director in accordance with this section and sections 122.54,	346
122.55, 122.56, and 122.57 of the Revised Code;	347
(2) Loan moneys from the fund established in accordance with	348
section 122.54 of the Revised Code pursuant to and in compliance	349
with sections 122.39 to 122.62 of the Revised Code;	350
(3) Acquire in the name of the director any property of any	351
kind or character in accordance with sections 122.39 to 122.62 of	352
the Revised Code, by purchase, purchase at foreclosure, or	353
exchange on such terms and in such manner as the director	354
considers proper;	355
(4) Make and enter into all contracts and agreements	356
necessary or incidental to the performance of the director's	357
duties and the exercise of the director's powers under sections	358
122.39 to 122.62 of the Revised Code;	359
(5) Maintain, protect, repair, improve, and insure any	360

property ~~which the director has~~ acquired in connection with the 361  
programs administered under sections 122.39 to 122.62 of the 362  
Revised Code and dispose of ~~the same~~ it by sale, exchange, or 363  
lease for the consideration and on the terms and in the manner ~~as~~ 364  
that the director considers proper, but the director is not 365  
authorized to operate any ~~such of the~~ property as a business 366  
except as the lessor of the property; 367

(6)(a) When the cost of any contract for the maintenance, 368  
protection, repair, or improvement of any property held by the 369  
director other than compensation for personal services involves an 370  
expenditure of more than one thousand dollars, the director shall 371  
make a written contract with the lowest responsive and responsible 372  
bidder in accordance with section 9.312 of the Revised Code after 373  
advertisement for not less than two consecutive weeks in a 374  
newspaper of general circulation in the county where such 375  
contract, or some substantial part of it, is to be performed, and 376  
in such other publications as the director determines, which 377  
notice shall state the general character of the work and the 378  
general character of the materials to be furnished, the place 379  
where plans and specifications may be examined, and the time and 380  
place of receiving bids. 381

(b) Each bid for a contract for the construction, demolition, 382  
alteration, repair, or reconstruction of an improvement shall 383  
contain the full name of every person interested in it and meet 384  
the requirements of section 153.54 of the Revised Code. 385

(c) Each bid for a contract, except as provided in division 387  
(B)(6)(b) of this section, shall contain the full name of every 388  
person interested in it and shall be accompanied by bond or 389  
certified check on a solvent bank, in such amount as the director 390  
considers sufficient, that if the bid is accepted a contract will 391  
be entered into and the performance of the proposal secured. 392

(d) The director may reject any and all bids. 393

(e) A bond with good and sufficient surety, approved by the 394  
director, shall be required of every contractor awarded a contract 395  
except as provided in division (B)(6)(b) of this section, in an 396  
amount equal to at least fifty per cent of the contract price, 397  
conditioned upon faithful performance of the contract. 398

(7) Employ financial consultants, appraisers, consulting 399  
engineers, superintendents, managers, construction and accounting 400  
experts, attorneys, and other employees and agents as are 401  
necessary in the director's judgment and fix their compensation; 402

(8)(a) Assist qualified persons in the coordination and 403  
formation of a small business development company, having a 404  
statewide area of operation, conditional upon the company's 405  
agreeing to seek to obtain certification from the federal small 406  
business administration as a certified statewide development 407  
company and participation in the guaranteed loan program 408  
administered by the small business administration pursuant to the 409  
Act of July 2, 1980, 94 Stat. 837, 15 U.S.C.A. 697. During the 410  
initial period of formation of the statewide small business 411  
development company, the director shall provide technical and 412  
financial expertise, legal and managerial assistance, and other 413  
services as are necessary and proper to enable the company to 414  
obtain and maintain federal certification and participation in the 415  
federal guaranteed loan program. The director may charge a fee, in 416  
~~such~~ the amount and on ~~such~~ the terms and conditions ~~as~~ that the 417  
director determines necessary and proper, for assistance and 418  
services provided pursuant to division (B)(8)(a) of this section. 419

(b) Persons chosen by the director to receive assistance in 420  
the formation of a statewide small business development company 421  
pursuant to division (B)(8)(a) of this section shall make a 422  
special effort to use their participation in the federal 423  
guaranteed loan program to assist small businesses ~~which~~ that are 424

minority challenged business enterprises as defined in ~~division~~ 425  
(~~E~~) of section 122.71 of the Revised Code. The director, with the 426  
assistance of the minority challenged business development 427  
division of the department of development, shall provide technical 428  
and financial expertise, legal and managerial assistance, and 429  
other services in ~~such~~ a manner ~~to enable~~ that enables the 430  
development company to provide assistance to small businesses 431  
~~which~~ that are minority challenged business enterprises, and shall 432  
make available to the development company information pertaining 433  
to assistance available to minority challenged business 434  
enterprises under programs established pursuant to sections 122.71 435  
to 122.83, 122.87 to 122.89, 122.92 to 122.94, 123.151, and 436  
125.081 of the Revised Code. 437

Division (B)(8)(b) of this section applies only until ten 438  
years after the effective date of this amendment. 439

(9) Receive and accept grants, gifts, and contributions of 440  
money, property, labor, and other things of value to be held, 441  
used, and applied only for the purpose for which such grants, 442  
gifts, and contributions are made, from individuals, private and 443  
public corporations, from the United States or any agency of the 444  
United States, from the state or any agency of the state, and from 445  
any political subdivision of the state, and may agree to repay any 446  
contribution of money or to return any property contributed or the 447  
value of the property at such times, in such amounts, and on such 448  
terms and conditions, excluding the payment of interest, as the 449  
director determines at the time such contribution is made, and may 450  
evidence such obligations by notes, bonds, or other written 451  
instruments; 452

(10) Establish with the treasurer of state the funds provided 453  
in sections 122.54, 122.55, 122.56, and 122.57 of the Revised 454  
Code, in addition to such funds as the director determines are 455  
necessary or proper; 456

(11) Do all acts and things necessary or proper to carry out 457  
the powers expressly granted and the duties imposed in sections 458  
122.39 to 122.62 and Chapter 163. of the Revised Code. 459

(C) All expenses and obligations incurred by the director in 460  
carrying out the director's powers and in exercising the 461  
director's duties under sections 122.39 to 122.62 of the Revised 462  
Code, shall be payable solely from the proceeds of revenue bonds 463  
issued pursuant to those sections, from revenues or other receipts 464  
or income of the director, from grants, gifts, and contributions, 465  
or funds established in accordance with those sections. Those 466  
sections do not authorize the director to incur indebtedness or to 467  
impose liability on the state or any political subdivision of the 468  
state. 469

(D) Financial statements and financial data submitted to the 470  
director by any corporation, partnership, or person in connection 471  
with a loan application, or any information taken from such 472  
statements or data for any purpose, shall not be open to public 473  
inspection. 474

**Sec. 122.71.** As used in sections 122.71 to 122.83 of the 475  
Revised Code: 476

(A) "Financial institution" means any banking corporation, 477  
trust company, insurance company, savings and loan association, 478  
building and loan association, or corporation, partnership, 479  
federal lending agency, foundation, or other institution engaged 480  
in lending or investing funds for industrial or business purposes. 481

(B) "Project" means any real or personal property connected 482  
with or being a part of an industrial, distribution, commercial, 483  
or research facility to be acquired, constructed, reconstructed, 484  
enlarged, improved, furnished, or equipped, or any combination 485  
thereof, with the aid provided under sections 122.71 to 122.83 of 486  
the Revised Code, for industrial, commercial, distribution, and 487



research development of the state. 488

(C) "Mortgage" means the lien imposed on a project by a 489  
mortgage on real property, or by financing statements on personal 490  
property, or a combination of a mortgage and financing statements 491  
when a project consists of both real and personal property. 492

(D) "Mortgagor" means the principal user of a project or the 493  
~~person~~ individual, corporation, partnership, limited liability 494  
company, joint venture, or association unconditionally 495  
guaranteeing performance by the principal user of its obligations 496  
under the mortgage. 497

(E)(1) Minority "Challenged business enterprise" means a 498  
business that is owned and controlled by an individual, who is a 499  
United States citizen, a resident of this state, and an 500  
economically disadvantaged individual, or a partnership, 501  
corporation, association, limited liability company, or joint 502  
venture of any kind that is owned and controlled by individuals 503  
who are United States citizens ~~who are~~, residents of this state or 504  
nonresidents of this state who have a significant presence in this 505  
state, and ~~who are members of one of the following~~ economically 506  
~~disadvantaged groups: Blacks, American Indians, Hispanics, and~~ 507  
~~Orientals~~ individuals. 508

(2) "Owned and controlled" means that at least fifty-one per 509  
cent of the business, including corporate stock if a corporation, 510  
is owned by ~~persons who belong to one or more of the groups set~~ 511  
~~forth in division (E)(1) of this section~~ economically 512  
disadvantaged individuals, and that those ~~owners~~ individuals have 513  
control over the management and day-to-day operations of the 514  
business and an interest in the capital, assets, and profits and 515  
losses of the business proportionate to their percentage of 516  
ownership. In order to qualify as a minority challenged business 517  
enterprise, a business shall have been owned and controlled by 518  
those ~~persons~~ individuals, and shall have been operating in that 519

field of business, for at least ~~one year~~ two years prior to being 520  
awarded a contract pursuant to this section. 521

(3) "Economically disadvantaged individual" means an 522  
individual whose ability to compete in the free enterprise system 523  
has been impaired because of diminished capital and credit 524  
opportunities as compared to others in the same or similar field 525  
of business and whose personal net worth does not exceed two 526  
hundred fifty thousand dollars. 527

(F) "Community improvement corporation" means a corporation 528  
organized under Chapter 1724. of the Revised Code. 529

(G) "Ohio development corporation" means a corporation 530  
organized under Chapter 1726. of the Revised Code. 531

**Sec. 122.72.** (A) There is hereby created the ~~minority~~ 532  
challenged business development financing advisory board to assist 533  
in carrying out the programs created pursuant to sections 122.71 534  
to 122.89 of the Revised Code. 535

(B) The board shall consist of seven members appointed by the 536  
governor with the advice and consent of the senate and selected 537  
because of their knowledge of and experience in industrial, 538  
business, and commercial financing, suretyship, and construction, 539  
and their understanding of the problems of ~~minority~~ challenged 540  
business enterprises; one member of the senate appointed by the 541  
president of the senate~~7;~~ and one member of the house of 542  
representatives appointed by the speaker of the house of 543  
representatives. With respect to the board, all of the following 544  
apply: 545

(1) Not more than four of the members of the board appointed 546  
by the governor shall be of the same political party. 547

(2) Each member shall hold office from the date of the 548  
member's appointment until the end of the term for which the 549

member was appointed. 550

(3) The terms of office for the seven members appointed by 551  
the governor shall be for seven years, commencing on the first day 552  
of October and ending on the thirtieth day of September of the 553  
seventh year, except that of the original seven members, three 554  
shall be appointed for three years and two shall be appointed for 555  
five years. 556

(4) Any member of the board is eligible for reappointment. 557

(5) Any member appointed to fill a vacancy occurring prior to 558  
the expiration of the term for which ~~his~~ the member's predecessor 559  
was appointed shall hold office for the remainder of ~~his~~ the 560  
predecessor's term. 561

(6) Any member shall continue in office subsequent to the 562  
expiration date of ~~his~~ the member's term until ~~his~~ a successor 563  
takes office, or until a period of sixty days has elapsed, 564  
whichever occurs first. 565

(7) Before entering upon ~~his~~ official duties as a member of 566  
the board, each member shall take an oath as provided by Section 7 567  
of Article XV, Ohio Constitution. 568

(8) The governor may, at any time, remove any member 569  
appointed by ~~him~~ the governor pursuant to section 3.04 of the 570  
Revised Code. 571

(9) Notwithstanding section 101.26 of the Revised Code, 572  
members shall receive their necessary and actual expenses while 573  
engaged in the business of the board and shall be paid at the per 574  
diem rate of step 1 of pay range 31 of section 124.15 of the 575  
Revised Code. 576

(10) Five members of the board constitute a quorum, and the 577  
affirmative vote of five members is necessary for any action taken 578  
by the board. 579

(11) In the event of the absence of a member appointed by the president of the senate or by the speaker of the house of representatives, either of the following persons may serve in the member's absence:

(a) The president of the senate or the speaker of the house of representatives, whoever appointed the absent member;

(b) A member of the senate or of the house of representatives of the same political party as the absent member, as designated by the president of the senate or the speaker of the house of representatives, whoever appointed the absent member.

(12) The board shall annually elect one of its members as ~~chairman~~ chairperson and another as ~~vice-chairman~~ vice-chairperson.

**Sec. 122.73.** (A) The ~~minority~~ challenged business development financing advisory board and the director of development are invested with the powers and duties provided in sections 122.71 to 122.89 of the Revised Code, in order to promote the welfare of the people of the state by encouraging the establishment and expansion of ~~minority~~ challenged business enterprises, to stabilize the economy, to provide employment, to assist in the development within the state of industrial, commercial, distribution, and research activities required for the people of the state, and for their gainful employment, or otherwise to create or preserve jobs and employment opportunities, or improve the economic welfare of the people of the state. It is hereby determined that the accomplishment of those purposes is essential so that the people of the state may maintain their present high standards of living in comparison with the people of other states and so that opportunities for employment and for favorable markets for the products of the state's natural resources, agriculture, and manufacturing shall be improved and that it is necessary for the

state to establish the programs authorized under sections 122.71 611  
to 122.89 of the Revised Code to establish the minority challenged 612  
business development financing advisory board, and to invest it 613  
and the director of development with the powers and duties 614  
provided in sections 122.71 to 122.89 of the Revised Code. 615

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(B) The minority challenged business development financing 617  
advisory board shall do all of the following: 618

(1) Make recommendations to the director as to applications 619  
for assistance pursuant to sections 122.71 to 122.89 of the 620  
Revised Code. The board may revise its recommendations to reflect 621  
any changes in the proposed assistance made by the director. 622

(2) Advise the director in the administration of sections 623  
122.71 to 122.89 of the Revised Code. 624

(3) Adopt bylaws to govern the conduct of the business of the 625  
board. 626

**Sec. 122.74.** (A) The director of development shall do the 627  
following: 628

(1) Receive applications for assistance under sections 122.71 629  
to 122.89 of the Revised Code, and, after processing, forward them 630  
to the minority challenged business development financing advisory 631  
board together with necessary supporting information; 632

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(2) Receive the recommendations of the board and make a final 634  
determination whether to approve ~~the~~ an application for 635  
assistance; 636

(3) Transmit the director's determinations to approve 637  
assistance to the controlling board together with any information 638  
the controlling board requires for its review and decision as to 639

whether to approve the assistance; 640

(4) Adopt rules in accordance with Chapter 119. of the 641  
Revised Code establishing procedures for determining whether a 642  
business enterprise qualifies as a challenged business enterprise. 643

(B) The director may do all of the following: 644

(1) Fix the rate of interest and charges to be made upon or 645  
with respect to moneys loaned or guaranteed by the director and 646  
the terms upon which mortgages and lease rentals may be guaranteed 647  
and the rates of charges to be made for them and make provisions 648  
for the operation of the funds established by the director in 649  
accordance with this section and sections 122.80 and 122.88 of the 650  
Revised Code; 651

(2) Loan and guarantee moneys from the fund established in 652  
accordance with section 122.80 of the Revised Code pursuant to and 653  
in compliance with sections 122.71 to 122.89 of the Revised Code; 654

(3) Acquire in the name of the director any property of any 655  
kind or character in accordance with sections 122.71 to 122.89 of 656  
the Revised Code, by purchase, purchase at foreclosure, or 657  
exchange on ~~such the~~ terms and in ~~such the~~ manner ~~as that~~ the 658  
director considers proper; 659

(4) Make and enter into all contracts and agreements 660  
necessary or incidental to the performance of the director's 661  
duties and the exercise of the director's powers under sections 662  
122.71 to 122.89 of the Revised Code; 663

(5) Maintain, protect, repair, improve, and insure any 664  
property that the director has acquired and dispose of it by sale, 665  
exchange, or lease for the consideration and on the terms and in 666  
the manner as the director considers proper, but the director 667  
shall not operate any ~~such of the~~ property as a business except as 668  
the lessor of it; 669

(6)(a) When the cost of any contract for the maintenance, 670  
protection, repair, or improvement of any property held by the 671  
director other than compensation for personal services involves an 672  
expenditure of more than fifty thousand dollars, the director 673  
shall make a written contract with the lowest responsive and 674  
responsible bidder in accordance with section 9.312 of the Revised 675  
Code after advertisement for not less than two consecutive weeks 676  
in a newspaper of general circulation in the county where ~~such~~ the 677  
contract, or some substantial part of it, is to be performed, and 678  
in ~~such~~ other publications ~~as~~ that the director determines, which 679  
notice shall state the general character of the work and the 680  
general character of the materials to be furnished, the place 681  
where plans and specifications therefor may be examined, and the 682  
time and place of receiving bids. 683

(b) Each bid for a contract for the construction, demolition, 684  
alteration, repair, or reconstruction of an improvement shall 685  
contain the full name of every person interested in it and meet 686  
the requirements of section 153.54 of the Revised Code. 687

(c) Each bid for a contract, except as provided in division 689  
(B)(6)(b) of this section, shall contain the full name of every 690  
person interested in it and shall be accompanied by bond or 691  
certified check on a solvent bank, in ~~such~~ the amount ~~as~~ that the 692  
director considers sufficient, that if the bid is accepted a 693  
contract will be entered into and the performance of the proposal 694  
secured. 695

(d) The director may reject any and all bids. 696

(e) A bond with good and sufficient surety, approved by the 697  
director, shall be required of every contractor awarded a contract 698  
except as provided in division (B)(6)(b) of this section, in an 699  
amount equal to at least fifty per cent of the contract price, 700  
conditioned upon faithful performance of the contract. 701

(7) Employ or contract with financial consultants, 702  
appraisers, consulting engineers, superintendents, managers, 703  
construction and accounting experts, attorneys, and other 704  
employees and agents as are necessary in the director's judgment 705  
and fix their compensation; 706

(8) Receive and accept grants, gifts, and contributions of 707  
money, property, labor, and other things of value to be held, 708  
used, and applied only for the purpose for which ~~such~~ the grants, 709  
gifts, and contributions are made, from individuals, from private 710  
and public corporations, from the United States or any agency 711  
~~thereof of the United States~~, from the state or any agency ~~thereof~~ 712  
of the state, and from any political subdivision of the state, and 713  
may agree to repay any contribution of money or to return any 714  
property contributed or the value ~~thereof~~ of the property at such 715  
times, in such amounts, and on such terms and conditions, 716  
excluding the payment of interest, as the director determines at 717  
the time such contribution is made, and may evidence such 718  
obligations by notes, bonds, or other written instruments; 719

(9) Establish with the treasurer of state the funds provided 720  
in sections 122.80 and 122.88 of the Revised Code in addition to 721  
such funds as the director determines are necessary or proper; 722

(10) Adopt rules under Chapter 119. of the Revised Code 723  
necessary to implement sections 122.71 to 122.83 of the Revised 724  
Code; 725

(11) Do all acts and things necessary or proper to carry out 726  
the powers expressly granted and the duties imposed in sections 727  
122.71 to 122.89 of the Revised Code. 728

(C)(1) All expenses and obligations incurred by the director 729  
in carrying out the director's powers and in exercising the 730  
director's duties under sections 122.71 to 122.89 of the Revised 731  
Code shall be payable solely from revenues or other receipts or 732



income of the director, from grants, gifts, and contributions, or  
from funds established in accordance with ~~such~~ those sections.  
~~Such~~ Those sections do not authorize the director to incur  
indebtedness or to impose liability on the state or any political  
subdivision of the state.

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(2) Financial statements and other data submitted to the  
director by any corporation, partnership, or person in connection  
with financial assistance provided under sections 122.71 to 122.89  
of the Revised Code, or any information taken from ~~such~~ the  
statements or data for any purpose, shall not be open to public  
inspection.

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**Sec. 122.75.** The director of development shall, for the  
~~minority~~ challenged business development loan program and the  
~~minority~~ challenged business bonding program under sections 122.87  
to 122.89 of the Revised Code, do all of the following:

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(A) Hire employees, consultants, and agents and fix their  
compensation;

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(B) Adopt bylaws and rules for the regulation of the business  
of the ~~minority~~ challenged business development financing advisory  
board;

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(C) Receive and accept grants, gifts, and contributions of  
money, property, labor, and other things of value, to be held,  
used, and applied only for the purpose for which the grants,  
gifts, and contributions are made, from individuals, private and  
public corporations, the United States or any agency of the United  
States, the state or any agency of the state, and any political  
subdivision of the state. The director may agree to repay any  
contribution of money or to return any property contributed or its  
value at such times, in such amounts, and on such terms and  
conditions, excluding the payment of interest, as the director  
determines at the time the contribution is made. The director may

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evidence the obligations by written contracts, subject to section 122.76 of the Revised Code; provided, that the director shall not thereby incur indebtedness of or impose liability upon the state or any political subdivision.

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(D) Establish funds with the treasurer of state in addition to the ~~minority~~ challenged business bonding fund created under section 122.88 of the Revised Code;

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(E) Invest money in the funds the director establishes pursuant to division (D) of this section that is in excess of current needs, in notes, bonds, or other obligations that are direct obligations of or are guaranteed by the United States, or in certificates of deposit or withdrawable accounts of banks, trust companies, and savings and loan associations organized under the laws of this state or the United States, and may credit the income or sell the investments at the director's discretion;

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(F) Acquire any property of any kind or character in accordance with sections 122.71 to 122.83 of the Revised Code, by purchase, purchase at foreclosure, or exchange on terms and in a manner the director considers proper;

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(G)(1) Maintain, protect, repair, improve, and insure any property the director has acquired and dispose of it by sale, exchange, or lease for the consideration and on terms and in a manner the director considers proper. The director may not operate any property as a business except as a lessor of the property. When the cost of any contract for the maintenance, protection, repair, or improvement of any property of the advisory board connected with the ~~minority~~ challenged business development loan program, other than compensation for personal services, involves an expenditure of more than one thousand dollars, the director shall enter into a written contract with the lowest and best bidder after advertisement for not less than four consecutive weeks in a newspaper of general circulation in the county where

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the contract, or some substantial part of it, is to be performed, 796  
and in other publications as the director determines. The notice 797  
shall state the general character of the work and the general 798  
character of the materials to be furnished, the place where plans 799  
and specifications for the work and materials may be examined, and 800  
the time and place of receiving bids. 801

(2) Each bid for a contract for the construction, demolition, 802  
alteration, repair, or reconstruction of an improvement shall 803  
contain the full name of every person interested in it and meet 804  
the requirements of section 153.54 of the Revised Code. 805

(3) Each bid for a contract, except as provided in division 806  
(G)(2) of this section, shall contain the full name of every 807  
person interested in it and shall be accompanied by a bond or 808  
certified check on a solvent bank, in the amount of ten per cent 809  
of the bid, that, if the bid is accepted, a contract will be 810  
entered into and the performance of its proposal secured. The 811  
director may reject any or all bids. A bond with good and 812  
sufficient surety, approved by the director, shall be required of 813  
all contractors in an amount equal to at least one hundred per 814  
cent of the contract price, conditioned upon faithful performance 815  
of the contract. 816

(H) Expend money appropriated to the department of 817  
development by the general assembly for the purposes of sections 818  
122.71 to 122.83 and 122.87 to 122.89 of the Revised Code; 819

(I) Do all acts and things necessary or proper to carry out 820  
the powers expressly granted and the duties imposed in sections 821  
122.71 to 122.83 and 122.87 to 122.89 of the Revised Code. 822

**Sec. 122.751.** The minority challenged business development 823  
financing advisory board shall only consider an application for a 824  
loan from any applicant after a certification by the equal 825  
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employment opportunity coordinator of the department of 827  
administrative services under division (B)(1) of section 123.151 828  
of the Revised Code that the applicant is a minority challenged 829  
business enterprise and that the applicant satisfies all criteria 830  
regarding eligibility for assistance pursuant to section 122.76 of 831  
the Revised Code. 832

**Sec. 122.76.** (A) The director of development, with 833  
controlling board approval, may lend funds to minority challenged 834  
business enterprises and to community improvement corporations and 835  
Ohio development corporations for the purpose of loaning funds to 836  
minority challenged business enterprises and for the purpose of 837  
procuring or improving real or personal property, or both, for the 838  
establishment, location, or expansion of industrial, distribution, 839  
commercial, or research facilities in the state, if the director 840  
determines, in the director's sole discretion, that all of the 841  
following apply: 842

(1) The project is economically sound and will benefit the 843  
people of the state by increasing opportunities for employment, by 844  
strengthening the economy of the state, or by expanding minority 845  
challenged business enterprises~~†~~. 846

(2) The proposed minority challenged business enterprise 847  
borrower is unable to finance the proposed project through 848  
ordinary financial channels at comparable terms~~†~~. 849

(3) The value of the project is, or upon completion ~~thereof~~ 850  
of the project its value will be, at least equal to the total 851  
amount of the money expended in the procurement or improvement of 852  
the project and of which amount one or more financial institutions 853  
or other governmental entities have loaned not less than thirty 854  
per cent~~†~~. 855

(4) The amount to be loaned by the director will not exceed 856  
sixty per cent of the total amount expended in the procurement or 857

improvement of the project+.

