

As Introduced

**126th General Assembly
Regular Session
2005-2006**

H. B. No. 299

**Representatives Peterson, Schneider, Wolpert, Schaffer, Calvert, G. Smith,
Allen, Flowers**

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A B I L L

To amend sections 133.06 and 133.07 and to enact 1
sections 5755.01 to 5755.12 of the Revised Code to 2
authorize counties, townships, and school 3
districts to levy impact fees on new development 4
to finance capital improvements necessitated by 5
that development. 6

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

Section 1. That sections 133.06 and 133.07 be amended and 7
sections 5755.01, 5755.02, 5755.03, 5755.04, 5755.05, 5755.06, 8
5755.07, 5755.08, 5755.09, 5755.10, 5755.11, and 5755.12 of the 9
Revised Code be enacted to read as follows: 10

Sec. 133.06. (A) A school district shall not incur, without a 11
vote of the electors, net indebtedness that exceeds an amount 12
equal to one-tenth of one per cent of its tax valuation, except as 13
provided in divisions (G) and (H) of this section and in division 14
(C) of section 3313.372 of the Revised Code, or as prescribed in 15
section 3318.052 of the Revised Code, or as provided in division 16
(J) of this section. 17

(B) Except as provided in divisions (E), (F), and (I) of this 18
section, a school district shall not incur net indebtedness that 19

exceeds an amount equal to nine per cent of its tax valuation. 20

(C) A school district shall not submit to a vote of the 21
electors the question of the issuance of securities in an amount 22
that will make the district's net indebtedness after the issuance 23
of the securities exceed an amount equal to four per cent of its 24
tax valuation, unless the superintendent of public instruction, 25
acting under policies adopted by the state board of education, and 26
the tax commissioner, acting under written policies of the 27
commissioner, consent to the submission. A request for the 28
consents shall be made at least thirty days prior to the election 29
at which the question is to be submitted, except that the 30
superintendent of public instruction and the tax commissioner may 31
waive this thirty-day deadline or grant their consents after the 32
election if the school district shows good cause for such waiver 33
or consent after the election. 34

(D) In calculating the net indebtedness of a school district, 35
none of the following shall be considered: 36

(1) Securities issued to acquire school buses and other 37
equipment used in transporting pupils or issued pursuant to 38
division (D) of section 133.10 of the Revised Code; 39

(2) Securities issued under division (F) of this section, 40
under section 133.301 of the Revised Code, and, to the extent in 41
excess of the limitation stated in division (B) of this section, 42
under division (E) of this section; 43

(3) Indebtedness resulting from the dissolution of a joint 44
vocational school district under section 3311.217 of the Revised 45
Code, evidenced by outstanding securities of that joint vocational 46
school district; 47

(4) Loans, evidenced by any securities, received under 48
sections 3313.483, 3317.0210, 3317.0211, and 3317.64 of the 49
Revised Code; 50

(5) Debt incurred under section 3313.374 of the Revised Code;	51
(6) Debt incurred pursuant to division (B)(5) of section 3313.37 of the Revised Code to acquire computers and related hardware;	52 53 54
(7) Debt incurred under section 3318.042 of the Revised Code;	55
<u>(8) Securities issued under section 5755.09 of the Revised Code.</u>	56 57
(E) A school district may become a special needs district as to certain securities as provided in division (E) of this section.	58 59
(1) A board of education, by resolution, may declare its school district to be a special needs district by determining both of the following:	60 61 62
(a) The student population is not being adequately serviced by the existing permanent improvements of the district.	63 64
(b) The district cannot obtain sufficient funds by the issuance of securities within the limitation of division (B) of this section to provide additional or improved needed permanent improvements in time to meet the needs.	65 66 67 68
(2) The board of education shall certify a copy of that resolution to the superintendent of public instruction with a statistical report showing all of the following:	69 70 71
(a) A history of and a projection of the growth of the student population;	72 73
(b) The history of and a projection of the growth of the tax valuation;	74 75
(c) The projected needs;	76
(d) The estimated cost of permanent improvements proposed to meet such projected needs.	77 78
(3) The superintendent of public instruction shall certify	79

the district as an approved special needs district if the 80
superintendent finds both of the following: 81

(a) The district does not have available sufficient 82
additional funds from state or federal sources to meet the 83
projected needs. 84

(b) The projection of the potential average growth of tax 85
valuation during the next five years, according to the information 86
certified to the superintendent and any other information the 87
superintendent obtains, indicates a likelihood of potential 88
average growth of tax valuation of the district during the next 89
five years of an average of not less than three per cent per year. 90
The findings and certification of the superintendent shall be 91
conclusive. 92

(4) An approved special needs district may incur net 93
indebtedness by the issuance of securities in accordance with the 94
provisions of this chapter in an amount that does not exceed an 95
amount equal to the greater of the following: 96

(a) Nine per cent of the sum of its tax valuation plus an 97
amount that is the product of multiplying that tax valuation by 98
the percentage by which the tax valuation has increased over the 99
tax valuation on the first day of the sixtieth month preceding the 100
month in which its board determines to submit to the electors the 101
question of issuing the proposed securities; 102

(b) Nine per cent of the sum of its tax valuation plus an 103
amount that is the product of multiplying that tax valuation by 104
the percentage, determined by the superintendent of public 105
instruction, by which that tax valuation is projected to increase 106
during the next ten years. 107

