

As Introduced

127th General Assembly
Regular Session
2007-2008

H. B. No. 135

Representative DeWine

—

A BILL

To amend sections 9.30, 125.01, 125.02, 125.021, 1
125.022, 125.023, 125.04, 125.041, 125.05, 125.06, 2
125.07, 125.071, 125.072, 125.073, 125.08, 3
125.081, 125.082, 125.09, 125.10, 125.11, 125.15, 4
125.18, 125.25, 125.30, 718.051, 1306.20, 1306.21, 5
1347.06, 3353.02, 5111.915, and 5703.57, to amend 6
sections 125.18 (126.17) and 125.30 (126.18) for 7
the purpose of recodifying the sections as 8
indicated in parentheses, and to enact sections 9
125.011 and 126.19 of the Revised Code and to 10
amend Section 329.10 of Am. Sub. H.B. 699 of the 11
126th General Assembly; Section 203.57 of Am. Sub. 12
H.B. 66 of the 126th General Assembly, as amended 13
by Am. Sub. H.B. 699 of the 126th General 14
Assembly; and Section 235.30 of Am. Sub. H.B. 530 15
of the 126th General Assembly, as amended by Sub. 16
H.B. 251 of the 126th General Assembly to transfer 17
the Office of Information Technology from the 18
Department of Administrative Services to the 19
Office of Budget and Management and to make the 20
State Chief Information Officer rather than the 21
Director of Administrative Services responsible 22
for purchasing technology solutions. 23

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

Section 101.01. That sections 9.30, 125.01, 125.02, 125.021, 24
125.022, 125.023, 125.04, 125.041, 125.05, 125.06, 125.07, 25
125.071, 125.072, 125.073, 125.08, 125.081, 125.082, 125.09, 26
125.10, 125.11, 125.15, 125.18, 125.25, 125.30, 718.051, 1306.20, 27
1306.21, 1347.06, 3353.02, 5111.915, and 5703.57 be amended, that 28
sections 125.18 (126.17) and 125.30 (126.18) be amended for the 29
purpose of recodifying the sections as indicated in parentheses, 30
and that sections 125.011 and 126.19 of the Revised Code be 31
enacted to read as follows: 32

Sec. 9.30. The appropriate public officer of the state, 33
county, municipal corporation, township, school, or other public 34
body or institution, may acquire the service, product, or 35
commodity of a public utility at the schedule of rates and charges 36
applicable to such service, product, or commodity on file with the 37
public utilities commission, or the applicable charge established 38
by a utility operating its property not for profit, at any 39
location where such public utility service, product, or commodity 40
is not available, from alternate public utilities, without the 41
necessity of advertising to obtain bids, and without notice, 42
irrespective of the amount of money involved. Nothing in this 43
section supersedes sections 125.01 to 125.15 of the Revised Code 44
for the acquisition of telecommunication utility services by state 45
agencies. 46

Sec. 125.01. As used in this chapter: 47

(A) "Order" means a copy of a contract or a statement of the 48
nature of a contemplated expenditure, a description of the 49
property or supplies to be purchased or service to be performed, 50
other than a service performed by officers and regular employees 51

of the state, and per diem of the national guard, and the total 52
sum of the expenditure to be made therefor, if the sum is fixed 53
and ascertained, otherwise the estimated sum thereof, and an 54
authorization to pay for the contemplated expenditure, signed by 55
the person instructed and authorized to pay upon receipt of a 56
proper invoice. 57

(B) "Information technology" means technologies and services 58
used for information processing, including, but not limited to, 59
software, computing hardware, communications technologies, and 60
related services. 61

(C) "Invoice" means an itemized listing showing delivery of 62
the supplies or performance of the service described in the order, 63
and the date of the purchase or rendering of the service, or an 64
itemization of the things done, material supplied, or labor 65
furnished, and the sum due pursuant to the contract or obligation. 66

~~(C)~~(D) "Products" means materials, manufacturer's supplies, 67
merchandise, goods, wares, and foodstuffs. 68

~~(D)~~(E) "Produced" means the manufacturing, processing, 69
mining, developing, and making of a thing into a new article with 70
a distinct character in use through the application of input, 71
within the state, of Ohio products, labor, skill, or other 72
services. "Produced" does not include the mere assembling or 73
putting together of non-Ohio products or materials. 74

~~(E)~~(F) "Ohio products" means products that are mined, 75
excavated, produced, manufactured, raised, or grown in the state 76
by a person where the input of Ohio products, labor, skill, or 77
other services constitutes no less than twenty-five per cent of 78
the manufactured cost. With respect to mined products, such 79
products shall be mined or excavated in this state. 80

~~(F)~~(G) "Purchase" means to buy, rent, lease, lease purchase, 81
or otherwise acquire supplies or services. "Purchase" also 82

includes all functions that pertain to the obtaining of supplies 83
or services, including description of requirements, selection and 84
solicitation of sources, preparation and award of contracts, all 85
phases of contract administration, and receipt and acceptance of 86
the supplies and services and payment for them. 87

(H) "Purchasing authority" means the department of 88
administrative services or the office of information technology as 89
set forth in section 125.011 of the Revised Code. 90

~~(G)~~(I) "Services" means the furnishing of labor, time, or 91
effort by a person, not involving the delivery of a specific end 92
product other than a report which, if provided, is merely 93
incidental to the required performance. "Services" does not 94
include services furnished pursuant to employment agreements or 95
collective bargaining agreements. 96

~~(H)~~(J) "Supplies" means all property, including, but not 97
limited to, equipment, materials, other tangible assets, and 98
insurance, but excluding real property or an interest in real 99
property. 100

~~(I)~~(K) "Competitive selection" means any of the following 101
procedures for making purchases: 102

(1) Competitive sealed bidding under section 125.07 of the 103
Revised Code; 104

(2) Competitive sealed proposals under section 125.071 of the 105
Revised Code; 106

(3) Reverse auctions under section 125.072 of the Revised 107
Code. 108

**Sec. 125.011. Except for information technology supplies and 109
services, the department of administrative services shall be the 110
purchasing authority for all supplies and services for the 111
purposes of and subject to the limitations of sections 125.01 to 112**

125.11, 125.15, and 125.25 of the Revised Code. The office of 113
information technology shall be the purchasing authority for 114
information technology supplies and services in accordance with 115
section 126.17 of the Revised Code for the purposes of and subject 116
to the limitations of sections 125.01 to 125.11, 125.15, and 117
125.25 of the Revised Code. The department of administrative 118
services and the office of information technology shall consult 119
with each other to promote consistency when adopting any rules 120
under sections 125.01 to 125.11, 125.15, and 125.25 of the Revised 121
Code. 122

Sec. 125.02. Except as to the adjutant general, the capital 123
square review and advisory board, the department of rehabilitation 124
and correction as specified in division (D) of section 125.04 of 125
the Revised Code, the general assembly, the bureau of workers' 126
compensation, and institutions administered by boards of trustees, 127
~~the department of administrative services~~ a purchasing authority 128
may purchase supplies and services for the use of state agencies. 129

So far as possible, the ~~department of administrative services~~ 130
purchasing authority shall make all purchases from the department 131
of rehabilitation and correction in the exercise of the functions 132
of the department of rehabilitation and correction in the 133
management of state institutions. 134

The ~~department of administrative services~~ purchasing 135
authority shall prescribe uniform rules governing forms of 136
specifications, advertisements for proposals, the opening of bids, 137
the making of awards and contracts, and the purchase of supplies 138
and performance of work. 139

Nothing in this section precludes the bureau from entering 140
into a contract with ~~the department of administrative services~~ a 141
purchasing authority for the ~~department~~ purchasing authority to 142

purchase supplies, or services for the use of the bureau. 143

~~Sec. 125.021. (A) Except as to the military department, the 144
general assembly, the bureau of workers' compensation, the 145
industrial commission, and institutions administered by boards of 146
trustees, the office of information technology may contract for, 147
operate, and superintend telephone, other telecommunication, and 148
computer services for state agencies. Nothing in this division 149
precludes the bureau or the commission from contracting with the 150
office to authorize the office to contract for, operate, or 151
superintend those services for the bureau or the commission. 152~~

~~(B)(1) As used in this division: 153~~

~~(a)(1) "Active duty" means active duty pursuant to an 154
executive order of the president of the United States, an act of 155
the congress of the United States, or section 5919.29 or 5923.21 156
of the Revised Code. 157~~

~~(b)(2) "Immediate family" means a person's spouse residing in 158
the person's household, brothers and sisters of the whole or of 159
the half blood, children, including adopted children and 160
stepchildren, parents, and grandparents. 161~~

~~(2)(B) The office of information technology may enter into a 162
contract to purchase bulk long distance telephone services and 163
make them available at cost, or may make bulk long distance 164
telephone services available at cost under any existing contract 165
the office has entered into, to members of the immediate family of 166
persons deployed on active duty so that those family members can 167
communicate with the persons so deployed. If the office enters 168
into contracts under division (B)(2) of this section, it shall do 169
so in accordance with sections 125.01 to 125.11 of the Revised 170
Code and in a nondiscriminatory manner that does not place any 171
potential vendor at a competitive disadvantage. 172~~

~~(3)(C)~~ If the office decides to exercise either option under 173
division (B)~~(2)~~ of this section, it shall adopt, and may amend, 174
rules under Chapter 119. of the Revised Code to implement that 175
division. 176

Sec. 125.022. ~~The department of administrative services~~ A 177
purchasing authority may enter into cooperative purchasing 178
agreements with one or more other states or groups of states or 179
with any political subdivision of this state described in division 180
(B) of section 125.04 of the Revised Code for the purpose of 181
purchasing services or supplies produced from or containing 182
recycled materials for the use of state agencies. 183

Sec. 125.023. During the period of an emergency as defined in 184
section 5502.21 of the Revised Code, the ~~department of~~ 185
~~administrative services~~ purchasing authority may suspend, with 186
regard to the emergency management agency established in section 187
5502.22 of the Revised Code or any other state agency 188
participating in recovery activities as defined in section 5502.21 189
of the Revised Code, the purchasing and contracting requirements 190
contained in sections 125.02 to 125.111 of the Revised Code and 191
any of the requirements of Chapter 153. of the Revised Code that 192
otherwise would apply to the agency. The director of public safety 193
or the executive director of the emergency management agency shall 194
make the request for the suspension of these requirements to the 195
department of administrative services and the office of 196
information technology concurrently with the request to the 197
governor or the president of the United States for the declaration 198
of an emergency. The governor also shall include in any 199
proclamation the governor issues declaring an emergency language 200
requesting the suspension of those requirements during the period 201
of the emergency. 202

Sec. 125.04. (A) Except as provided in division (D) of this 203
section, the ~~department of administrative services~~ purchasing 204
authorities shall determine what supplies and services are 205
purchased by or for state agencies. Whenever ~~the department of~~ 206
~~administrative services~~ a purchasing authority makes any change or 207
addition to the lists of supplies and services that it determines 208
to purchase for state agencies, it shall provide a list to the 209
agencies of the changes or additions and indicate when the 210
~~department~~ purchasing authority will be prepared to furnish each 211
item listed. Except for the requirements of division (B) of 212
section 125.11 of the Revised Code, sections 125.04 to 125.08 and 213
125.09 to 125.15 of the Revised Code do not apply to or affect the 214
educational institutions of the state. The ~~department~~ purchasing 215
authorities shall not include the bureau of workers' compensation 216
in the lists of supplies, equipment, and services purchased and 217
furnished by the ~~department~~ purchasing authorities. 218