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(5) The amount to be loaned by the director will be adequately secured by a first or second mortgage upon the project, or by mortgages, leases, liens, assignments, or pledges on or of other property or contracts as the director requires and that such mortgage will not be subordinate to any other liens or mortgages except the liens securing loans or investments made by financial institutions referred to in division (A)(3) of this section, and the liens securing loans previously made by any financial institution in connection with the procurement or expansion of all or part of a project.

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(6) The net worth of a challenged business enterprise does not exceed five hundred thousand dollars. The director shall determine the net worth of a business enterprise by utilizing the procedures for making that determination that the equal employment opportunity coordinator must follow according to rules adopted under division (B)(1)(f) of section 123.151 of the Revised Code.

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(B) Any proposed minority challenged business enterprise borrower submitting an application for assistance under this section shall not have defaulted on a previous loan from the director, and no full or limited partner, or major shareholder, or holder of an equity interest of the proposed minority challenged business enterprise borrower shall have defaulted on a loan from the director+.

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(C) The proposed minority challenged business enterprise borrower shall demonstrate to the satisfaction of the director that it is able to successfully compete in the private sector if it obtains the necessary financial, technical, or managerial support and that support is available through the director, the minority challenged business development office division of the department of development, or other identified and acceptable sources. In determining whether a minority challenged business

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enterprise borrower will be able to successfully compete, the 890  
director may give consideration to such factors as the successful 891  
completion of or participation in courses of study, recognized by 892  
the board of regents as providing financial, technical, or 893  
managerial skills related to the operation of the business, by the 894  
economically disadvantaged individual, owner, or partner, and the 895  
prior success of the individual, owner, or partner in personal, 896  
career, or business activities, as well as to other factors 897  
identified by the director. 898

(D) The director shall not lend funds for the purpose of 899  
procuring or improving motor vehicles, power-driven vehicles, 900  
office equipment, raw materials, small tools, supplies, 901  
inventories, or accounts receivable. 902

**Sec. 122.77.** (A) The director of development, with 903  
controlling board approval, may make loan guarantees to small 904  
businesses and corporations for the purpose of guaranteeing loans 905  
made to small businesses by financial institutions for the purpose 906  
of procuring or improving real or personal property, or both, for 907  
the establishment, location, or expansion of industrial, 908  
distribution, commercial, or research facilities in the state, if 909  
the director determines, in ~~his~~ the director's sole discretion, 910  
that all of the following apply: 911

(1) The project is economically sound and will benefit the 912  
people of the state by increasing opportunities for employment, by 913  
strengthening the economy of the state, or by expanding minority 914  
challenged business enterprises. 915

(2) The proposed small business borrower is unable to finance 916  
the proposed project through ordinary financial channels at 917  
comparable terms. 918

(3) The value of the project is, or upon completion of it 919  
will be, at least equal to the total amount of the money expended 920

in the procurement or improvement of the project and of which 921  
amount one or more financial institutions or other governmental 922  
entities have loaned not less than thirty per cent+. 923

(4) The amount to be guaranteed by the director will not 924  
exceed fifty per cent of the total amount expended in the 925  
procurement or improvement of the project+. 926

(5) The amount to be guaranteed by the director will be 927  
adequately secured by a first or second mortgage upon the project, 928  
or by mortgages, leases, liens, assignments, or pledges on or of 929  
other property or contracts as the director shall require and that 930  
such mortgage will not be subordinate to any other liens or 931  
mortgages except the liens securing loans or investments made by 932  
financial institutions referred to in division (A)(3) of this 933  
section, and the liens securing loans previously made by any 934  
financial institution in connection with the procurement or 935  
expansion of all or part of a project. 936

(B) The proposed small business borrower shall not have 937  
defaulted on a previous loan or guarantee from the director, and 938  
no full or limited partner, or major shareholder, or holder of any 939  
equity interest of the proposed ~~minority~~ small business ~~enterprise~~ 940  
borrower shall have defaulted on a loan or guarantee from the 941  
director. 942

(C) The proposed small business borrower shall demonstrate to 943  
the satisfaction of the director that it is able to successfully 944  
compete in the private sector if it obtains the necessary 945  
financial, technical, or managerial support and that support is 946  
available through the director, the ~~minority~~ challenged business 947  
development ~~office~~ division of the department of development, or 948  
other identified and acceptable sources. In determining whether a 949  
small business borrower will be able to successfully compete, the 950  
director may give consideration to such factors as the successful 951  
completion of or participation in courses of study, recognized by 952

the board of regents as providing financial, technical, or 953  
managerial skills related to the operation of the business, by the 954  
economically disadvantaged individual, owner, or partner, and the 955  
prior success of the individual, owner, or partner in personal, 956  
career, or business activities, as well as to other factors 957  
identified by the director. 958

(D) The director shall not guarantee funds for the purpose of 960  
procuring or improving motor vehicles, power driven vehicles, 961  
office equipment, raw materials, small tools, supplies, 962  
inventories, or accounts receivable. 963

**Sec. 122.79.** The exercise of the powers granted by sections 964  
122.71 to 122.89 of the Revised Code, will be in all respects for 965  
the benefit of the people of the state, for the increase of their 966  
commerce and prosperity, for the increase and expansion of 967  
minority challenged business enterprises, and for the improvement 968  
of conditions of employment, and will constitute the performance 969  
of essential governmental functions; therefore, the director of 970  
development shall not be required to pay any taxes upon any 971  
property or assets held by ~~him~~ the director, or upon any property 972  
acquired or used by ~~him~~ the director under sections 122.71 to 973  
122.89 of the Revised Code, or upon the income from it, provided 974  
that this exemption shall not apply to any property held by the 975  
director while it is in the possession of a private ~~person~~ 976  
individual, partnership, limited liability company, association, 977  
joint venture, or corporation and used for private purposes for 978  
profit, in which case ~~such any~~ tax liability shall accrue to ~~such~~ 979  
the private person individual, partnership, limited liability 980  
company, association, joint venture, or corporation. 981

**Sec. 122.80.** There is hereby created in the state treasury 982  
the minority challenged business enterprise loan fund. The fund 983



shall consist of money deposited into the fund from the facilities 984  
establishment fund pursuant to section 166.03 of the Revised Code 985  
and all money deposited into the fund pursuant to section 122.81 986  
of the Revised Code. The director of development shall use the 987  
fund to pay operating costs of the minority challenged business 988  
development financing advisory board, make loans to minority 989  
challenged business enterprises as authorized in division (A) of 990  
section 122.76 of the Revised Code, and make loan guarantees to 991  
small businesses as authorized in division (A) of section 122.77 992  
of the Revised Code. 993

**Sec. 122.81.** In the event of a default with respect to any 994  
loan, guarantee, or lease, the director of development shall take 995  
such the action as he that the director considers proper in the 996  
circumstances to enforce and protect the rights of the director, 997  
and such other actions as that may be required, which may include 998  
any appropriate action at law or in equity, enforcement or waiver 999  
of any provision of any mortgage or security agreement or lease, 1000  
or reinstatement of any forfeited or canceled right, title, or 1001  
privilege. 1002

Any moneys received from the repayment of a loan, guarantee, 1003  
or lease authorized pursuant to sections 122.77 and 122.78 of the 1004  
Revised Code, and any moneys recovered in the event of a default 1005  
with respect to any such loan, guarantee, or lease, shall 1006  
immediately be deposited in the minority challenged business 1007  
enterprise loan fund. 1008

**Sec. 122.83.** Any person who intentionally ~~misrepresents that~~ 1009  
~~person's self as~~ makes a false claim of owning, controlling, 1010  
operating, or participating in a minority challenged business 1011  
enterprise for the purpose of obtaining funds, contracts, 1012  
subcontracts, services, or any other benefits under sections 1013

122.71 to 122.85 or 122.87 to 122.89 of the Revised Code is guilty 1014  
of theft by deception, pursuant to section 2913.02 of the Revised 1015  
Code. 1016

**Sec. 122.87.** As used in sections 122.87 to 122.89 of the 1017  
Revised Code: 1018

(A) "Surety company" means a company that is authorized by 1019  
the department of insurance to issue bonds as surety. 1020

(B) "Minority Challenged business" means any of the following 1021  
occupations: 1022

(1) Minority Challenged construction contractor; 1023

(2) Minority Challenged seller; 1024

(3) Minority Challenged service vendor. 1025

(C) "Minority Challenged construction contractor" means a 1026  
person who is both a construction contractor and an owner of a 1027  
minority challenged business enterprise certified under division 1028  
(B) of section 123.151 of the Revised Code. 1029

(D) "Minority Challenged seller" means a person who is both a 1030  
seller of goods and an owner of a minority challenged business 1031  
enterprise listed on the special minority challenged business 1032  
enterprise bid notification list under division (B) of section 1033  
125.08 of the Revised Code. 1034

(E) "Minority Challenged service vendor" means a person who 1035  
is both a vendor of services and an owner of a minority challenged 1036  
business enterprise listed on the special minority challenged 1037  
business enterprise bid notification list under division (B) of 1038  
section 125.08 of the Revised Code. 1039

(F) "Minority Challenged business enterprise" has the same 1040  
meaning ~~given~~ as in section 122.71 of the Revised Code. 1041

Sec. 122.88. (A) There is hereby created in the state 1042  
treasury the minority challenged business bonding fund, consisting 1043  
of moneys deposited or credited to it pursuant to section 169.05 1044  
of the Revised Code; all grants, gifts, and contributions received 1045  
pursuant to division (B)(9) of section 122.74 of the Revised Code; 1046  
all moneys recovered following defaults; and any other moneys 1047  
obtained by the director of development for the purposes of 1048  
sections 122.87 to 122.89 of the Revised Code. The fund shall be 1049  
administered by the director. Moneys in the fund shall be held in 1050  
trust for the purposes of sections 122.87 to 122.89 of the Revised 1051  
Code. 1052

(B) Any claims against the state arising from defaults shall 1053  
be payable from the minority challenged business bonding program 1054  
administrative and loss reserve fund as provided in division (C) 1055  
of this section or from the minority challenged business bonding 1056  
fund. Nothing in sections 122.87 to 122.89 of the Revised Code 1057  
grants or pledges to any obligee or other person any state moneys 1058  
other than the moneys in the minority challenged business bonding 1059  
program administrative and loss reserve fund or the minority 1060  
challenged business bonding fund, or moneys available to the 1061  
minority challenged business bonding fund upon request of the 1062  
director in accordance with division (B) of section 169.05 of the 1063  
Revised Code. 1064

(C) There is hereby created in the state treasury the 1065  
minority challenged business bonding program administrative and 1066  
loss reserve fund, consisting of all premiums charged and 1067  
collected in accordance with section 122.89 of the Revised Code 1068  
and any interest income earned from the moneys in the minority 1069  
challenged business bonding fund. All expenses of the director and 1070  
the minority challenged business development financing advisory 1071  
board in carrying out the purposes of sections 122.87 to 122.89 of 1072  
the Revised Code shall be paid from the minority challenged 1073

business bonding program administrative and loss reserve fund. 1074  
1075

Any moneys to the credit of the minority challenged business 1076  
bonding program administrative and loss reserve fund in excess of 1077  
the amount necessary to fund the appropriation authority for the 1078  
minority challenged business bonding program administrative and 1079  
loss reserve fund shall be held as a loss reserve to pay claims 1080  
arising from defaults on surety bonds underwritten in accordance 1081  
with section 122.89 of the Revised Code. If the balance of funds 1082  
in the minority challenged business bonding program administrative 1083  
and loss reserve fund is insufficient to pay a claim against the 1084  
state arising from default, then ~~such~~ the claim shall be payable 1085  
from the minority challenged business bonding fund. 1086

**Sec. 122.89.** (A) The director of development may execute 1087  
bonds as surety for minority challenged businesses as principals, 1088  
on contracts with the state, any political subdivision or 1089  
instrumentality thereof, or any person as the obligee. The 1090  
director as surety may exercise all the rights and powers of a 1091  
company authorized by the department of insurance to execute bonds 1092  
as surety but shall not be subject to any requirements of a surety 1093  
company under Title XXXIX of the Revised Code nor to any rules of 1094  
the department of insurance. 1095

(B) The director, with the advice of the minority challenged 1096  
business development financing advisory board, shall adopt rules 1097  
under Chapter 119. of the Revised Code establishing procedures for 1098  
application for surety bonds by minority challenged businesses and 1099  
for review and approval of applications. The board shall review 1100  
each application in accordance with the rules and, based on the 1101  
bond worthiness of each applicant, shall refer all qualified 1102  
applicants to the director. Based on the recommendation of the 1103  
board, the director shall determine whether or not the applicant 1104  
shall receive bonding. 1105

(C) The rules of the board shall provide that ~~the minority a~~ 1106  
challenged business, in order to make an application for a bond to 1107  
the director, shall submit documentation, as the director 1108  
requires, to demonstrate either that ~~a minority~~ the challenged 1109  
business shall have been denied a bond by two surety companies or 1110  
that the ~~minority~~ challenged business has applied to two surety 1111  
companies for a bond and, at the expiration of sixty days after 1112  
making the application, has neither received nor been denied a 1113  
bond. 1114

(D) The rules of the board shall require ~~the minority a~~ 1115  
challenged business to pay a premium in advance for the bond to be 1116  
established by the director, with the advice of the board after 1117  
the director receives advice from the superintendent of insurance 1118  
regarding the standard market rates for premiums for similar 1119  
bonds. All premiums paid by ~~minority~~ challenged businesses shall 1120  
be paid into the ~~minority~~ challenged business bonding program 1121  
administrative and loss reserve fund. 1122

(E) The penal sum amounts of all outstanding bonds issued by 1123  
the director shall not exceed the amount of moneys in the ~~minority~~ 1124  
challenged business bonding fund and available to the fund under 1125  
division (B) of section 169.05 of the Revised Code. 1126

(F) The superintendent of insurance shall provide such 1127  
technical and professional assistance ~~as~~ that is considered 1128  
necessary by the director, including providing advice regarding 1129  
the standard market rates for bond premiums as described under 1130  
division (D) of this section. 1131

**Sec. 122.92.** There is hereby created in the department of 1132  
development a ~~minority~~ challenged business development division. 1133  
The division shall do all of the following: 1134

(A) Provide technical, managerial, and counseling services 1135  
and assistance to ~~minority~~ challenged business enterprises; 1136

(B) Provide procurement and bid packaging assistance to	1137
<u>minority challenged</u> business enterprises;	1138
(C) Provide bonding technical assistance to <u>minority</u>	1139
<u>challenged</u> business enterprises;	1140
(D) Participate with other state departments and agencies as	1141
appropriate in developing specific plans and specific program	1142
goals for programs to assist in the establishment and development	1143
of <u>minority challenged</u> business enterprises and establish regular	1144
performance monitoring and reporting systems to ensure that those	1145
goals are being achieved;	1146
(E) Implement state law and policy supporting <u>minority</u>	1147
<u>challenged</u> business enterprise development, and assist in the	1148
coordination of plans, programs, and operations of state	1149
government which affect or may contribute to the establishment,	1150
preservation, and strengthening of <u>minority challenged</u> business	1151
enterprises;	1152
(F) Assist in the coordination of activities and resources of	1153
state agencies and local governments, business and trade	1154
associations, universities, foundations, professional	1155
organizations, and volunteer and other groups, to promote the	1156
growth of <u>minority challenged</u> business enterprises;	1157
(G) Establish a center for the development, collection, and	1158
dissemination of information that will be helpful to persons in	1159
establishing or expanding <u>minority challenged</u> business enterprises	1160
in this state;	1161
(H) Design, implement, and assist in experimental and	1162
demonstration projects designed to overcome the special problems	1163
of <u>minority challenged</u> business enterprises;	1164
(I) Coordinate reviews of all proposed state training and	1165
technical assistance activities in direct support of <u>minority</u>	1166
<u>challenged</u> business enterprise programs to ensure consistency with	1167

program goals and to preclude duplication of efforts by other 1168  
state agencies; 1169

(J) Recommend appropriate legislative or executive actions to 1170  
enhance minority challenged business opportunities in the state; 1171  
1172

(K) Assist minority challenged business enterprises in 1173  
obtaining governmental or commercial financing for business 1174  
expansion, establishment of new businesses, or industrial 1175  
development projects; 1176

(L) Assist minority challenged business enterprises in 1177  
contract procurement from government and commercial sources; 1178

~~(M) Establish procedures to identify groups who have been 1179  
disadvantaged because of racial, cultural, or ethnic circumstances 1180  
without regard to the individual qualities of the members of the 1181  
group;~~ 1182

~~(N) Establish procedures to identify persons who have been 1183  
economically disadvantaged;~~ 1184

~~(O)~~(N) Do all acts and things necessary or proper to carry 1185  
out the powers expressly granted and duties imposed by sections 1186  
122.92 to 122.94 of the Revised Code. 1187

**Sec. 122.93.** The minority challenged business development 1188  
division may receive and accept gifts, grants, loans, or any other 1189  
financial or other aid from any federal, state, local, or private 1190  
agency or fund for any of the purposes of sections 122.92 to 1191  
122.94 of the Revised Code, ~~and~~ may enter into any contract with 1192  
any agency or fund in connection with receiving the aid, and may 1193  
receive and accept aid or contributions from any other source of 1194  
money, property, labor, or things of value, to be held, used, and 1195  
applied only for the purposes for which the grants and 1196  
contributions are made. 1197

**Sec. 122.94.** The director of ~~the department of~~ development 1198  
shall do the following: 1199

(A) Promulgate rules in accordance with Chapter 119. of the 1200  
Revised Code for the conduct of the ~~minority~~ challenged business 1201  
development division's business and for carrying out the purposes 1202  
of sections 122.92 to 122.94 of the Revised Code; 1203

(B) Prepare an annual report, and submit it to the governor 1204  
and the general assembly on or before the first day of February, 1205  
of ~~its~~ the division's activities for the preceding calendar year. 1206  
In addition to the submissions required by section 101.68 of the 1207  
Revised Code, the director shall submit copies of the annual 1208  
report to the ~~chairmen~~ chairpersons of the standing committees of 1209  
the senate and house of representatives having jurisdiction over 1210  
individuals, small businesses, and small organizations, as those 1211  
terms are defined in section 121.24 of the Revised Code. 1212

**Sec. 123.151.** (A) As used in this section, "~~minority~~ 1213  
challenged business enterprise" ~~has~~ and "economically 1214  
disadvantaged individual" have the meaning given same meanings as 1215  
in ~~division (E)(1) of~~ section 122.71 of the Revised Code. 1216

(B)(1) The director of administrative services shall ~~make~~ 1217  
adopt rules in accordance with Chapter 119. of the Revised Code 1218  
establishing that do the following: 1219

(a) Establish procedures by which ~~minority businesses a~~ 1220  
challenged business enterprise may apply to the equal employment 1221  
opportunity coordinator for certification as ~~minority a~~ challenged 1222  
business ~~enterprises~~ enterprise and procedures for the renewal of 1223  
that certification; 1224

(b) Require the coordinator to find, as a condition of 1225  
certification, that a business enterprise has experienced 1226  
diminished access to capital and credit opportunities and markets 1227



as compared to other businesses in the same or similar field; 1228

(c) Require the coordinator to find, as a condition of 1229  
certification, that the individual or individuals who own and 1230  
control at least fifty-one per cent of the business enterprise are 1231  
economically disadvantaged individuals; 1232

(d) Require the coordinator to determine the net worth and 1233  
financial condition of a business enterprise seeking certification 1234  
under this section; 1235

(e) Require the coordinator to determine the net worth and 1236  
financial condition of the individual or individuals who own and 1237  
control at least fifty-one per cent of the business enterprise 1238  
seeking certification under this section for purposes of 1239  
determining whether an applicant may be certified as a challenged 1240  
business enterprise; 1241

(f) Establish procedures that the coordinator shall follow in 1242  
determining the net worth and financial condition of a business 1243  
enterprise seeking certification under this section and of the 1244  
individual or individuals who own and control at least fifty-one 1245  
per cent of that business enterprise. 1246

The director shall adopt additional rules in accordance with 1247  
Chapter 119. of the Revised Code that the director finds necessary 1248  
to carry out this section. 1249

(2) Any minority challenged business enterprise that desires 1250  
to bid on a contract under division (C)(1) or (D)(1) of this 1251  
section or to be a minority challenged business enterprise 1252  
subcontractor or materials supplier under division (C)(2) or 1253  
(D)(2) of this section shall first apply to the coordinator for 1254  
certification. The coordinator shall approve the application of 1255  
any minority challenged business enterprise that complies with 1256  
this section and the rules adopted under this division. Any person 1257  
adversely affected by an order of the coordinator denying 1258

certification as a minority challenged business enterprise may 1259  
appeal as provided in Chapter 119. of the Revised Code. The 1260  
coordinator shall prepare and maintain a list of certified 1261  
minority challenged business enterprises. 1262

(3) A business enterprise whose net worth exceeds seven 1263  
hundred fifty thousand dollars is ineligible to obtain 1264  
certification as a challenged business enterprise. 1265

A certified challenged business enterprise is deemed to have 1266  
graduated or withdrawn from the status of a certified challenged 1267  
business enterprise at the earliest of the following dates: 1268

(a) The earliest date for renewal of the certification of a 1269  
challenged business enterprise whose net worth exceeds seven 1270  
hundred fifty thousand dollars; 1271

(b) The earliest date for renewal of the certification of a 1272  
challenged business enterprise that has maintained the status of a 1273  
certified challenged business enterprise for a total of five 1274  
years, whether or not the years are consecutive. 1275

The coordinator shall not certify, or renew the certification 1276  
of, a challenged business enterprise that has graduated or 1277  
withdrawn from the status of a challenged business enterprise. 1278

A business enterprise seeking certification as a challenged 1279  
business enterprise or the renewal of a certification shall 1280  
provide to the coordinator all information required under this 1281  
section and the rules adopted under this section to facilitate the 1282  
certification, or the renewal of the certification, of that 1283  
business enterprise. 1284

(C)(1) From the contracts to be awarded under section 123.15 1285  
and Chapter 153. of the Revised Code, the director shall select a 1286  
number of contracts with an aggregate value of approximately five 1287  
per cent of the total estimated value of contracts to be awarded 1288  
in the current fiscal year. The director shall set aside the 1289

contracts so selected for bidding by ~~minority~~ challenged business enterprises only. The bidding procedures for ~~such~~ those contracts shall be the same as for all other contracts awarded under section 123.15 and Chapter 153. of the Revised Code except that only ~~minority~~ challenged business enterprises certified and listed under division (B) of this section shall be qualified to submit bids.

(2)(a) Any contractor awarded a contract authorized by section 123.15 and Chapter 153. of the Revised Code or a contract included under division (D) of this section shall make every effort to ensure that certified ~~minority~~ challenged business enterprise subcontractors and materials suppliers participate in the contract. In the case of contracts specified in division (A) of section 153.50 of the Revised Code, the total value of subcontracts awarded to and materials and services purchased from ~~minority businesses~~ challenged business enterprises shall be at least ten per cent of the total value of the contract, wherever possible and whenever the contractor awards subcontracts or purchases materials or services. In the case of all other contracts, the total value of subcontracts awarded to certified ~~minority businesses~~ challenged business enterprises shall equal at least five per cent of the total value of the contract. The total value of both the subcontracts awarded to and the purchases of materials made from ~~such~~ those businesses shall equal at least ten per cent of the total value of the contract, wherever possible and whenever the contractor awards subcontracts or purchases materials or services.

(b) Except as provided in divisions (C)(3) and (4) of this section, the department of administrative services shall not enter into any contract authorized under section 123.15 and Chapter 153. of the Revised Code, including any contract set aside under division (C)(1) of this section, unless the contract contains a

provision stipulating that the contractor, to the extent that it  
subcontracts work, will award subcontracts totaling no less than  
five per cent of the total value of the contract to ~~minority  
businesses~~ challenged business enterprises certified under  
division (B) of this section and that the total value of both the  
materials purchased from ~~minority businesses~~ challenged business  
enterprises certified under division (B) of this section and of  
the subcontracts awarded, to the extent that it subcontracts work,  
to ~~such minority businesses~~ those challenged business enterprises  
will equal at least seven per cent of the total value of the  
contract; except that in the case of contracts specified in  
division (A) of section 153.50 of the Revised Code, the contractor  
shall stipulate that the total value of both the subcontracts  
awarded to and the materials and services purchased from ~~minority  
businesses~~ challenged business enterprises certified under  
division (B) of this section will equal at least seven per cent of  
the total value of the contract; but for the purposes of meeting  
the seven per cent requirement, the value of services shall not be  
more than five per cent of the total value of the contract. To the  
extent that the contractor subcontracts work less than the  
percentages required to be subcontracted to ~~minority~~ challenged  
business enterprises as established in this section, the total  
value of the subcontracts awarded to ~~minority~~ challenged business  
enterprises certified under division (B) of this section need not  
exceed the actual amount of ~~such~~ those subcontracts awarded.