(F) A school district may issue securities for emergency 108
purposes, in a principal amount that does not exceed an amount 109
equal to three per cent of its tax valuation, as provided in this 110

division.	111
(1) A board of education, by resolution, may declare an emergency if it determines both of the following:	112 113
(a) School buildings or other necessary school facilities in the district have been wholly or partially destroyed, or condemned by a constituted public authority, or that such buildings or facilities are partially constructed, or so constructed or planned as to require additions and improvements to them before the buildings or facilities are usable for their intended purpose, or that corrections to permanent improvements are necessary to remove or prevent health or safety hazards.	114 115 116 117 118 119 120 121
(b) Existing fiscal and net indebtedness limitations make adequate replacement, additions, or improvements impossible.	122 123
(2) Upon the declaration of an emergency, the board of education may, by resolution, submit to the electors of the district pursuant to section 133.18 of the Revised Code the question of issuing securities for the purpose of paying the cost, in excess of any insurance or condemnation proceeds received by the district, of permanent improvements to respond to the emergency need.	124 125 126 127 128 129 130
(3) The procedures for the election shall be as provided in section 133.18 of the Revised Code, except that:	131 132
(a) The form of the ballot shall describe the emergency existing, refer to this division as the authority under which the emergency is declared, and state that the amount of the proposed securities exceeds the limitations prescribed by division (B) of this section;	133 134 135 136 137
(b) The resolution required by division (B) of section 133.18 of the Revised Code shall be certified to the county auditor and the board of elections at least seventy-five days prior to the	138 139 140

election; 141

(c) The county auditor shall advise and, not later than 142
sixty-five days before the election, confirm that advice by 143
certification to, the board of education of the information 144
required by division (C) of section 133.18 of the Revised Code; 145

(d) The board of education shall then certify its resolution 146
and the information required by division (D) of section 133.18 of 147
the Revised Code to the board of elections not less than sixty 148
days prior to the election. 149

(4) Notwithstanding division (B) of section 133.21 of the 150
Revised Code, the first principal payment of securities issued 151
under this division may be set at any date not later than sixty 152
months after the earliest possible principal payment otherwise 153
provided for in that division. 154

(G) The board of education may contract with an architect, 155
professional engineer, or other person experienced in the design 156
and implementation of energy conservation measures for an analysis 157
and recommendations pertaining to installations, modifications of 158
installations, or remodeling that would significantly reduce 159
energy consumption in buildings owned by the district. The report 160
shall include estimates of all costs of such installations, 161
modifications, or remodeling, including costs of design, 162
engineering, installation, maintenance, repairs, and debt service, 163
and estimates of the amounts by which energy consumption and 164
resultant operational and maintenance costs, as defined by the 165
Ohio school facilities commission, would be reduced. 166

If the board finds after receiving the report that the amount 167
of money the district would spend on such installations, 168
modifications, or remodeling is not likely to exceed the amount of 169
money it would save in energy and resultant operational and 170
maintenance costs over the ensuing fifteen years, the board may 171

submit to the commission a copy of its findings and a request for 172
approval to incur indebtedness to finance the making or 173
modification of installations or the remodeling of buildings for 174
the purpose of significantly reducing energy consumption. 175

If the commission determines that the board's findings are 176
reasonable, it shall approve the board's request. Upon receipt of 177
the commission's approval, the district may issue securities 178
without a vote of the electors in a principal amount not to exceed 179
nine-tenths of one per cent of its tax valuation for the purpose 180
of making such installations, modifications, or remodeling, but 181
the total net indebtedness of the district without a vote of the 182
electors incurred under this and all other sections of the Revised 183
Code shall not exceed one per cent of the district's tax 184
valuation. 185

So long as any securities issued under division (G) of this 186
section remain outstanding, the board of education shall monitor 187
the energy consumption and resultant operational and maintenance 188
costs of buildings in which installations or modifications have 189
been made or remodeling has been done pursuant to division (G) of 190
this section and shall maintain and annually update a report 191
documenting the reductions in energy consumption and resultant 192
operational and maintenance cost savings attributable to such 193
installations, modifications, or remodeling. The report shall be 194
certified by an architect or engineer independent of any person 195
that provided goods or services to the board in connection with 196
the energy conservation measures that are the subject of the 197
report. The resultant operational and maintenance cost savings 198
shall be certified by the school district treasurer. The report 199
shall be made available to the commission upon request. 200

(H) With the consent of the superintendent of public 201
instruction, a school district may incur without a vote of the 202
electors net indebtedness that exceeds the amounts stated in 203

divisions (A) and (G) of this section for the purpose of paying 204
costs of permanent improvements, if and to the extent that both of 205
the following conditions are satisfied: 206

(1) The fiscal officer of the school district estimates that 207
receipts of the school district from payments made under or 208
pursuant to agreements entered into pursuant to section 725.02, 209
1728.10, 3735.671, 5709.081, 5709.082, 5709.40, 5709.41, 5709.62, 210
5709.63, 5709.632, 5709.73, 5709.78, or 5709.82 of the Revised 211
Code, or distributions under division (C) of section 5709.43 of 212
the Revised Code, or any combination thereof, are, after 213
accounting for any appropriate coverage requirements, sufficient 214
in time and amount, and are committed by the proceedings, to pay 215
the debt charges on the securities issued to evidence that 216
indebtedness and payable from those receipts, and the taxing 217
authority of the district confirms the fiscal officer's estimate, 218
which confirmation is approved by the superintendent of public 219
instruction; 220

(2) The fiscal officer of the school district certifies, and 221
the taxing authority of the district confirms, that the district, 222
at the time of the certification and confirmation, reasonably 223
expects to have sufficient revenue available for the purpose of 224
operating such permanent improvements for their intended purpose 225
upon acquisition or completion thereof, and the superintendent of 226
public instruction approves the taxing authority's confirmation. 227

The maximum maturity of securities issued under division (H) 228
of this section shall be the lesser of twenty years or the maximum 229
maturity calculated under section 133.20 of the Revised Code. 230

(I) A school district may incur net indebtedness by the 231
issuance of securities in accordance with the provisions of this 232
chapter in excess of the limit specified in division (B) or (C) of 233
this section when necessary to raise the school district portion 234

of the basic project cost pursuant to Chapter 3318. of the Revised 235
Code. The school facilities commission shall notify the 236
superintendent of public instruction whenever a school district 237
will exceed either limit pursuant to this division. 238