Nothing in this division precludes the bureau from entering 219
into a contract with the ~~department~~ purchasing authorities for the 220
~~department~~ purchasing authorities to perform services relative to 221
supplies, equipment, and services contained in this division for 222
the bureau. 223

(B)(1) As used in this division: 224

(a) "Emergency medical service organization" has the same 225
meaning as in section 4765.01 of the Revised Code. 226

(b) "Political subdivision" means any county, township, 227
municipal corporation, school district, conservancy district, 228
township park district, park district created under Chapter 1545. 229
of the Revised Code, regional transit authority, regional airport 230
authority, regional water and sewer district, or port authority. 231
"Political subdivision" also includes any other political 232
subdivision described in the Revised Code that has been approved 233

by the department to participate in the department's contracts 234
under this division. 235

(c) "Private fire company" has the same meaning as in section 236
9.60 of the Revised Code. 237

(2) Subject to division (C) of this section, ~~the department~~ 238
~~of administrative services~~ a purchasing authority may permit a 239
political subdivision, private fire company, or private, nonprofit 240
emergency medical service organization to participate in contracts 241
into which the ~~department~~ purchasing authority has entered for the 242
purchase of supplies and services. The ~~department~~ purchasing 243
authority may charge the entity a reasonable fee to cover the 244
administrative costs the ~~department~~ purchasing authority incurs as 245
a result of participation by the entity in such a purchase 246
contract. 247

A political subdivision desiring to participate in such 248
purchase contracts shall file with the ~~department~~ purchasing 249
authority a certified copy of an ordinance or resolution of the 250
legislative authority or governing board of the political 251
subdivision. The resolution or ordinance shall request that the 252
political subdivision be authorized to participate in such 253
contracts and shall agree that the political subdivision will be 254
bound by such terms and conditions as the ~~department~~ purchasing 255
authority prescribes and that it will directly pay the vendor 256
under each purchase contract. A private fire company or private, 257
nonprofit emergency medical service organization desiring to 258
participate in such purchase contracts shall file with the 259
~~department~~ purchasing authority a written request for inclusion in 260
the program signed by the chief officer of the company or 261
organization. The request shall include an agreement to be bound 262
by such terms and conditions as the ~~department~~ purchasing 263
authority prescribes and to make direct payments to the vendor 264
under each purchase contract. 265

The ~~department~~ purchasing authority shall include in its 266
annual report an estimate of the cost it incurs by permitting 267
political subdivisions, private fire companies, and private, 268
nonprofit emergency medical service organizations to participate 269
in contracts pursuant to this division. The ~~department~~ purchasing 270
authority may require such entities to file a report with the 271
~~department~~ purchasing authority, as often as it finds necessary, 272
stating how many such contracts the entities participated in 273
within a specified period of time, and any other information the 274
~~department~~ purchasing authority requires. 275

(3) Purchases made by a political subdivision under this 276
division are exempt from any competitive selection procedures 277
otherwise required by law. No political subdivision shall make any 278
purchase under this division when bids have been received for such 279
purchase by the subdivision, unless such purchase can be made upon 280
the same terms, conditions, and specifications at a lower price 281
under this division. 282

(C) A political subdivision as defined in division (B) of 283
this section may purchase supplies or services from another party, 284
including another political subdivision, instead of through 285
participation in contracts described in division (B) of this 286
section if the political subdivision can purchase those supplies 287
or services from the other party upon equivalent terms, 288
conditions, and specifications but at a lower price than it can 289
through those contracts. Purchases that a political subdivision 290
makes under this division are exempt from any competitive 291
selection procedures otherwise required by law. A political 292
subdivision that makes any purchase under this division shall 293
maintain sufficient information regarding the purchase to verify 294
that the political subdivision satisfied the conditions for making 295
a purchase under this division. Nothing in this division restricts 296
any action taken by a county or township as authorized by division 297

(A)(1) of section 9.48 of the Revised Code. 298

(D) This section does not apply to supplies or services 299
required by the legislative or judicial branches, boards of 300
elections, the capitol square review and advisory board, the 301
adjutant general, to supplies or services purchased by a state 302
agency directly as provided in division (A) or (E) of section 303
125.05 of the Revised Code, to purchases of supplies or services 304
for the emergency management agency as provided in section 125.023 305
of the Revised Code, or to purchases of supplies or services for 306
the department of rehabilitation and correction in its operation 307
of the program for the employment of prisoners established under 308
section 5145.16 of the Revised Code that shall be made pursuant to 309
rules adopted by the director of administrative services and the 310
director of rehabilitation and correction in accordance with 311
Chapter 119. of the Revised Code. The rules may provide for the 312
exemption of the program for the employment of prisoners from the 313
requirements of division (A) of this section. 314

Sec. 125.041. Nothing in sections 125.02, 125.03 to 125.08, 315
125.12 to 125.16, ~~125.18~~, 125.31 to 125.76, ~~or 125.831~~, or 126.17 316
of the Revised Code shall be construed as limiting the attorney 317
general, auditor of state, secretary of state, or treasurer of 318
state in any of the following: 319

(A) Purchases for less than the dollar amounts for the 320
purchase of supplies or services determined pursuant to division 321
(D) of section 125.05 of the Revised Code; 322

(B) Purchases that equal or exceed the dollar amounts for the 323
purchase of supplies or services determined pursuant to division 324
(D) of section 125.05 of the Revised Code with the approval of the 325
controlling board, if that approval is required by section 127.16 326
of the Revised Code; 327

(C) The final determination of the nature or quantity making 328

any purchase of supplies or services to be purchased pursuant to	329
section 125.06 of the Revised Code;	330
(D) The final determination and disposal of excess and	331
surplus supplies;	332
(E) The inventory of state property;	333
(F) The purchase of printing;	334
(G) Activities related to information technology development	335
and use;	336
(H) The fleet management program.	337
Sec. 125.05. Except as provided in division (E) of this	338
section, no state agency shall purchase any supplies or services	339
except as provided in divisions (A) to (C) of this section.	340
(A) Subject to division (D) of this section, a state agency	341
may, without competitive selection, make any purchase of services	342
that cost fifty thousand dollars or less or any purchase of	343
supplies that cost twenty-five thousand dollars or less. The	344
agency, <u>at its determination</u> , may make the purchase directly or	345
may make the purchase from or through the department of	346
administrative services, whichever the agency determines proper	347
<u>purchasing authority</u> . The department <u>purchasing authority</u> shall	348
establish written procedures to assist state agencies when they	349
make direct purchases. If the agency makes the purchase directly,	350
it shall make the purchase by a term contract whenever possible.	351
(B) Subject to division (D) of this section, a state agency	352
wanting to purchase services that cost more than fifty thousand	353
dollars or supplies that cost more than twenty-five thousand	354
dollars shall, unless otherwise authorized by law, make the	355
purchase from or through the department <u>proper purchasing</u>	356
<u>authority</u> . The department <u>purchasing authority</u> shall make the	357
purchase by competitive selection under section 125.07 of the	358

Revised Code. If the ~~director of administrative services~~ 359
purchasing authority determines that it is not possible or not 360
advantageous to the state for the ~~department~~ purchasing authority 361
to make the purchase, the ~~department~~ purchasing authority shall 362
grant the agency a release and permit under section 125.06 of the 363
Revised Code to make the purchase. Section 127.16 of the Revised 364
Code does not apply to purchases the ~~department~~ purchasing 365
authority makes under this section. 366

(C) An agency that has been granted a release and permit to 367
make a purchase may make the purchase without competitive 368
selection if after making the purchase the cumulative purchase 369
threshold as computed under division (F) of section 127.16 of the 370
Revised Code would: 371

(1) Be exceeded and the controlling board approves the 372
purchase; 373

(2) Not be exceeded and the ~~department of administrative~~ 374
~~services~~ purchasing authority approves the purchase. 375

(D) Not later than January 31, 1997, the amounts specified in 376
divisions (A) and (B) of this section and, not later than the 377
thirty-first day of January of each second year thereafter, any 378
amounts computed by adjustments made under this division, shall be 379
increased or decreased by the average percentage increase or 380
decrease in the consumer price index prepared by the United States 381
bureau of labor statistics (U.S. City Average for Urban Wage 382
Earners and Clerical Workers: "All Items 1982-1984=100") for the 383
twenty-four calendar month period prior to the immediately 384
preceding first day of January over the immediately preceding 385
twenty-four calendar month period, as reported by the bureau. The 386
director of administrative services shall make this determination 387
and adjust the appropriate amounts accordingly. 388

(E) If the eTech Ohio commission, the department of 389

education, or the Ohio education computer network determines that 390
it can purchase software services or supplies for specified school 391
districts at a price less than the price for which the districts 392
could purchase the same software services or supplies for 393
themselves, the commission, department, or network shall certify 394
that fact to the ~~department of administrative services~~ office of 395
information technology and, acting as an agent for the specified 396
school districts, shall make that purchase without following the 397
provisions in divisions (A) to (D) of this section. 398

Sec. 125.06. ~~The department of administrative services~~ A 399
purchasing authority may, pursuant to division (B) of section 400
125.05 of the Revised Code and subject to such rules as the 401
~~director of administrative services~~ particular purchasing 402
authority may adopt, issue a release and permit to the agency to 403
secure supplies or services. A release and permit shall specify 404
the supplies or services to which it applies, the time during 405
which it is operative, and the reason for its issuance. A release 406
and permit for ~~computer services~~ information technology services 407
shall also specify the type of services to be rendered, the number 408
and type of machines to be employed, and may specify the amount of 409
such services to be performed. One copy of every release and 410
permit shall be filed with the agency to which it is issued, and 411
one copy shall be retained by the ~~department~~ purchasing authority. 412

Sec. 125.07. ~~The department of administrative services~~ A 413
purchasing authority, in making a purchase by competitive 414
selection pursuant to division (B) of section 125.05 of the 415
Revised Code, shall give notice in the following manner: 416

(A) The ~~department~~ purchasing authority shall advertise the 417
intended purchases by notice that is posted by mail or electronic 418
means and that is for the benefit of competing persons producing 419
or dealing in the supplies or services to be purchased, including, 420

but not limited to, the persons whose names appear on the 421
appropriate list provided for in section 125.08 of the Revised 422
Code. The notice may be in the form of the bid or proposal 423
document or of a listing in a periodic bulletin, or in any other 424
form the ~~director of administrative services~~ purchasing authority 425
considers appropriate to sufficiently notify qualified competing 426
persons of the intended purchases. 427

(B) The notice required under division (A) of this section 428
shall include the time and place where bids or proposals will be 429
accepted and opened, or, when bids are made in a reverse auction, 430
the time when bids will be accepted; the conditions under which 431
bids or proposals will be received; the terms of the proposed 432
purchases; and an itemized list of the supplies or services to be 433
purchased and the estimated quantities or amounts of them. 434

(C) The posting of the notice required under division (A) of 435
this section shall be completed by the number of days the ~~director~~ 436
purchasing authority determines preceding the day when the bids or 437
proposals will be opened or accepted. 438

(D) The ~~department~~ purchasing authority also shall maintain, 439
in a public place in its office, a bulletin board upon which it 440
shall post and maintain a copy of the notice required under 441
division (A) of this section for at least the number of days the 442
~~director~~ purchasing authority determines under division (C) of 443
this section preceding the day of the opening or acceptance of the 444
bids or proposals. The failure to so additionally post the notice 445
shall invalidate all proceedings had and any contract entered into 446
pursuant to the proceedings. 447