(3) ~~Where~~ If a contractor is unable to agree to the provision  
required by division (C)(2) of this section because, having made a  
good faith effort, the contractor is unable to locate qualified  
~~minority businesses~~ challenged business enterprises available to  
accept subcontracts or sell materials or services, the contractor  
may apply to the coordinator and the set aside review board  
created under division (C)(4) of this section for a waiver or

modification of the provision. The coordinator shall review the 1354  
application and shall make a recommendation to the board to allow 1355  
or disallow the request. After receipt of the coordinator's 1356  
recommendation, the board shall review the request. If the board 1357  
finds that the contractor has made a good faith effort to locate 1358  
and reach agreement with minority challenged business enterprise 1359  
subcontractors and materials suppliers or service providers but 1360  
has been unable to do so due to circumstances beyond the 1361  
reasonable control of the contractor, it may authorize the 1362  
contract to include, in lieu of the provision required by division 1363  
(C)(2) of this section, a provision stipulating a lesser 1364  
percentage of the total value of the contract to be designated for 1365  
minority challenged business enterprise subcontractors and 1366  
materials suppliers or it may waive ~~such~~ the provision required by 1367  
division (C)(2) of this section entirely, or stipulate a higher 1368  
percentage of services permissible in contracts specified in 1369  
division (A) of section 153.50 of the Revised Code. If the board 1370  
does not grant the contractor's application for waiver or 1371  
modification, and if the contractor is unable to agree with the 1372  
provision required by division (C)(2) of this section, the 1373  
contractor's bid shall be deemed nonresponsive to the 1374  
specifications for which the bid was submitted. ~~Such~~ The 1375  
nonresponsiveness shall not be a basis for forfeiture of a bid 1376  
guaranty or bond required by law if the contractor made 1377  
application to the board for a waiver or modification within ten 1378  
days following notification of award of the contract. 1379

If a contractor requests a waiver or modification because the 1380  
contractor intends to contract with an enterprise that has sought 1381  
certification as a minority challenged business enterprise in 1382  
accordance with division (B)(2) of this section, but the 1383  
coordinator has not rendered a decision certifying the enterprise, 1384  
the board may grant the modification or waiver requested, insofar 1385  
as it applies to that enterprise, if the enterprise's application 1386

for certification was filed with the coordinator at least sixty 1387  
days prior to the contractor's request for waiver or modification 1388  
and the contractor gives assurances satisfactory to the board that 1389  
the contractor will award a contract to the enterprise seeking 1390  
certification. 1391

(4) There is hereby created in the department of 1392  
administrative services the set aside review board, consisting of 1393  
the director of administrative services or the director's 1394  
designee, one member of the house of representatives appointed by 1395  
the governor with the recommendation of the speaker of the house 1396  
of representatives, and one member of the senate appointed by the 1397  
governor with the recommendation of the president of the senate. 1398  
Legislative members of the board shall serve four-year terms. Any 1399  
legislative vacancy on the board shall be filled in the same 1400  
manner as the original appointment. Members of the board shall not 1401  
receive compensation but shall be reimbursed for all necessary 1402  
expenses incurred in the course of their official duties. 1403

The board shall hear all applications of contractors for 1404  
waiver or modification of the contract provision required by 1405  
division (C)(2) of this section and shall make a decision on each 1406  
~~such~~ application within thirty days of its receipt by the board. 1407

(5) The director shall adopt rules in accordance with Chapter 1408  
119. of the Revised Code requiring the following notice to be 1409  
included in boldface type and capital letters in all bid 1410  
notifications and specifications for any contract authorized under 1411  
section 123.15 and Chapter 153. of the Revised Code and in any 1412  
contract covered by division (D) of this section: "~~Minority~~ 1413  
Challenged business set-aside requirements as specified in section 1414  
123.151 of the Revised Code apply to this project. Copies of 1415  
section 123.151 of the Revised Code can be obtained from any of 1416  
the offices of the department of administrative services." The 1417  
rules shall specify the number of days after the date on which 1418

bids are opened by which the successful bidder shall notify the 1419  
contracting agency concerning the provisions the bidder has made 1420  
or reasonably can be expected to make for meeting the provisions 1421  
of division (C)(2) of this section. 1422

(D)(1) To the extent that any state agency, other than the 1423  
department of administrative services, and any port authority is 1424  
authorized to enter into contracts for construction, the agency or 1425  
port authority shall set aside a number of contracts the aggregate 1426  
value of which equals approximately five per cent of the aggregate 1427  
value of construction contracts for the current fiscal year for 1428  
bidding by minority challenged business enterprises only. The 1429  
bidding procedures for the contracts set aside for minority 1430  
challenged business enterprises shall be the same as for all other 1431  
contracts awarded by the agency or port authority, except that 1432  
only minority challenged business enterprises certified and listed 1433  
under division (B) of this section shall be qualified to submit 1434  
bids. 1435

(2) All contracts for construction entered into by any state 1436  
agency, other than the department of administrative services, and 1437  
any port authority including contracts set aside under division 1438  
(D)(1) of this section, shall contain the same provision required 1439  
by division (C)(2) of this section, subject to modification or 1440  
waiver by the set aside review board in the manner specified by 1441  
divisions (C)(3) and (4) of this section. The rules of the 1442  
director adopted under division (C)(5) of this section shall be 1443  
applicable to contracts under this division. 1444

(E) In the case of contracts set aside under division (C)(1) 1445  
or (D)(1) of this section, if no bid is submitted by a minority 1446  
challenged business enterprise, the contract shall be awarded 1447  
according to normal bidding procedures. The contracting agency or 1448  
port authority shall from time to time set aside such additional 1449  
contracts for bidding only by minority challenged business 1450

enterprises as are necessary to replace those contracts previously 1451  
set aside on which no minority challenged business enterprises bid 1452  
and to ensure that, in any fiscal year, the aggregate amount of 1453  
construction contracts awarded to minority challenged business 1454  
enterprises will equal approximately five per cent of the total 1455  
amount of construction contracts awarded by the agency or port 1456  
authority. 1457

(F) This section does not preclude any minority challenged 1458  
business enterprise from bidding on any other contract not 1459  
specifically set aside for minority challenged business 1460  
enterprises. 1461

(G) No funds of any state agency or port authority shall be 1462  
expended in any fiscal year for construction until the director of 1463  
administrative services or the chairperson of the port authority, 1464  
whichever is appropriate, certifies to the equal employment 1465  
opportunity coordinator, the clerk of the senate, and the clerk of 1466  
the house of representatives that approximately five per cent of 1467  
the aggregate amount of the projected expenditure for construction 1468  
in the fiscal year has been set aside as provided for in this 1469  
section. 1470

(H) The department of administrative services, every other 1471  
state agency authorized to enter into contracts for construction 1472  
or contracts for purchases of equipment, materials, supplies, 1473  
contracts of insurance, or services, and every port authority 1474  
shall file a report every ninety days with the equal employment 1475  
opportunity coordinator. The report shall be filed at a time and 1476  
in a form prescribed by the coordinator. The report shall include 1477  
the name of each minority challenged business enterprise that the 1478  
agency or port authority entered into a contract with during the 1479  
preceding ninety-day period and the total value and type of each 1480  
such contract. No later than thirty days after the end of each 1481  
fiscal year, the coordinator shall notify in writing each state 1482



agency and port authority that has not complied with the reporting 1483  
requirements of this division for the prior fiscal year. A copy of 1484  
this notification regarding a state agency shall be submitted to 1485  
the director of budget and management. No later than thirty days 1486  
after the notification, ~~the~~ a state agency or port authority shall 1487  
submit to the coordinator the information necessary to comply with 1488  
the reporting requirements of this division. ~~if~~ 1489

If, after the expiration of this thirty-day period, ~~the~~ a 1490  
state agency has not complied with the reporting requirements of 1491  
this division, the coordinator shall certify to the director of 1492  
budget and management that the agency has not complied with the 1493  
reporting requirements of this division. A copy of this 1494  
certification shall be submitted to the state agency. Thereafter, 1495  
no funds of the state agency required to report by this division 1496  
shall be expended during the fiscal year for construction or 1497  
purchases of equipment, materials, supplies, contracts of 1498  
insurance, or services until the coordinator certifies to the 1499  
director of budget and management that the agency has complied 1500  
with the reporting requirements of this division for the prior 1501  
fiscal year. 1502

If any port authority has not complied with the reporting 1503  
requirement after the expiration of the thirty-day period, the 1504  
coordinator shall certify to the speaker of the house of 1505  
representatives and the president of the senate that the port 1506  
authority has not complied with the reporting requirements of this 1507  
division. A copy of this certification shall be submitted to the 1508  
port authority. Upon receipt of the certification, the speaker of 1509  
the house of representatives and the president of the senate shall 1510  
take ~~such~~ the action or make ~~such~~ the recommendations to the 1511  
members of the general assembly as they consider necessary to 1512  
correct the situation. 1513

(I) Any person who intentionally ~~misrepresents self as~~ makes 1514

a false claim of owning, controlling, operating, or participating 1515  
in a ~~minority~~ challenged business enterprise for the purpose of 1516  
obtaining contracts, subcontracts, or any other benefits under 1517  
this section ~~shall be~~ is guilty of theft by deception as provided 1518  
for in section 2913.02 of the Revised Code. 1519

**Sec. 125.08.** (A) The department of administrative services 1520  
may divide the state into purchasing districts ~~wherein~~ in which 1521  
supplies or services are to be delivered and shall describe ~~such~~ 1522  
those districts on all applications for the notification list 1523  
provided for in this section. 1524

Any person may have that person's name and address, or the 1525  
name and address of an agent, placed on the competitive selection 1526  
notification list of the department of administrative services by 1527  
sending to the department the person's name and address, together 1528  
with a list of the supplies or services, described in the manner 1529  
prescribed by the department, produced or dealt in by the person 1530  
with a request for ~~such~~ the listing, a list of the districts in 1531  
which the person desires to participate, and ~~such~~ any other 1532  
information ~~as that~~ the director of administrative services ~~may~~ 1533  
prescribe prescribes. ~~Whenever such~~ If the name and address 1534  
together with a list of the supplies or services produced or dealt 1535  
in is so listed, the department shall send notice, as provided in 1536  
section 125.07 of the Revised Code, to those persons listed on the 1537  
notification list that are qualified Ohio business enterprises, 1538  
which shall include Ohio penal industries as defined by rule of 1539  
the director of administrative services, or have a significant 1540  
Ohio presence in this state's economy, except that in those 1541  
circumstances in which the director considers it in the best 1542  
interest of this state, the notice shall be sent to all persons 1543  
listed on the notification list. The department need only provide 1544  
competitive selection documents for a proposed contract to persons 1545  
who specifically request ~~such~~ those documents. The director may 1546

remove a person from the notification list and place the person on 1547  
an inactive list if the person fails to respond to any notices of 1548  
proposed purchases that appear in four consecutive bulletins or 1549  
other forms of notification that list ~~such~~ the notices. Upon 1550  
written request to the director by the person so removed, the 1551  
director may return the person to the notification list if the 1552  
person provides sufficient evidence regarding intent to offer bids 1553  
or proposals to the state. The director shall not remove any 1554  
person from the list without notice to ~~such~~ the person. The notice 1555  
may be a part of the notices of proposed purchase. 1556

(B) Any person who is certified by the equal employment 1557  
opportunity coordinator of the department of administrative 1558  
services in accordance with the rules adopted under division 1559  
(B)(1) of section 123.151 of the Revised Code as a ~~minority~~ 1560  
challenged business enterprise may have that person's name placed 1561  
on a special ~~minority~~ challenged business enterprise notification 1562  
list to be used in connection with contracts awarded under section 1563  
125.081 of the Revised Code. The ~~minority~~ challenged business 1564  
enterprise notification list shall be used for bidding on 1565  
contracts set aside for ~~minority~~ challenged business enterprises 1566  
only. In all other respects, the list shall be maintained and used 1567  
in the same manner and according to the same procedures as the 1568  
notification list provided for under division (A) of this section, 1569  
except that a firm shall not be removed from the list unless the 1570  
coordinator determines that the firm is no longer a ~~minority~~ 1571  
challenged business enterprise. A ~~minority~~ challenged business 1572  
enterprise may have its name placed on both of the notification 1573  
lists provided for in this section. 1574

This division applies only until ten years after the 1575  
effective date of this amendment. 1576

(C) The director of administrative services may require an 1577  
annual registration fee for the listings provided for in division 1578

(A) or (B) of this section. This fee shall not be more than ten  
dollars. The department may charge a fee for any compilation of  
descriptions of supplies or services. This fee shall be reasonable  
and shall not exceed the cost required to maintain the  
notification lists and provide for the distribution of the  
proposed purchase to the persons whose names appear on the lists.

**Sec. 125.081.** (A) From the purchases that the department of  
administrative services is required by law to make through  
competitive selection, the director of administrative services  
shall select a number of ~~such~~ those purchases, the aggregate value  
of which equals approximately fifteen per cent of the estimated  
total value of all ~~such~~ of those purchases to be made in the  
current fiscal year. The director shall set aside the purchases  
selected for competition only by ~~minority~~ challenged business  
enterprises, as defined in ~~division (E)(1)~~ of section 122.71 of  
the Revised Code. The competitive selection procedures for ~~such~~  
the purchases set aside shall be the same as for all other  
purchases the department is required to make through competitive  
selection, except that only ~~minority~~ challenged business  
enterprises certified by the equal employment opportunity  
coordinator of the department of administrative services in  
accordance with the rules adopted under division (B)(1) of section  
123.151 of the Revised Code and listed by the director under  
division (B) of section 125.08 of the Revised Code shall be  
qualified to compete.

(B) To the extent that any agency of the state, other than  
the department of administrative services, the legislative and  
judicial branches, boards of elections, and the adjutant general,  
is authorized to make purchases, the agency shall set aside a  
number of purchases, the aggregate value of which equals  
approximately fifteen per cent of the aggregate value of ~~such~~  
those purchases for the current fiscal year, for competition by

minority challenged business enterprises only. The procedures for 1611  
~~such~~ the purchases set aside shall be the same as for all other 1612  
~~such~~ purchases made by the agency, except that only minority 1613  
challenged business enterprises certified by the equal employment 1614  
opportunity coordinator in accordance with rules adopted under 1615  
division (B)(1) of section 123.151 of the Revised Code shall be 1616  
qualified to compete. 1617

(C) In the case of purchases set aside under division (A) or 1618  
(B) of this section, if no bid is submitted by a minority 1619  
challenged business enterprise, the purchase shall be made 1620  
according to usual procedures. The contracting agency shall from 1621  
time to time set aside such additional purchases for which only 1622  
minority challenged business enterprises may compete, as are 1623  
necessary to replace those purchases previously set aside for 1624  
which no minority challenged business enterprises bid and to 1625  
ensure that, in any fiscal year, the aggregate amount of contracts 1626  
awarded to minority challenged business enterprises will equal 1627  
approximately fifteen per cent of the total amount of contracts 1628  
awarded by the agency. 1629

(D) ~~The provisions of this~~ This section ~~shall~~ does not 1630  
preclude any minority challenged business enterprise from 1631  
competing for any other state purchases ~~that are~~ not specifically 1632  
set aside for minority challenged business enterprises. 1633

(E) No funds of any state agency shall be expended in any 1634  
fiscal year for any purchase for which competitive selection is 1635  
required, until the director of the department of administrative 1636  
services certifies to the equal employment opportunity 1637  
coordinator, the clerk of the senate, and the clerk of the house 1638  
of representatives ~~of the general assembly~~ that approximately 1639  
fifteen per cent of the aggregate amount of the projected 1640  
expenditure for ~~such~~ those purchases in the fiscal year has been 1641  
set aside as provided for in this section. 1642

(F) Any person who intentionally ~~misrepresents self as~~ makes 1643  
a false claim of owning, controlling, operating, or participating 1644  
in a ~~minority~~ challenged business enterprise for the purpose of 1645  
obtaining contracts, subcontracts, or any other benefits under 1646  
this section ~~shall be~~ is guilty of theft by deception as provided 1647  
for in section 2913.02 of the Revised Code. 1648

**Sec. 125.11.** (A) Subject to division (B) of this section, 1649  
contracts required to be awarded pursuant to competitive sealed 1650  
bidding, including ~~such~~ contracts awarded under section 125.081 of 1651  
the Revised Code until ten years after the effective date of this 1652  
amendment, shall be awarded to the lowest responsive and 1653  
responsible bidder on each item in accordance with section 9.312 1654  
of the Revised Code. When the contract is for meat products as 1655  
defined in section 918.01 of the Revised Code or poultry products 1656  
as defined in section 918.21 of the Revised Code, only those bids 1657  
received from vendors offering products from establishments on the 1658  
current list of meat and poultry vendors established and 1659  
maintained by the director of administrative services under 1660  
section 125.17 of the Revised Code shall be eligible for 1661  
acceptance. The department of administrative services may accept 1662  
or reject any or all bids in whole or by items, except that when 1663  
the contract is for services or ~~supplies~~ products available from a 1664  
qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 1665  
of the Revised Code, the contract shall be awarded to that agency. 1666

(B) Prior to awarding a contract under division (A) of this 1667  
section, the department of administrative services or the state 1668  
agency responsible for evaluating a contract for the purchase of 1669  
~~goods~~ products shall evaluate the bids received according to the 1670  
criteria and procedures established pursuant to divisions (C)(1) 1671  
and (2) of section 125.09 of the Revised Code for determining if a 1672  
product is produced or mined in the United States and if a product 1673  
is ~~produced or mined in an~~ Ohio product. The department or other 1674

state agency shall first remove bids that offer ~~supplies~~ products 1675  
that have not been or that will not be produced or mined in the 1676  
United States. From among the remaining bids, the department or 1677  
other state agency shall select the lowest responsive and 1678  
responsible bid, in accordance with section 9.312 of the Revised 1679  
Code, from among the bids that offer ~~goods~~ products that ~~have been~~ 1680  
~~produced or mined in~~ are Ohio products where sufficient 1681  
competition can be generated within ~~Ohio~~ this state to ensure that 1682  
compliance with these requirements will not result in an excessive 1683  
price for the product or acquiring a disproportionately inferior 1684  
product. If there are two or more qualified bids that offer ~~goods~~ 1685  
~~which have been produced or mined in~~ products that are Ohio 1686  
products, it shall be deemed that there is sufficient competition 1687  
to prevent an excessive price for the product or the acquiring of 1688  
a disproportionately inferior product. 1689

(C) Division (B) of this section applies to contracts for 1690  
which competitive bidding is waived by the controlling board. 1691

(D) Division (B) of this section does not apply to the 1692  
purchase by the division of liquor control of spirituous liquor. 1693

(E) The director of administrative services shall publish in 1694  
the form of a model act for use by counties, townships, ~~and~~ 1695  
municipal corporations, or any other political subdivision 1696  
described in division (B) of section 125.04 of the Revised Code, a 1697  
system of preferences for Ohio products, for products mined and 1698  
produced in ~~Ohio and in~~ the United States, and for Ohio-based 1699  
contractors. The model act shall reflect substantial equivalence 1700  
to the system of preferences in purchasing and public improvement 1701  
contracting procedures under which the state operates pursuant to 1702  
this chapter and section 153.012 of the Revised Code. To the 1703  
maximum extent possible, consistent with the Ohio system of 1704  
preferences in purchasing and public improvement contracting 1705  
procedures, the model act shall incorporate all of the 1706

requirements of the federal "Buy America Act," 47 Stat. 1520 1707  
(1933), 41 U.S.C. 10a to 10d, as amended, and the rules adopted 1708  
~~thereunder~~ under that act. 1709

~~Prior to~~ Before and during the development and promulgation 1710  
of the model act, the director shall consult with appropriate 1711  
statewide organizations representing counties, townships, and 1712  
municipal corporations so as to identify the special requirements 1713  
and concerns these political subdivisions have in their purchasing 1714  
and public improvement contracting procedures. The director shall 1715  
promulgate the model act by rule adopted pursuant to Chapter 119. 1716  
of the Revised Code and shall revise the act as necessary to 1717  
reflect changes in this chapter or section 153.012 of the Revised 1718  
Code. 1719

The director shall make available copies of the model act, 1720  
supporting information, and technical assistance to any township, 1721  
county, or municipal corporation wishing to incorporate the 1722  
provisions of the act into its purchasing or public improvement 1723  
contracting procedure. 1724

**Sec. 125.111.** (A) Every contract for or on behalf of the 1725  
state or any of its political subdivisions for any purchase shall 1726  
contain provisions similar to those required by section 153.59 of 1727  
the Revised Code in the case of construction contracts by which 1728  
the contractor agrees to both of the following: 1729

(1) That, in the hiring of employees for the performance of 1730  
work under the contract or any subcontract, no contractor or 1731  
subcontractor, by reason of race, color, religion, sex, age, 1732  
disability as defined in section 4112.01 of the Revised Code, 1733  
national origin, or ancestry, shall discriminate against any 1734  
citizen of this state in the employment of a person qualified and 1735  
available to perform the work to which the contract relates; 1736

(2) That no contractor, subcontractor, or person acting on 1737



behalf of any contractor or subcontractor, in any manner, shall  
discriminate against, intimidate, or retaliate against any  
employee hired for the performance of work under the contract on  
account of race, color, religion, sex, age, disability as defined  
in section 4112.01 of the Revised Code, national origin, or  
ancestry.

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(B) All contractors from whom the state or any of its  
political subdivisions make purchases shall have a written  
affirmative action program for the employment and effective  
utilization of economically disadvantaged ~~persons~~ individuals, as  
~~referred to defined in division (E)(1) of~~ section 122.71 of the  
Revised Code. Annually, each such contractor shall file a  
description of the affirmative action program and a progress  
report on its implementation with the equal employment opportunity  
office of the department of administrative services.

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This division applies only until ten years after the  
effective date of this amendment.

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**Sec. 135.04.** (A) Any institution mentioned in section 135.03  
of the Revised Code is eligible to become a public depository of  
the active deposits, inactive deposits, and interim deposits of  
public moneys of the state subject to the requirements of sections  
135.01 to 135.21 of the Revised Code.