(J) A school district whose portion of the basic project cost 239
of its classroom facilities project under sections 3318.01 to 240
3318.20 of the Revised Code is greater than or equal to one 241
hundred million dollars may incur without a vote of the electors 242
net indebtedness in an amount up to two per cent of its tax 243
valuation through the issuance of general obligation securities in 244
order to generate all or part of the amount of its portion of the 245
basic project cost if the controlling board has approved the 246
school facilities commission's conditional approval of the project 247
under section 3318.04 of the Revised Code. The school district 248
board and the Ohio school facilities commission shall include the 249
dedication of the proceeds of such securities in the agreement 250
entered into under section 3318.08 of the Revised Code. No state 251
moneys shall be released for a project to which this section 252
applies until the proceeds of any bonds issued under this section 253
that are dedicated for the payment of the school district portion 254
of the project are first deposited into the school district's 255
project construction fund. 256

Sec. 133.07. (A) A county shall not incur, without a vote of 257
the electors, either of the following: 258

(1) Net indebtedness for all purposes that exceeds an amount 259
equal to one per cent of its tax valuation; 260

(2) Net indebtedness for the purpose of paying the county's 261
share of the cost of the construction, improvement, maintenance, 262
or repair of state highways that exceeds an amount equal to 263
one-half of one per cent of its tax valuation. 264

(B) A county shall not incur total net indebtedness that	265
exceeds an amount equal to one of the following limitations that	266
applies to the county:	267
(1) A county with a valuation not exceeding one hundred	268
million dollars, three per cent of that tax valuation;	269
(2) A county with a tax valuation exceeding one hundred	270
million dollars but not exceeding three hundred million dollars,	271
three million dollars plus one and one-half per cent of that tax	272
valuation in excess of one hundred million dollars;	273
(3) A county with a tax valuation exceeding three hundred	274
million dollars, six million dollars plus two and one-half per	275
cent of that tax valuation in excess of three hundred million	276
dollars.	277
(C) In calculating the net indebtedness of a county, none of	278
the following securities shall be considered:	279
(1) Securities described in section 307.201 of the Revised	280
Code;	281
(2) Self-supporting securities issued for any purposes,	282
including, but not limited to, any of the following general	283
purposes:	284
(a) Water systems or facilities;	285
(b) Sanitary sewerage systems or facilities, or surface and	286
storm water drainage and sewerage systems or facilities, or a	287
combination of those systems or facilities;	288
(c) County or joint county scrap tire collection, storage,	289
monocell, monofill, or recovery facilities, or any combination of	290
those facilities;	291
(d) Off-street parking lots, facilities, or buildings, or	292
on-street parking facilities, or any combination of off-street and	293
on-street parking facilities;	294

(e) Facilities for the care or treatment of the sick or infirm, and for housing the persons providing that care or treatment and their families;	295 296 297
(f) Recreational, sports, convention, auditorium, museum, trade show, and other public attraction facilities;	298 299
(g) Facilities for natural resources exploration, development, recovery, use, and sale;	300 301
(h) Correctional and detention facilities and related rehabilitation facilities.	302 303
(3) Securities issued for the purpose of purchasing, constructing, improving, or extending water or sanitary or surface and storm water sewerage systems or facilities, or a combination of those systems or facilities, to the extent that an agreement entered into with another subdivision requires the other subdivision to pay to the county amounts equivalent to debt charges on the securities;	304 305 306 307 308 309 310
(4) Voted general obligation securities issued for the purpose of permanent improvements for sanitary sewerage or water systems or facilities to the extent that the total principal amount of voted securities outstanding for the purpose does not exceed an amount equal to two per cent of the county's tax valuation;	311 312 313 314 315 316
(5) Securities issued for permanent improvements to house agencies, departments, boards, or commissions of the county or of any municipal corporation located, in whole or in part, in the county, to the extent that the revenues, other than revenues from unvoted county property taxes, derived from leases or other agreements between the county and those agencies, departments, boards, commissions, or municipal corporations relating to the use of the permanent improvements are sufficient to cover the cost of all operating expenses of the permanent improvements paid by the	317 318 319 320 321 322 323 324 325

county and debt charges on the securities;	326
(6) Securities issued pursuant to section 133.08 of the Revised Code;	327 328
(7) Securities issued for the purpose of acquiring or constructing roads, highways, bridges, or viaducts, for the purpose of acquiring or making other highway permanent improvements, or for the purpose of procuring and maintaining computer systems for the office of the clerk of any county-operated municipal court, for the office of the clerk of the court of common pleas, or for the office of the clerk of the probate, juvenile, or domestic relations division of the court of common pleas to the extent that the legislation authorizing the issuance of the securities includes a covenant to appropriate from moneys distributed to the county pursuant to division (B) of section 2101.162, 2151.541, 2153.081, 2301.031, or 2303.201 or Chapter 4501., 4503., 4504., or 5735. of the Revised Code a sufficient amount to cover debt charges on and financing costs relating to the securities as they become due;	329 330 331 332 333 334 335 336 337 338 339 340 341 342 343
(8) Securities issued for the purpose of acquiring, constructing, improving, and equipping a county, multicounty, or multicounty-municipal jail, workhouse, juvenile detention facility, or correctional facility;	344 345 346 347
(9) Securities issued for the acquisition, construction, equipping, or repair of any permanent improvement or any class or group of permanent improvements enumerated in a resolution adopted pursuant to division (D) of section 5739.026 of the Revised Code to the extent that the legislation authorizing the issuance of the securities includes a covenant to appropriate from moneys received from the taxes authorized under section 5739.023 and division (A)(5) of section 5739.026 of the Revised Code an amount sufficient to pay debt charges on the securities and those moneys	348 349 350 351 352 353 354 355 356

shall be pledged for that purpose; 357

(10) Securities issued for county or joint county solid waste 358
or hazardous waste collection, transfer, or disposal facilities, 359
or resource recovery and solid or hazardous waste recycling 360
facilities, or any combination of those facilities; 361