Sec. 125.071. (A) In accordance with rules the ~~director of~~ 448
~~administrative services~~ purchasing authority shall adopt, the 449
~~director~~ purchasing authority may make purchases by competitive 450
sealed proposal whenever the ~~director~~ purchasing authority 451

determines that the use of competitive sealed bidding is not 452
possible or not advantageous to the state. 453

(B) Proposals shall be solicited through a request for 454
proposals. The request for proposals shall state the relative 455
importance of price and other evaluation factors. Notice of the 456
request for proposals shall be given in accordance with rules the 457
director shall adopt. 458

(C) Proposals shall be opened so as to avoid disclosure of 459
contents to competing offerors. 460

In order to ensure fair and impartial evaluation, proposals 461
and related documents submitted in response to a request for 462
proposals are not available for public inspection and copying 463
under section 149.43 of the Revised Code until after the award of 464
the contract. 465

(D) As provided in the request for proposals, and under rules 466
the ~~director~~ purchasing authority shall adopt, discussions may be 467
conducted with responsible offerors who submit proposals 468
determined to be reasonably susceptible of being selected for 469
award for the purpose of ensuring full understanding of, and 470
responsiveness to, solicitation requirements. Offerors shall be 471
accorded fair and equal treatment with respect to any opportunity 472
for discussion regarding any clarification, correction, or 473
revision of proposals. No disclosure of any information derived 474
from proposals submitted by competing offerors shall occur when 475
discussions are conducted. 476

(E) Award may be made to the offeror whose proposal is 477
determined to be the most advantageous to this state, taking into 478
consideration factors such as price and the evaluation criteria 479
set forth in the request for proposals. The contract file shall 480
contain the basis on which the award is made. 481

Sec. 125.072. (A) As used in this section, "reverse auction" 482
means a purchasing process in which offerors submit bids in 483
competing to sell services or supplies in an open environment via 484
the internet. 485

(B) Whenever ~~the director of administrative services a~~ 486
purchasing authority determines that the use of a reverse auction 487
is advantageous to the state, the ~~director~~ purchasing authority, 488
in accordance with rules the ~~director~~ purchasing authority shall 489
adopt, may purchase services or supplies by reverse auction. 490

(C) The ~~director~~ purchasing authority, by rule, may authorize 491
a state agency that is authorized to purchase services or supplies 492
directly to purchase them by reverse auction in the same manner as 493
this section and the rules adopted under this section authorize 494
the ~~director~~ purchasing authority to do so. 495

Sec. 125.073. (A) The ~~department of administrative services~~ 496
purchasing authorities shall actively promote and accelerate the 497
use of electronic procurement, including reverse auctions as 498
defined by section 125.072 of the Revised Code, by implementing 499
the relevant recommendations concerning electronic procurement 500
from the "2000 Management Improvement Commission Report to the 501
Governor" when exercising its statutory powers. 502

(B) Beginning July 1, 2004, the department of administrative 503
services shall annually on or before the first day of July report 504
to the committees in each house of the general assembly dealing 505
with finance indicating the effectiveness of electronic 506
procurement. Beginning July 1, 2008, the office of information 507
technology shall annually on or before the last day of December, 508
report to the committees in each house of the general assembly 509
dealing with finance indicating the effectiveness during the prior 510
fiscal year of electronic procurement of information technology 511

supplies and services. 512

Sec. 125.08. (A) The department of administrative services 513
may divide the state into purchasing districts wherein supplies or 514
services are to be delivered and shall describe those districts on 515
all applications for the notification list provided for in this 516
section. 517

Any person may have that person's name and address, or the 518
name and address of an agent, placed on the competitive selection 519
notification list of the department of administrative services by 520
sending to the department the person's name and address, together 521
with a list of the supplies or services described in the manner 522
prescribed by the department produced or dealt in by the person 523
with a request for such listing, a list of the districts in which 524
the person desires to participate, and all other information the 525
director of administrative services may prescribe. The director of 526
administrative services shall provide the lists to the office of 527
information technology. Whenever any name and address together 528
with a list of the supplies or services produced or dealt in is so 529
listed, the ~~department~~ purchasing authorities shall post notice, 530
as provided in division (A) of section 125.07 of the Revised Code, 531
for the benefit of the persons listed on the notification list 532
that are qualified Ohio business enterprises, which shall include 533
Ohio penal industries as defined by rule of the director of 534
administrative services, or have a significant Ohio presence in 535
this state's economy, except that, in those circumstances in which 536
the ~~director~~ purchasing authority considers it in the best 537
interest of this state, the ~~director~~ purchasing authority shall 538
post notice, as provided in division (A) of section 125.07 of the 539
Revised Code, for the benefit of all persons listed on the 540
notification list. The ~~department~~ purchasing authority need only 541
provide competitive selection documents for a proposed contract to 542
persons who specifically request the documents. 543

The director may remove a person from the notification list 544
and place the person on an inactive list if the person fails to 545
respond to any notices of proposed purchases that appear in four 546
consecutive bulletins or other forms of notification that list 547
those notices. Upon written request to the director by the person 548
so removed, the director may return the person to the notification 549
list if the person provides sufficient evidence regarding intent 550
to offer bids or proposals to the state. The director shall not 551
remove any person from the list without notice to the person. The 552
notice may be a part of the notices of proposed purchase. 553

(B) Any person who is certified by the equal employment 554
opportunity coordinator of the department of administrative 555
services in accordance with the rules adopted under division 556
(B)(1) of section 123.151 of the Revised Code as a minority 557
business enterprise may have that person's name placed on a 558
special minority business enterprise notification list to be used 559
in connection with contracts awarded under section 125.081 of the 560
Revised Code. The minority business enterprise notification list 561
shall be used for bidding on contracts set aside for minority 562
business enterprises only. In all other respects, the list shall 563
be maintained and used in the same manner and according to the 564
same procedures as the notification list provided for under 565
division (A) of this section, except that a firm shall not be 566
removed from the list unless the coordinator determines that the 567
firm is no longer a minority business enterprise. A minority 568
business enterprise may have its name placed on both the 569
notification lists provided for in this section. 570

(C) The director of administrative services may require an 571
annual registration fee for the listings provided for in division 572
(A) or (B) of this section. This fee shall not be more than ten 573
dollars. The department may charge a fee for any compilation of 574
descriptions of supplies or services. This fee shall be reasonable 575

and shall not exceed the cost required to maintain the 576
notification lists and provide for the distribution of the 577
proposed purchase to the persons whose names appear on the lists. 578

Sec. 125.081. (A) From the purchases that the ~~department of~~ 579
~~administrative services is~~ purchasing authorities are required by 580
law to make through competitive selection, ~~the director of~~ 581
~~administrative services~~ each purchasing authority shall select a 582
number of such purchases, the aggregate value of which equals 583
approximately fifteen per cent of the estimated total value of all 584
such purchases to be made in the current fiscal year. The ~~director~~ 585
purchasing authority shall set aside the purchases selected for 586
competition only by minority business enterprises, as defined in 587
division (E)(1) of section 122.71 of the Revised Code. The 588
competitive selection procedures for such purchases set aside 589
shall be the same as for all other purchases the ~~department~~ 590
purchasing authority is required to make through competitive 591
selection, except that only minority business enterprises 592
certified by the equal employment opportunity coordinator of the 593
department of administrative services in accordance with the rules 594
adopted under division (B)(1) of section 123.151 of the Revised 595
Code and listed by the director under division (B) of section 596
125.08 of the Revised Code shall be qualified to compete. 597

(B) To the extent that any agency of the state, other than 598
the department of administrative services, the office of 599
information technology, the legislative and judicial branches, 600
boards of elections, and the adjutant general, is authorized to 601
make purchases, the agency shall set aside a number of purchases, 602
the aggregate value of which equals approximately fifteen per cent 603
of the aggregate value of such purchases for the current fiscal 604
year for competition by minority business enterprises only. The 605
procedures for such purchases shall be the same as for all other 606
such purchases made by the agency, except that only minority 607

business enterprises certified by the equal employment opportunity 608
coordinator in accordance with rules adopted under division (B)(1) 609
of section 123.151 of the Revised Code shall be qualified to 610
compete. 611

(C) In the case of purchases set aside under division (A) or 612
(B) of this section, if no bid is submitted by a minority business 613
enterprise, the purchase shall be made according to usual 614
procedures. The contracting agency shall from time to time set 615
aside such additional purchases for which only minority business 616
enterprises may compete, as are necessary to replace those 617
purchases previously set aside for which no minority business 618
enterprises bid and to ensure that, in any fiscal year, the 619
aggregate amount of contracts awarded to minority business 620
enterprises will equal approximately fifteen per cent of the total 621
amount of contracts awarded by the agency. 622

(D) The provisions of this section shall not preclude any 623
minority business enterprise from competing for any other state 624
purchases that are not specifically set aside for minority 625
business enterprises. 626

(E) No funds of any state agency shall be expended in any 627
fiscal year for any purchase for which competitive selection is 628
required, until the ~~director of the department of administrative~~ 629
~~services certifies~~ purchasing authorities certify to the equal 630
employment opportunity coordinator, the clerk of the senate, and 631
the clerk of the house of representatives of the general assembly 632
that approximately fifteen per cent of the aggregate amount of the 633
projected expenditure for such purchases in the fiscal year has 634
been set aside as provided for in this section. 635

(F) Any person who intentionally misrepresents self as 636
owning, controlling, operating, or participating in a minority 637
business enterprise for the purpose of obtaining contracts, 638
subcontracts, or any other benefits under this section shall be 639

guilty of theft by deception as provided for in section 2913.02 of 640
the Revised Code. 641

Sec. 125.082. (A) When purchasing equipment, materials, or 642
supplies, the general assembly; the offices of all elected state 643
officers; all departments, boards, offices, commissions, agencies, 644
institutions, including, without limitation, state-supported 645
institutions of higher education, and other instrumentalities of 646
this state; the supreme court; all courts of appeals; and all 647
courts of common pleas, may purchase recycled products in 648
accordance with the guidelines adopted under division (B) of this 649
section if the products are available and meet the performance 650
specifications of the procuring entities. Purchases of recycled 651
products shall comply with any rules adopted under division (C) of 652
this section. 653

(B) The ~~director of administrative services~~ purchasing 654
authorities shall adopt rules in accordance with Chapter 119. of 655
the Revised Code establishing guidelines for the procurement of 656
recycled products pursuant to division (A) of this section. To the 657
extent practicable, the guidelines shall do all of the following: 658

(1) Be consistent with and substantially equivalent to any 659
relevant regulations adopted by the administrator of the United 660
States environmental protection agency pursuant to the "Resource 661
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 662
6921, as amended; 663

(2) Establish the minimum percentage of recycled materials 664
the various products shall contain in order to be considered 665
"recycled" for the purposes of division (A) of this section; 666

(3) So far as practicable and economically feasible, 667
incorporate specifications for recycled-content materials to 668
promote the use and purchase of recycled products by state 669
agencies. 670

(C) The ~~director~~ purchasing authorities may adopt rules in 671
accordance with Chapter 119. of the Revised Code establishing a 672
maximum percentage by which the cost of recycled products 673
purchased under division (A) of this section may exceed the cost 674
of comparable products made of virgin materials. 675

(D) The department of administrative services, the office of 676
information technology, and the department of natural resources 677
annually shall prepare and submit to the governor, president of 678
the senate, and speaker of the house of representatives a report 679
that describes, so far as practicable, the value and types of 680
recycled products that are purchased with moneys disbursed from 681
the state treasury by the general assembly; the offices of all 682
elected state officers; and all departments, boards, offices, 683
commissions, agencies, and institutions of this state. 684