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(B) To facilitate the clearance of state warrants to the  
state treasury, the state board of deposit may delegate the  
authority to the treasurer of state to establish warrant clearance  
accounts in any institution mentioned in section 135.03 of the  
Revised Code located in areas where the volume of warrant  
clearances justifies the establishment of an account as determined  
by the treasurer of state. The balances maintained in ~~such~~ the  
warrant clearance accounts shall be at sufficient levels to cover  
the activity generated by ~~such~~ the accounts on an individual

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basis. Any financial institution in the state that has a warrant 1769  
clearance account established by the treasurer of state shall, not 1770  
more than ten days after the close of each quarter, prepare and 1771  
transmit to the treasurer of state an analysis statement of ~~such~~ 1772  
the account for the quarter then ended. ~~Such~~ The statement shall 1773  
contain ~~such~~ the information ~~as~~ determined by the state board of 1774  
deposit, and this information shall be used in whole or in part by 1775  
the treasurer of state in determining the level of balances to be 1776  
maintained in ~~such~~ the accounts. 1777

(C) Each governing board shall award the active deposits of 1778  
public moneys subject to its control to the eligible institutions 1779  
in accordance with this section, except that no ~~such~~ public 1780  
depository shall ~~thereby~~ be required to take or permitted to 1781  
receive and have at any one time a greater amount of active 1782  
deposits of ~~such~~ public moneys than that specified in the 1783  
application of ~~such~~ the depository. ~~When~~ If, by reason of such 1784  
limitation or otherwise, the amount of active public moneys 1785  
deposited or to be deposited in a public depository, pursuant to 1786  
an award made under this section, is reduced or withdrawn, as the 1787  
case requires, the amount of ~~such~~ the reduction or the sum so 1788  
withdrawn shall be deposited in another eligible institution 1789  
applying ~~therefor~~ for it, or if there is no ~~such~~ other eligible 1790  
institution applying, ~~then~~ the amount so withheld or withdrawn 1791  
shall be awarded or deposited for the remainder of the period of 1792  
designation in accordance with sections 135.01 to 135.21 of the 1793  
Revised Code. 1794

(D) Any institution mentioned in section 135.03 of the 1795  
Revised Code is eligible to become a public depository of the 1796  
inactive and interim deposits of public moneys of a subdivision. 1797  
~~In case~~ If the aggregate amount of inactive or interim deposits 1798  
applied for by ~~such~~ these eligible institutions is less than the 1799  
aggregate maximum amount of ~~such~~ the inactive or interim deposits 1800

as estimated to be deposited pursuant to sections 135.01 to 135.21 1801  
of the Revised Code, the governing board of the subdivision may 1802  
designate as a public depository of the inactive or interim 1803  
deposits of the public moneys thereof, one or more institutions of 1804  
a kind mentioned in section 135.03 of the Revised Code, subject to 1805  
the requirements of sections 135.01 to 135.21 of the Revised Code. 1806

(E) Any institution mentioned in section 135.03 of the 1807  
Revised Code is eligible to become a public depository of the 1808  
active deposits of public moneys of a subdivision. ~~In case~~ If the 1809  
aggregate amount of active deposits of the public moneys of the 1810  
subdivision applied for by ~~such~~ these eligible institutions is 1811  
less than the aggregate maximum amount to be deposited as such, as 1812  
estimated by the governing board, ~~said~~ that board may designate as 1813  
a public depository of the active deposits of the public moneys of 1814  
the subdivision, one or more institutions of the kind mentioned in 1815  
section 135.03 of the Revised Code, subject to the requirements of 1816  
sections 135.01 to 135.21 of the Revised Code. 1817

(F)(1) The governing board of the state or of a subdivision 1818  
may designate one or more ~~minority~~ challenged banks as public 1819  
depositories of its inactive, interim, or active deposits of 1820  
public moneys designated as federal funds. Except for section 1821  
135.18 or 135.181 of the Revised Code, Chapter 135. of the Revised 1822  
Code does not apply to the application for, or the award of, ~~such~~ 1823  
the deposits. As used in this division, "~~minority~~ challenged bank" 1824  
means a bank that is owned or controlled by one or more ~~socially~~ 1825  
~~or~~ economically disadvantaged ~~persons~~. ~~Such disadvantage may arise~~ 1826  
~~from cultural, ethnic, or racial background, chronic economic~~ 1827  
~~circumstances, or other similar cause. Such persons include, but~~ 1828  
~~are not limited to, Afro-Americans, Puerto Ricans,~~ 1829  
~~Spanish-speaking Americans, and American Indians~~ individuals. 1830  
"Economically disadvantaged individual" has the same meaning as in 1831  
section 122.71 of the Revised Code. 1832

(2) In enacting this division, the general assembly finds that:	1833 1834
(a) Certain commercial banks are owned or controlled by <u>minority economically disadvantaged Americans</u> .	1835 1836
(b) <u>Minority Challenged</u> banks are an important source of banking services in their communities.	1837 1838
(c) <u>Minority Challenged</u> banks have been unsuccessful in competing under Chapter 135. of the Revised Code for the award of federal funds.	1839 1840 1841
(d) This division contains safeguards for the protection of the general public and the banking industry, since it provides the governing board of the state or political subdivision with permissive authority in the award of deposits; limits the authority of the governing board to the award of federal funds; and subjects <u>minority challenged</u> banks to certain limitations of Chapter 135. of the Revised Code, including the requirement that, as in the case of every financial institution subject to Chapter 135. of the Revised Code, a <u>minority challenged</u> bank pledge certain securities for repayment of the deposits.	1842 1843 1844 1845 1846 1847 1848 1849 1850 1851
(3) The purpose of this division is to recognize that the state has a substantial and compelling interest in encouraging the establishment, development, and stability of <u>minority challenged</u> banks by facilitating their access to the award of federal funds, while ensuring the protection of the general public and the banking industry.	1852 1853 1854 1855 1856 1857
<u>(4) This division applies only until ten years after the effective date of this amendment.</u>	1858 1859
(G) The governing board of a subdivision shall award the first twenty-five thousand dollars of the active deposits of public moneys subject to its control to the eligible institution or institutions applying or qualifying <u>therefor for the deposits</u>	1860 1861 1862 1863

on the basis of the operating needs of the subdivision and shall 1864  
award the active deposits of public moneys subject to its control 1865  
in excess of twenty-five thousand dollars to the eligible 1866  
institution or institutions applying or qualifying ~~therefor~~ for 1867  
the deposits. 1868

**Sec. 153.59.** (A) Every contract for or on behalf of the 1869  
state, or any township, county, or municipal corporation of the 1870  
state, for the construction, alteration, or repair of any public 1871  
building or public work in the state shall contain provisions by 1872  
which the contractor agrees to both of the following: 1873

~~(A)~~(1) That, in the hiring of employees for the performance 1874  
of work under the contract or any subcontract, no contractor, 1875  
subcontractor, or any person acting on a contractor's or 1876  
subcontractor's behalf, by reason of race, creed, sex, disability 1877  
as defined in section 4112.01 of the Revised Code, or color, shall 1878  
discriminate against any citizen of the state in the employment of 1879  
labor or workers who is qualified and available to perform the 1880  
work to which the employment relates; 1881

~~(B)~~(2) That no contractor, subcontractor, or any person 1882  
acting on a contractor's or subcontractor's behalf, in any manner, 1883  
shall discriminate against or intimidate any employee hired for 1884  
the performance of work under the contract on account of race, 1885  
~~crede~~ creed, sex, disability as defined in section 4112.01 of the 1886  
Revised Code, or color~~+~~. 1887

~~(C)~~(B) The department of administrative services shall ensure 1888  
that no capital moneys appropriated by the general assembly for 1889  
any purpose shall be expended unless the project for which those 1890  
moneys are appropriated provides for an affirmative action program 1891  
for the employment and effective utilization of disadvantaged 1892  
persons whose disadvantage may arise from cultural, racial, or 1893  
ethnic background, or other similar cause, including, but not 1894

limited to, race, religion, sex, disability as defined in section 1895  
4112.01 of the Revised Code, national origin, or ancestry. 1896

In awarding contracts for capital improvement projects, the 1897  
department shall ensure that equal consideration be given to 1898  
contractors, subcontractors, or joint venturers who qualify as a 1899  
minority challenged business enterprise. As used in this ~~section~~ 1900  
division, "minority challenged business enterprise" means a 1901  
business enterprise that is ~~owned or controlled by one or more~~ 1902  
~~socially or economically disadvantaged persons who are residents~~ 1903  
~~of this state. "Socially or economically disadvantaged persons"~~ 1904  
~~means persons, regardless of marital status, who are members of~~ 1905  
~~groups whose disadvantage may arise from discrimination on the~~ 1906  
~~basis of race, religion, sex, disability as defined in section~~ 1907  
~~4112.01 of the Revised Code, national origin, or ancestry, or~~ 1908  
~~other similar cause. Such persons include, but are not limited to,~~ 1909  
~~Negroes, Puerto Ricans, Spanish-speaking Americans, American~~ 1910  
~~Indians, Eskimos, and Aleuts~~ certified as a challenged business 1911  
enterprise under division (B) of section 123.151 of the Revised 1912  
Code. 1913

This division applies only until ten years after the 1914  
effective date of this amendment. 1915

**Sec. 164.07.** (A) In awarding contracts for capital 1916  
improvement projects to be financed in whole or in part under this 1917  
chapter, a local subdivision shall comply with the percentage 1918  
requirements of division (C)(1) of section 123.151 and of section 1919  
125.081 of the Revised Code. The subdivision shall also require 1920  
compliance by its subcontractors with the requirements of division 1921  
(C)(2) of section 123.151 of the Revised Code in awarding 1922  
contracts and purchasing services and materials under those 1923  
contracts. If, after making a good faith effort, a contractor is 1924  
unable to comply with the requirements of division (C)(2) of 1925  
section 123.151 of the Revised Code because it is unable to locate 1926

minority challenged business enterprises available to accept 1927  
subcontracts or purchase materials or services, the contractor may 1928  
apply to the subdivision for a waiver or modification of the 1929  
requirement. If the subdivision determines that the contractor 1930  
made a good faith effort to locate and use minority challenged 1931  
business enterprises but was unable to do so, it may waive the 1932  
provisions, authorize a reduction in the total value of the 1933  
contract designated to minority challenged business enterprises, 1934  
or require a greater percentage of services permissible in 1935  
contracts for plumbing, gas fitting, steam and hot water heating, 1936  
ventilating apparatus, steam power plant, or electrical equipment. 1937  
If the subdivision denies a request for a waiver or modification 1938  
and the contractor is unable to comply with division (C)(2) of 1939  
section 123.151 of the Revised Code, the contract shall be 1940  
terminated by the subdivision. 1941

(B) A capital improvement that is financed in whole or in 1942  
part under this chapter is a public improvement, and a subdivision 1943  
undertaking a capital improvement is a public authority for 1944  
purposes of section 4115.03 of the Revised Code. All contractors 1945  
and subcontractors working on a capital improvement financed in 1946  
whole or in part under this chapter shall comply with sections 1947  
4115.03 to 4115.16 of the Revised Code. 1948

**Sec. 166.03.** (A) There is hereby created the facilities 1949  
establishment fund within the state treasury, consisting of 1950  
proceeds from the issuance of obligations as specified under 1951  
section 166.08 of the Revised Code; the moneys received by the 1952  
state from the sources specified in section 166.09 of the Revised 1953  
Code; service charges imposed under sections 166.06 and 166.07 of 1954  
the Revised Code; any grants, gifts, or contributions of moneys 1955  
received by the director of development to be used for loans made 1956  
under section 166.07 of the Revised Code or for the payment of the 1957

allowable costs of project facilities; and all other moneys 1958  
appropriated or transferred to the fund. Moneys in the loan 1959  
guarantee fund in excess of four per cent of the unpaid principal 1960  
amount of loan repayments guaranteed under section 166.06 of the 1961  
Revised Code, but subject to the provisions and requirements of 1962  
any guarantee contracts, may be transferred to the facilities 1963  
establishment fund by the treasurer of state upon the order of the 1964  
director of development. Moneys received by the state under 1965  
Chapter 122. of the Revised Code, to the extent allocable to the 1966  
utilization of moneys derived from proceeds of the sale of 1967  
obligations pursuant to section 166.08 of the Revised Code, shall 1968  
be credited to the facilities establishment fund. 1969

(B) All moneys appropriated or transferred to the facilities 1970  
establishment fund may be released at the request of the director 1971  
of development for payment of allowable costs or the making of 1972  
loans under this chapter, for transfer to the loan guarantee fund 1973  
established in section 166.06 of the Revised Code, or for use for 1974  
the purpose of or transfer to the funds established by sections 1975  
122.35, 122.42, 122.54, 122.55, 122.56, 122.561, and 122.57 of 1976  
the Revised Code and, until ten years after the effective date of 1977  
this amendment, section 122.80 of the Revised Code, and, until 1978  
July 1, 2001, the funds established by sections 122.26 and 166.031 1979  
of the Revised Code, but only for such of those purposes as are 1980  
within the authorization of Section 13 of Article VIII, Ohio 1981  
Constitution, in all cases subject to the approval of the 1982  
controlling board. 1983

(C) The department of development, in the administration of 1984  
the facilities establishment fund, is encouraged to utilize and 1985  
promote the utilization of, to the maximum practicable extent, the 1986  
other existing programs, business incentives, and tax incentives 1987  
that department is required or authorized to administer or 1988  
supervise. 1989



<b>Sec. 166.08.</b> (A) As used in this chapter:	1990
(1) "Bond proceedings" means the resolution, order, trust agreement, indenture, lease, and other agreements, amendments and supplements to the foregoing, or any one or more or combination thereof, authorizing or providing for the terms and conditions applicable to, or providing for the security or liquidity of, obligations issued pursuant to this section, and the provisions contained in such obligations.	1991 1992 1993 1994 1995 1996 1997
(2) "Bond service charges" means principal, including mandatory sinking fund requirements for retirement of obligations, and interest, and redemption premium, if any, required to be paid by the state on obligations.	1998 1999 2000 2001
(3) "Bond service fund" means the applicable fund and accounts therein created for and pledged to the payment of bond service charges, which may be, or may be part of, the economic development bond service fund created by division (S) of this section including all moneys and investments, and earnings from investments, credited and to be credited thereto.	2002 2003 2004 2005 2006 2007
(4) "Issuing authority" means the treasurer of state, or the officer who by law performs the functions of such officer.	2008 2009
(5) "Obligations" means bonds, notes, or other evidence of obligation including interest coupons pertaining thereto, issued pursuant to this section.	2010 2011 2012
(6) "Pledged receipts" means all receipts of the state representing the gross profit on the sale of spirituous liquor, as referred to in division (B)(4) of section 4301.10 of the Revised Code, after paying all costs and expenses of the division of liquor control and providing an adequate working capital reserve for the division of liquor control as provided in that division, but excluding the sum required by the second paragraph of section	2013 2014 2015 2016 2017 2018 2019

4301.12 of the Revised Code, as in effect on May 2, 1980, to be  
paid into the state treasury; moneys accruing to the state from  
the lease, sale, or other disposition, or use, of project  
facilities, and from the repayment, including interest, of loans  
made from proceeds received from the sale of obligations; accrued  
interest received from the sale of obligations; income from the  
investment of the special funds; and any gifts, grants, donations,  
and pledges, and receipts therefrom, available for the payment of  
bond service charges.

(7) "Special funds" or "funds" means, except where the  
context does not permit, the bond service fund, and any other  
funds, including reserve funds, created under the bond  
proceedings, and the economic development bond service fund  
created by division (S) of this section to the extent provided in  
the bond proceedings, including all moneys and investments, and  
earnings from investment, credited and to be credited thereto.

(B) Subject to the limitations provided in section 166.11 of  
the Revised Code, the issuing authority, upon the certification by  
the director of development to the issuing authority of the amount  
of moneys or additional moneys needed in the facilities  
establishment fund or the loan guarantee fund for the purpose of  
paying, or making loans for, allowable costs from the facilities  
establishment fund, or needed for capitalized interest, for  
funding reserves, and for paying costs and expenses incurred in  
connection with the issuance, carrying, securing, paying,  
redeeming, or retirement of the obligations or any obligations  
refunded thereby, including payment of costs and expenses relating  
to letters of credit, lines of credit, insurance, put agreements,  
standby purchase agreements, indexing, marketing, remarketing and  
administrative arrangements, interest swap or hedging agreements,  
and any other credit enhancement, liquidity, remarketing, renewal,  
or refunding arrangements, all of which are authorized by this

section, or providing moneys for the loan guarantee fund, as 2052  
provided in this chapter or needed for the purposes of funds 2053  
established in accordance with or pursuant to sections 122.35, 2054  
122.42, 122.54, 122.55, 122.56, 122.561, and 122.57, of the 2055  
Revised Code and, until ten years after the effective date of this 2056  
amendment, section 122.80 of the Revised Code, which are within 2057  
the authorization of Section 13 of Article VIII, Ohio 2058  
Constitution, shall issue obligations of the state under this 2059  
section in the required amount; provided that such obligations may 2060  
be issued to the extent necessary to satisfy the covenants in 2061  
contracts of guarantee made under section 166.06 of the Revised 2062  
Code to issue obligations to meet such guarantees, notwithstanding 2063  
limitations otherwise applicable to the issuance of obligations 2064  
under this section. The proceeds of such obligations, except for 2065  
the portion to be deposited in special funds, including reserve 2066  
funds, as may be provided in the bond proceedings, shall as 2067  
provided in the bond proceedings be deposited by the director of 2068  
development to the facilities establishment fund or the loan 2069  
guarantee fund established by section 166.06 of the Revised Code. 2070  
Bond proceedings for project financing obligations may provide 2071  
that the proceeds derived from the issuance of such obligations 2072  
shall be deposited into such fund or funds provided for in the 2073  
bond proceedings and, to the extent provided for in the bond 2074  
proceedings, such proceeds shall be deemed to have been deposited 2075  
into the facilities establishment fund and transferred to such 2076  
fund or funds. The issuing authority may appoint trustees, paying 2077  
agents, and transfer agents and may retain the services of 2078  
financial advisors, accounting experts, and attorneys, and retain 2079  
or contract for the services of marketing, remarketing, indexing, 2080  
and administrative agents, other consultants, and independent 2081  
contractors, including printing services, as are necessary in the 2082  
issuing authority's judgment to carry out this section. The costs 2083  
of such services are allowable costs payable from the facilities 2084

establishment fund. 2085

(C) The holders or owners of such obligations shall have no 2086  
right to have moneys raised by taxation obligated or pledged, and 2087  
moneys raised by taxation shall not be obligated or pledged, for 2088  
the payment of bond service charges. Such holders or owners shall 2089  
have no rights to payment of bond service charges from any moneys 2090  
accruing to the state from the lease, sale, or other disposition, 2091  
or use, of project facilities, or from payment of the principal of 2092  
or interest on loans made, or fees charged for guarantees made, or 2093  
from any money or property received by the director, treasurer of 2094  
state, or the state under Chapter 122. of the Revised Code, or 2095  
from any other use of the proceeds of the sale of the obligations, 2096  
and no such moneys may be used for the payment of bond service 2097  
charges, except for accrued interest, capitalized interest, and 2098  
reserves funded from proceeds received upon the sale of the 2099  
obligations and except as otherwise expressly provided in the 2100  
applicable bond proceedings pursuant to written directions by the 2101  
director. The right of such holders and owners to payment of bond 2102  
service charges is limited to all or that portion of the pledged 2103  
receipts and those special funds pledged thereto pursuant to the 2104  
bond proceedings in accordance with this section, and each such 2105  
obligation shall bear on its face a statement to that effect. 2106

(D) Obligations shall be authorized by resolution or order of 2107  
the issuing authority and the bond proceedings shall provide for 2108  
the purpose thereof and the principal amount or amounts, and shall 2109  
provide for or authorize the manner or agency for determining the 2110  
principal maturity or maturities, not exceeding twenty-five years 2111  
from the date of issuance, the interest rate or rates or the 2112  
maximum interest rate, the date of the obligations and the dates 2113  
of payment of interest thereon, their denomination, and the 2114  
establishment within or without the state of a place or places of 2115  
payment of bond service charges. Sections 9.98 to 9.983 of the 2116

Revised Code are applicable to obligations issued under this  
section, subject to any applicable limitation under section 166.11  
of the Revised Code. The purpose of such obligations may be stated  
in the bond proceedings in terms describing the general purpose or  
purposes to be served. The bond proceedings also shall provide,  
subject to the provisions of any other applicable bond  
proceedings, for the pledge of all, or such part as the issuing  
authority may determine, of the pledged receipts and the  
applicable special fund or funds to the payment of bond service  
charges, which pledges may be made either prior or subordinate to  
other expenses, claims, or payments, and may be made to secure the  
obligations on a parity with obligations theretofore or thereafter  
issued, if and to the extent provided in the bond proceedings. The  
pledged receipts and special funds so pledged and thereafter  
received by the state are immediately subject to the lien of such  
pledge without any physical delivery thereof or further act, and  
the lien of any such pledges is valid and binding against all  
parties having claims of any kind against the state or any  
governmental agency of the state, irrespective of whether such  
parties have notice thereof, and shall create a perfected security  
interest for all purposes of Chapter 1309. of the Revised Code,  
without the necessity for separation or delivery of funds or for  
the filing or recording of the bond proceedings by which such  
pledge is created or any certificate, statement or other document  
with respect thereto; and the pledge of such pledged receipts and  
special funds is effective and the money therefrom and thereof may  
be applied to the purposes for which pledged without necessity for  
any act of appropriation. Every pledge, and every covenant and  
agreement made with respect thereto, made in the bond proceedings  
may therein be extended to the benefit of the owners and holders  
of obligations authorized by this section, and to any trustee  
therefor, for the further security of the payment of the bond  
service charges.

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(E) The bond proceedings may contain additional provisions as	2150
to <u>the following</u> :	2151
(1) The redemption of obligations prior to maturity at the	2152
option of the issuing authority at such price or prices and under	2153
such terms and conditions as are provided in the bond proceedings;	2154
(2) Other terms of the obligations;	2155
(3) Limitations on the issuance of additional obligations;	2156
(4) The terms of any trust agreement or indenture securing	2157
the obligations or under which the same may be issued;	2158
(5) The deposit, investment and application of special funds,	2159
and the safeguarding of moneys on hand or on deposit, without	2160
regard to Chapter 131. or 135. of the Revised Code, but subject to	2161
any special provisions of this chapter, with respect to particular	2162
funds or moneys, provided that any bank or trust company which	2163
acts as depository of any moneys in the special funds may furnish	2164
such indemnifying bonds or may pledge such securities as required	2165
by the issuing authority;	2166
(6) Any or every provision of the bond proceedings being	2167
binding upon such officer, board, commission, authority, agency,	2168
department, or other person or body as may from time to time have	2169
the authority under law to take such actions as may be necessary	2170
to perform all or any part of the duty required by such provision;	2171
(7) Any provision that may be made in a trust agreement or	2172
indenture;	2173
(8) Any other or additional agreements with the holders of	2174
the obligations, or the trustee therefor, relating to the	2175
obligations or the security therefor, including the assignment of	2176
mortgages or other security obtained or to be obtained for loans	2177
under section 122.43 or 166.07 of the Revised Code.	2178
(F) The obligations may have the great seal of the state or a	2179

facsimile thereof affixed thereto or printed thereon. The 2180  
obligations and any coupons pertaining to obligations shall be 2181  
signed or bear the facsimile signature of the issuing authority. 2182  
Any obligations or coupons may be executed by the person who, on 2183  
the date of execution, is the proper issuing authority although on 2184  
the date of such bonds or coupons such person was not the issuing 2185  
authority. If the issuing authority whose signature or a facsimile 2186  
of whose signature appears on any such obligation or coupon ceases 2187  
to be the issuing authority before delivery thereof, such 2188  
signature or facsimile is nevertheless valid and sufficient for 2189  
all purposes as if the former issuing authority had remained the 2190  
issuing authority until such delivery; and if the seal to be 2191  
affixed to obligations has been changed after a facsimile of the 2192  
seal has been imprinted on such obligations, such facsimile seal 2193  
shall continue to be sufficient as to such obligations and 2194  
obligations issued in substitution or exchange therefor. 2195

(G) All obligations are negotiable instruments and securities 2196  
under Chapter 1308. of the Revised Code, subject to the provisions 2197  
of the bond proceedings as to registration. The obligations may be 2198  
issued in coupon or in registered form, or both, as the issuing 2199  
authority determines. Provision may be made for the registration 2200  
of any obligations with coupons attached thereto as to principal 2201  
alone or as to both principal and interest, their exchange for 2202  
obligations so registered, and for the conversion or reconversion 2203  
into obligations with coupons attached thereto of any obligations 2204  
registered as to both principal and interest, and for reasonable 2205  
charges for such registration, exchange, conversion, and 2206  
reconversion. 2207

(H) Obligations may be sold at public sale or at private 2208  
sale, as determined in the bond proceedings. 2209

Obligations issued to provide moneys for the loan guarantee 2210  
fund may, as determined by the issuing authority, be sold at 2211

private sale, and without publication of a notice of sale. 2212

(I) Pending preparation of definitive obligations, the 2213  
issuing authority may issue interim receipts or certificates which 2214  
shall be exchanged for such definitive obligations. 2215

(J) In the discretion of the issuing authority, obligations 2216  
may be secured additionally by a trust agreement or indenture 2217  
between the issuing authority and a corporate trustee which may be 2218  
any trust company or bank having its principal place of business 2219  
within the state. Any such agreement or indenture may contain the 2220  
resolution or order authorizing the issuance of the obligations, 2221  
any provisions that may be contained in any bond proceedings, and 2222  
other provisions ~~which~~ that are customary or appropriate in an 2223  
agreement or indenture of such type, including, but not limited 2224  
to, the following: 2225

(1) Maintenance of each pledge, trust agreement, indenture, 2226  
or other instrument comprising part of the bond proceedings until 2227  
the state has fully paid the bond service charges on the 2228  
obligations secured thereby, or provision therefor has been made; 2229

(2) In the event of default in any payments required to be 2230  
made by the bond proceedings, or any other agreement of the 2231  
issuing authority made as a part of the contract under which the 2232  
obligations were issued, enforcement of such payments or agreement 2233  
by mandamus, the appointment of a receiver, suit in equity, action 2234  
at law, or any combination of the foregoing; 2235

(3) The rights and remedies of the holders of obligations and 2236  
of the trustee, and provisions for protecting and enforcing them, 2237  
including limitations on rights of individual holders of 2238  
obligations; 2239

(4) The replacement of any obligations that become mutilated 2240  
or are destroyed, lost, or stolen; 2241

(5) Such other provisions as the trustee and the issuing 2242



authority agree upon, including limitations, conditions, or 2243  
qualifications relating to any of the foregoing. 2244