(11) Securities issued for the acquisition, construction, and 362
equipping of a port authority educational and cultural facility 363
under section 307.671 of the Revised Code; 364

(12) Securities issued for the acquisition, construction, 365
equipping, and improving of a municipal educational and cultural 366
facility under division (B)(1) of section 307.672 of the Revised 367
Code; 368

(13) Securities issued for energy conservation measures under 369
section 307.041 of the Revised Code; 370

(14) Securities issued for the acquisition, construction, 371
equipping, improving, or repair of a sports facility, including 372
obligations issued to pay costs of a sports facility under section 373
307.673 of the Revised Code; 374

(15) Securities issued under section 755.17 of the Revised 375
Code if the legislation authorizing issuance of the securities 376
includes a covenant to appropriate from revenue received from a 377
tax authorized under division (A)(5) of section 5739.026 and 378
section 5741.023 of the Revised Code an amount sufficient to pay 379
debt charges on the securities, and the board of county 380
commissioners pledges that revenue for that purpose, pursuant to 381
section 755.171 of the Revised Code; 382

(16) Sales tax supported bonds issued pursuant to section 383
133.081 of the Revised Code for the purpose of acquiring, 384
constructing, improving, or equipping any permanent improvement to 385
the extent that the legislation authorizing the issuance of the 386

sales tax supported bonds pledges county sales taxes to the 387
payment of debt charges on the sales tax supported bonds and 388
contains a covenant to appropriate from county sales taxes a 389
sufficient amount to cover debt charges or the financing costs 390
related to the sales tax supported bonds as they become due; 391

(17) Bonds or notes issued under section 133.60 of the 392
Revised Code if the legislation authorizing issuance of the bonds 393
or notes includes a covenant to appropriate from revenue received 394
from a tax authorized under division (A)(9) of section 5739.026 395
and section 5741.023 of the Revised Code an amount sufficient to 396
pay the debt charges on the bonds or notes, and the board of 397
county commissioners pledges that revenue for that purpose; 398

(18) Securities issued under section 3707.55 of the Revised 399
Code for the acquisition of real property by a general health 400
district; 401

(19) Securities issued under division (A)(3) of section 402
3313.37 of the Revised Code for the acquisition of real and 403
personal property by an educational service center; 404

(20) Securities issued under section 5755.09 of the Revised 405
Code. 406

(D) In calculating the net indebtedness of a county, no 407
obligation incurred under division (D) of section 339.06 of the 408
Revised Code shall be considered. 409

Sec. 5755.01. As used in sections 5755.01 to 5755.12 of the 410
Revised Code: 411

(A) "Building permit" includes any approval of plans, 412
specifications, drawings, or other data required by a county, 413
township, or municipal corporation as a prerequisite to 414
development. "Building permit" does not include any approval of 415
plans, specifications, drawings, or other data required as a 416

prerequisite to the alteration, modification, equipping, or other 417
improvement of an existing building or structure. 418

(B) "Capital facilities" means buildings, structures, other 419
improvements to real property, or tangible personal property 420
having an estimated life or usefulness of ten years or more and 421
serving a lawful purpose of a county, a township, or a city, 422
local, or exempted village school district. 423

(C) "Cost" of a capital facility means the following: 424

(1) Costs of construction or expansion of the capital 425
facility, including reasonable design, survey, engineering, 426
environmental, and other professional fees directly related to the 427
construction or expansion; 428

(2) Costs of acquiring land or improvements thereon, 429
including costs incurred for purchasing interests in land or 430
improvements, court awards or settlements, reasonable appraisal, 431
relocation service, negotiation service, title insurance, expert 432
witness, attorney, and other professional fees directly related to 433
such acquisition. 434

(D) "Development" means the improvement of land for 435
residential, commercial, or industrial purposes, but not for 436
agricultural purposes. 437

(E) "Development area" means an area bounded by a single 438
line, designated by a governing board under section 5755.03 of the 439
Revised Code, and located within the territory of the school 440
district, the unincorporated territory of the township, or the 441
unincorporated territory of the county, the governing board of 442
which adopts a resolution under section 5755.03 of the Revised 443
Code. 444

(F) "Governing board" means a board of county commissioners, 445
a board of township trustees, or the board of education of a city, 446

local, or exempted village school district.

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(G) "Land use plan" means a comprehensive plan adopted by a board of county commissioners pursuant to section 303.02 or 713.25 of the Revised Code, adopted by a board of township trustees pursuant to section 519.02 of the Revised Code, or adopted by a board of county commissioners or board of township trustees under section 5755.02 of the Revised Code.

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(H) "Project improvement" means a capital facility that serves, or will serve when completed, only improvements to real property in a development area or the residents, occupants, or other users of such improvements; provided, that a capital facility that serves or otherwise benefits improvements outside the development area incidentally, or that incidentally serves or benefits persons other than residents, occupants, or other users of improvements in the development area, is not thereby disqualified as a project improvement.

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(I) "System improvement" means a capital facility that serves, or will serve when completed, improvements to real property in a development area or the residents, occupants, or other users of such improvements, and improvements to real property outside the development area or the residents, occupants, or other users of such improvements.

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(J) "Land use assumptions" means projections, for a period of ten years, of changes in land uses, densities, intensities, or population in a development area.