Sec. 125.09. (A) Pursuant to section 125.07 of the Revised 685
Code, ~~the department of administrative services~~ a purchasing 686
authority may prescribe such conditions under which competitive 687
sealed bids will be received and terms of the proposed purchase as 688
it considers necessary; provided, that all such conditions and 689
terms shall be reasonable and shall not unreasonably restrict 690
competition, and bidders may bid upon all or any item of the 691
supplies or services listed in such notice. Those bidders claiming 692
the preference for United States and Ohio products outlined in 693
this chapter shall designate in their bids either that the product 694
to be supplied is an Ohio product or that under the rules 695
established by the ~~director of administrative services~~ purchasing 696
authority they qualify as having a significant Ohio economic 697
presence. 698

(B) The ~~department~~ purchasing authority may require that each 699
bidder provide sufficient information about the energy efficiency 700
or energy usage of the bidder's product or service. 701

(C) The ~~director of administrative services~~ purchasing authority shall, by rule adopted pursuant to Chapter 119. of the Revised Code, prescribe criteria and procedures for use by all state agencies in giving preference to United States and Ohio products as required by division (B) of section 125.11 of the Revised Code. The rules shall extend to:

(1) Criteria for determining that a product is produced or mined in the United States rather than in another country or territory;

(2) Criteria for determining that a product is produced or mined in Ohio;

(3) Information to be submitted by bidders as to the nature of a product and the location where it is produced or mined;

(4) Criteria and procedures to be used by the ~~director~~ purchasing authorities to qualify bidders located in states bordering Ohio who might otherwise be excluded from being awarded a contract by operation of this section and section 125.11 of the Revised Code. The criteria and procedures shall recognize the level and regularity of interstate commerce between Ohio and the border states and provide that the non-Ohio businesses may qualify for award of a contract as long as they are located in a state that imposes no greater restrictions than are contained in this section and section 125.11 of the Revised Code upon persons located in Ohio selling products or services to agencies of that state. The criteria and procedures shall also provide that a non-Ohio business shall not bid on a contract for state printing in this state if the business is located in a state that excludes Ohio businesses from bidding on state printing contracts in that state.

(5) Criteria and procedures to be used to qualify bidders whose manufactured products, except for mined products, are

produced in other states or in North America, but the bidders have 733
a significant Ohio economic presence in terms of the number of 734
employees or capital investment a bidder has in this state. 735
Bidders with a significant Ohio economic presence shall qualify 736
for award of a contract on the same basis as if their products 737
were produced in this state. 738

(6) Criteria and procedures for the ~~director~~ purchasing 739
authority to grant waivers of the requirements of division (B) of 740
section 125.11 of the Revised Code on a contract-by-contract basis 741
where compliance with those requirements would result in the state 742
agency paying an excessive price for the product or acquiring a 743
disproportionately inferior product; 744

(7) Such other requirements or procedures reasonably 745
necessary to implement the system of preferences established 746
pursuant to division (B) of section 125.11 of the Revised Code. 747

In adopting the rules required under this division, the 748
~~director~~ purchasing authority shall, to the maximum extent 749
possible, conform to the requirements of the federal "Buy America 750
Act," 47 Stat. 1520, (1933), 41 U.S.C.A. 10a-10d, as amended, and 751
to the regulations adopted thereunder. 752

Sec. 125.10. (A) ~~The department of administrative services~~ A 753
purchasing authority may require that all competitive sealed bids, 754
competitive sealed proposals, and bids received in a reverse 755
auction be accompanied by a performance bond or other cash surety 756
acceptable to the ~~director of administrative services~~ purchasing 757
authority, in the sum and with the sureties it prescribes, payable 758
to the state, and conditioned that the person submitting the bid 759
or proposal, if that person's bid or proposal is accepted, will 760
faithfully execute the terms of the contract and promptly make 761
deliveries of the supplies purchased. 762

(B) A sealed copy of each competitive sealed bid or 763

competitive sealed proposal shall be filed with the ~~department~~ 764
purchasing authority prior to the time specified in the notice for 765
opening of the bids or proposals. All competitive sealed bids and 766
competitive sealed proposals shall be publicly opened in the 767
office of the ~~department~~ purchasing authority at the time 768
specified in the notice. A representative of the auditor of state 769
shall be present at the opening of all competitive sealed bids and 770
competitive sealed proposals, and shall certify the opening of 771
each competitive sealed bid and competitive sealed proposal. No 772
competitive sealed bid or competitive sealed proposal shall be 773
considered valid unless it is so certified. 774

Sec. 125.11. (A) Subject to division (B) of this section, 775
contracts awarded pursuant to a reverse auction under section 776
125.072 of the Revised Code or pursuant to competitive sealed 777
bidding, including contracts awarded under section 125.081 of the 778
Revised Code, shall be awarded to the lowest responsive and 779
responsible bidder on each item in accordance with section 9.312 780
of the Revised Code. When the contract is for meat products as 781
defined in section 918.01 of the Revised Code or poultry products 782
as defined in section 918.21 of the Revised Code, only those bids 783
received from vendors offering products from establishments on the 784
current list of meat and poultry vendors established and 785
maintained by the director of administrative services under 786
section 125.17 of the Revised Code shall be eligible for 787
acceptance. The ~~department of administrative services~~ purchasing 788
authority may accept or reject any or all bids in whole or by 789
items, except that when the contract is for services or products 790
available from a qualified nonprofit agency pursuant to sections 791
125.60 to 125.6012 or 4115.31 to 4115.35 of the Revised Code, the 792
contract shall be awarded to that agency. 793

(B) Prior to awarding a contract under division (A) of this 794
section, the ~~department of administrative services~~ purchasing 795

authority or the state agency responsible for evaluating a 796
contract for the purchase of products shall evaluate the bids 797
received according to the criteria and procedures established 798
pursuant to divisions (C)(1) and (2) of section 125.09 of the 799
Revised Code for determining if a product is produced or mined in 800
the United States and if a product is produced or mined in this 801
state. The ~~department~~ purchasing authority or other state agency 802
shall first remove bids that offer products that have not been or 803
that will not be produced or mined in the United States. From 804
among the remaining bids, the ~~department~~ purchasing authority or 805
other state agency shall select the lowest responsive and 806
responsible bid, in accordance with section 9.312 of the Revised 807
Code, from among the bids that offer products that have been 808
produced or mined in this state where sufficient competition can 809
be generated within this state to ensure that compliance with 810
these requirements will not result in an excessive price for the 811
product or acquiring a disproportionately inferior product. If 812
there are two or more qualified bids that offer products that have 813
been produced or mined in this state, it shall be deemed that 814
there is sufficient competition to prevent an excessive price for 815
the product or the acquiring of a disproportionately inferior 816
product. 817

(C) Division (B) of this section applies to contracts for 818
which competitive bidding is waived by the controlling board. 819

(D) Division (B) of this section does not apply to the 820
purchase by the division of liquor control of spirituous liquor. 821

(E) The director of administrative services shall publish in 822
the form of a model act for use by counties, townships, municipal 823
corporations, or any other political subdivision described in 824
division (B) of section 125.04 of the Revised Code, a system of 825
preferences for products mined and produced in this state and in 826
the United States and for Ohio-based contractors. The model act 827

shall reflect substantial equivalence to the system of preferences 828
in purchasing and public improvement contracting procedures under 829
which the state operates pursuant to this chapter and section 830
153.012 of the Revised Code. To the maximum extent possible, 831
consistent with the Ohio system of preferences in purchasing and 832
public improvement contracting procedures, the model act shall 833
incorporate all of the requirements of the federal "Buy America 834
Act," 47 Stat. 1520 (1933), 41 U.S.C. 10a to 10d, as amended, and 835
the rules adopted under that act. 836

Before and during the development and promulgation of the 837
model act, the director shall consult with appropriate statewide 838
organizations representing counties, townships, and municipal 839
corporations so as to identify the special requirements and 840
concerns these political subdivisions have in their purchasing and 841
public improvement contracting procedures. The director shall 842
promulgate the model act by rule adopted pursuant to Chapter 119. 843
of the Revised Code and shall revise the act as necessary to 844
reflect changes in this chapter or section 153.012 of the Revised 845
Code. 846

The director shall make available copies of the model act, 847
supporting information, and technical assistance to any township, 848
county, or municipal corporation wishing to incorporate the 849
provisions of the act into its purchasing or public improvement 850
contracting procedure. 851

Sec. 125.15. All state agencies required to secure any 852
equipment, materials, supplies, or services from ~~the department of~~ 853
~~administrative services~~ a purchasing authority shall make 854
acquisition in the manner and upon forms prescribed by ~~the~~ 855
~~director of administrative services~~ that purchasing authority and 856
shall reimburse the ~~department~~ purchasing authority for the 857
equipment, materials, supplies, or services, including a 858

reasonable sum to cover ~~the department's~~ administrative costs and 859
costs relating to energy efficiency and conservation programs, 860
whenever reimbursement is required by the ~~department~~ purchasing 861
authority. The money so paid shall be deposited in the state 862
treasury to the credit of the general services fund for use by the 863
department of administrative services or the information 864
technology fund for use by the office of information technology, 865
as appropriate. Those funds are hereby created. 866

Sec. 125.25. (A) ~~The director of administrative services~~ A 867
purchasing authority may debar a vendor from consideration for 868
contract awards upon a finding based upon a reasonable belief that 869
the vendor has done any of the following: 870

(1) Abused the selection process by repeatedly withdrawing 871
bids or proposals before purchase orders or contracts are issued 872
or failing to accept orders based upon firm bids; 873

(2) Failed to substantially perform a contract according to 874
its terms, conditions, and specifications within specified time 875
limits; 876

(3) Failed to cooperate in monitoring contract performance by 877
refusing to provide information or documents required in a 878
contract, failed to respond to complaints to the vendor, or 879
accumulated repeated justified complaints regarding performance of 880
a contract; 881

(4) Attempted to influence a public employee to breach 882
ethical conduct standards or to influence a contract award; 883

(5) Colluded to restrain competition by any means; 884

(6) Been convicted of a criminal offense related to the 885
application for or performance of any public or private contract, 886
including, but not limited to, embezzlement, theft, forgery, 887
bribery, falsification or destruction of records, receiving stolen 888

property, and any other offense that directly reflects on the 889
vendor's business integrity; 890

(7) Been convicted under state or federal antitrust laws; 891

(8) Deliberately or willfully submitted false or misleading 892
information in connection with the application for or performance 893
of a public contract; 894

(9) Violated any other responsible business practice or 895
performed in an unsatisfactory manner as determined by ~~the~~ 896
~~director~~ a purchasing authority; 897

(10) Through the default of a contract or through other means 898
had a determination of unresolved finding for recovery by the 899
auditor of state under section 9.24 of the Revised Code; 900

(11) Acted in such a manner as to be debarred from 901
participating in a contract with any governmental agency. 902

(B) When ~~the director~~ a purchasing authority reasonably 903
believes that grounds for debarment exist, the ~~director~~ purchasing 904
authority shall send the vendor a notice of proposed debarment 905
indicating the grounds for the proposed debarment and the 906
procedure for requesting a hearing on the proposed debarment. The 907
hearing shall be conducted in accordance with Chapter 119. of the 908
Revised Code. If the vendor does not respond with a request for a 909
hearing in the manner specified in Chapter 119. of the Revised 910
Code, the ~~director~~ purchasing authority shall issue the debarment 911
decision without a hearing and shall notify the vendor of the 912
decision by certified mail, return receipt requested. 913