(K) Any holders of obligations or trustees under the bond 2245  
proceedings, except to the extent that their rights are restricted 2246  
by the bond proceedings, may by any suitable form of legal 2247  
proceedings, protect and enforce any rights under the laws of this 2248  
state or granted by such bond proceedings. Such rights include the 2249  
right to compel the performance of all duties of the issuing 2250  
authority, the director of development, or the division of liquor 2251  
control required by this chapter or the bond proceedings; to 2252  
enjoin unlawful activities; and in the event of default with 2253  
respect to the payment of any bond service charges on any 2254  
obligations or in the performance of any covenant or agreement on 2255  
the part of the issuing authority, the director of development, or 2256  
the division of liquor control in the bond proceedings, to apply 2257  
to a court having jurisdiction of the cause to appoint a receiver 2258  
to receive and administer the pledged receipts and special funds, 2259  
other than those in the custody of the treasurer of state, which 2260  
are pledged to the payment of the bond service charges on such 2261  
obligations or which are the subject of the covenant or agreement, 2262  
with full power to pay, and to provide for payment of bond service 2263  
charges on, such obligations, and with such powers, subject to the 2264  
direction of the court, as are accorded receivers in general 2265  
equity cases, excluding any power to pledge additional revenues or 2266  
receipts or other income or moneys of the issuing authority or the 2267  
state or governmental agencies of the state to the payment of such 2268  
principal and interest and excluding the power to take possession 2269  
of, mortgage, or cause the sale or otherwise dispose of any 2270  
project facilities. 2271

Each duty of the issuing authority and the issuing 2272  
authority's officers and employees, and of each governmental 2273  
agency and its officers, members, or employees, undertaken 2274

pursuant to the bond proceedings or any agreement or lease, 2275  
lease-purchase agreement, or loan made under authority of this 2276  
chapter, and in every agreement by or with the issuing authority, 2277  
is hereby established as a duty of the issuing authority, and of 2278  
each such officer, member, or employee having authority to perform 2279  
such duty, specifically enjoined by the law resulting from an 2280  
office, trust, or station within the meaning of section 2731.01 of 2281  
the Revised Code. 2282

The person who is at the time the issuing authority, or the 2283  
issuing authority's officers or employees, are not liable in their 2284  
personal capacities on any obligations issued by the issuing 2285  
authority or any agreements of or with the issuing authority. 2286

(L) The issuing authority may authorize and issue obligations 2287  
for the refunding, including funding and retirement, and advance 2288  
refunding with or without payment or redemption prior to maturity, 2289  
of any obligations previously issued by the issuing authority. 2290  
Such obligations may be issued in amounts sufficient for payment 2291  
of the principal amount of the prior obligations, any redemption 2292  
premiums thereon, principal maturities of any such obligations 2293  
maturing prior to the redemption of the remaining obligations on a 2294  
parity therewith, interest accrued or to accrue to the maturity 2295  
dates or dates of redemption of such obligations, and any 2296  
allowable costs including expenses incurred or to be incurred in 2297  
connection with such issuance and such refunding, funding, and 2298  
retirement. Subject to the bond proceedings therefor, the portion 2299  
of proceeds of the sale of obligations issued under this division 2300  
to be applied to bond service charges on the prior obligations 2301  
shall be credited to an appropriate account held by the trustee 2302  
for such prior or new obligations or to the appropriate account in 2303  
the bond service fund for such obligations. Obligations authorized 2304  
under this division shall be deemed to be issued for those 2305  
purposes for which such prior obligations were issued and are 2306

subject to the provisions of this section pertaining to other 2307  
obligations, except as otherwise provided in this section; 2308  
provided that, unless otherwise authorized by the general 2309  
assembly, any limitations imposed by the general assembly pursuant 2310  
to this section with respect to bond service charges applicable to 2311  
the prior obligations shall be applicable to the obligations 2312  
issued under this division to refund, fund, advance refund or 2313  
retire such prior obligations. 2314

(M) The authority to issue obligations under this section 2315  
includes authority to issue obligations in the form of bond 2316  
anticipation notes and to renew the same from time to time by the 2317  
issuance of new notes. The holders of such notes or interest 2318  
coupons pertaining thereto shall have a right to be paid solely 2319  
from the pledged receipts and special funds that may be pledged to 2320  
the payment of the bonds anticipated, or from the proceeds of such 2321  
bonds or renewal notes, or both, as the issuing authority provides 2322  
in the resolution or order authorizing such notes. Such notes may 2323  
be additionally secured by covenants of the issuing authority to 2324  
the effect that the issuing authority and the state will do such 2325  
or all things necessary for the issuance of such bonds or renewal 2326  
notes in appropriate amount, and apply the proceeds thereof to the 2327  
extent necessary, to make full payment of the principal of and 2328  
interest on such notes at the time or times contemplated, as 2329  
provided in such resolution or order. For such purpose, the 2330  
issuing authority may issue bonds or renewal notes in such 2331  
principal amount and upon such terms as may be necessary to 2332  
provide funds to pay when required the principal of and interest 2333  
on such notes, notwithstanding any limitations prescribed by or 2334  
for purposes of this section. Subject to this division, all 2335  
provisions for and references to obligations in this section are 2336  
applicable to notes authorized under this division. 2337

The issuing authority in the bond proceedings authorizing the 2338

issuance of bond anticipation notes shall set forth for such bonds 2339  
an estimated interest rate and a schedule of principal payments 2340  
for such bonds and the annual maturity dates thereof, and for 2341  
purposes of any limitation on bond service charges prescribed 2342  
under division (A) of section 166.11 of the Revised Code, the 2343  
amount of bond service charges on such bond anticipation notes is 2344  
deemed to be the bond service charges for the bonds anticipated 2345  
thereby as set forth in the bond proceedings applicable to such 2346  
notes, but this provision does not modify any authority in this 2347  
section to pledge receipts and special funds to, and covenant to 2348  
issue bonds to fund, the payment of principal of and interest and 2349  
any premium on such notes. 2350

(N) Obligations issued under this section are lawful 2351  
investments for banks, societies for savings, savings and loan 2352  
associations, deposit guarantee associations, trust companies, 2353  
trustees, fiduciaries, insurance companies, including domestic for 2354  
life and domestic not for life, trustees or other officers having 2355  
charge of sinking and bond retirement or other special funds of 2356  
political subdivisions and taxing districts of this state, the 2357  
commissioners of the sinking fund of the state, the administrator 2358  
of workers' compensation, the state teachers retirement system, 2359  
the public employees retirement system, the school employees 2360  
retirement system, and the Ohio police and fire pension fund, 2361  
notwithstanding any other provisions of the Revised Code or rules 2362  
adopted pursuant thereto by any governmental agency of the state 2363  
with respect to investments by them, and are also acceptable as 2364  
security for the deposit of public moneys. 2365

(O) Unless otherwise provided in any applicable bond 2366  
proceedings, moneys to the credit of or in the special funds 2367  
established by or pursuant to this section may be invested by or 2368  
on behalf of the issuing authority only in notes, bonds, or other 2369  
obligations of the United States, or of any agency or 2370

instrumentality of the United States, obligations guaranteed as to 2371  
principal and interest by the United States, obligations of this 2372  
state or any political subdivision of this state, and certificates 2373  
of deposit of any national bank located in this state and any 2374  
bank, as defined in section 1101.01 of the Revised Code, subject 2375  
to inspection by the superintendent of banks. If the law or the 2376  
instrument creating a trust pursuant to division (J) of this 2377  
section expressly permits investment in direct obligations of the 2378  
United States or an agency of the United States, unless expressly 2379  
prohibited by the instrument, such moneys also may be invested in 2380  
no-front-end-load money market mutual funds consisting exclusively 2381  
of obligations of the United States or an agency of the United 2382  
States and in repurchase agreements, including those issued by the 2383  
fiduciary itself, secured by obligations of the United States or 2384  
an agency of the United States; and in common trust funds 2385  
established in accordance with section 1111.20 of the Revised Code 2386  
and consisting exclusively of any such securities, notwithstanding 2387  
division (A)(4) of that section. The income from such investments 2388  
shall be credited to such funds as the issuing authority 2389  
determines, and such investments may be sold at such times as the 2390  
issuing authority determines or authorizes. 2391

(P) Provision may be made in the applicable bond proceedings 2392  
for the establishment of separate accounts in the bond service 2393  
fund and for the application of such accounts only to the 2394  
specified bond service charges on obligations pertinent to such 2395  
accounts and bond service fund and for other accounts therein 2396  
within the general purposes of such fund. Unless otherwise 2397  
provided in any applicable bond proceedings, moneys to the credit 2398  
of or in the several special funds established pursuant to this 2399  
section shall be disbursed on the order of the treasurer of state, 2400  
provided that no such order is required for the payment from the 2401  
bond service fund when due of bond service charges on obligations. 2402

(Q) The issuing authority may pledge all, or such portion as 2403  
the issuing authority determines, of the pledged receipts to the 2404  
payment of bond service charges on obligations issued under this 2405  
section, and for the establishment and maintenance of any 2406  
reserves, as provided in the bond proceedings, and make other 2407  
provisions therein with respect to pledged receipts as authorized 2408  
by this chapter, which provisions are controlling notwithstanding 2409  
any other provisions of law pertaining thereto. 2410

(R) The issuing authority may covenant in the bond 2411  
proceedings, and any such covenants are controlling 2412  
notwithstanding any other provision of law, that the state and 2413  
applicable officers and governmental agencies of the state, 2414  
including the general assembly, so long as any obligations are 2415  
outstanding, shall do the following: 2416

(1) Maintain statutory authority for and cause to be charged 2417  
and collected wholesale and retail prices for spirituous liquor 2418  
sold by the state or its agents so that the pledged receipts are 2419  
sufficient in amount to meet bond service charges, and the 2420  
establishment and maintenance of any reserves and other 2421  
requirements provided for in the bond proceedings, and, as 2422  
necessary, to meet covenants contained in contracts of guarantee 2423  
made under section 166.06 of the Revised Code; 2424

(2) Take or permit no action, by statute or otherwise, that 2425  
would impair the exemption from federal income taxation of the 2426  
interest on the obligations. 2427

(S) There is hereby created the economic development bond 2428  
service fund, which shall be in the custody of the treasurer of 2429  
state but shall be separate and apart from and not a part of the 2430  
state treasury. All moneys received by or on account of the 2431  
issuing authority or state agencies and required by the applicable 2432  
bond proceedings, consistent with this section, to be deposited, 2433  
transferred, or credited to a bond service fund or the economic 2434

development bond service fund, and all other moneys transferred or 2435  
allocated to or received for the purposes of the fund, shall be 2436  
deposited and credited to such fund and to any separate accounts 2437  
therein, subject to applicable provisions of the bond proceedings, 2438  
but without necessity for any act of appropriation. During the 2439  
period beginning with the date of the first issuance of 2440  
obligations and continuing during such time as any such 2441  
obligations are outstanding, and so long as moneys in the 2442  
pertinent bond service funds are insufficient to pay all bond 2443  
services charges on such obligations becoming due in each year, a 2444  
sufficient amount of the gross profit on the sale of spirituous 2445  
liquor included in pledged receipts are committed and shall be 2446  
paid to the bond service fund or economic development bond service 2447  
fund in each year for the purpose of paying the bond service 2448  
charges becoming due in that year without necessity for further 2449  
act of appropriation for such purpose and notwithstanding anything 2450  
to the contrary in Chapter 4301. of the Revised Code. The economic 2451  
development bond service fund is a trust fund and is hereby 2452  
pledged to the payment of bond service charges to the extent 2453  
provided in the applicable bond proceedings, and payment thereof 2454  
from such fund shall be made or provided for by the treasurer of 2455  
state in accordance with such bond proceedings without necessity 2456  
for any act of appropriation. 2457

(T) The obligations, the transfer thereof, and the income 2458  
therefrom, including any profit made on the sale thereof, shall at 2459  
all times be free from taxation within the state. 2460

**Sec. 169.05.** (A) Every holder required to file a report under 2461  
section 169.03 of the Revised Code shall, at the time of filing, 2462  
pay to the director of commerce ten per cent of the aggregate 2463  
amount of unclaimed funds as shown on ~~such~~ the report, except for 2464  
aggregate amounts of fifty dollars or less in which case one 2465  
hundred per cent shall be paid. ~~Such~~ The unclaimed funds may be 2466

deposited by the director in the state treasury to the credit of 2467  
the unclaimed funds trust fund, which is hereby created, or placed 2468  
with a financial organization. Any interest earned on money in the 2469  
trust fund shall be credited to the trust fund. The remainder of 2470  
such aggregate amount of unclaimed funds as shown on ~~such the~~ 2471  
report, plus earnings accrued to date of payment to the director, 2472  
shall, at the option of the director, be retained by the holder or 2473  
paid to the director for deposit as agent for the mortgage funds 2474  
with a financial organization as defined in section 169.01 of the 2475  
Revised Code, such funds to be in income-bearing accounts to the 2476  
credit of the mortgage funds, or the holder may enter into an 2477  
agreement with the director specifying the obligations of the 2478  
United States in which funds are to be invested, and agree to pay 2479  
the interest on ~~such~~ those obligations to the state. Holders 2480  
retaining such funds not in obligations of the United States shall 2481  
enter into an agreement with the director specifying the 2482  
classification of income-bearing account in which the funds will 2483  
be held and pay the state interest thereon at a rate equal to the 2484  
prevailing market rate for similar funds. Moneys which the holder 2485  
is required to pay to the director rather than to retain may be 2486  
deposited with the treasurer of state, or placed with a financial 2487  
organization. 2488

Securities and other intangible property transferred to the 2489  
director shall, within a reasonable time, be converted to cash, 2490  
and the proceeds shall be deposited as provided for other funds. 2491

One-half of the funds evidenced by such agreements or in such 2492  
income-bearing accounts or on deposit with the treasurer of state 2493  
shall be allocated on the records of the director to the mortgage 2494  
insurance fund created by section 122.561 of the Revised Code. Out 2495  
of the remaining half, after allocation of sufficient moneys, 2496  
until ten years after the effective date of this amendment, to the 2497  
minority challenged business bonding fund to meet the provisions 2498



of division (B) of this section, an equal amount shall be 2499  
allocated to the housing guarantee fund created by division (D) of 2500  
section 175.10 of the Revised Code and the housing development 2501  
fund created by division (C) of section 175.10 of the Revised 2502  
Code. 2503

(B) The director shall serve as agent for the director of 2504  
development, and as agent for the Ohio housing finance agency, in 2505  
the making of deposits and withdrawals and maintenance of records 2506  
pertaining to ~~the minority business bonding fund created by~~ 2507  
~~section 122.88 of the Revised Code,~~ the mortgage insurance fund, 2508  
the housing guarantee fund, ~~and~~ the housing development fund 2509  
created by division (C) of section 175.10 of the Revised Code, 2510  
and, until ten years after the effective date of this amendment, 2511  
the challenged business bonding fund created by section 122.88 of 2512  
the Revised Code. Funds from the mortgage insurance fund shall be 2513  
available to the director of development when such funds are to be 2514  
disbursed to prevent or cure, or upon the occurrence of, a default 2515  
of a mortgage insured pursuant to section 122.451 of the Revised 2516  
Code. Funds from the housing guarantee fund shall be available to 2517  
the Ohio housing finance agency when such funds are to be 2518  
disbursed under a guarantee authorized by section 175.04 of the 2519  
Revised Code to satisfy a guaranteed mortgage which is in default. 2520  
Funds from the housing development fund shall be available to the 2521  
Ohio housing finance agency for the purposes of section 175.04 of 2522  
the Revised Code when it so requests. ~~Funds~~ Until ten years after 2523  
the effective date of this amendment, funds from the ~~minority~~ 2524  
challenged business bonding fund shall be available to the 2525  
director of development upon request for the purpose of paying 2526  
obligations on bonds written by the director pursuant to section 2527  
122.88 of the Revised Code; ~~except that, unless~~ unless additional 2528  
amounts are authorized by the general assembly, the total maximum 2529  
amount of moneys that may be allocated to the ~~minority~~ challenged 2530  
business bonding fund under this division is ten million dollars. 2531

When such funds are to be so disbursed, the appropriate 2532  
agency shall call upon the director to transfer to it the 2533  
necessary funds. The director shall first withdraw the funds paid 2534  
by the holders and deposited with the treasurer of state or in a 2535  
financial institution as agent for such funds. Whenever these 2536  
funds are inadequate to meet the request, the director shall 2537  
provide for a withdrawal of funds, within a reasonable time, in 2538  
such amount as is necessary to meet the request, from financial 2539  
institutions in which such funds were retained or placed by a 2540  
holder and from other holders who have retained funds, in an 2541  
equitable manner as prescribed by the director. ~~In the event that~~ 2542  
If the amount to be withdrawn from any one such holder is less 2543  
than five hundred dollars, the amount to be withdrawn shall be at 2544  
the discretion of the director. The director shall then transfer 2545  
to the agency the amount of funds requested. 2546

Funds ~~which that~~ are deposited in the unclaimed funds trust 2547  
fund shall be subject to call by the director when necessary to 2548  
pay claims allowed by the director under section 169.08 of the 2549  
Revised Code, in accordance with the rules of the director, to 2550  
defray the necessary costs of making publications required by this 2551  
chapter, and to pay other operating and administrative expenses 2552  
incurred by the department of commerce in the administration and 2553  
enforcement of this chapter. 2554

The unclaimed funds trust fund shall be assessed a 2555  
proportionate share of the administrative costs of the department 2556  
of commerce in accordance with procedures prescribed by the 2557  
director of commerce and approved by the director of budget and 2558  
management. ~~Such~~ The assessment shall be paid from the unclaimed 2559  
funds trust fund to the division of administration fund. 2560

(C) Earnings on the accounts in financial organizations to 2561  
the credit of the mortgage funds shall at the option of such a 2562  
financial organization be credited to such accounts at such times 2563

and at such rates as earnings are paid on other accounts of the  
same classification held in the financial organization or paid to  
the director. The director shall be notified annually, and at such  
other times as the director may request, of the amount of such  
earnings credited to the accounts. Interest on unclaimed funds  
retained by a holder shall be paid to the director or credited as  
specified in the agreement under which the organization retains  
the funds. Interest payable to the director under an agreement to  
invest unclaimed funds and obligations of the United States shall  
be paid annually by such holder to the director. Any earnings or  
interest received by the director under this division shall be  
deposited in and credited to the mortgage funds.

**Sec. 307.696.** (A) As used in this section:

(1) "County taxes" means taxes levied by the county pursuant  
to sections 307.697, 4301.421, 5743.024, and 5743.323 of the  
Revised Code.

(2) "Corporation" means a nonprofit corporation that is  
organized under the laws of this state for the purposes of  
operating or constructing and operating a sports facility in the  
county and that may also be organized under the laws of this state  
for the additional purposes of conducting redevelopment and  
economic development activities within the host municipal  
corporation.

(3) "Sports facility" means a sports facility that is  
intended to house major league professional athletic teams,  
including a stadium, together with all parking facilities,  
walkways, and other auxiliary facilities, real and personal  
property, property rights, easements, and interests that may be  
appropriate for, or used in connection with, the operation of the  
facility.

(4) "Construction" includes, but is not limited to, providing fixtures, furnishings, and equipment.

(5) "Debt service charges" means the interest, principal, premium, if any, carrying and redemption charges, and expenses on bonds issued by either the county or the corporation to do all of the following:

(a) Construct a sports facility or provide for related redevelopment or economic development as provided in this section;

(b) Acquire real and personal property, property rights, easements, or interests that may be appropriate for, or used in connection with, the operation of the facility; ~~and~~

(c) Make site improvements to real property, including, but not limited to, demolition, excavation, and installation of footers, pilings, and foundations.

(6) "Host municipal corporation" means the municipal corporation within the boundaries of which the sports facility is located, and with which a national football league, major league baseball, or national basketball association sports franchise is associated on ~~the effective date of this amendment~~ March 20, 1990.

(B) A board of county commissioners of a county that levies a tax under section 307.697, 4301.421, or 5743.024 of the Revised Code may enter into an agreement with a corporation operating in the county, and, if there is a host municipal corporation all or a part of which is located in the county, shall enter into an agreement with a corporation operating in the county and the host municipal corporation, under which:

(1)(a) The corporation agrees to construct and operate a sports facility in the county and to pledge and contribute all or any part of the revenues derived from its operation, as specified in the agreement, for the purposes described in division (C)(1) of this section; and

(b) The board agrees to levy county taxes and pledge and contribute any part or all of the revenues therefrom, as specified in the agreement, for the purposes described in division (C)(1) of this section; or

(2)(a) The corporation agrees to operate a sports facility constructed by the county and to pledge and contribute all or any part of the revenues derived from its operation, as specified in the agreement, for the purposes described in division (C)(2) of this section; and

(b) The board agrees to issue revenue bonds of the county, use the proceeds from the sale of the bonds to construct a sports facility in the county, and to levy county taxes and pledge and contribute all or any part of the revenues therefrom, as specified in the agreement, for the purposes described in division (C)(2) of this section; and, if applicable

(3) The host municipal corporation agrees to expend the unused pledges and contributions and surplus revenues as described in divisions (C)(1) and (2) of this section for redevelopment and economic development purposes related to the sports facility.

(C)(1) The primary purpose of the pledges and contributions described in division (B)(1) of this section is payment of debt service charges. To the extent the pledges and contributions are not used by the county or corporation for payment of debt service charges, the county or corporation, pursuant to the agreement provided for in division (B) of this section, shall provide the unused pledges and contributions, together with surplus revenues of the sports facility not needed for debt service charges or the operation and maintenance of the sports facility, to the host municipal corporation, or a nonprofit corporation, which may be the corporation acting on behalf of the host municipal corporation, for redevelopment and economic development purposes related to the sports facility. If the county taxes are also

levied for the purpose of making permanent improvements, the 2658  
agreement shall include a schedule of annual pledges and 2659  
contributions by the county for the payment of debt service 2660  
charges. The county's pledge and contribution provided for in the 2661  
agreement shall be for the period stated in the agreement but not 2662  
to exceed twenty years. The agreement shall provide that any such 2663  
bonds and notes shall be secured by a trust agreement between the 2664  
corporation or other bond issuer and a corporate trustee that is a 2665  
trust company or bank having the powers of a trust company within 2666  
or without the state, and the trust agreement shall pledge or 2667  
assign to the retirement of the bonds or notes, all moneys paid by 2668  
the county for that purpose under this section. A county tax, all 2669  
or any part of the revenues from which are pledged under an 2670  
agreement entered into by a board of county commissioners under 2671  
this section shall not be subject to diminution by initiative or 2672  
referendum, or diminution by statute, unless provision is made 2673  
therein for an adequate substitute therefor reasonably 2674  
satisfactory to the trustee under the trust agreement that secures 2675  
the bonds and notes. 2676

(2) The primary purpose of the pledges and contributions 2677  
described in division (B)(2) of this section is payment of debt 2678  
service charges. To the extent the pledges and contributions are 2679  
not used by the county for payment of debt service charges, the 2680  
county or corporation, pursuant to the agreement provided for in 2681  
division (B) of this section, shall provide the unused pledges and 2682  
contributions, together with surplus revenues of the sports 2683  
facility not needed for debt service charges or the operation and 2684  
maintenance of the sports facility, to the host municipal 2685  
corporation, or a nonprofit corporation, which may be the 2686  
corporation, acting on behalf of the host municipal corporation, 2687  
for redevelopment and economic development purposes related to the 2688  
sports facility. The corporation's pledge and contribution 2689

provided for in the agreement shall be until all of the bonds  
issued for the construction of the facility have been retired.

(D) A pledge of money by a county under this section shall  
not be indebtedness of the county for purposes of Chapter 133. of  
the Revised Code.

(E) If the terms of the agreement so provide, the board of  
county commissioners may acquire, make site improvements to,  
including, but not limited to, demolition, excavation, and  
installation of footers, pilings, and foundations, and lease real  
property for the sports facility to a corporation that constructs  
a sports facility under division (B)(1) of this section. The  
agreement shall specify the term, which shall not exceed thirty  
years and shall be on such terms as are set forth in the  
agreement. The purchase, improvement, and lease may be the subject  
of an agreement between the county and a municipal corporation  
located within the county pursuant to section 153.61 or 307.15 of  
the Revised Code, and are not subject to the limitations of  
sections 307.02 and 307.09 of the Revised Code.

(F) The (1) Until ten years after the effective date of this  
amendment, the corporation shall not enter into any construction  
contract or contract for the purchase of services for use in  
connection with the construction of a sports facility prior to the  
corporation's adoption and implementation of a policy on the set  
aside of contracts for bidding by or award to minority challenged  
business enterprises, as defined in division (E)(1) of section  
122.71 of the Revised Code that are certified as challenged  
business enterprises under division (B) of section 123.151 of the  
Revised Code. Sections

(2) Sections 4115.03 to 4115.16 of the Revised Code apply to  
a sports facility constructed under this section.