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Sec. 5755.02. (A) A board of county commissioners or a board of township trustees may adopt a resolution imposing an impact fee under section 5755.03 of the Revised Code only if the board has adopted a land use plan and if the plan, including any modifications or amendments, is in effect throughout the

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development area when the impact fee resolution is adopted. A 477
board of county commissioners or board of township trustees may 478
adopt a land use plan for a development area in lieu of or in 479
addition to a comprehensive plan adopted under section 303.02, 480
519.02, or 713.25 of the Revised Code. A land use plan adopted 481
under this division shall include land use assumptions applicable 482
to the development area. 483

(B) Before a governing board may adopt a resolution imposing 484
an impact fee under section 5755.03 of the Revised Code, the 485
governing board shall adopt, by resolution, a capital facilities 486
plan. A capital facilities plan shall be adopted for each 487
development area to be designated in the resolution imposing an 488
impact fee. In the case of a capital facilities plan adopted by a 489
board of county commissioners or board of township trustees, the 490
plan shall be consistent with the land use plan that applies to 491
the development area the capital facilities plan applies to. 492

The capital facilities plan shall incorporate the following 493
items: 494

(1) An analysis of the current capacity of existing capital 495
facilities under the jurisdiction of the governing board, the 496
current level of use of such existing capital facilities, existing 497
known commitments for use of current capacity, and any surplus or 498
deficiency in current capacity relative to current and existing, 499
known committed use. Capacity shall be measured in standardized 500
units appropriate to the kind of capital facility included in the 501
analysis based on accepted engineering or planning principles. The 502
analysis shall include among existing capital facilities all the 503
capital facilities of the county, township, or school district of 504
the same kind as the governing board anticipates will be financed 505
with an impact fee imposed in the development area. The analysis 506
shall include among existing capital facilities any capital 507

facilities that have been contracted for or let out to bid, or for 508
which financing has been obtained through the passage of a bond or 509
tax issue or from state, federal, or other sources. 510

(2) Estimates of the costs to upgrade, improve, expand, or 511
replace existing capital facilities included in the analysis under 512
division (B)(1) of this section solely to meet current capacity 513
and any deficiencies in current capacity, including the cost of 514
upgrading or replacing capital facilities or parts thereof to meet 515
more stringent safety, environmental, or regulatory standards. 516

(3) A description of additional or expanded capital 517
facilities necessitated by development in the development area, 518
and an estimate of the cost of such additions or expansions. The 519
description shall classify each such addition or expansion as 520
either a project improvement or system improvement. 521

(C) If a governing board intends to impose an impact fee to 522
finance only a particular class of capital facility, the capital 523
facilities plan required by division (B) of this section may be 524
limited to only that class of capital facility, but the governing 525
board may not adopt a resolution imposing an impact fee to finance 526
a capital facility for which a capital facilities plan has not 527
been adopted. 528

Sec. 5755.03. (A) A governing board, by a majority of the 529
board, may adopt a resolution imposing an impact fee upon 530
development occurring within a development area for the purpose of 531
financing all or a part of the cost of project improvements for 532
the area and all or a part of the proportionate cost of system 533
improvements to be financed by imposition of the fee. The 534
resolution shall include all of the following: 535

(1) A description of the boundaries of the development area; 536

(2) The total amount of the fee, or a schedule or formula 537

from which the fee amount can be derived; 538

(3) A description of the project improvements or system improvements to be financed with proceeds from the fee; 539
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(4) If project improvements are to be financed with proceeds from the fee, the percentage of the costs of the project improvements to be financed with such proceeds; 541
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(5) If system improvements are to be financed with proceeds from the fee, the proportionate share of the total costs of the system improvements to be financed with such proceeds; 544
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(6) The date on which imposition of the fee becomes effective, which shall be a date on or after the effective date of the resolution, and the date, if any, after which the fee is not to be imposed; 547
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(7) When the fee is payable and to whom the fee is payable, as provided in section 5755.06 of the Revised Code. 551
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(B) A governing board may include more than one development area in a single resolution, but a separate impact fee shall be imposed for each development area included in the resolution. 553
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A governing board may adopt more than one resolution under this section. 556
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More than one governing board may adopt a resolution with respect to the same development. 558
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(C) The proportionate share of the cost of a system improvement that may be financed with an impact fee under this chapter shall not exceed the proportionate share of the system improvement that serves the development area in which the fee is imposed as indicated by applicable engineering and planning studies regarding the capacity and usage patterns of improvements of that type. The proportionate share of the cost of a system improvement that may be financed with an impact fee under this 560
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chapter shall not include the cost of remedying existing
deficiencies in system improvements.

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(D) An impact fee imposed under this chapter shall not exceed
the cost of the project improvements and the proportionate share
of the costs of the system improvements designated in the
resolution after deduction of any of such costs paid or payable
from sources other than the fee and any credits allowed under
section 5755.07 of the Revised Code. In determining the
proportionate share of the cost of a system improvement, the
governing board shall compute a time-price differential to account
for the duration during which the development subject to the
impact fee places demand on the system improvement in relation to
the time the improvement is first placed into service and the
estimated remaining useful life of the improvement.

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(E) An impact fee imposed under this chapter for a
development area shall apply to every development in the
development area for which a building permit must be issued during
the duration of the fee as provided in the resolution imposing the
fee, unless the governing board determines, as provided in a
resolution, that the development does not contribute to demand for
the capital facility financed with the fee.

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(F) The boundary of a development area as designated in a
resolution adopted under division (A) of this section may be
changed by adoption of a subsequent resolution that describes the
new boundaries.

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(G) A resolution adopted under this section takes effect on
the date specified in the resolution unless the governing board
provides in the resolution that it is not to take effect unless
approved by electors of the unincorporated territory of the
county, unincorporated territory of the township, or school
district. If the governing board provides that the resolution is

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not to take effect unless so approved, the governing board shall
proceed as provided in section 5755.04 of the Revised Code.