(C) The ~~director~~ purchasing authority shall determine the 914
length of the debarment period and may rescind the debarment at 915
any time upon notification to the vendor. During the period of 916
debarment, the vendor is not eligible to participate in any state 917
contract. After the debarment period expires, the vendor shall be 918
eligible to be awarded contracts by state agencies. 919

(D) The ~~director, through the office of information~~ 920
technology and the ~~office of procurement department of~~ 921
administrative services, shall maintain a list of all vendors 922
currently debarred under this section. 923

Sec. ~~125.18~~ 126.17. (A) There is hereby established the 924
~~office of information technology housed within the department of~~ 925
~~administrative services. The office shall be under the supervision~~ 926
position of a chief information officer to state chief information 927
officer, who shall be appointed by the governor director of budget 928
and management and subject to removal at the pleasure of the 929
~~governor director. The chief information officer shall serve as~~ 930
~~the director of the office. The state chief information officer~~ 931
shall report to the director of budget and management and shall be 932
an assistant director of the office of budget and management in 933
addition to the assistant director created in section 121.05 of 934
the Revised Code. There is the office of information technology in 935
the office of budget and management. The office of information 936
technology shall be supervised by the state chief information 937
officer, subject to the authority of the director of budget and 938
management. The state chief information officer shall have all 939
authority granted to the office of information technology, and the 940
exercise of that authority shall be subject to the approval of the 941
director of budget and management. 942

(B) The ~~director of the office of information technology~~ 943
state chief information officer shall advise annually submit a 944
report to the governor regarding the statewide superintendence of 945
information technology and implementation of statewide information 946
technology policy. 947

(C) The ~~director of the office of information technology~~ 948
state chief information officer shall lead, oversee, and direct 949
state agency activities related to information technology 950

development and use. In that regard, the ~~director~~ state chief 951
information officer shall do all of the following: 952

(1) Coordinate and superintend statewide efforts to promote 953
common use and development of technology by state agencies. The 954
office of information technology shall establish policies and 955
standards that govern and direct state agency participation in 956
statewide programs and initiatives. 957

(2) Establish policies and standards for the acquisition and 958
use of information technology by state agencies, including, but 959
not limited to, hardware, software, technology services, and 960
security, with which state agencies shall comply; 961

(3) Establish criteria and review processes to identify state 962
agency information technology projects that require alignment or 963
oversight. As appropriate, the ~~office of information technology~~ 964
state chief information officer shall provide ~~the governor and~~ the 965
director of budget and management with notice and advice regarding 966
the appropriate allocation of resources for those projects. The 967
~~director of the office of information technology~~ state chief 968
information officer may ~~require state agencies to provide, and may~~ 969
prescribe the form and manner by which they state agencies must 970
provide, and may require state agencies to provide, information to 971
fulfill the ~~director's~~ state chief information officer's alignment 972
and oversight role. 973

(D) The office of information technology ~~shall have~~ has the 974
~~same authority given to the department of administrative services~~ 975
~~under~~ for the purchase of information technology supplies and 976
services for state agencies consistent with sections 125.01, 977
125.011, 125.02, 125.023, 125.04, 125.05, 125.06, 125.07, 125.071, 978
125.072, 125.081, 125.09, 125.10, 125.11, 125.15, and 125.25 of 979
the Revised Code ~~for the purchase of information technology~~ 980
~~supplies and services for state agencies.~~ 981

(E) The office of information technology may make contracts 982
for, operate, and superintend technology supplies and services for 983
state agencies in accordance with this chapter. 984

(F) The office of information technology may establish 985
cooperative agreements with federal and local government agencies 986
and state agencies that are not under the authority of the 987
governor for the provision of technology services and the 988
development of technology projects. 989

(G) As used in this section, "state agency" ~~means~~ includes 990
every organized body, office, or agency established by the laws of 991
the state for the exercise of any function of state government, 992
other than any state-supported institution of higher education, 993
the office of the auditor of state, treasurer of state, secretary 994
of state, or attorney general, the public employees retirement 995
system, the Ohio police and fire pension fund, the state teachers 996
retirement system, the school employees retirement system, the 997
state highway patrol retirement system, the general assembly or 998
any legislative agency, or the courts or any judicial agency. 999

(H) There is hereby created in the state treasury the IT 1000
governance fund for the purpose of carrying out the office of 1001
information technology's responsibilities described in this 1002
section. The fund shall consist of revenues generated from payroll 1003
charges, billed services, administrative assessments, and other 1004
revenues designated to support the responsibilities described in 1005
this section. 1006

Sec. ~~125.30~~ 126.18. (A) The ~~department of administrative 1007
services~~ office of information technology shall do both of the 1008
following: 1009

(1) Create a business reply form that is capable of 1010
containing information that a private business is required to 1011
provide to state agencies on a regular basis. The ~~director of~~ 1012

~~administrative services~~ office of information technology shall 1013
adopt rules in accordance with Chapter 119. of the Revised Code 1014
specifying the information that the form shall contain. ~~Subject to~~ 1015
~~division (E) of this section, state~~ State agencies shall use the 1016
business reply form to obtain information from private businesses. 1017

(2) ~~Create an on-line computer network system to allow~~ 1018
~~private businesses to electronically file the business reply form~~ 1019
Maintain the Ohio business gateway, as defined in section 718.051 1020
of the Revised Code. 1021

In creating the business reply form described in division 1022
(A)(1) of this section, the ~~director~~ office of information 1023
technology may consider the recommendations of interested parties 1024
from the small business community who have direct knowledge of and 1025
familiarity with the current state reporting requirements that 1026
apply to, and the associated forms that are filed by, small 1027
businesses. 1028

(B) The ~~director~~ office of information technology shall 1029
establish procedures by which state agencies may share the 1030
information that is collected through the form established under 1031
division (A) of this section. These procedures shall provide that 1032
information that has been designated as confidential by any state 1033
agency shall not be made available to the other state agencies 1034
having access to the business reply form. 1035

(C) ~~Not later than September 30, 1999, the director~~ The 1036
office of information technology may report to the director of 1037
budget and management and to the committees ~~that handle~~ having 1038
jurisdiction over finance and ~~the committees that handle~~ state 1039
government affairs in the house of representatives and the senate 1040
on the progress of state agencies in complying with division 1041
(A)(1) of this section. The ~~director~~ office of information 1042
technology may recommend a five per cent reduction in the future 1043
appropriations of any state agency that has failed to comply with 1044

that division without good cause. 1045

(D) As used in this section: 1046

(1) "State agency" ~~means the secretary of state, the~~ 1047
~~department of job and family services regarding duties it performs~~ 1048
~~pursuant to Title XLI of the Revised Code, the bureau of workers'~~ 1049
~~compensation, the department of administrative services, and any~~ 1050
~~other state agency that elects to participate in the pilot program~~ 1051
~~as provided in division (E) of this section~~ has the same meaning 1052
as defined in section 126.17 of the Revised Code. 1053

(2) "Form" has the same meaning as ~~in division (B) of~~ defined 1054
in section 125.91 of the Revised Code. 1055

~~(E) The provisions of this section pertaining to the business~~ 1056
~~reply form constitute a two year pilot program. Not later than one~~ 1057
~~year after January 21, 1998, the department of administrative~~ 1058
~~services shall complete the planning and preparation that is~~ 1059
~~necessary to implement the pilot program. The director of~~ 1060
~~administrative services may request other state agencies, as~~ 1061
~~defined in division (A) of section 125.91 of the Revised Code, to~~ 1062
~~participate in the pilot program. If the director so requests, the~~ 1063
~~state agency may participate in the program. The provisions of~~ 1064
~~this section shall cease to have effect three years after January~~ 1065
~~21, 1998. Within ninety days after the completion of the pilot~~ 1066
~~program, the director of administrative services shall report to~~ 1067
~~the director of budget and management and the committees described~~ 1068
~~in division (C) of this section on the effectiveness of the pilot~~ 1069
~~program.~~ 1070

Sec. 126.19. (A) There is established the multi-agency radio 1071
communications system (MARCS). The system shall be a computer and 1072
communications network to provide voice and data communications 1073
statewide maintained by the office of information technology. 1074
MARCS shall supply a communications backbone for statewide public 1075

safety uses in a single system shared by several state agencies. 1076
The system shall provide mobile voice, data, vehicle location 1077
services, and computer-aided dispatching. The office of 1078
information technology shall promote MARCS as a statewide 1079
interoperable communications system for public safety agencies at 1080
all levels of government. Subject to the approval of the MARCS 1081
steering committee, the office of information technology may make 1082
MARCS available to agencies for uses not related to public safety. 1083

(B) There is hereby established a MARCS steering committee 1084
consisting of the designees of the state chief information 1085
officer; the directors of public safety, health, natural 1086
resources, transportation, rehabilitation and correction, and 1087
youth services; and a designee not from a state agency who shall 1088
be appointed by the state chief information officer. The state 1089
chief information officer or the officer's designee shall chair 1090
the committee. The committee shall provide assistance to the 1091
office of information technology for effective and efficient 1092
implementation of the MARCS system as well as develop policies for 1093
the ongoing management of the system. Upon dates prescribed by the 1094
state chief information officer, the MARCS steering committee 1095
shall report to the state chief information officer on the 1096
progress of MARCS implementation and the development of policies 1097
related to the system. The MARCS steering committee may permit 1098
secondary uses of MARCS not related to public safety so long as 1099
those secondary uses do not interfere with the system's primary 1100
use for public safety. 1101

Sec. 718.051. (A) As used in this section, "Ohio business 1102
gateway" means the online computer network system, ~~initially~~ 1103
~~created~~ maintained by the ~~department of administrative services~~ 1104
office of information technology under section ~~125.30~~ 126.18 of 1105
the Revised Code, that allows private businesses to electronically 1106

file business reply forms with state agencies and includes any 1107
successor electronic filing and payment system. 1108

(B) Notwithstanding section 718.05 of the Revised Code, on 1109
and after January 1, 2005, any taxpayer that is subject to any 1110
municipal corporation's tax on the net profit from a business or 1111
profession and has received an extension to file the federal 1112
income tax return shall not be required to notify the municipal 1113
corporation of the federal extension and shall not be required to 1114
file any municipal income tax return until the last day of the 1115
month to which the due date for filing the federal return has been 1116
extended, provided that, on or before the date for filing the 1117
municipal income tax return, the person notifies the tax 1118
commissioner of the federal extension through the Ohio business 1119
gateway. An extension of time to file is not an extension of the 1120
time to pay any tax due. 1121

(C) For taxable years beginning on or after January 1, 2005, 1122
a taxpayer subject to any municipal corporation's tax on the net 1123
profit from a business or profession may file any municipal income 1124
tax return or estimated municipal income return, and may make 1125
payment of amounts shown to be due on such returns, by using the 1126
Ohio business gateway. 1127

(D)(1) As used in this division, "qualifying wages" has the 1128
same meaning as in section 718.03 of the Revised Code. 1129

(2) Any employer may report the amount of municipal income 1130
tax withheld from qualifying wages paid on or after January 1, 1131
2007, and may make remittance of such amounts, by using the Ohio 1132
business gateway. 1133

(E) Nothing in this section affects the due dates for filing 1134
employer withholding tax returns. 1135

(F) No municipal corporation shall be required to pay any fee 1136

or charge for the operation or maintenance of the Ohio business gateway. 1137
1138

(G) The use of the Ohio business gateway by municipal corporations, taxpayers, or other persons pursuant to this section does not affect the legal rights of municipalities or taxpayers as otherwise permitted by law. This state shall not be a party to the administration of municipal income taxes or to an appeal of a municipal income tax matter, except as otherwise specifically provided by law. 1139
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(H)(1) The tax commissioner shall adopt rules establishing: 1146