(G) Not more than one-half of the total costs, including debt

service charges and cost of operation, of a project undertaken 2721  
pursuant to an agreement entered into under division (B) of this 2722  
section shall be paid from county taxes. Nothing in this section 2723  
authorizes the use of revenues from county taxes or proceeds from 2724  
the sale of bonds issued by the board of county commissioners for 2725  
payment of costs of operation of a sports facility. 2726  
2727

**Sec. 307.921.** From any contracts to be awarded under sections 2728  
307.86 to 307.92 of the Revised Code, the contracting authority, 2729  
as defined in section 307.92 of the Revised Code, may develop a 2730  
policy to assist minority challenged business enterprises, ~~as~~ 2731  
~~defined in sections 122.71 and that are certified as challenged~~ 2732  
business enterprises under division (B) of section 123.151 of the 2733  
Revised Code. 2734

**Sec. 340.12.** (A) No board of alcohol, drug addiction, and 2735  
mental health services or any agency, corporation, or association 2736  
under contract with ~~such a~~ the board shall discriminate in the 2737  
provision of services under its authority, in employment, or under 2738  
a contract on the basis of race, color, sex, creed, disability, 2739  
national origin, or the inability to pay. 2740

(B) Each board, each community mental health agency, and each 2741  
alcohol and drug addiction program shall have a written 2742  
affirmative action program. The affirmative action program shall 2743  
include goals for the employment and effective utilization of, 2744  
including contracts with, ~~members of~~ economically disadvantaged 2745  
~~groups~~ individuals as defined in ~~division (E)(1) of~~ section 122.71 2746  
of the Revised Code in percentages reflecting as nearly as 2747  
possible the composition of the alcohol, drug addiction, and 2748  
mental health service district served by the board. Each board, 2749  
agency, and program shall file a description of the affirmative 2750  
action program and a progress report on its implementation with 2751



the department of mental health or the department of alcohol and 2752  
drug addiction services. 2753

This division applies only until ten years after the 2754  
effective date of this amendment. 2755

**Sec. 340.13.** (A) As used in this section, "~~minority~~ 2756  
challenged business enterprise" has the same meaning as in 2757  
~~division (E)(1)~~ of section 122.71 of the Revised Code. 2758

(B) Any ~~minority~~ challenged business enterprise that desires 2759  
to bid on a contract under division (C) or (D) of this section 2760  
shall first apply to the equal employment opportunity coordinator 2761  
in the department of administrative services for certification as 2762  
a ~~minority~~ challenged business enterprise. The coordinator shall 2763  
approve the application of any ~~minority~~ challenged business 2764  
enterprise that complies with the rules adopted under section 2765  
~~122.71~~ 123.151 of the Revised Code. The coordinator shall prepare 2766  
and maintain a list of ~~minority~~ challenged business enterprises 2767  
certified under this section. 2768

(C) From the contracts to be awarded for the purchases of 2769  
equipment, materials, supplies, or services, other than contracts 2770  
entered into under section 340.03 or 340.033 of the Revised Code, 2771  
each board of alcohol, drug addiction, and mental health services 2772  
shall select a number of contracts with an aggregate value of 2773  
approximately fifteen per cent of the total estimated value of 2774  
contracts to be awarded in the current fiscal year. The board 2775  
shall set aside the contracts so selected for bidding by ~~minority~~ 2776  
challenged business enterprises only. The bidding procedures for 2777  
~~such~~ the contracts set aside shall be the same as for all other 2778  
contracts awarded under section 307.86 of the Revised Code, except 2779  
that only ~~minority~~ challenged business enterprises certified and 2780  
listed under division (B) of this section shall be qualified to 2781  
submit bids. 2782

(D) To the extent that a board is authorized to enter into 2783  
contracts for construction, the board shall set aside a number of 2784  
contracts the aggregate value of which equals approximately five 2785  
per cent of the aggregate value of construction contracts for the 2786  
current fiscal year for bidding by minority challenged business 2787  
enterprises only. The bidding procedures for the contracts set 2788  
aside for minority challenged business enterprises shall be the 2789  
same as for all other contracts awarded by the board, except that 2790  
only minority challenged business enterprises certified and listed 2791  
under division (B) of this section shall be qualified to submit 2792  
bids. 2793

(E) In the case of contracts set aside under divisions (C) 2794  
and (D) of this section, if no bid is submitted by a minority 2795  
challenged business enterprise, the contract shall be awarded 2796  
according to normal bidding procedures. The board shall from time 2797  
to time set aside such additional contracts as are necessary to 2798  
replace those contracts previously set aside on which no minority 2799  
challenged business enterprise bid. 2800

(F) This section does not preclude any minority challenged 2801  
business enterprise from bidding on any other contract not 2802  
specifically set aside for minority challenged business 2803  
enterprises. 2804

(G) Within ninety days after the beginning of each fiscal 2805  
year, each board shall file a report with the department of mental 2806  
health that shows for that fiscal year the name of each minority 2807  
challenged business enterprise with which the board entered into a 2808  
contract, the value and type of each ~~such~~ contract, the total 2809  
value of contracts awarded under divisions (C) and (D) of this 2810  
section, the total value of contracts awarded for the purchases of 2811  
equipment, materials, supplies, or services, other than contracts 2812  
entered into under section 340.03 of the Revised Code, and the 2813  
total value of contracts entered into for construction. 2814

(H) Any person who intentionally ~~misrepresents himself as~~ 2815  
makes a false claim of owning, controlling, operating, or 2816  
participating in a ~~minority~~ challenged business enterprise for the 2817  
purpose of obtaining contracts or any other benefits under this 2818  
section ~~shall be~~ is guilty of theft by deception as provided for 2819  
in section 2913.02 of the Revised Code. 2820

**Sec. 351.06.** A facility to be constructed pursuant to this 2821  
chapter is a public improvement and a convention facilities 2822  
authority is a public authority for purposes of section 4115.03 of 2823  
the Revised Code. All contractors and subcontractors working on 2824  
such facilities are subject to and shall comply with sections 2825  
4115.03 to 4115.16 of the Revised Code. A convention facilities 2826  
authority is a contracting authority for purposes of sections 2827  
307.86 to 307.91 of the Revised Code. 2828

No convention facilities authority shall construct a facility 2829  
under this chapter unless the plans for the facility provide for 2830  
parking and transportation determined by the board of county 2831  
commissioners as adequate to serve that facility. 2832

A convention facilities authority may do all of the 2833  
following: 2834

(A) Adopt bylaws for the regulation of its affairs and the 2835  
conduct of its business; 2836

(B) Adopt an official seal; 2837

(C) Maintain a principal office within its territory; 2838

(D) Acquire, purchase, construct, reconstruct, enlarge, 2839  
furnish, equip, maintain, repair, sell, exchange, lease or rent 2840  
to, lease or rent from, operate, or contract for the operation by 2841  
others of, facilities within its territory, and make charges for 2842  
the use of the facilities; 2843

(E) Make available the use or services of any facility to 2844

persons or governmental agencies on such terms and conditions as 2845  
the authority shall determine; 2846

(F) By resolution of its board of directors, issue convention 2847  
facilities authority revenue bonds beyond the limit of bonded 2848  
indebtedness provided by law, payable solely from revenues as 2849  
provided in section 351.14 of the Revised Code, unless the bonds 2850  
are refunded by refunding bonds, for the purpose of providing 2851  
funds to pay the costs of any facility or facilities or parts of 2852  
any facility or facilities, and, if moneys raised by taxation are 2853  
not obligated or pledged for the payment of those revenue bonds, 2854  
to pay the costs of any facility or facilities or parts of any 2855  
facility or facilities pursuant to Section 13 of Article VIII, 2856  
Ohio Constitution, and in order to create or preserve jobs and 2857  
employment opportunities and improve the economic welfare of the 2858  
people of the state; 2859

(G) Maintain such funds as it determines necessary; 2860

(H) Direct its agents or employees, when properly identified 2861  
in writing and after at least five days' written notice, to enter 2862  
upon lands within its territory in order to make surveys and 2863  
examinations preliminary to location and construction of 2864  
facilities, or other work for the purposes of the convention 2865  
facilities authority, without liability of the authority or its 2866  
agents or employees except for actual damage done; 2867

(I) Promote, advertise, and publicize the authority and its 2868  
facilities; 2869

(J)(1) Adopt rules, not in conflict with general law, 2870  
governing the use of its property, grounds, buildings, equipment, 2871  
and facilities, and the conduct of its employees and the public, 2872  
in order to promote the public safety and convenience in and about 2873  
its facilities and grounds, and to maintain order. Any such rule 2874  
shall be posted at a prominent place in each of the buildings or 2875

facilities to which it applies. 2876

(2) No person shall violate any lawful rule adopted and 2877  
posted as provided in this division. 2878

(K) Acquire by gift or purchase, hold, lease, and dispose of 2879  
real and personal property and interests in the property in the 2880  
exercise of its powers and the performance of its duties under 2881  
this chapter; 2882

(L) Acquire, in the name of the authority, by purchase or 2883  
otherwise, on such terms and in such manner as the authority finds 2884  
proper, or by the exercise of the right of appropriation in the 2885  
manner provided by section 351.22 of the Revised Code, such public 2886  
or private lands, including public parks, playgrounds, or 2887  
reservations, or parts thereof or rights therein, rights-of-way, 2888  
rights, franchises, easements, and interests as it finds necessary 2889  
or proper for carrying out this chapter, and compensation shall be 2890  
paid for public or private lands so taken; 2891

(M) Make and enter into all contracts and agreements and 2892  
execute all instruments necessary or incidental to the performance 2893  
of its duties and the execution of its powers under this chapter 2894  
~~provided that no. Until ten years after the effective date of this~~ 2895  
~~amendment, no~~ construction contract or contract for the purchase 2896  
of goods or services shall be approved or entered into by the 2897  
authority prior to the adoption and implementation of a policy on 2898  
the set aside of contracts for bidding by or award to ~~minority~~ 2899  
~~challenged~~ business enterprises, ~~as defined in division (E)(1) of~~ 2900  
~~section 122.71 of the Revised Code;~~ that are certified as 2901  
challenged business enterprises under division (B) of section 2902  
123.151 of the Revised Code. 2903

(N) Employ managers, superintendents, and other employees and 2904  
retain or contract with consulting engineers, financial 2905  
consultants, accounting experts, architects, attorneys, and such 2906

other consultants and independent contractors as are necessary in 2907  
its judgment to carry out this chapter, and fix their 2908  
compensation. All expenses of doing so shall be payable solely 2909  
from the proceeds of convention facilities authority bonds and 2910  
notes issued under this chapter, or from excise taxes and 2911  
revenues. 2912

(O) Receive and accept from any governmental agency grants 2913  
for or in aid of the purposes of the authority, and receive and 2914  
accept aid or contributions from any source of money, property, 2915  
labor, or other things of value, to be held, used, and applied 2916  
only for the purposes for which such grants and contributions are 2917  
made; 2918

(P) Engage in research and development with respect to 2919  
facilities; 2920

(Q) Purchase fire and extended coverage and liability 2921  
insurance for any facility and for the offices of the authority, 2922  
insurance protecting the authority and its officers and employees 2923  
against liability for damage to property or injury to or death of 2924  
persons arising from its operations, and any other insurance the 2925  
authority may agree to provide under any resolution authorizing 2926  
its convention facilities authority revenue bonds or in any trust 2927  
agreement securing the same; 2928

(R) Charge, alter, and collect rentals and other charges for 2929  
the use or services of any facility as provided in section 351.09 2930  
of the Revised Code; 2931

(S) If a tax proposed under section 5739.026 of the Revised 2932  
Code is disapproved by the electors, request the board of county 2933  
commissioners to dissolve the authority pursuant to section 351.03 2934  
of the Revised Code; 2935

(T) By resolution of its board of directors, levy one or both 2936  
of the excise taxes authorized by division (B) of section 351.021 2937

of the Revised Code if authorized by the county commissioners, and 2938  
issue convention facilities authority tax anticipation bonds 2939  
beyond any limit of bonded indebtedness provided by law, payable 2940  
solely from excise taxes levied pursuant to division (B) of 2941  
section 351.021 of the Revised Code and revenues as provided in 2942  
section 351.141 of the Revised Code; 2943

(U) Do all acts necessary or proper to carry out the powers 2944  
expressly granted in this chapter. 2945

**Sec. 3354.161.** (A) In awarding contracts for a work of 2946  
improvement pursuant to the official plan of a community college 2947  
district, the board of trustees of the community college district 2948  
shall comply with the percentage requirements of division (C)(1) 2949  
of section 123.151 of the Revised Code. Any contract so awarded 2950  
shall require the contractor to comply with the requirements of 2951  
division (C)(2)(a) of section 123.151 of the Revised Code in 2952  
awarding subcontracts and in purchasing services and materials 2953  
under that contract. If, after making a good faith effort, a 2954  
contractor is unable to comply with the requirements of division 2955  
(C)(2)(a) of section 123.151 of the Revised Code because ~~he~~ the 2956  
contractor is unable to locate minority challenged business 2957  
enterprises available to accept subcontracts or from whom ~~he~~ the 2958  
contractor may purchase materials or services, the contractor may 2959  
apply to the board of trustees of the district for a waiver or 2960  
modification of the requirements. If the board of trustees of the 2961  
district determines that the contractor made a good faith effort 2962  
to locate and use minority challenged business enterprises but was 2963  
unable to do so, it may waive the requirements of division 2964  
(C)(2)(a) of section 123.151 of the ~~revised code~~ Revised Code, 2965  
authorize a reduction in the total value of the contract required 2966  
to be designated to minority challenged business enterprises, or 2967  
require a greater percentage of services permissible in contracts 2968  
for plumbing, gas fitting, steam and hot water heating, 2969

ventilating apparatus, steam power plant, or electrical equipment. 2970  
The contract shall require that, if the board of trustees of the 2971  
district denies a request for a waiver or modification and the 2972  
contractor is unable to comply with division (C)(2)(a) of section 2973  
123.151 of the Revised Code, the board of trustees of the district 2974  
shall terminate the contract. 2975

(B) As used in this section, "minority challenged business 2976  
enterprise" has the same meaning as in ~~division (E)(1)~~ of section 2977  
122.71 of the Revised Code. 2978

**Sec. 3355.121.** (A) In awarding contracts for a work of 2979  
improvement, the managing authority of a university branch 2980  
district shall comply with the percentage requirements of division 2981  
(C)(1) of section 123.151 of the Revised Code. Any contract so 2982  
awarded shall require the contractor to comply with the 2983  
requirements of division (C)(2)(a) of section 123.151 of the 2984  
Revised Code in awarding subcontracts and in purchasing services 2985  
and materials under that contract. If, after making a good faith 2986  
effort, a contractor is unable to comply with the requirements of 2987  
division (C)(2)(a) of section 123.151 of the Revised Code because 2988  
~~he the contractor~~ is unable to locate minority challenged business 2989  
enterprises available to accept subcontracts or from whom ~~he the~~ 2990  
contractor may purchase materials or services, the contractor may 2991  
apply to the managing authority of the university branch district 2992  
for a waiver or modification of the requirements. If the managing 2993  
authority of the university branch district determines that the 2994  
contractor made a good faith effort to locate and use minority 2995  
challenged business enterprises but was unable to do so, it may 2996  
waive the requirements of division (C)(2)(a) of section 123.151 of 2997  
the Revised Code, authorize a reduction in the total value of the 2998  
contract required to be designated to minority challenged business 2999  
enterprises, or require a greater percentage of services 3000



permissible in contracts for plumbing, gas fitting, steam and hot 3001  
water heating, ventilating apparatus, steam power plant, or 3002  
electrical equipment. The contract shall require that, if the 3003  
managing authority of the university branch district denies a 3004  
request for a waiver or modification and the contractor is unable 3005  
to comply with division (C)(2)(a) of section 123.151 of the 3006  
Revised Code, the managing authority of the university branch 3007  
district shall terminate the contract. 3008

(B) As used in this section, "minority challenged business 3009  
enterprise" has the same meaning as in ~~division (E)(1)~~ of section 3010  
122.71 of the Revised Code. 3011

**Sec. 3357.161.** (A) In awarding contracts for a work of 3012  
improvement pursuant to the official plan of a technical college 3013  
district, the board of trustees of the technical college district 3014  
shall comply with the percentage requirements of division (C)(1) 3015  
of section 123.151 of the Revised Code. Any contract so awarded 3016  
shall require the contractor to comply with the requirements of 3017  
division (C)(2)(a) of section 123.151 of the Revised Code in 3018  
awarding subcontracts and in purchasing services and materials 3019  
under that contract. If, after making a good faith effort, a 3020  
contractor is unable to comply with the requirements of division 3021  
(C)(2)(a) of section 123.151 of the Revised Code because ~~he~~ the 3022  
contractor is unable to locate minority challenged business 3023  
enterprises available to accept subcontracts or from whom ~~he~~ the 3024  
contractor may purchase materials or services, the contractor may 3025  
apply to the board of trustees of the district for a waiver or 3026  
modification of the requirements. If the board of trustees of the 3027  
district determines that the contractor made a good faith effort 3028  
to locate and use minority challenged business enterprises but was 3029  
unable to do so, it may waive the requirements of division 3030  
(C)(2)(a) of section 123.151 of the Revised Code, authorize a 3031

reduction in the total value of the contract required to be 3032  
designated to ~~minority~~ challenged business enterprises, or require 3033  
a greater percentage of services permissible in contracts for 3034  
plumbing, gas fitting, steam and hot water heating, ventilating 3035  
apparatus, steam power plant, or electrical equipment. The 3036  
contract shall require that, if the board of trustees of the 3037  
district denies a request for a waiver or modification and the 3038  
contractor is unable to comply with division (C)(2)(a) of section 3039  
123.151 of the Revised Code, the board of trustees of the district 3040  
shall terminate the contract. 3041

(B) As used in this section, "~~minority~~ challenged business 3042  
enterprise" has the same meaning as in ~~division (E)(1)~~ of section 3043  
122.71 of the Revised Code. 3044

**Sec. 3358.10.** Sections 3354.10, 3354.121, 3354.15, and 3045  
3354.16~~7~~ of the Revised Code and, until ten years after the 3046  
effective date of this amendment, section 3354.161 of the Revised 3047  
Code apply to state community college districts and their boards 3048  
of trustees. 3049

**Sec. 3383.07.** (A) The department of administrative services 3050  
shall provide for the construction of an arts project in 3051  
conformity with Chapter 153. of the Revised Code, except as 3052  
follows: 3053

(1) For an arts project that has an estimated construction 3054  
cost, excluding the cost of acquisition, of twenty-five million 3055  
dollars or more, and that is financed by the Ohio building 3056  
authority, construction services may be provided by the authority 3057  
if the authority determines it should provide those services. 3058

(2) For an arts project other than a state historical 3059  
facility, construction services may be provided on behalf of the 3060  
state by the Ohio arts and sports facilities commission, or by a 3061

governmental agency or an arts organization that occupies, will 3062  
occupy, or is responsible for the Ohio arts facility, as 3063  
determined by the department of administrative services. 3064  
Construction services to be provided by a governmental agency or 3065  
an arts organization shall be specified in an agreement between 3066  
the commission and the governmental agency or arts organization. 3067  
The agreement, or any actions taken under it, are not subject to 3068  
Chapter 123. or 153. of the Revised Code, except for sections 3069  
123.151 and 153.011 of the Revised Code, and shall be subject to 3070  
Chapter 4115. of the Revised Code. 3071

(3) For an arts project that is a state historical facility, 3072  
construction services may be provided by the Ohio arts and sports 3073  
facilities commission or by an arts organization that occupies, 3074  
will occupy, or is responsible for the facility, as determined by 3075  
the commission. The construction services to be provided by the 3076  
arts organization shall be specified in an agreement between the 3077  
commission and the arts organization, and the agreement, and any 3078  
actions taken under it, are not subject to Chapter 123., 153., or 3079  
4115. of the Revised Code. 3080

(B) For an Ohio sports facility that is financed in part by 3081  
the Ohio building authority, construction services shall be 3082  
provided on behalf of the state by or at the direction of the 3083  
governmental agency or nonprofit corporation that will own or be 3084  
responsible for the management of the facility, all as determined 3085  
by the commission. Any construction services to be provided by a 3086  
governmental agency or nonprofit corporation shall be specified in 3087  
an agreement between the commission and the governmental agency or 3088  
nonprofit corporation, and the agreement, and any actions taken 3089  
under it, are not subject to Chapter 123. or 153. of the Revised 3090  
Code, except for sections 123.151 and 153.011 of the Revised Code, 3091  
and shall be subject to Chapter 4115. of the Revised Code. 3092

(C) General building services for an Ohio arts facility shall 3093

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be provided by the department of administrative services in  
conformity with Chapter 123. of the Revised Code, except that the  
Ohio building authority may elect to provide such services for  
Ohio arts facilities it financed and such services may be provided  
by the Ohio arts and sports facilities commission or by an arts  
organization that occupies, will occupy, or is responsible for the  
facility, as determined by the commission. The costs of management  
and general building services shall be paid by the arts  
organization that occupies, will occupy, or is responsible for the  
facility as provided in an agreement between the commission and  
the arts organization, except that the state may pay for general  
building services for state-owned arts facilities constructed on  
state-owned land. General building services for an Ohio sports  
facility shall be provided by or at the direction of the  
governmental agency or nonprofit corporation that will be  
responsible for the management of the facility, all as determined  
by the commission. Any general building services to be provided by  
a governmental agency or nonprofit corporation shall be specified  
in an agreement between the commission and the governmental agency  
or nonprofit corporation, and that agreement, and any actions  
taken under it, are not subject to Chapter 123. or 153. of the  
Revised Code, except for ~~sections 123.151 and~~ section 153.011 of  
the Revised Code, and shall be subject to Chapter 4115. of the  
Revised Code. That agreement, and any actions taken under it, are  
subject to section 123.151 of the Revised Code, but only until ten  
years after the effective date of this amendment.

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(D) This division does not apply to a state historical  
facility. No state funds, including any state bond proceeds, shall  
be spent on the construction of any arts project under this  
chapter unless, with respect to the arts project and to the Ohio  
arts facility related to the project, all of the following apply:

3125  
(1) The Ohio arts and sports facilities commission has

determined that there is a need for the arts project and the Ohio arts facility related to the project in the region of the state for which the Ohio arts facility is proposed to be located;

(2) The commission has determined that, as an indication of substantial regional support for the arts project, the arts organization has made provision satisfactory to the commission, in its sole discretion, for local contributions amounting to not less than fifty per cent of the total state funding for the arts project;

(3) The general assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the arts project, or for rental payments relating to the financing of the construction of the arts project. Authorization to spend money, or an appropriation, for planning the arts project does not constitute authorization to spend money on, or an appropriation for, construction of the arts project.

(E) No state funds, including any state bond proceeds, shall be spent on the construction of any state historical facility under this chapter unless the general assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the arts project related to the facility, or for rental payments relating to the financing of the construction of the arts project. Authorization to spend money, or an appropriation, for planning the arts project does not constitute authorization to spend money on, or an appropriation for, the construction of the arts project.