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(H) If a resolution is to take effect without approval of
voters, the governing board, upon adoption of a resolution under
this section, shall certify a copy of the resolution to any
planning commission or other authority having planning or zoning
jurisdiction within the development area and to the building
department or other authority responsible for issuing building
permits in the development area if that department or authority is
not under the jurisdiction of the governing board. If the
governing board is a board of county commissioners, the board also
shall certify a copy of the resolution to the county treasurer. If
the governing board is a board of township trustees or board of
education and the board has provided for the county treasurer to
collect the fee, the governing board shall certify a copy of the
resolution to the county treasurer.

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(I) The authority granted under this chapter does not
abrogate and does not derogate from or otherwise affect the
authority of municipal corporations to adopt impact fees or other
similar fees, however denominated, pursuant to their powers of
local self-government pursuant to Article XVIII of the Ohio
Constitution.

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Sec. 5755.04. (A) A governing board providing in a resolution
adopted under section 5755.03 of the Revised Code that the
resolution shall not take effect unless approved by electors may
certify a copy of the resolution to the board of elections of the
proper county or counties. The copy of the resolution shall be
certified not later than seventy-five days before the date of a
general or special election. Upon receiving a properly and timely
filed copy of the resolution, the board of elections shall make
the necessary arrangements for submitting the question of the

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impact fee to electors in the unincorporated territory of the 630
county, unincorporated territory of the township, or the school 631
district. The election shall be conducted, canvassed, and 632
certified in the same manner as elections conducted under section 633
5705.25 of the Revised Code. 634

(B) Notice of the election shall be published in a newspaper 635
of general circulation in the county, township, or school district 636
once per week for four consecutive weeks before the date of the 637
election, and shall state the purpose of the fee and the total 638
amount of the fee, describe the boundaries of the development area 639
in which the fee will be imposed, and state the time and place of 640
the election. 641

The governing board may cause the notice of the election to 642
be published by electronic means, including by posting the notice 643
on the governing board's web site accessible via the internet. If 644
the governing board publishes the notice by posting it on the 645
governing board's web site, publication of the notice in a 646
newspaper of general circulation is required only once, but the 647
publication in the newspaper shall be made four weeks before the 648
day of the election, shall include a statement that the notice is 649
posted on the governing board's web site, and shall indicate the 650
internet address of the web site and instructions describing how 651
the notice may be accessed on the web site. 652

(C) The form of the ballot shall be as follows: 653

"Shall an impact fee be imposed for (purpose of 654
the fee, describing the capital facilities to be financed) in 655
.....(description of the development area where fee is 656
to be imposed) in a total amount of(total amount of 657
the fee) by(name of county, township, or school 658
district imposing the fee)? 659

	<u>For the impact fee</u>	"
	<u>Against the impact fee</u>	

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The question of the impact fee shall be submitted as a separate proposition but may be printed on the same ballot with any other proposition submitted at the same election other than the election of officers.

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(D) The board of elections shall certify the results of the election to the governing board.

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If a majority of the electors voting on the question vote in favor of the impact fee, the impact fee shall take effect as provided in the resolution.

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If the question is approved by a majority of the electors, the governing board shall certify a copy of the resolution to any planning commission or other authority having planning or zoning jurisdiction within the development area and to the building department or other authority responsible for issuing building permits in the development area if that department or authority is not under the jurisdiction of the governing board. If the governing board is a board of county commissioners, the board also shall certify a copy of the resolution to the county treasurer. If the governing board is a board of township trustees or board of education and the board has provided for the county treasurer to collect the fee, the governing board shall certify a copy of the resolution to the county treasurer.

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Sec. 5755.05. If the resolution imposing an impact fee provides for derivation of the fee from a schedule or formula rather than providing for the amount, the governing board shall determine and assess the amount of the fee after a plat

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representing territory in a development area is approved by the 690
appropriate authority according to law but before any building 691
permit is issued with respect to a parcel or tract of land 692
represented in the plat. If a plat is not required to be approved 693
according to law, the amount of the impact fee shall be determined 694
and assessed after the proposed division or subdivision of land in 695
a development area is finally approved by the appropriate 696
authority according to law but before a building permit is issued 697
with respect to a parcel or tract of land. The amount of fee so 698
determined and assessed shall be as provided in the schedule or 699
formula from which the amount of the fee may be derived as 700
provided in the resolution. The determination and assessment of an 701
impact fee shall be by resolution adopted by a majority of the 702
governing board. 703

If more than one plat or subdivision is approved for land 704
within the same development area, the governing board shall divide 705
the amount of the fee determined and assessed for each such plat 706
or subdivision equitably among the lands within each such plat or 707
subdivision in proportion to the relative demand the development 708
occurring on the respective lands places on the project 709
improvement or system improvement to be financed with the fee. The 710
division shall be made on the basis of standardized units 711
measuring demand for capital facilities of the type to be financed 712
with the fee. 713

Once the amount of an impact fee is assessed, the fee shall 714
be payable as provided in the resolution imposing the fee and as 715
provided in section 5755.06 of the Revised Code. The governing 716
board shall certify the amount of the fee to the building 717
department or other authority responsible for issuing building 718
permits in the development area if that department or authority is 719
not under the jurisdiction of the governing board. The 720

certification shall include such information as is necessary to 721
allow the building department or other authority to identify the 722
area in which the fee is payable. 723

Sec. 5755.06. (A) Impact fees imposed under this chapter 724
shall be payable in a form acceptable to the governing board and 725
the person designated to collect the fee under division (C) of 726
this section. 727

(B) A governing board may not make impact fees payable before 728
the thirtieth day preceding the issuance of the first building 729
permit with respect to real property in a development area is 730
payable. A governing board may permit persons subject to the fee 731
to pay the fee in installments according to a schedule prescribed 732
by the governing board, and may require that interest accrues on 733
the amount payable in installments, provided the interest and the 734
rate at which it accrues shall be prescribed at the same time the 735
schedule is prescribed. 736