(a) The format of documents to be used by taxpayers to file returns and make payments through the Ohio business gateway; and 1147
1148

(b) The information taxpayers must submit when filing municipal income tax returns through the Ohio business gateway. 1149
1150

(2) The commissioner shall consult with the Ohio business gateway steering committee before adopting the rules described in division (H)(1) of this section. 1151
1152
1153

(I) Nothing in this section shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax. 1154
1155
1156

Sec. 1306.20. (A) Subject to section 1306.11 of the Revised Code, each state agency shall determine if, and the extent to which, it will send and receive electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures. 1157
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1162

(B)(1) Subject to division (B)(2) of this section, a state agency may waive a requirement in the Revised Code, other than a requirement in sections 1306.01 to 1306.15 of the Revised Code, that relates to any of the following: 1163
1164
1165
1166

(a) The method of posting or displaying records;	1167
(b) The manner of sending, communicating, or transmitting records;	1168 1169
(c) The manner of formatting records.	1170
(2) A state agency may exercise its authority to waive a requirement under division (B)(1) of this section only if the following apply:	1171 1172 1173
(a) The requirement relates to a matter over which the state agency has jurisdiction;	1174 1175
(b) The waiver is consistent with criteria set forth in rules adopted by the state agency. The criteria, to the extent reasonable under the circumstances, shall contain standards to facilitate the use of electronic commerce by persons under the jurisdiction of the state agency consistent with rules adopted by the department of administrative services pursuant to division (A) of section 1306.21 of the Revised Code.	1176 1177 1178 1179 1180 1181 1182
(C) If a state agency creates, uses, receives, or retains electronic records, both of the following apply:	1183 1184
(1) Any rules adopted by a state agency relating to electronic records shall be consistent with rules adopted by the department of administrative services <u>office of information technology</u> pursuant to division (A) of section 1306.21 of the Revised Code.	1185 1186 1187 1188 1189
(2) Each state agency shall create, use, receive, and retain electronic records in accordance with section 149.40 of the Revised Code.	1190 1191 1192
(D) If a state agency creates, uses, or receives electronic signatures, the state agency shall create, use, or receive the signatures in accordance with rules adopted by the department of administrative services <u>office of information technology</u> pursuant	1193 1194 1195 1196

to division (A) of section 1306.21 of the Revised Code. 1197

(E)(1) To the extent a state agency retains an electronic 1198
record, the state agency may retain a record in a format that is 1199
different from the format in which the record was originally 1200
created, used, sent, or received only if it can be demonstrated 1201
that the alternative format used accurately and completely 1202
reflects the record as it was originally created, used, sent, or 1203
received. 1204

(2) If a state agency in retaining any set of electronic 1205
records pursuant to division (E)(1) of this section alters the 1206
format of the records, the state agency shall create a certificate 1207
of authenticity for each set of records that is altered. 1208

(3) The ~~department of administrative services~~ office of 1209
information technology, in consultation with the state archivist, 1210
shall adopt rules in accordance with section 111.15 of the Revised 1211
Code that establish the methods for creating certificates of 1212
authenticity pursuant to division (E)(2) of this section. 1213

(F) Whenever any rule of law requires or authorizes the 1214
filing of any information, notice, lien, or other document or 1215
record with any state agency, a filing made by an electronic 1216
record shall have the same force and effect as a filing made on 1217
paper in all cases where the state agency has authorized or agreed 1218
to such electronic filing and the filing is made in accordance 1219
with applicable rules or agreement. 1220

(G) Nothing in sections 1306.01 to 1306.23 of the Revised 1221
Code shall be construed to require any state agency to use or 1222
permit the use of electronic records and electronic signatures. 1223

(H)(1) Notwithstanding division (C)(1) or (D) of this 1224
section, any state agency that, prior to ~~the effective date of~~ 1225
~~this section~~ September 14, 2000, used or permitted the use of 1226
electronic records or electronic signatures pursuant to laws 1227

enacted, rules adopted, or agency policies adopted before ~~the~~ 1228
~~effective date of this section~~ September 14, 2000, may use or 1229
permit the use of electronic records or electronic signatures 1230
pursuant to those previously enacted laws, adopted rules, or 1231
adopted policies for a period of two years after ~~the effective~~ 1232
~~date of this section~~ September 14, 2000. 1233

(2) Subject to division (H)(3) of this section, after the 1234
two-year period described in division (H)(1) of this section has 1235
concluded, all state agencies that use or permit the use of 1236
electronic records or electronic signatures before ~~the effective~~ 1237
~~date of this section~~ September 14, 2000, shall only use or permit 1238
the use of electronic records or electronic signatures consistent 1239
with rules adopted by the ~~department of administrative services~~ 1240
office of information technology pursuant to division (A) of 1241
section 1306.21 of the Revised Code. 1242

(3) After the two-year period described in division (H)(1) of 1243
this section has concluded, the ~~department of administrative~~ 1244
~~services~~ office of information technology may permit a state 1245
agency to use electronic records or electronic signatures that do 1246
not comply with division (H)(2) of this section, if the state 1247
agency files a written request with the ~~department~~ office of 1248
information technology. 1249

(I) For the purposes of this section, "state agency" means 1250
every organized body, office, or agency established by the laws of 1251
the state for the exercise of any function of state government, 1252
but does not include the general assembly, any legislative agency, 1253
the supreme court, the other courts of record in this state, or 1254
any judicial agency. 1255

Sec. 1306.21. (A) With regard to state agency use of 1256
electronic records or electronic signatures, the ~~department of~~ 1257
~~administrative services~~ office of information technology, in 1258

consultation with the state archivist, shall adopt rules in 1259
accordance with section 111.15 of the Revised Code setting forth 1260
all of the following: 1261

(1) The minimum requirements for the method of creation, 1262
maintenance, and security of electronic records and electronic 1263
signatures; 1264

(2) If electronic records must be signed by electronic means, 1265
all of the following: 1266

(a) The type of electronic signature required; 1267

(b) The manner and format in which the electronic signature 1268
must be affixed to the electronic record; 1269

(c) The identity of, or criteria that must be met by, any 1270
third party used by the person filing a document to facilitate the 1271
process. 1272

(3) Control processes and procedures as appropriate to ensure 1273
adequate preservation, disposition, integrity, security, 1274
confidentiality, and auditability of electronic records; 1275

(4) Any other required attributes for electronic records that 1276
are specified for corresponding nonelectronic records or are 1277
reasonably necessary under the circumstances. 1278

(B)(1) The ~~department of administrative services~~ office of 1279
information technology may adopt rules in accordance with section 1280
111.15 of the Revised Code to ensure consistency and 1281
interoperability among state agencies with regard to electronic 1282
transactions, electronic signatures, and security procedures. 1283

(2) If the ~~department of administrative services~~ office of 1284
information technology adopts rules pursuant to division (B)(1) of 1285
this section, the department shall consider consistency in 1286
applications and interoperability with governmental agencies of 1287
this state, agencies of other states, the federal government, and 1288

nongovernmental persons to the extent practicable when adopting 1289
rules pursuant to that division. 1290

(C) With regard to electronic transactions, electronic 1291
signatures, and security procedures, the ~~department of~~ 1292
~~administrative services~~ office of information technology may 1293
publish recommendations for governmental agencies and 1294
nongovernmental persons to promote consistency and 1295
interoperability among nongovernmental persons, agencies of this 1296
state and other states, and the federal government. 1297

(D) For purposes of this section, "state agency" has the same 1298
meaning as in section 1306.20 of the Revised Code. 1299

Sec. 1347.06. The ~~director of administrative services~~ office 1300
of information technology shall adopt, amend, and rescind rules 1301
pursuant to Chapter 119. of the Revised Code for the purposes of 1302
administering and enforcing the provisions of this chapter that 1303
pertain to state agencies. 1304

A state or local agency that, or an officer or employee of a 1305
state or local agency who, complies in good faith with a rule 1306
applicable to the agency is not subject to criminal prosecution or 1307
civil liability under this chapter. 1308

Sec. 3353.02. (A) There is hereby created the eTech Ohio 1309
commission as an independent agency to advance education and 1310
accelerate the learning of the citizens of this state through 1311
technology. The commission shall provide leadership and support in 1312
extending the knowledge of the citizens of this state by promoting 1313
access to and use of all forms of educational technology, 1314
including educational television and radio, radio reading 1315
services, broadband networks, videotapes, compact discs, digital 1316
video on demand (DVD), and the internet. The commission also shall 1317
administer programs to provide financial and other assistance to 1318

school districts and other educational institutions for the 1319
acquisition and utilization of educational technology. 1320

The commission is a body corporate and politic, an agency of 1321
the state performing essential governmental functions of the 1322
state. 1323

(B) The commission shall consist of thirteen members, nine of 1324
whom shall be voting members. Six of the voting members shall be 1325
representatives of the public. Of the representatives of the 1326
public, four shall be appointed by the governor with the advice 1327
and consent of the senate, one shall be appointed by the speaker 1328
of the house of representatives, and one shall be appointed by the 1329
president of the senate. The superintendent of public instruction 1330
or a designee of the superintendent, the chancellor of the Ohio 1331
board of regents or a designee of the chancellor, and the ~~director~~ 1332
~~of the office of information technology~~ state chief information 1333
officer or a designee of the ~~director~~ officer shall be ex officio 1334
voting members. Of the nonvoting members, two shall be members of 1335
the house of representatives appointed by the speaker of the house 1336
of representatives and two shall be members of the senate 1337
appointed by the president of the senate. The members appointed 1338
from each chamber shall not be members of the same political 1339
party. 1340

(C) Initial terms of office for members appointed by the 1341
governor shall be one year for one member, two years for one 1342
member, three years for one member, and four years for one member. 1343
At the first meeting of the commission, members appointed by the 1344
governor shall draw lots to determine the length of the term each 1345
member will serve. Thereafter, terms of office for members 1346
appointed by the governor shall be for four years. Terms of office 1347
for voting members appointed by the speaker of the house of 1348
representatives and the president of the senate shall be for four 1349

years. Any member who is a representative of the public may be 1350
reappointed by the member's respective appointing authority, but 1351
no such member may serve more than two consecutive four-year 1352
terms. Such a member may be removed by the member's respective 1353
appointing authority for cause. 1354

Any legislative member appointed by the speaker of the house 1355
of representatives or the president of the senate who ceases to be 1356
a member of the legislative chamber from which the member was 1357
appointed shall cease to be a member of the commission. The 1358
speaker of the house of representatives and the president of the 1359
senate may remove their respective appointments to the commission 1360
at any time. 1361

(D) Vacancies among appointed members shall be filled in the 1362
manner provided for original appointments. Any member appointed to 1363
fill a vacancy occurring prior to the expiration of the term for 1364
which the member's predecessor was appointed shall hold office for 1365
the remainder of that term. Any appointed member shall continue in 1366
office subsequent to the expiration of that member's term until 1367
the member's successor takes office or until a period of sixty 1368
days has elapsed, whichever occurs first. 1369

(E) Members of the commission shall serve without 1370
compensation. The members who are representatives of the public 1371
shall be reimbursed, pursuant to office of budget and management 1372
guidelines, for actual and necessary expenses incurred in the 1373
performance of official duties. 1374

(F) The governor shall appoint the chairperson of the 1375
commission from among the commission's voting members. The 1376
chairperson shall serve a term of two years and may be 1377
reappointed. The commission shall elect other officers as 1378
necessary from among its voting members and shall prescribe its 1379
rules of procedure. 1380