(F) State funds shall not be used to pay or reimburse more than fifteen per cent of the initial estimated construction cost of an Ohio sports facility, excluding any site acquisition cost, and no state funds, including any state bond proceeds, shall be spent on any Ohio sports facility under this chapter unless, with respect to that facility, all of the following apply:

(1) The Ohio arts and sports facilities commission has 3158  
determined that there is a need for the facility in the region of 3159  
the state for which the facility is proposed to provide the 3160  
function of an Ohio sports facility as provided for in this 3161  
chapter. 3162

(2) As an indication of substantial local support for the 3163  
facility, the commission has received a financial and development 3164  
plan satisfactory to it, and provision has been made, by agreement 3165  
or otherwise, satisfactory to the commission, for a contribution 3166  
amounting to not less than eighty-five per cent of the total 3167  
estimated construction cost of the facility, excluding any site 3168  
acquisition cost, from sources other than the state. 3169

(3) The general assembly has specifically authorized the 3170  
spending of money on, or made an appropriation for, the 3171  
construction of the facility, or for rental payments relating to 3172  
state financing of all or a portion of the costs of constructing 3173  
the facility. Authorization to spend money, or an appropriation, 3174  
for planning or determining the feasibility of or need for the 3175  
facility does not constitute authorization to spend money on, or 3176  
an appropriation for, costs of constructing the facility. 3177

(4) If state bond proceeds are being used for the Ohio sports 3178  
facility, the state or a governmental agency owns or has 3179  
sufficient property interests in the facility or in the site of 3180  
the facility or in the portion or portions of the facility 3181  
financed from proceeds of state bonds, which may include, but is 3182  
not limited to, the right to use or to require the use of the 3183  
facility for the presentation of sport and athletic events to the 3184  
public at the facility, extending for a period of not less than 3185  
the greater of the useful life of the portion of the facility 3186  
financed from proceeds of those bonds as determined using the 3187  
guidelines for maximum maturities as provided under divisions (B), 3188  
(C), and (D) of section 133.20 of the Revised Code, or the period 3189

of time remaining to the date of payment or provision for payment 3190  
of outstanding state bonds allocable to costs of the facility, all 3191  
as determined by the director of budget and management and 3192  
certified by the director to the Ohio arts and sports facilities 3193  
commission and to the Ohio building authority. 3194

**Sec. 3734.18.** (A) There are hereby levied fees on the 3195  
disposal of hazardous waste to be collected according to the 3196  
following schedule at each disposal facility to which the 3197  
hazardous waste facility board has issued a hazardous waste 3198  
facility installation and operation permit or the director of 3199  
environmental protection has issued a renewal permit pursuant to 3200  
section 3734.05 of the Revised Code: 3201

(1) For disposal facilities that are off-site facilities as 3202  
defined in division (E) of section 3734.02 of the Revised Code, 3203  
fees shall be levied at the rate of four dollars and fifty cents 3204  
per ton for hazardous waste disposed of by deep well injection and 3205  
nine dollars per ton for hazardous waste disposed of by land 3206  
application or landfilling. The owner or operator of the facility, 3207  
as a trustee for the state, shall collect the fees and forward 3208  
them to the director in accordance with rules adopted under this 3209  
section. 3210

(2) For disposal facilities that are on-site or satellite 3211  
facilities, as defined in division (E) of section 3734.02 of the 3212  
Revised Code, fees shall be levied at the rate of two dollars per 3213  
ton for hazardous waste disposed of by deep well injection and 3214  
four dollars per ton for hazardous waste disposed of by land 3215  
application or landfilling. The maximum annual disposal fee for an 3216  
on-site disposal facility that disposes of one hundred thousand 3217  
tons or less of hazardous waste in a year is twenty-five thousand 3218  
dollars. The maximum annual disposal fee for an on-site facility 3219  
that disposes of more than one hundred thousand tons of hazardous 3220

waste in a year by land application or landfilling is fifty 3221  
thousand dollars, and the maximum annual fee for an on-site 3222  
facility that disposes of more than one hundred thousand tons of 3223  
hazardous waste in a year by deep well injection is one hundred 3224  
thousand dollars. The maximum annual disposal fee for a satellite 3225  
facility that disposes of one hundred thousand tons or less of 3226  
hazardous waste in a year is thirty-seven thousand five hundred 3227  
dollars, and the maximum annual disposal fee for a satellite 3228  
facility that disposes of more than one hundred thousand tons of 3229  
hazardous waste in a year is seventy-five thousand dollars, except 3230  
that a satellite facility defined under division (E)(3)(b) of 3231  
section 3734.02 of the Revised Code that receives hazardous waste 3232  
from a single generation site is subject to the same maximum 3233  
annual disposal fees as an on-site disposal facility. The owner or 3234  
operator shall pay the fee to the director each year upon the 3235  
anniversary of the date of issuance of the owner's or operator's 3236  
installation and operation permit during the term of that permit 3237  
and any renewal permit issued under division (H) of section 3238  
3734.05 of the Revised Code. If payment is late, the owner or 3239  
operator shall pay an additional ten per cent of the amount of the 3240  
fee for each month that it is late. 3241

(B) There are hereby levied fees at the rate of two dollars 3242  
per ton on hazardous waste that is treated at treatment facilities 3243  
that are not on-site or satellite facilities, as defined in 3244  
division (E) of section 3734.02 of the Revised Code, to which the 3245  
hazardous waste facility board has issued a hazardous waste 3246  
facility installation and operation permit or the director has 3247  
issued a renewal permit, or that are not subject to the hazardous 3248  
waste facility installation and operation permit requirements 3249  
under rules adopted by the director. 3250

(C) There are hereby levied additional fees on the treatment 3251  
and disposal of hazardous waste at the rate of ten per cent of the 3252



applicable fees prescribed in division (A) or (B) of this section 3253  
for the purposes of paying the costs of municipal corporations and 3254  
counties for conducting reviews of applications for hazardous 3255  
waste facility installation and operation permits for proposed new 3256  
or modified hazardous waste landfills within their boundaries, 3257  
emergency response actions with respect to releases of hazardous 3258  
waste from hazardous waste facilities within their boundaries, 3259  
monitoring the operation of such hazardous waste facilities, and 3260  
local waste management planning programs. The owner or operator of 3261  
a facility located within a municipal corporation, as a trustee 3262  
for the municipal corporation, shall collect the fees levied by 3263  
this division and forward them to the treasurer of the municipal 3264  
corporation or such officer as, by virtue of the charter, has the 3265  
duties of the treasurer in accordance with rules adopted under 3266  
this section. The owner or operator of a facility located in an 3267  
unincorporated area, as a trustee of the county in which the 3268  
facility is located, shall collect the fees levied by this 3269  
division and forward them to the county treasurer of that county 3270  
in accordance with rules adopted under this section. The owner or 3271  
operator shall pay the fees levied by this division to the 3272  
treasurer or such other officer of the municipal corporation or to 3273  
the county treasurer each year upon the anniversary of the date of 3274  
issuance of the owner's or operator's installation and operation 3275  
permit during the term of that permit and any renewal permit 3276  
issued under division (H) of section 3734.05 of the Revised Code. 3277  
If payment is late, the owner or operator shall pay an additional 3278  
ten per cent of the amount of the fee for each month that the 3279  
payment is late. 3280

Moneys received by a municipal corporation under this 3281  
division shall be paid into a special fund of the municipal 3282  
corporation and used exclusively for the purposes of conducting 3283  
reviews of applications for hazardous waste facility installation 3284

and operation permits for new or modified hazardous waste 3285  
landfills located or proposed within the municipal corporation, 3286  
conducting emergency response actions with respect to releases of 3287  
hazardous waste from facilities located within the municipal 3288  
corporation, monitoring operation of such hazardous waste 3289  
facilities, and conducting waste management planning programs 3290  
within the municipal corporation through employees of the 3291  
municipal corporation or pursuant to contracts entered into with 3292  
persons or political subdivisions. Moneys received by a board of 3293  
county commissioners under this division shall be paid into a 3294  
special fund of the county and used exclusively for those purposes 3295  
within the unincorporated area of the county through employees of 3296  
the county or pursuant to contracts entered into with persons or 3297  
political subdivisions. 3298

(D) As used in this section, "treatment" or "treated" does 3299  
not include any method, technique, or process designed to recover 3300  
energy or material resources from the waste or to render the waste 3301  
amenable for recovery. The fees levied by division (B) of this 3302  
section do not apply to hazardous waste that is treated and 3303  
disposed of on the same premises or by the same person. 3304

(E) The director, by rules adopted in accordance with 3305  
Chapters 119. and 3745. of the Revised Code, shall prescribe any 3306  
dates not specified in this section and procedures for collecting 3307  
and forwarding the fees prescribed by this section and may 3308  
prescribe other requirements that are necessary to carry out this 3309  
section. 3310

~~The~~ Except as otherwise provided in this division, the 3311  
director shall deposit the moneys collected under divisions (A) 3312  
and (B) of this section, until ten years after the effective date 3313  
of this amendment, into one or more minority challenged banks, as 3314  
~~minority bank is~~ defined in division (F)(1) of section 135.04 of 3315  
the Revised Code, to the credit of the hazardous waste facility 3316

management fund, which is hereby created in the state treasury, 3317  
~~except that the.~~ The director shall deposit to the credit of the 3318  
underground injection control fund created in section 6111.046 of 3319  
the Revised Code moneys in excess of fifty thousand dollars that 3320  
are collected during a fiscal year under division (A)(2) of this 3321  
section from the fee levied on the disposal of hazardous waste by 3322  
deep well injection at an on-site disposal facility that disposes 3323  
of more than one hundred thousand tons of hazardous waste in a 3324  
year. 3325

The environmental protection agency and the hazardous waste 3326  
facility board may use moneys in the hazardous waste facility 3327  
management fund for administration of the hazardous waste program 3328  
established under this chapter and, in accordance with this 3329  
section, may request approval by the controlling board for that 3330  
use on an annual basis. In addition, the agency may use and pledge 3331  
moneys in that fund for repayment of and for interest on any loans 3332  
made by the Ohio water development authority to the agency for the 3333  
hazardous waste program established under this chapter without the 3334  
necessity of requesting approval by the controlling board, which 3335  
use and pledge shall have priority over any other use of the 3336  
moneys in the fund. 3337

Until September 28, 1996, the director also may use moneys in 3338  
the fund to pay the start-up costs of administering Chapter 3746. 3339  
of the Revised Code. 3340

If moneys in the fund that the agency uses in accordance with 3341  
this chapter are reimbursed by grants or other moneys from the 3342  
United States government, the grants or other moneys shall be 3343  
placed in the fund. 3344

Before the agency makes any expenditure from the fund other 3345  
than for repayment of and interest on any loan made by the Ohio 3346  
water development authority to the agency in accordance with this 3347  
section, the controlling board shall approve the expenditure. 3348

**Sec. 4115.032.** Construction on any project, facility, or 3349  
project facility to which section 122.452, ~~122.80~~, 165.031, 3350  
166.02, 1551.13, 1728.07, or 3706.042 of the Revised Code or, 3351  
until ten years after the effective date of this amendment, 3352  
section 122.80 of the Revised Code applies is hereby deemed to be 3353  
construction of a public improvement within section 4115.03 of the 3354  
Revised Code. All contractors and subcontractors working on ~~such~~ 3355  
those projects, facilities, or project facilities shall be subject 3356  
to and comply with sections 4115.03 to 4115.16 of the Revised 3357  
Code, and the director of commerce shall, and any interested party 3358  
may, bring proceedings under ~~such~~ those sections to enforce 3359  
compliance. 3360

The director shall make the determination of wages as 3361  
required under sections 122.452, ~~122.80~~, 165.031, 166.02, 1551.13, 3362  
1728.07, and 3706.042 of the Revised Code or, until ten years 3363  
after the effective date of this amendment, section 122.80 of the 3364  
Revised Code and shall designate one of the director's employees 3365  
to act as the prevailing wage coordinator under section 4115.071 3366  
for any project, facility, or project facility for which a 3367  
coordinator has not been designated by any public authority. 3368

**Sec. 4301.17.** (A) Subject to local option as provided in 3369  
sections 4301.32 to 4301.40 of the Revised Code, five state liquor 3370  
stores or agencies may be established in each county. One 3371  
additional store may be established in any county for each thirty 3372  
thousand of population of such county or major fraction thereof in 3373  
excess of the first forty thousand, according to the last 3374  
preceding federal census. A person engaged in a mercantile 3375  
business may act as the agent for the division of liquor control 3376  
for the sale of spirituous liquor in a municipal corporation, in 3377  
the unincorporated area of a township of not less than two 3378  
thousand population, or in an area designated and approved as a 3379

resort area under section 4303.262 of the Revised Code, provided 3380  
that not more than one agency contract shall be awarded in the 3381  
unincorporated area of a county for each fifty thousand population 3382  
of the county. The division shall fix compensation for such agent 3383  
in such manner as it deems best, but such compensation shall not 3384  
exceed seven per cent of the gross sales made by such agent in any 3385  
one year. 3386

Except as otherwise provided in this section, no mercantile 3387  
business that sells beer or intoxicating liquor for consumption on 3388  
the premises under a permit issued by the division shall operate 3389  
an agency store at such premises or at any adjacent premises. An 3390  
agency to which a D-1 permit has been issued may offer for sale 3391  
tasting samples of beer, an agency to which a D-2 permit has been 3392  
issued may offer for sale tasting samples of wine and mixed 3393  
beverages, and an agency to which a D-5 permit has been issued may 3394  
offer for sale tasting samples of beer, wine, and mixed beverages, 3395  
but not spirituous liquor. A tasting sample shall not be sold for 3396  
the purpose of general consumption. As used in this section, 3397  
"tasting sample" means a small amount of beer, wine, or mixed 3398  
beverages that is provided in not more than four servings of not 3399  
more than two ounces each to an authorized purchaser and that 3400  
allows the purchaser to determine, by tasting only, the quality 3401  
and character of the beverage. 3402

(B) When an agency contract is proposed or when an existing 3403  
agency is assigned, before entering into any such contract or 3404  
consenting to any assignment, the division shall notify the 3405  
legislative authority of the municipal corporation, or the board 3406  
of county commissioners and the board of township trustees of the 3407  
county and the township in which the agency store is to be located 3408  
if the agency store is to be located outside the corporate limits 3409  
of a municipal corporation, of the proposed contract, and an 3410  
opportunity shall be provided officials or employees of the 3411

municipal corporation or county and township for a complete 3412  
hearing upon the advisability of entering into the agency 3413  
contract. When the division sends notice to the legislative 3414  
authority of the political subdivision, the department shall 3415  
notify, by certified mail or by personal service, the chief peace 3416  
officer of the political subdivision, who may appear and testify, 3417  
either in person or through a representative, at any hearing held 3418  
on the advisability of entering into the agency contract. 3419

On or after July 21, 1986, if the proposed agency store would 3420  
be located within five hundred feet of a school, church, library, 3421  
public playground, or township park, the division shall not enter 3422  
into an agency contract until it has provided notice of the 3423  
proposed contract to the authorities in control of the school, 3424  
church, library, public playground, or township park and has 3425  
provided such officials with an opportunity for a complete hearing 3426  
upon the advisability of entering into the contract. If an agency 3427  
store so located is operating under an agency contract, the 3428  
division may consent to the assignment of that contract to operate 3429  
an agency store at the same location, provided that the division 3430  
shall not consent to an assignment until it has notified the 3431  
authorities in control of the school, church, library, public 3432  
playground, or township park and has provided such officials with 3433  
an opportunity for a complete hearing upon the advisability of 3434  
consenting to the assignment. 3435

Any hearing provided for in this division shall be held in 3436  
the central office of the division, except that upon written 3437  
request of the legislative authority of the municipal corporation, 3438  
the board of county commissioners, or board of township trustees, 3439  
the hearing shall be held in the county seat of the county where 3440  
the proposed agency store is to be located. 3441

(C) All agency contracts entered into by the division 3442  
pursuant to this section shall be in writing and shall contain a 3443

clause providing for the termination of the contract at will by 3444  
the division upon its giving ninety days' notice in writing to 3445  
such agent of its intention to do so. Any agency contract may 3446  
include a clause requiring the agent to report to the appropriate 3447  
law enforcement agency the name and address of any individual 3448  
under twenty-one years of age who attempts to make an illegal 3449  
purchase. 3450

An agent may engage in the selling of beer, mixed beverages, 3451  
and wine pursuant to permits issued to the agent under Chapter 3452  
4303. of the Revised Code. 3453

The division shall issue a C-1 and C-2 permit to each agent 3454  
who prior to November 1, 1994, had not been issued both of these 3455  
permits, notwithstanding the population quota restrictions 3456  
contained in section 4303.29 of the Revised Code or in any rule of 3457  
the liquor control commission and notwithstanding the requirements 3458  
of section 4303.31 of the Revised Code. The location of a C-1 or 3459  
C-2 permit issued to such an agent shall not be transferred. The 3460  
division shall revoke any C-1 or C-2 permit issued to an agent 3461  
under this paragraph if the agent no longer operates an agency 3462  
store. 3463

No person shall operate, or have any interest, directly or 3464  
indirectly, in more than four state agencies in any one county or 3465  
more than eight state agencies in the state for the sale of 3466  
spirituous liquor. For purposes of this section, a person has an 3467  
interest in a state agency if the person is a partner, member, 3468  
officer, or director of, or a shareholder owning ten per cent or 3469  
more of the capital stock of, any legal entity with which the 3470  
department has entered into an agency contract. 3471

The Until ten years after the effective date of this 3472  
amendment, the division may enter into agreements with the 3473  
department of development to implement a minority challenged 3474  
business loan program to provide low-interest loans to minority 3475

challenged business enterprises, as defined in section 122.71 of 3476  
the Revised Code, that are awarded liquor agency contracts or 3477  
assignments. 3478

(D) If the division closes a state liquor store and replaces 3479  
that store with an agency store, any employees of the division 3480  
employed at that state liquor store who lose their jobs at that 3481  
store as a result shall be given preference by the agent who 3482  
operates the agency store in filling any vacancies that occur 3483  
among the agent's employees, if such preference does not conflict 3484  
with the agent's obligations pursuant to a collective bargaining 3485  
agreement. 3486

If the division closes a state liquor store and replaces the 3487  
store with an agency store, any employees of the division employed 3488  
at the state liquor store who lose their jobs at that store as a 3489  
result may displace other employees as provided in sections 3490  
124.321 to 124.328 of the Revised Code. If an employee cannot 3491  
displace other employees and is laid off, the employee shall be 3492  
reinstated in another job as provided in sections 124.321 to 3493  
124.328 of the Revised Code, except that the employee's rights of 3494  
reinstatement in a job at a state liquor store shall continue for 3495  
a period of two years after the date of the employee's layoff and 3496  
shall apply to jobs at state liquor stores located in the 3497  
employee's layoff jurisdiction and any layoff jurisdiction 3498  
adjacent to the employee's layoff jurisdiction. 3499

(E) The division shall require every such agent to give bond 3500  
with surety to the satisfaction of the division, in such amount as 3501  
the division fixes, conditioned for the faithful performance of 3502  
the agent's duties as prescribed by the division. 3503

**Sec. 4503.03.** (A) The registrar of motor vehicles may 3504  
designate the county auditor in each county a deputy registrar. If 3505  
the population of a county is forty thousand or less according to 3506



the last federal census and if the county auditor is designated by 3507  
the registrar as a deputy registrar, no other person need be 3508  
designated in the county to act as a deputy registrar. In all 3509  
other instances, the registrar shall contract with one or more 3510  
other persons in each county to act as deputy registrars. Deputy 3511  
registrars shall accept applications for the annual license tax 3512  
for any vehicle not taxed under section 4503.63 of the Revised 3513  
Code and shall assign distinctive numbers in the same manner as 3514  
the registrar. Such deputies shall be located in such locations in 3515  
the county as the registrar sees fit. There shall be at least one 3516  
deputy registrar in each county. 3517

~~Deputy~~ Until ten years after the effective date of this 3518  
amendment, deputy registrar contracts are subject to ~~the~~ 3519  
~~provisions~~ of division (B) of section 125.081 of the Revised Code. 3520

(B) The registrar shall not contract with any person to act 3521  
as a deputy registrar if the person or, where applicable, ~~his~~ the 3522  
person's spouse or a member of ~~his~~ the person's immediate family 3523  
has made, within the current calendar year or any one of the 3524  
previous three calendar years, one or more contributions totaling 3525  
in excess of one hundred dollars to any person or entity included 3526  
in division (A)(2) of section ~~102.021~~ 4503.033 of the Revised 3527  
Code. As used in this division, "immediate family" has the same 3528  
meaning as in division (D) of section 102.01 of the Revised Code 3529  
and "entity" includes any political party and any "continuing 3530  
association" as defined in division (B)(4) of section 3517.01 of 3531  
the Revised Code or "political action committee" as defined in 3532  
division (B)(8) of that section that is primarily associated with 3533  
that political party. For purposes of this division, contributions 3534  
to any continuing association or any political action committee 3535  
that is primarily associated with a political party shall be 3536  
aggregated with contributions to that political party. 3537

The contribution limitations contained in this division do 3539  
not apply to any county auditor. 3540

The registrar shall not contract with either of the following 3541  
to act as a deputy registrar: 3542

(1) Any elected public official other than a county auditor 3543  
acting in ~~his~~ the county auditor's official capacity; 3544

(2) Any person holding a current, valid contract to conduct 3545  
motor vehicle inspections under section 3704.14 of the Revised 3546  
Code. 3547

(C) Deputy registrars are independent contractors and neither 3548  
they nor their employees are employees of this state, except that 3549  
nothing in this section shall affect the status of county auditors 3550  
as public officials, nor the status of their employees as 3551  
employees of any of the counties of this state, which are 3552  
political subdivisions of this state. Each deputy registrar shall 3553  
be responsible for the payment of all unemployment compensation 3554  
premiums, all workers' compensation premiums, social security 3555  
contributions, and any and all taxes for which ~~he~~ the deputy 3556  
registrar is legally responsible. Each deputy registrar shall 3557  
comply with all applicable federal, state, and local laws 3558  
requiring the withholding of income taxes or other taxes from the 3559  
compensation of ~~his~~ the deputy registrar's employees. Each deputy 3560  
registrar shall maintain during the entire term of ~~his~~ the deputy 3561  
registrar's contract a policy of business liability insurance 3562  
satisfactory to the registrar and shall hold the department of 3563  
public safety, the director of public safety, the bureau of motor 3564  
vehicles, and the registrar harmless upon any and all claims for 3565  
damages arising out of the operation of the deputy registrar 3566  
agency. 3567

(D) With the approval of the director, the registrar shall 3568  
adopt rules governing the terms of the contract between the 3569

registrar and each deputy registrar and specifications for the 3570  
services to be performed. The rules shall include specifications 3571  
relating to the amount of bond to be given as provided in this 3572  
section; the size and location of the deputy's office; and the 3573  
leasing of equipment necessary to conduct the vision screenings 3574  
required under section 4507.12 of the Revised Code, and training 3575  
in the use of the equipment. The specifications shall permit and 3576  
encourage every deputy registrar to inform the public of the 3577  
location of ~~his~~ the deputy registrar's office and hours of 3578  
operation by means of public service announcements and allow any 3579  
deputy registrar to advertise in regard to the operation of the 3580  
deputy registrar's office. The rules also shall include 3581  
specifications for the hours the deputy's office is to be open to 3582  
the public and shall require as a minimum that one deputy's office 3583  
in each county be open to the public for at least four hours each 3584  
weekend, provided that if only one deputy's office is located 3585  
within the boundary of the county seat, that office is the office 3586  
that shall be open for the four-hour period each weekend, and that 3587  
every deputy's office in each county shall be open to the public 3588  
until six-thirty p.m. on at least one weeknight each week. The 3589  
rules also shall include specifications providing that every 3590  
deputy in each county, upon request, provide any person with 3591  
information about the location and office hours of all deputy 3592  
registrars in the county and that every deputy registrar 3593  
prominently display within ~~his~~ the deputy registrar's office, the 3594  
toll-free telephone number of the bureau. The rules shall not 3595  
prohibit the award of a deputy registrar contract to a nonprofit 3596  
corporation formed under the laws of this state. The rules shall 3597  
prohibit any deputy registrar from operating more than one such 3598  
office at any time, except that the rules may permit a nonprofit 3599  
corporation formed for the purposes of providing 3600  
automobile-related services to its members or the public and that 3601  
provides such services from more than one location in this state 3602

to operate a deputy registrar office at any such location, 3603  
provided that the nonprofit corporation operates no more than one 3604  
deputy registrar office in any one county. The rules may include 3605  
such other specifications as the registrar and director consider 3606  
necessary to provide a high level of service. 3607

As used in this section and in section 4507.01 of the Revised 3608  
Code, "nonprofit corporation" has the same meaning as in section 3609  
1702.01 of the Revised Code. 3610

(E) Unless otherwise terminated and except for interim 3611  
contracts of less than one year, contracts with deputy registrars 3612  
shall be for a term of at least two years, but no more than three 3613  
years and all contracts effective on or after July 1, 1996, shall 3614  
be for a term of more than two years, but not more than three 3615  
years. All contracts with deputy registrars shall expire on the 3616  
thirtieth day of June in the year of their expiration. The auditor 3617  
of state may examine the accounts, reports, systems, and other 3618  
data of each deputy registrar at least every two years. The 3619  
registrar, with the approval of the director, shall immediately 3620  
remove a deputy who violates any provision of the Revised Code 3621  
related to ~~his~~ duties as a deputy, any rule adopted by the 3622  
registrar, or a term of ~~his~~ the deputy's contract with the 3623  
registrar. The registrar also may remove a deputy who, in the 3624  
opinion of the registrar, has engaged in any conduct that is 3625  
either unbecoming to one representing this state or is 3626  
inconsistent with the efficient operation of the deputy's office. 3627  
Upon removal of a deputy registrar for contract violation, the 3628  
auditor of state shall examine the accounts, records, systems, and 3629  
other data of the deputy registrar so removed. 3630

If the registrar, with the approval of the director, 3631  
determines that there is good cause to believe that a deputy 3632  
registrar or a person proposing for a deputy registrar contract 3633  
has engaged in any conduct that would require the denial or 3634

3635 termination of the deputy registrar contract, the registrar may  
3636 require the production of such books, records, and papers as ~~he~~  
3637 the registrar determines are necessary, and may take the  
3638 depositions of witnesses residing within or outside the state in  
3639 the same manner as is prescribed by law for the taking of  
3640 depositions in civil actions in the court of common pleas, and for  
3641 that purpose the registrar may issue a subpoena for any witness or  
3642 a subpoena duces tecum to compel the production of any books,  
3643 records, or papers, directed to the sheriff of the county where  
3644 the witness resides or is found. Such a subpoena shall be served  
3645 and returned in the same manner as a subpoena in a criminal case  
3646 is served and returned. The fees and mileage of the sheriff and  
3647 witnesses shall be the same as that allowed in the court of common  
3648 pleas in criminal cases and shall be paid from the fund in the  
3649 state treasury for the use of the agency in the same manner as  
3650 other expenses of the agency are paid.