(C) Impact fees imposed under this chapter shall be payable 737
to the following persons: 738

(1) If the fee is imposed by a board of county commissioners, 739
to the county treasurer; 740

(2) If the fee is imposed by a board of township trustees, to 741
the clerk of the township or to the county treasurer, as provided 742
in the resolution imposing the fee or a subsequent resolution of 743
the board certified to the county treasurer; 744

(3) If the fee is imposed by a board of education, to the 745
treasurer of school district or to the county treasurer, as 746
provided in the resolution imposing the fee or a subsequent 747
resolution of the board certified to the county treasurer. 748

(D) Upon collection of an impact fee, the county treasurer, 749
township clerk, or school district treasurer, as the case may be, 750

shall record the collection in a record kept for that purpose and
shall cause the full amount of the remittance to be credited to
the special fund created pursuant to section 5755.08 of the
Revised Code. If an impact fee is payable to the county treasurer,
the fee shall be considered the same as the taxes referred to in
section 321.12 of the Revised Code for the purposes of that
section.

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(E) When a person required to pay an impact fee imposed under
this chapter remits the amount due to the proper authority as
provided in division (C) of this section, the authority receiving
the remittance shall prepare and provide the person with a receipt
acknowledging the remittance.

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(F) If the resolution imposing an impact fee requires all or
a part of the fee to be paid before a building permit is issued,
the building department or other authority issuing such permits
shall not issue a building permit with respect to any parcel in
the development area unless the building department or other
authority has been presented a receipt issued pursuant to division
(E) of this section applicable to the parcel or parcels for which
the permit is sought.

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(G) A governing board may impose uniform penalties for the
late payment of impact fees. The penalty shall not exceed ten per
cent of the amount of the fee that was due and unpaid, and shall
be reduced by one-half if the full amount due is paid within ten
days after the due date.

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A governing board may impose interest on impact fees due and
unpaid at a rate not exceeding the rate per annum established by
the tax commissioner under division (B) section 5703.47 of the
Revised Code.

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Such penalties and interest shall be imposed only by the
resolution imposing the fee or by a subsequent resolution adopted

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by a majority of the governing board.

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Sec. 5755.07. A governing board shall grant a credit against the part of the fee payable by any person required to pay the fee in the amount of the value of any contribution by that person to a project improvement approved by the governing board and designated in the resolution imposing the fee.

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A governing board may grant a credit against the part of the fee payable by any person required to pay the fee in the amount of the value of any contribution by that person to an improvement in the development area that would be a project improvement if it had been designated as such in the resolution imposing the fee.

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For the purposes of this section, contributions include, but are not limited to, monetary contributions and dedications of land or improvements to land.

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Sec. 5755.08. For each development area in which an impact fee is imposed under this chapter, the governing board imposing the fee shall create a fund to which shall be credited all proceeds of the fee imposed for that area. If a fee is imposed in a development area for both a project improvement and a system improvement, the governing board shall create a separate fund for project improvements and for system improvements. If more than one project improvement or more than one system improvement is to be financed by the fee imposed in the area, the governing board may create a separate fund for each of the project improvements and for each of the system improvements. If securities have been issued under section 5755.09 of the Revised Code, the governing board shall create a separate fund for each project improvement or system improvement to be financed with the proceeds from the issuance.

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Money in a fund created under this section may be spent

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solely for the purpose for which the fund was created, and shall 812
not be transferred or borrowed for any other purpose. If any 813
unspent or unencumbered balance remains in a fund after the costs 814
of project improvements or system improvements for which the fee 815
was imposed, as provided in the resolution adopted under section 816
5755.03 of the Revised Code, have been paid in full, and the 817
governing board determines that refund of the remaining balance 818
under section 5755.10 of the Revised Code is impractical, the 819
governing board may provide by resolution for the remaining 820
balance to be credited to the county's, township's, or school 821
district's special fund for permanent improvements. The resolution 822
shall be adopted at a regular meeting of the governing board after 823
due notice is provided to the public that the resolution will be 824
considered. 825

Sec. 5755.09. A governing board imposing an impact fee under 826
this chapter may issue securities in anticipation of the 827
collection of the fee. For each fee imposed, the aggregate 828
principal amount of the securities shall not exceed ninety per 829
cent of the amount of the fee imposed. Securities issued under 830
this section are not general obligations of the county, township, 831
or school district issuing them, and the governing board shall not 832
pledge to the payment of the debt charges on the securities any 833
receipts other than receipts from the impact fee. Except as 834
otherwise provided in this section, the securities shall be 835
Chapter 133. securities as defined in section 133.01 of the 836
Revised Code. 837

If a governing board issues securities under this section, 838
the proceeds of the impact fee are hereby deemed to be pledged and 839
appropriated first to the payment of debt charges on the 840
securities, and the governing board shall appropriate the proceeds 841
of the impact fee first to the payment of those debt charges. 842

The maximum maturity of securities issued under this section shall not exceed the estimated life or period of usefulness of the capital facility to be financed with proceeds from the issuance as estimated by the fiscal officer of the governing board, and in no case more than thirty years. 843
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Securities issued under this section shall not include any amount to pay financing costs as defined in section 133.01 of the Revised Code. Interest payable on the securities shall not be payable from proceeds of the securities. 848
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Sections 9.95 and 9.96 of the Revised Code apply to securities issued under this section, except that, notwithstanding division (C) of section 9.96 of the Revised Code, the costs of the functions described in that division may not be paid from the proceeds of the principal received from the sale of the securities. 852
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Securities issued under this section, their transfer, the interest or other accreted amounts on them, and any profit made on their sale, exchange, or other disposition shall be free from taxation within this state. 858
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Sec. 5755.10. If, within ten years after the effective date of an impact fee imposed under this chapter, construction of a project improvement to be financed with the fee has not commenced or the proceeds from the fee are not encumbered by a contract for the construction of the project improvement, all proceeds from the fee shall be refunded not later than ninety days after the day that is ten years after the effective date of the fee. If securities have been issued in anticipation of collection of the fee under section 5755.09 of the Revised Code, the proceeds of the fee shall not be refunded until payment of all debt charges on the securities has been made or otherwise provided for in a manner preserving and securing the rights of holders of the securities 862
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and satisfying the covenant and pledge of the securities. 874