(G) The commission shall establish advisory groups as needed 1381
to address topics of interest and to provide guidance to the 1382
commission regarding educational technology issues and the 1383
technology needs of educators, learners, and the public. Members 1384
of each advisory group shall be appointed by the commission and 1385
shall include representatives of individuals or organizations with 1386
an interest in the topic addressed by the advisory group. 1387

Sec. 5111.915. (A) The department of job and family services 1388
shall enter into an agreement with the department of 1389
administrative services for the department of administrative 1390
services to contract through competitive selection pursuant to 1391
section 125.07 of the Revised Code with a vendor to perform an 1392
assessment of the data collection and data warehouse functions of 1393
the medicaid data warehouse system, including the ability to link 1394
the data sets of all agencies serving medicaid recipients. 1395

The assessment of the data system shall include functions 1396
related to fraud and abuse detection, program management and 1397
budgeting, and performance measurement capabilities of all 1398
agencies serving medicaid recipients, including the departments of 1399
aging, alcohol and drug addiction services, health, job and family 1400
services, mental health, and mental retardation and developmental 1401
disabilities. 1402

The department of administrative services shall enter into 1403
this contract within thirty days after ~~the effective date of this~~ 1404
~~section~~ September 29, 2005. The contract shall require the vendor 1405
to complete the assessment within ninety days after ~~the effective~~ 1406
~~date of this section~~ September 29, 2005. 1407

A qualified vendor with whom the department of administrative 1408
services contracts to assess the data system shall also assist the 1409
medicaid agencies in the definition of the requirements for an 1410
enhanced data system or a new data system and assist the 1411

department of administrative services in the preparation of a 1412
request for proposal to enhance or develop a data system. 1413

(B) Based on the assessment performed pursuant to division 1414
(A) of this section, the ~~department of administrative services~~ 1415
office of information technology shall seek a qualified vendor 1416
through competitive selection pursuant to section 125.07 of the 1417
Revised Code to develop or enhance a data collection and data 1418
warehouse system for the department of job and family services and 1419
all agencies serving medicaid recipients. 1420

Within ninety days after ~~the effective date of this section~~ 1421
September 29, 2005, the department of job and family services 1422
shall seek enhanced federal funding for ninety per cent of the 1423
funds required to establish or enhance the data system. The 1424
~~department of administrative services~~ office of information 1425
technology shall not award a contract for establishing or 1426
enhancing the data system until the department of job and family 1427
services receives approval from the secretary of the United States 1428
department of health and human services for the ninety per cent 1429
federal match. 1430

Sec. 5703.57. (A) As used in this section, "Ohio business 1431
gateway" has the same meaning as in section 718.051 of the Revised 1432
Code. 1433

(B) There is hereby created the Ohio business gateway 1434
steering committee to direct the continuing development of the 1435
Ohio business gateway and to oversee its operations. The committee 1436
shall provide general oversight regarding operation of the Ohio 1437
business gateway and shall recommend to the ~~department of~~ 1438
~~administrative services~~ office of information technology 1439
enhancements that will improve the Ohio business gateway. The 1440
committee shall consider all banking, technological, 1441
administrative, and other issues associated with the Ohio business 1442

gateway and shall make recommendations regarding the type of 1443
reporting forms or other tax documents to be filed through the 1444
Ohio business gateway. 1445

(C) The committee shall consist of: 1446

(1) The following members, appointed by the governor with the 1447
advice and consent of the senate: 1448

(a) Not more than two representatives of the business 1449
community; 1450

(b) Not more than three representatives of municipal tax 1451
administrators; and 1452

(c) Not more than two tax practitioners. 1453

(2) The following ex officio members: 1454

(a) The director or other highest officer of each state 1455
agency that has tax reporting forms or other tax documents filed 1456
with it through the Ohio business gateway or the director's 1457
designee; 1458

(b) The secretary of state or the secretary of state's 1459
designee; 1460

(c) The treasurer of state or the treasurer of state's 1461
designee; 1462

~~(d) The director of budget and management or the director's~~ 1463
~~designee;~~ 1464

~~(e) The director of the office of information technology~~ 1465
state chief information officer or the ~~director's~~ officer's 1466
designee; and 1467

~~(f)~~(e) The tax commissioner or the tax commissioner's 1468
designee. 1469

An appointed member shall serve until the member resigns or 1470
is removed by the governor. Vacancies shall be filled in the same 1471

manner as original appointments. 1472

(D) A vacancy on the committee does not impair the right of 1473
the other members to exercise all the functions of the committee. 1474
The presence of a majority of the members of the committee 1475
constitutes a quorum for the conduct of business of the committee. 1476
The concurrence of at least a majority of the members of the 1477
committee is necessary for any action to be taken by the 1478
committee. On request, each member of the committee shall be 1479
reimbursed for the actual and necessary expenses incurred in the 1480
discharge of the member's duties. 1481

(E) The committee is a part of the department of taxation for 1482
administrative purposes. 1483

(F) Each year, the governor shall select a member of the 1484
committee to serve as chairperson. The chairperson shall appoint 1485
an official or employee of the department of taxation to act as 1486
the committee's secretary. The secretary shall keep minutes of the 1487
committee's meetings and a journal of all meetings, proceedings, 1488
findings, and determinations of the committee. 1489

(G) The committee shall hire professional, technical, and 1490
clerical staff needed to support its activities. 1491

(H) The committee shall meet as often as necessary to perform 1492
its duties. 1493

Section 101.02. That existing sections 9.30, 125.01, 125.02, 1494
125.021, 125.022, 125.023, 125.04, 125.041, 125.05, 125.06, 1495
125.07, 125.071, 125.072, 125.073, 125.08, 125.081, 125.082, 1496
125.09, 125.10, 125.11, 125.15, 125.18, 125.25, 125.30, 718.051, 1497
1306.20, 1306.21, 1347.06, 3353.02, 5111.915, and 5703.57 of the 1498
Revised Code are hereby repealed. 1499

Section 201.01. That Section 329.10 of Am. Sub. H.B. 699 of 1500
the 126th General Assembly be amended to read as follows: 1501

Sec. 329.10. OHIO ADMINISTRATIVE KNOWLEDGE SYSTEM PROJECT 1502

The Ohio Administrative Knowledge System (OAKS) shall be an 1503
enterprise resource planning system that replaces the state's 1504
central services infrastructure systems, including the Central 1505
Accounting System, the Human Resources/Payroll System, the Capital 1506
Improvements Projects Tracking System, the Fixed Assets Management 1507
System, and the Procurement System. The ~~Department of~~ 1508
~~Administrative Services, in conjunction with the Office of Budget~~ 1509
~~and Management, Office of Information Technology~~ may acquire the 1510
system, including, but not limited to, the enterprise resource 1511
planning software and installation and implementation thereof 1512
pursuant to Chapter 125. of the Revised Code. Any lease-purchase 1513
arrangement utilized under Chapter 125. of the Revised Code, 1514
including any fractionalized interest therein as defined in 1515
division (N) of section 133.01 of the Revised Code, shall provide 1516
at the end of the lease period that OAKS shall become the property 1517
of the state. 1518

Section 201.02. That existing Section 329.10 of Am. Sub. H.B. 1519
699 of the 126th General Assembly is hereby repealed. 1520

Section 201.05. That Section 203.57 of Am. Sub. H.B. 66 of 1521
the 126th General Assembly, as amended by Am. Sub. H.B. 699 of the 1522
126th General Assembly, be amended to read as follows: 1523

Sec. 203.57. OBM OFFICE OF BUDGET AND MANAGEMENT 1524

General Revenue Fund 1525

GRF 042-321 Budget Development and \$ 2,143,886 \$ 2,143,886 1526
Implementation

GRF 042-410 National Association \$ 27,089 \$ 28,173 1527
Dues

GRF 042-412 Audit of Auditor of \$ 55,900 \$ 58,700 1528

State				
GRF 042-435	Gubernatorial	\$	0	\$ 250,000 1529
	Transition			
TOTAL GRF	General Revenue Fund	\$	2,226,875	\$ 2,480,759 1530
	General Services Fund Group			1531
105 042-603	Accounting and	\$	9,781,085	\$ 9,976,689 1532
	Budgeting			
TOTAL GSF	General Services Fund	\$	9,781,085	\$ 9,976,689 1533
	Group			
	State Special Revenue Fund Group			1534
5N4 042-602	OAKS Project	\$	2,262,441	\$ 2,272,595 1535
	Implementation			
TOTAL SSR	State Special Revenue	\$	2,262,441	\$ 2,272,595 1536
	Fund Group			
TOTAL ALL BUDGET FUND GROUPS		\$	14,270,401	\$ 14,730,043 1537
	AUDIT COSTS			1538
	Of the foregoing appropriation item 042-603, Accounting and			1539
	Budgeting, not more than \$420,000 in fiscal year 2006 and \$425,000			1540
	in fiscal year 2007 shall be used to pay for centralized audit			1541
	costs associated with either Single Audit Schedules or financial			1542
	statements prepared in conformance with generally accepted			1543
	accounting principles for the state.			1544
	OAKS PROJECT IMPLEMENTATION			1545
	Notwithstanding section 126.25 of the Revised Code, in fiscal			1546
	years 2006 and 2007, rebates or revenue shares received from any			1547
	state payment card program established under division (B) of			1548
	section 126.21 of the Revised Code may be deposited into the OAKS			1549
	Project Implementation Fund (Fund 5N4).			1550
	MEDICAID AGENCY TRANSITION			1551
	Upon the transfer of appropriations to GRF appropriation item			1552
	042-416, Medicaid Agency Transition, the Director of Budget and			1553

~~Management may retain staff of the Medicaid Administrative Study 1554
Council, hire staff, enter into contracts, and take other steps 1555
necessary to complete the transition tasks identified in the 1556
Medicaid Administrative Study Council report or other tasks 1557
considered necessary to create a new Department of Medicaid. Any 1558
contracts entered into under this paragraph shall be exempt from 1559
the authority and supervision of the Department of Administrative 1560
Services and the Office of Information Technology. 1561~~

Section 201.06. That existing Section 203.57 of Am. Sub. H.B. 1562
66 of the 126th General Assembly, as amended by Am. Sub. H.B. 699 1563
of the 126th General Assembly is hereby repealed. 1564

Section 201.10. That Section 235.30 of Am. Sub. H.B. 530 of 1565
the 126th General Assembly, as amended by Sub. H.B. 251 of the 1566
126th General Assembly, be amended to read as follows: 1567

Reappropriations

Sec. 235.30. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES 1568

CAP-809	Hazardous Substance Abatement	\$	1,609,476	1569
CAP-811	Health/EPA Laboratory Facilities	\$	1,116,354	1570
CAP-822	Americans with Disabilities Act	\$	1,598,416	1571
CAP-826	Office Services Building Renovation	\$	86,483	1572
CAP-827	Statewide Communications System	\$	16,943,803	1573
CAP-834	Capital Project Management System	\$	1,157,600	1574
CAP-835	Energy Conservation Projects	\$	4,490,085	1575
CAP-837	Major Computer Purchases	\$	1,476,068	1576
CAP-838	SOCC Renovations	\$	1,399,122	1577
CAP-844	Hamilton State/Local Government Center - Planning	\$	57,500	1578
CAP-849	Facility Planning and Development	\$	3,492,200	1579
CAP-850	Education Building Renovations	\$	14,649	1580
CAP-852	North High Building Complex Renovations	\$	11,534,496	1581