3651 In any case of disobedience or neglect of any subpoena served  
3652 on any person or the refusal of any witness to testify to any  
3653 matter regarding which ~~he~~ the witness lawfully may be  
3654 interrogated, the court of common pleas of any county where the  
3655 disobedience, neglect, or refusal occurs or any judge thereof, on  
3656 application by the registrar, shall compel obedience by attachment  
3657 proceedings for contempt, as in the case of disobedience of the  
3658 requirements of a subpoena issued from such court, or a refusal to  
3659 testify therein.

3660 Nothing in this division shall be construed to require a  
3661 hearing of any nature prior to the termination of any deputy  
3662 registrar contract by the registrar, with the approval of the  
3663 director, for cause.

3664 (F) Except as provided in section 2743.03 of the Revised  
3665 Code, no court, other than the court of common pleas of Franklin  
3666 county, has jurisdiction of any action against the department of

public safety, the director, the bureau, or the registrar to 3667  
restrain the exercise of any power or authority nor to entertain 3668  
any action for declaratory judgment in the selection and 3669  
appointment of, or contracting with, deputy registrars. Neither 3670  
the department, the director, the bureau, nor the registrar is 3671  
liable in any action at law for damages sustained by any person 3672  
because of any acts of the department, the director, the bureau, 3673  
or the registrar, nor any employee of the department or bureau in 3674  
the performance of ~~his~~ official duties in the selection and 3675  
appointment of, and contracting with, deputy registrars. 3676

(G) The registrar shall assign to each deputy registrar a 3677  
series of numbers sufficient to supply the demand at all times in 3678  
the area the deputy registrar serves, and the registrar shall keep 3679  
a record in ~~his~~ the registrar's office of the numbers within the 3680  
series assigned. Each deputy shall be required to give bond in the 3681  
amount of at least twenty-five thousand dollars, or in such higher 3682  
amount as the registrar determines necessary, based on a uniform 3683  
schedule of bond amounts established by the registrar and 3684  
determined by the volume of registrations handled by the deputy. 3685  
The form of the bond shall be prescribed by the registrar. The 3686  
bonds required of deputy registrars, in the discretion of the 3687  
registrar, may be individual or schedule bonds or may be included 3688  
in any blanket bond coverage carried by the department. 3689

(H) Each deputy registrar shall keep a file of each 3690  
application received by ~~him~~ the deputy and shall register that 3691  
motor vehicle with the name and address of ~~the~~ its owner ~~thereof~~. 3692

(I) Upon request, a deputy registrar shall make the physical 3693  
inspection of a motor vehicle and issue the physical inspection 3694  
certificate required in section 4505.061 of the Revised Code. 3695

(J) Each deputy registrar shall file a report semi-annually 3696  
with the registrar of motor vehicles listing the number of 3697  
applicants for licenses ~~he~~ the deputy has served, the number of 3698

voter registration applications ~~he~~ the deputy has completed and 3699  
transmitted to the board of elections, and the number of voter 3700  
registration applications declined. 3701

**Sec. 4582.12.** (A) Except as otherwise provided in division 3702  
(E) of section 307.671 of the Revised Code, division (A) of this 3703  
section does not apply to a port authority educational and 3704  
cultural facility acquired, constructed, and equipped pursuant to 3705  
a cooperative agreement entered into under section 307.671 of the 3706  
Revised Code. 3707

Except as provided in division (C) of this section, when the 3708  
cost of a contract for the construction of any building, 3709  
structure, or other improvement undertaken by a port authority 3710  
involves an expenditure exceeding twenty-five thousand dollars and 3711  
the port authority is the contracting entity, the port authority 3712  
shall make a written contract after complying, until ten years 3713  
after the effective date of this amendment, with section 123.151 3714  
of the Revised Code and after notice calling for bids for the 3715  
award of the contract has been given by publication twice, with at 3716  
least seven days between publications, in a newspaper of general 3717  
circulation in the area of the jurisdiction of the port authority. 3718  
Each such contract shall be let to the lowest responsive and 3719  
responsible bidder in accordance with section 9.312 of the Revised 3720  
Code. Every contract let shall be in writing, and, if the contract 3721  
involves work or construction, it shall be accompanied by or shall 3722  
refer to plans and specifications for the work to be done, 3723  
prepared for and approved by the port authority, signed by an 3724  
authorized officer of the port authority and by the contractor, 3725  
and shall be executed in triplicate. 3726

Each bid shall be awarded in accordance with sections 153.54, 3727  
153.57, and 153.571 of the Revised Code. 3728

The port authority may reject any and all bids. 3729

(B) The board of directors of a port authority by rule may provide criteria for the negotiation and award without competitive bidding of any contract as to which the port authority is the contracting entity for the construction of any building, structure, or other improvement under any of the following circumstances:

(1) There exists a real and present emergency that threatens damage or injury to persons or property of the port authority or other persons, provided that a statement specifying the nature of the emergency that is the basis for the negotiation and award of a contract without competitive bidding shall be signed by the officer of the port authority that executes that contract at the time of the contract's execution and shall be attached to the contract.

(2) A commonly recognized industry or other standard or specification does not exist and cannot objectively be articulated for the improvement.

(3) The contract is for any energy conservation measure as defined in section 307.041 of the Revised Code.

(4) With respect to material to be incorporated into the improvement, only a single source or supplier exists for the material.

(5) A single bid is received by the port authority after complying with ~~the provisions of~~ division (A) of this section.

(C)(1) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in division (B)(2) of this section, the port authority shall publish a notice calling for technical proposals at least twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority. After receipt of the technical proposals, the port authority may negotiate with and award a



contract for the improvement to the proposer making the proposal 3761  
considered to be the most advantageous to the port authority. 3762

(2) If a contract is to be negotiated and awarded without 3763  
competitive bidding for the reason set forth in division (B)(4) of 3764  
this section, any construction activities related to the 3765  
incorporation of the material into the improvement also may be 3766  
provided without competitive bidding by the source or supplier of 3767  
that material. 3768

(D) No contract for the construction or repair of any 3769  
building, structure, or other improvement and no loan agreement 3770  
for the borrowing of funds for any such improvement undertaken by 3771  
a port authority, where the port authority is the contracting 3772  
entity, shall be executed unless laborers and mechanics employed 3773  
on such improvements are paid at the prevailing rates of wages of 3774  
laborers and mechanics for the class of work called for by the 3775  
improvement. The wages shall be determined in accordance with the 3776  
requirements of Chapter 4115. of the Revised Code for the 3777  
determination of prevailing wage rates, provided that the 3778  
requirements of this section do not apply where the federal 3779  
government or any of its agencies furnishes by loan or grant all 3780  
or any part of the funds used in connection with such project and 3781  
prescribes predetermined minimum wages to be paid to the laborers 3782  
and mechanics. 3783

**Sec. 4981.03.** (A) The Ohio rail development commission shall 3784  
do all of the following: 3785

(1) Develop, promote, and support safe, adequate, and 3786  
efficient rail service throughout the state; 3787

(2) Maintain adequate programs of investigation, research, 3788  
promotion, planning, and development for rail service, which 3789  
programs shall include the consideration of recommendations by 3790  
public or private planning organizations; 3791

(3) Provide for the participation of private corporations or organizations and the public in the development, construction, operation, and maintenance of rail service, and as franchisees thereof.

(B) In regard to rail service, the Ohio rail development commission is the successor of the Ohio high speed rail authority and the division of rail transportation of the department of transportation. The commission shall succeed to all federal allotments, entitlements, subsidies, and grants now existing, whether such allotments, entitlements, subsidies, and grants are encumbered or unencumbered, in the same manner and with the same authority as the Ohio high speed rail authority and the division of rail transportation exercised prior to ~~the effective date of this amendment~~ October 20, 1994.

(C) Every authority, commission, department, or other agency of this state shall provide the commission with data, plans, research, and any other information that the commission requests to assist it in performing its duties pursuant to this chapter.

(D) The commission may request and contract with any railroad to provide it with data and information necessary to carry out the purposes of this chapter. All railroads operating within this state shall provide the requested data and information to the commission. The commission shall not disclose any confidential data or information supplied to it.

(E) The commission shall cooperate with the director of development by exercising the commission's duty to promote and develop rail service in this state in conjunction with the director's exercise of his duty to promote the economic development of this state.

(F) The commission, when developing rail service throughout the state, may give priority to projects undertaken within the

geographic boundaries of qualifying subdivisions. 3823

(G) Notwithstanding any other provision of law, until ten 3824  
years after the effective date of this amendment, the commission 3825  
is subject to section 123.151 of the Revised Code when entering 3826  
into contracts for the performance of labor, the furnishing of 3827  
materials, goods, or services, or the construction of any 3828  
structures or buildings necessary for the maintenance, control, or 3829  
management of any rail service project, as defined in section 3830  
4981.11 of the Revised Code. 3831

**Sec. 5111.05.** (A) The department of job and family services 3832  
may contract with any person or persons as a fiscal agent for the 3833  
examination, processing, and determination of medical assistance 3834  
claims under this chapter. The contracting party may provide any 3835  
of the following services, as required by the contract: 3836

(1) Design and operate medicaid management information 3837  
systems, including the provision of data processing services; 3838

(2) Determine the amounts of payments to be made upon claims 3839  
for medical assistance; 3840

(3) Prepare and furnish to the department lists and computer 3841  
tapes of such claims for payment; 3842

(4) In addition to audits which may be conducted by the 3843  
department and by the auditor of state, make audits of providers 3844  
and the claims of providers of medical assistance according to the 3845  
standards set forth in the contract; 3846

(5) Assist providers of medical assistance in the development 3847  
of procedures relating to utilization practices, make studies of 3848  
the effectiveness of such procedures and methods for their 3849  
improvement, implement and enforce standards of medical policy, 3850  
and assist in the application of safeguards against unnecessary 3851  
utilization; 3852

(6) Assist any institution, facility, or agency to qualify as a provider of medical assistance;	3853 3854
(7) Establish and maintain fiscal records for the medical assistance program;	3855 3856
(8) Perform statistical and research studies;	3857
(9) Develop and implement programs for medical assistance cost containment;	3858 3859
(10) Perform such other duties as are necessary to carry out the medical assistance program.	3860 3861
(B) The department of job and family services may contract with any person or persons as an insuring agent for the examination, processing, and determination of medical assistance claims, as provided in division (A) of this section, and for the payment of medical assistance claims through an underwritten program in which the state pays the insuring agent a monthly premium and the insuring agent pays for medical services authorized under the state's medical assistance program. The person with whom the department contracts, with respect to the awarding, provisions, and performance of such contract, shall not be subject to the provisions of Title XXXIX of the Revised Code or to regulation by the department of insurance, nor to taxation as an insurance company pursuant to section 5725.18 or 5729.03 of the Revised Code. A contract with an insuring agent shall specify the qualifications, including capital and surplus requirements, and other conditions with which the insuring agent must comply.	3862 3863 3864 3865 3866 3867 3868 3869 3870 3871 3872 3873 3874 3875 3876 3877
(C) In entering into a contract under this section, the department, in cooperation with the director of budget and management, shall determine that the contracting party is qualified to perform the required services and shall follow applicable procedures required of the department of administrative services in sections 125.07 to 125.11 of the Revised Code. A	3878 3879 3880 3881 3882 3883

contract shall be awarded to the bidder who, with due  
consideration to the bidder's experience and financial capability,  
offers the lowest and best bid to the state for control of the  
costs of the medical assistance program consistent with meeting  
the obligations under that program for fair and equitable  
treatment of recipients and providers of medical services. Any  
arrangement whereby funds are paid to an insuring or fiscal agent  
for administrative functions under this section shall be deemed,  
for the purposes of section 125.081 of the Revised Code until ten  
years after the effective date of this amendment, ~~be deemed~~ to be  
a contract or purchase by the department of administrative  
services; however, money to be used by an insuring agent to pay  
for medical services authorized under the state's medical  
assistance program shall not be deemed a contract or purchase  
within the meaning of ~~such~~ that section.

**Sec. 5126.05.** (A) Subject to the rules established by the  
director of mental retardation and developmental disabilities  
pursuant to Chapter 119. of the Revised Code for programs and  
services offered pursuant to this chapter, and subject to the  
rules established by the state board of education pursuant to  
Chapter 119. of the Revised Code for programs and services offered  
pursuant to Chapter 3323. of the Revised Code, the county board of  
mental retardation and developmental disabilities shall do all the  
following:

(1) Administer and operate facilities, programs, and services  
as provided by this chapter and Chapter 3323. of the Revised Code  
and establish policies for their administration and operation;

(2) Coordinate, monitor, and evaluate existing services and  
facilities available to individuals with mental retardation and  
developmental disabilities;

- (3) Provide early childhood services, supportive home services, and adult services, according to the plan and priorities developed under section 5126.04 of the Revised Code; 3915  
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- (4) Provide or contract for special education services pursuant to Chapters 3317. and 3323. of the Revised Code and ensure that related services, as defined in section 3323.01 of the Revised Code, are available according to the plan and priorities developed under section 5126.04 of the Revised Code; 3918  
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- (5) Adopt a budget, authorize expenditures for the purposes specified in this chapter and do so in accordance with section 319.16 of the Revised Code, approve attendance of board members and employees at professional meetings and approve expenditures for attendance, and exercise such powers and duties as are prescribed by the director; 3923  
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- (6) Submit annual reports of its work and expenditures, pursuant to sections 3323.09 and 5126.12 of the Revised Code, to the director, the superintendent of public instruction, and the board of county commissioners at the close of the fiscal year and at such other times as may reasonably be requested; 3929  
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- (7) Authorize all positions of employment, establish compensation, including but not limited to salary schedules and fringe benefits for all board employees, approve contracts of employment for management employees that are for a term of more than one year, employ legal counsel under section 309.10 of the Revised Code, and contract for employee benefits; 3934  
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- (8) Provide case management services, as defined in rules adopted by the director of mental retardation and developmental disabilities, in accordance with section 5126.15 of the Revised Code; 3940  
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- (9) Certify respite care homes pursuant to rules adopted under section 5123.171 of the Revised Code by the director of 3944  
3945

mental retardation and developmental disabilities. 3946

(B) To the extent that rules adopted under this section apply 3947  
to the identification and placement of handicapped children under 3948  
Chapter 3323. of the Revised Code, they shall be consistent with 3949  
the standards and procedures established under sections 3323.03 to 3950  
3323.05 of the Revised Code. 3951

(C) Any county board may enter into contracts with other such 3952  
boards and with public or private, nonprofit, or profit-making 3953  
agencies or organizations of the same or another county, to 3954  
provide the facilities, programs, and services authorized or 3955  
required, upon such terms as may be agreeable, and in accordance 3956  
with this chapter and Chapter 3323. of the Revised Code and the 3957  
rules adopted thereunder and under those chapters, in accordance 3958  
with ~~sections~~ section 307.86 of the Revised Code, and, until ten 3959  
years after the effective date of this amendment, in accordance 3960  
with section 5126.071 of the Revised Code. 3961

(D) A county board may combine transportation for children 3962  
and adults enrolled in programs and services offered under section 3963  
5126.12 with transportation for children enrolled in units 3964  
approved under section 3317.05 of the Revised Code. 3965

(E) A county board may purchase all necessary insurance 3966  
policies, may purchase equipment and supplies through the 3967  
department of administrative services or from other sources, and 3968  
may enter into agreements with public agencies or nonprofit 3969  
organizations for cooperative purchasing arrangements. 3970

(F) A county board may receive by gift, grant, devise, or 3971  
bequest any moneys, lands, or property for the benefit of the 3972  
purposes for which the board is established and hold, apply, and 3973  
dispose of the moneys, lands, and property according to the terms 3974  
of the gift, grant, devise, or bequest. All money received by 3975  
gift, grant, bequest, or disposition of lands or property received 3976

by gift, grant, devise, or bequest shall be deposited in the 3977  
county treasury to the credit of such board and shall be available 3978  
for use by the board for purposes determined or stated by the 3979  
donor or grantor, but may not be used for personal expenses of the 3980  
board members. Any interest or earnings accruing from such gift, 3981  
grant, devise, or bequest shall be treated in the same manner and 3982  
subject to the same provisions as such gift, grant, devise, or 3983  
bequest. 3984

(G) The board of county commissioners shall levy taxes and 3985  
make appropriations sufficient to enable the county board of 3986  
mental retardation and developmental disabilities to perform its 3987  
functions and duties, and may utilize any available local, state, 3988  
and federal funds for such purpose. 3989

**Sec. 5126.071.** (A) As used in this section, "~~minority~~ 3990  
challenged business enterprise" has the same meaning ~~given as~~ in 3991  
~~division (E)(1) of~~ section 122.71 of the Revised Code. 3992

(B) Any ~~minority~~ challenged business enterprise that desires 3993  
to bid on a contract under division (C) or (D) of this section 3994  
shall first apply to the equal employment opportunity coordinator 3995  
in the department of administrative services for certification as 3996  
a ~~minority~~ challenged business enterprise. The coordinator shall 3997  
approve the application of any ~~minority~~ challenged business 3998  
enterprise that complies with the rules adopted under section 3999  
~~122.71~~ 123.151 of the Revised Code. The coordinator shall prepare 4000  
and maintain a list of ~~minority~~ challenged business enterprises 4001  
certified under this section. 4002

(C) From the contracts to be awarded for the purchases of 4003  
equipment, materials, supplies, insurance, and nonprogram 4004  
services, other than contracts entered into and exempt under 4005  
sections 307.86 and 5126.05 of the Revised Code, each county board 4006  
of mental retardation and developmental disabilities shall select 4007



a number of contracts with an aggregate value of approximately 4008  
fifteen per cent of the total estimated value of ~~such~~ contracts to 4009  
be awarded in the current calendar year. The board shall set aside 4010  
the contracts so selected for bidding by minority challenged 4011  
business enterprises only. The bidding procedures for ~~such the~~ 4012  
contracts set aside shall be the same as for all other contracts 4013  
awarded under section 307.86 of the Revised Code, except that only 4014  
minority challenged business enterprises certified and listed 4015  
under division (B) of this section shall be qualified to submit 4016  
bids. Contracts set aside and awarded under this section shall not 4017  
include contracts for the purchase of program services such as 4018  
direct and ancillary services, or case management, residential, 4019  
and family resource services. 4020

(D) To the extent that a board is authorized to enter into 4021  
contracts for construction ~~which that~~ are not exempt from the 4022  
competitive bidding requirements of section 307.86 of the Revised 4023  
Code, the board shall set aside a number of contracts the 4024  
aggregate value of which equals approximately five per cent of the 4025  
aggregate value of construction contracts for the current calendar 4026  
year for bidding by minority challenged business enterprises only. 4027  
The bidding procedures for the contracts set aside for minority 4028  
challenged business enterprises shall be the same as for all other 4029  
contracts awarded by the board, except that only minority 4030  
challenged business enterprises certified and listed under 4031  
division (B) of this section shall be qualified to submit bids. 4032

Any contractor awarded a construction contract pursuant to 4033  
this section shall make every effort to ensure that certified 4034  
minority challenged business enterprise subcontractors and 4035  
~~materialmen~~ materials suppliers participate in the contract. In 4036  
the case of contracts specified in this division, the total value 4037  
of subcontracts awarded to and materials and services purchased 4038  
from ~~minority businesses~~ challenged business enterprises shall be 4039

at least ten per cent of the total value of the contract, wherever 4040  
~~possible~~ possible and whenever the contractor awards subcontracts 4041  
or purchases materials or services. 4042

(E) In the case of contracts set aside under divisions (C) 4043  
and (D) of this section, if no bid is submitted by a ~~minority~~ 4044  
challenged business enterprise, the contract shall be awarded 4045  
according to normal bidding procedures. The board shall from time 4046  
to time set aside such additional contracts as are necessary to 4047  
replace those contracts previously set aside on which no ~~minority~~ 4048  
challenged business enterprise bid. 4049

(F) This section does not preclude any ~~minority~~ challenged 4050  
business enterprise from bidding on any other contract not 4051  
specifically set aside for ~~minority~~ challenged business 4052  
enterprises. 4053

(G) Within ninety days after the beginning of each calendar 4054  
year, each county board of mental retardation and developmental 4055  
disabilities shall file a report with the department of mental 4056  
retardation and developmental disabilities that shows for that 4057  
calendar year the name of each ~~minority~~ challenged business 4058  
enterprise with which the board entered into a contract, the value 4059  
and type of each such contract, the total value of contracts 4060  
awarded under divisions (C) and (D) of this section, the total 4061  
value of contracts awarded for the purchases of equipment, 4062  
materials, supplies, or services, other than contracts entered 4063  
into under the exemptions of sections 307.86 and 5126.05 of the 4064  
Revised Code, and the total value of contracts entered into for 4065  
construction. 4066

(H) Any person who intentionally ~~misrepresents himself as~~ 4067  
makes a false claim of owning, controlling, operating, or 4068  
participating in a ~~minority~~ challenged business enterprise for the 4069  
purpose of obtaining contracts or any other benefits under this 4070  
section ~~shall be~~ is guilty of theft by deception as provided for 4071

in section 2913.02 of the Revised Code. 4072

**Section 2.** That existing sections 121.22, 122.02, 122.42, 4073  
122.71, 122.72, 122.73, 122.74, 122.75, 122.751, 122.76, 122.77, 4074  
122.79, 122.80, 122.81, 122.83, 122.87, 122.88, 122.89, 122.92, 4075  
122.93, 122.94, 123.151, 125.08, 125.081, 125.11, 125.111, 135.04, 4076  
153.59, 164.07, 166.03, 166.08, 169.05, 307.696, 307.921, 340.12, 4077  
340.13, 351.06, 3354.161, 3355.121, 3357.161, 3358.10, 3383.07, 4078  
3734.18, 4115.032, 4301.17, 4503.03, 4582.12, 4981.03, 5111.05, 4079  
5126.05, and 5126.071 of the Revised Code are hereby repealed. 4080

**Section 3.** On and after the effective date of this section, 4081  
whenever the Minority Business Development Division of the 4082  
Department of Development is referred to or designated in any 4083  
statute, rule, contract, or other document, the reference or 4084  
designation shall be deemed to refer to the Challenged Business 4085  
Development Division, which is the name given under this act to 4086  
the division formerly known as the Minority Business Development 4087  
Division. 4088

**Section 4.** On and after the effective date of this section, 4089  
whenever the Minority Development Financing Advisory Board is 4090  
referred to or designated in any statute, rule, contract, or other 4091  
document, the reference or designation shall be deemed to refer to 4092  
the Challenged Business Development Financing Advisory Board, 4093  
which is the name given under this act to the board formerly known 4094  
as the Minority Development Financing Advisory Board. 4095

**Section 5.** Sections 1, 2, 3, and 4 of this act shall take 4096  
effect six months after the effective date of this act. 4097

**Section 6.** (A) Sections 122.71, 122.72, 122.73, 122.74, 4098  
122.75, 122.751, 122.76, 122.77, 122.78, 122.79, 122.80, 122.81, 4099

122.82, 122.83, 122.87, 122.88, 122.89, 122.92, 122.93, 122.94, 4100  
123.151, 125.081, 164.07, 307.921, 340.13, 3354.161, 3355.121, 4101  
3357.161, and 5126.071 of the Revised Code are hereby repealed, 4102  
effective ten years after the effective date of this act. 4103

(B) It is the intent of the General Assembly in repealing the 4104  
sections listed in division (A) of this section to eliminate on 4105  
the date of their repeal the laws requiring public contract set 4106  
asides, challenged business development loans, and challenged 4107  
business bonds and to specify that all references to these laws 4108  
contained in other sections of the Revised Code no longer apply on 4109  
and after that date of repeal. 4110

**Section 7.** Section 122.42 of the Revised Code, as amended by 4111  
Section 1 of this act, is presented as a composite of the section 4112  
as amended by both Am. Sub. H.B. 117 and Am. Sub. H.B. 356 of the 4113  
121st General Assembly. Section 122.74 of the Revised Code, as 4114  
amended by Section 1 of this act, is presented as a composite of 4115  
the section as amended by both Am. Sub. H.B. 356 and Am. Sub. S.B. 4116  
310 of the 121st General Assembly. Section 125.11 of the Revised 4117  
Code, as amended by Section 1 of this act, is presented as a 4118  
composite of the section as amended by both Am. Sub. S.B. 99 and 4119  
Am. Sub. S.B. 162 of the 121st General Assembly. Section 125.111 4120  
of the Revised Code, as amended by Section 1 of this act, is 4121  
presented as a composite of the section as amended by both Am. 4122  
H.B. 264 and Am. Sub. H.B. 283 of the 123rd General Assembly. This 4123  
is in recognition of the principle stated in division (B) of 4124  
section 1.52 of the Revised Code that such amendments are to be 4125  
harmonized where not substantively irreconcilable and constitutes 4126  
a legislative finding that such is the resulting version in effect 4127  
prior to the effective date of this act. 4128