The refund of an impact fee shall be apportioned among the 875
parcels of taxable real property situated wholly or partly in the 876
development area in which the fee was imposed in proportion to the 877
taxable value of each such parcel according to the most recently 878
certified tax list of real and public utility property. If a 879
parcel is located partly in the development area, the part of the 880
refund apportioned to the parcel shall bear the same ratio to the 881
entire parcel's taxable value as the area of the parcel situated 882
within the development area bears to the area of the entire 883
parcel. Refunds so apportioned are payable to the person that is 884
the owner of record of each such parcel on the day that is ten 885
years after the effective date of the impact fee. 886

A governing board required by this section to refund the 887
proceeds of an impact fee shall publish notice of the refund in a 888
newspaper of general circulation in the county, township, or 889
school district twice within four weeks before issuing the refund. 890
The notice shall state the reason for the refund and the manner 891
provided in this section for apportioning the refund. The 892
governing board may cause the notice of the refund to be published 893
by electronic means, including by posting the notice on the 894
governing board's web site accessible via the internet. If the 895
governing board publishes the notice by posting it on the 896
governing board's web site, publication of the notice in a 897
newspaper of general circulation is required only once, but the 898
publication in the newspaper shall be made four weeks before the 899
refund is issued, shall include a statement that the notice is 900
posted on the governing board's web site, and shall indicate the 901
internet address of the web site and instructions describing how 902
the notice may be accessed on the web site. 903

No person entitled to a refund shall be required to make 904

application for the refund as a condition of receiving the refund 905
to which that person is entitled. 906

Refunds payable to persons that cannot be located within one 907
year after the refund is required to be issued under this section 908
may be disposed of in the same manner as an unspent or 909
unencumbered balance remaining in an impact fee fund as provided 910
in section 5755.08 of the Revised Code. 911

Sec. 5755.11. (A) Except as otherwise provided in this 912
division, each governing board imposing an impact fee constitutes 913
a board of appeal for the purposes of hearing appeals regarding 914
the imposition of an impact fee under this chapter. If the 915
governing board is a board of county commissioners that has 916
established a county planning commission under section 713.22 of 917
the Revised Code, the board may designate the commission as the 918
board of appeal for the purposes of this section. If the county 919
planning commission was established upon petition by municipal 920
corporations as provided in that section, the board may designate 921
the commission as the board of appeal only with the consent of the 922
municipal corporations that petitioned for the creation of the 923
commission. If the governing board participates in a regional 924
planning commission created under section 713.21 of the Revised 925
Code, the governing board, with the consent of the commission, may 926
designate the commission or a committee thereof as the board of 927
appeals for the purposes of this section. 928

(B) Any person required to pay an impact fee under this 929
chapter may bring an appeal against the lawfulness of the 930
imposition of the fee, the determination of the amount of the fee, 931
the amount of the fee payable by the person, or the amount of 932
credit provided to the person under section 5755.07 of the Revised 933
Code. Appeals shall be brought by filing written notice with the 934
board of appeal not later than the sixtieth day after the day the 935

impact fee is determined and assessed under section 5755.05 of the Revised Code. The notice of appeal may be filed in person or by certified mail or express mail as defined in section 5703.056 of the Revised Code. The notice of appeal shall state the reasons for the appeal. Upon receiving the written notice of appeal, the board of appeal shall notify the governing board of the appeal if the governing board does not constitute the board of appeal, shall schedule a hearing on the appeal within forty-five days after receiving the notice of appeal, and shall notify the appellant of the time and place of the hearing. The appellant may be represented at the hearing by an attorney or other representative, and may present evidence. The hearing is a meeting of a public body subject to section 121.22 of the Revised Code.

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The board of appeal may affirm, modify, or reverse the imposition of the fee, its amount, the amount payable by the appellant, or the amount of credit provided to the appellant, and shall issue a final decision in writing within ninety days after the final hearing on the matter. The board of appeal shall send a copy of its decision by ordinary mail to all parties to the appeal within fifteen days after issuing its decision. The appellant may appeal the board of appeals' decision to the court of common pleas.

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Sec. 5755.12. From the day an impact fee is determined and assessed under section 5755.05 of the Revised Code, the lien of the county, township, or municipal corporation imposing the fee attaches to every tract, lot, or parcel within the development area in which the fee is imposed and continues thereafter on the tract, lot, or parcel until the fee is paid in full. The lien extends to every tract, lot, or parcel within the development area in proportion to the current taxable value of the tract, lot, or parcel as compared to the current total taxable value of all

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tracts, lots, and parcels in the development area as shown on the 967
current tax list of real and public utility property. If a tract, 968
lot, or parcel is exempted from taxation under section 5709.08 or 969
5709.10 of the Revised Code, the lien shall not attach to the 970
tract, lot, or parcel for the duration of the exemption, and the 971
taxable value of the tract, lot, or parcel shall be disregarded 972
for the purposes of apportioning the lien under this section. The 973
lien imposed by this section shall be enforced by civil action in 974
the court of common pleas in the same way mortgage liens are 975
enforced in the name of the county, township, or school district 976
imposing the fee. 977

Section 2. That existing sections 133.06 and 133.07 of the 978
Revised Code are hereby repealed. 979