CAP-855	Office Space Planning	\$	5,274,502	1582
CAP-856	Governor's Residence Security Update	\$	6,433	1583
CAP-859	eSecure Ohio	\$	2,626,921	1584
CAP-860	Structured Cabling	\$	403,518	1585
CAP-864	eGovernment Infrastructure	\$	1,297,400	1586
CAP-865	DAS Building Security	\$	140,852	1587
CAP-866	OH*1 Network	\$	4,000,000	1588
CAP-867	Lausche Building Connector	\$	1,307,200	1589
CAP-868	Riversouth Development	\$	18,500,000	1590
Total Department of Administrative Services		\$	78,533,078	1591

HAZARDOUS SUBSTANCE ABATEMENT IN STATE FACILITIES 1592

The foregoing appropriation item CAP-809, Hazardous Substance Abatement, shall be used to fund the removal of asbestos, PCB, radon gas, and other contamination hazards from state facilities. 1593
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Prior to the release of funds for asbestos abatement, the Department of Administrative Services shall review proposals from state agencies to use these funds for asbestos abatement projects based on criteria developed by the Department of Administrative Services. Upon a determination by the Department of Administrative Services that the requesting agency cannot fund the asbestos abatement project or other toxic materials removal through existing capital and operating appropriations, the Department may request the release of funds for such projects by the Controlling Board. State agencies intending to fund asbestos abatement or other toxic materials removal through existing capital and operating appropriations shall notify the Director of Administrative Services of the nature and scope prior to commencing the project. 1596
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Only agencies that have received appropriations for capital projects from the Administrative Building Fund (Fund 026) are eligible to receive funding from this item. Public school districts are not eligible. 1610
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IMPLEMENTATION OF AMERICANS WITH DISABILITIES ACT 1614

The foregoing appropriation item CAP-822, Americans with 1615
Disabilities Act, shall be used to renovate state-owned facilities 1616
to provide access for physically disabled persons in accordance 1617
with Title II of the Americans with Disabilities Act. 1618

Prior to the release of funds for renovation, state agencies 1619
shall perform self-evaluations of state-owned facilities 1620
identifying barriers to access to service. State agencies shall 1621
prioritize access barriers and develop a transition plan for the 1622
removal of these barriers. The Department of Administrative 1623
Services shall review proposals from state agencies to use these 1624
funds for Americans with Disabilities Act renovations. 1625

Only agencies that have received appropriations for capital 1626
projects from the Administrative Building Fund (Fund 026) are 1627
eligible to receive funding from this item. Public school 1628
districts are not eligible. 1629

MARCS STEERING COMMITTEE AND STATEWIDE COMMUNICATIONS SYSTEM 1630

~~There is hereby continued a Multi Agency Radio Communications 1631
System (MARCS) Steering Committee consisting of the designees of 1632
the Directors of the Office of Information Technology, Public 1633
Safety, Natural Resources, Transportation, Rehabilitation and 1634
Correction, and Budget and Management. The Director of the Office 1635
of Information Technology or the Director's designee shall chair 1636
the Committee. The Committee shall provide assistance to the 1637
Director of the Office of Information Technology for effective and 1638
efficient implementation of the MARCS system as well as develop 1639
policies for the ongoing management of the system. Upon dates 1640
prescribed by the Directors of the Office of Information 1641
Technology and Budget and Management, the MARCS Steering Committee 1642
shall report to the Directors on the progress of MARCS 1643
implementation and the development of policies related to the 1644~~

~~system.~~ 1645

The foregoing appropriation item CAP-827, Statewide 1646
Communications System, shall be used to purchase or construct the 1647
components of MARCS that are not specific to any one agency. The 1648
equipment may include, but is not limited to, multi-agency 1649
equipment at the Emergency Operations Center/Joint Dispatch 1650
Facility, computer and telecommunication equipment used for the 1651
functioning and integration of the system, communications towers, 1652
tower sites, tower equipment, and linkages among towers and 1653
between towers and the State of Ohio Network for Integrated 1654
Communication (SONIC) system. The ~~Director of the Office of~~ 1655
~~Information Technology~~ State Chief Information Officer shall, with 1656
the concurrence of the MARCS Steering Committee, determine the 1657
specific use of funds. 1658

The amount reappropriated for the foregoing appropriation 1659
item CAP-827, Statewide Communications System, is the unencumbered 1660
and unallotted balance as of June 30, 2006, in appropriation item 1661
CAP-827, Statewide Communications System, plus \$623,665.11. 1662

Spending from this appropriation item shall not be subject to 1663
Chapters 123. and 153. of the Revised Code. 1664

ENERGY CONSERVATION PROJECTS 1665

The foregoing appropriation item CAP-835, Energy Conservation 1666
Projects, shall be used to perform energy conservation 1667
renovations, including the United States Environmental Protection 1668
Agency's Energy Star Program, in state-owned facilities. Prior to 1669
the release of funds for renovation, state agencies shall have 1670
performed a comprehensive energy audit for each project. The 1671
Department of Administrative Services shall review and approve 1672
proposals from state agencies to use these funds for energy 1673
conservation. Public school districts and state-supported and 1674
state-assisted institutions of higher education are not eligible 1675

for funding from this item. 1676

The amount reappropriated for the foregoing appropriation 1677
item CAP-835, Energy Conservation Projects, is the unencumbered 1678
and unallotted balance as of June 30, 2006, in appropriation item 1679
CAP-835, Energy Conservation Projects, plus \$3,600,000. 1680

NORTH HIGH BUILDING COMPLEX RENOVATIONS 1681

The amount reappropriated for the foregoing appropriation 1682
item CAP-852, North High Building Complex Renovations, is the 1683
unencumbered and unallotted balance as of June 30, 2006, in 1684
appropriation item CAP-852, North High Building Complex 1685
Renovations, plus the sum of the unencumbered and unallotted 1686
balance for appropriation item CAP-813, Heer Building Renovation 1687
as of June 30, 2006. 1688

Section 201.11. That existing Section 235.30 of Am. Sub. H.B. 1689
530 of the 126th General Assembly, as amended by Sub. H.B. 251 of 1690
the 126th General Assembly is hereby repealed. 1691

Section 301.01. (A) Effective July 1, 2007, the State Chief 1692
Information Officer shall report to the Director of Budget and 1693
Management. All actions of the State Chief Information Officer 1694
thereafter shall be subject to the approval of the Director of 1695
Budget and Management. The State Chief Information Officer shall 1696
continue to perform all the duties, powers, and obligations of the 1697
State Chief Information Officer and the Office of Information 1698
Technology provided for by law. To allow for the administrative 1699
reorganization and program transfer, the operation of the Office 1700
of Information Technology shall remain within the Department of 1701
Administrative Services until July 1, 2008. Notwithstanding any 1702
section of the Revised Code, funds appropriated in this act to the 1703
Department of Administrative Services for the Office of 1704
Information Technology and the employees and assets of the Office 1705
of Information Technology in the Department shall be used by the 1706

Department as directed by the State Chief Information Officer for 1707
the continued operation of the Office of Information Technology. 1708
Effective July 1, 2008, the operations of the Office of 1709
Information Technology in the Department of Administrative 1710
Services cease. 1711

(B) Employees of the Office of Information Technology in the 1712
Department of Administrative Services shall be transferred to the 1713
Office of Budget and Management. The State Chief Information 1714
Officer and the Directors of Administrative Services and the 1715
Office of Budget and Management may identify employees of the 1716
Department of Administrative Services who provide administrative 1717
support to the Office of Information Technology and who shall be 1718
transferred to the Office of Budget and Management. Both of these 1719
transfers shall take effect on the first day of the first pay 1720
period for fiscal year 2009 and are subject to the lay-off 1721
provisions of sections 124.321 to 124.328 of the Revised Code. 1722

(C) Effective July 1, 2008, all funding, assets, and records 1723
of the Office of Information Technology in the Department of 1724
Administrative Services shall be transferred to the Office of 1725
Budget and Management. 1726

(D) Any matter commenced but not completed by the Office of 1727
Information Technology in the Department of Administrative 1728
Services on July 1, 2007, shall be completed by the Office of 1729
Information Technology in the Office of Budget and Management, as 1730
appropriate, in the same manner, and with the same effect, as if 1731
completed by the Office of Information Technology in the 1732
Department of Administrative Services. Any validation, cure, 1733
right, privilege, remedy, obligation, or liability of the Office 1734
of Information Technology is not lost or impaired by reason of the 1735
transfer and shall be administered by the State Chief Information 1736
Officer and Office of Information Technology in the Office of 1737
Budget and Management. 1738

(E) All rules, orders, policies, directives, and 1739
determinations of the State Chief Information Officer and the 1740
Office of Information Technology in the Department of 1741
Administrative Services continue in effect as rules, orders, 1742
policies, directives, and determinations of the State Chief 1743
Information Officer and the Office of Information Technology in 1744
the Office of Budget and Management until modified or rescinded by 1745
the Officer, Office, or the Director of Budget and Management. At 1746
the request of the State Chief Information Officer or the Director 1747
of Budget and Management, and if necessary to ensure the integrity 1748
of the numbering of the Administrative Code, the Director of the 1749
Legislative Service Commission shall renumber rules of the Office 1750
of Information Technology to reflect the transfer to the Office of 1751
Budget and Management. 1752

(F) Effective July 1, 2007, whenever the Department of 1753
Administrative Services, the Office of Information Technology, or 1754
the State Chief Information Officer is referred to in any law, 1755
contract, or other document in relation to statewide information 1756
technology, the reference shall be deemed to refer to the Office 1757
of Budget and Management or the Office of Information Technology 1758
in the Office of Budget and Management. 1759

(G) Effective July 1, 2007, any action or proceeding or 1760
adjudication that is related to the Office of Information 1761
Technology in the Department of Administrative Services and that 1762
is pending shall not be affected by the transfer and shall be 1763
prosecuted or defended in the name of the Director of Budget and 1764
Management or the Office of Budget and Management. In all such 1765
actions and proceedings the Director or the Office, upon 1766
application to the court or agency, shall be substituted as a 1767
party. 1768

(H) On and after July 1, 2007, notwithstanding any provision 1769
of law to the contrary, the Director of Budget and Management is 1770

authorized to take the actions described in this section with 1771
respect to budget changes made necessary by the transfer, 1772
including administrative reorganization, program transfers, the 1773
creation of new funds, and the consolidation of funds as 1774
authorized by this act. The Director may make any transfer of cash 1775
balances between funds. At the request of the Director of Budget 1776
and Management, the State Chief Information Officer shall certify 1777
to the Director an estimate of the amount of the cash balance to 1778
be transferred to the receiving fund. The Director may transfer 1779
the estimated amount when needed to make payments. Not more than 1780
thirty days after certifying the estimated amount, the State Chief 1781
Information Officer shall certify the final amount to the 1782
Director. The Director shall transfer the difference between any 1783
amount previously transferred and the certified final amount. The 1784
Director may cancel encumbrances or parts of encumbrances and 1785
re-establish encumbrances or parts of encumbrances as needed in 1786
the appropriate fund and appropriation item for the same purpose 1787
and to the same vendor. As determined by the Director, the 1788
appropriation authority necessary to re-establish those 1789
encumbrances in a different fund or appropriation item in or 1790
between the Office of Budget and Management and the Department of 1791
Administrative Services is hereby authorized. The Director shall 1792
reduce each year's appropriation balances by the amount of the 1793
encumbrances canceled in their respective funds and appropriation 1794
items. Any fiscal year 2007 unencumbered or unallocated 1795
appropriation balances may be transferred to the appropriate item 1796
to be used for the same purposes, as determined by the Director. 1797