

**As Reported by the House State Government and Elections
Committee**

**129th General Assembly
Regular Session
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Sub. H. B. No. 489

Representatives Dovilla, Hagan, C.

**Cosponsors: Representatives Sears, Maag, Hackett, Grossman, Stebelton,
Baker, Gardner, Henne, Sprague**

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A B I L L

To amend sections 9.981, 102.03, 121.02, 121.03,	1
121.22, 122.01, 122.011, 122.07, 122.071, 122.17,	2
122.171, 122.174, 122.175, 122.39, 122.41, 122.42,	3
122.43, 122.44, 122.48, 122.49, 122.50, 122.51,	4
122.52, 122.53, 122.561, 122.57, 122.60, 122.601,	5
122.602, 122.603, 122.61, 122.62, 122.64, 122.76,	6
122.80, 122.86, 149.43, 164.05, 164.06, 164.08,	7
166.01, 166.04, 166.05, 166.13, 166.14, 166.18,	8
166.19, 166.25, 166.30, 174.01, 184.01, 187.01,	9
187.03, 187.04, 187.05, 929.03, 1551.01, 3735.672,	10
3746.35, 5117.22, 5709.68, 5709.882, 6103.052, and	11
6117.062, to amend, for the purpose of adopting	12
new section numbers as indicated in parentheses,	13
sections 122.07 (122.073) and 122.071 (122.072),	14
to enact new sections 122.07 and 122.071 and	15
sections 122.97, 184.011, 3735.01, and 5701.15,	16
and to repeal sections 1525.11, 1525.12, 1525.13,	17
and 6111.034 of the Revised Code; to repeal	18
section 122.40 of the Revised Code on July 1,	19
2012; to rename the Department of Development the	20
"Development Services Agency"; to establish the	21

Office of TourismOhio within the Development 22
Services Agency, create the TourismOhio Advisory 23
Board, and establish a pilot program to test a new 24
funding mechanism for the state's travel and 25
tourism marketing; to modify the operation of 26
JobsOhio; to makes changes to the Capital Access 27
Loan Program Fund and to allow transfers to the 28
Capital Access Loan Program Fund from the Minority 29
Business Enterprise Loan Fund; to provide for 30
projects that were started prior to receiving a 31
tax credit from the Ohio Tax Credit Authority; to 32
modify reporting requirements under the Voluntary 33
Action Program; to require the Director of 34
Development Services to administer federal funds 35
received for Brownfields revitalization purposes; 36
to terminate the Water and Sewer Commission; to 37
terminate the Development Financing Advisory 38
Council as of July 1, 2012; and to increase the 39
membership of the Third Frontier Commission. 40

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

Section 1. That sections 9.981, 102.03, 121.02, 121.03, 41
121.22, 122.01, 122.011, 122.07, 122.071, 122.17, 122.171, 42
122.174, 122.175, 122.39, 122.41, 122.42, 122.43, 122.44, 122.48, 43
122.49, 122.50, 122.51, 122.52, 122.53, 122.561, 122.57, 122.60, 44
122.601, 122.602, 122.603, 122.61, 122.62, 122.64, 122.76, 122.80, 45
122.86, 149.43, 164.05, 164.06, 164.08, 166.01, 166.04, 166.05, 46
166.13, 166.14, 166.18, 166.19, 166.25, 166.30, 174.01, 184.01, 47
187.01, 187.03, 187.04, 187.05, 929.03, 1551.01, 3735.672, 48
3746.35, 5117.22, 5709.68, 5709.882, 6103.052, and 6117.062 be 49
amended, sections 122.07 (122.073) and 122.071 (122.072) be 50
amended for the purpose of adopting new section numbers as 51

indicated in parentheses, and new sections 122.07 and 122.071 and 52
sections 122.97, 184.011, 3735.01, and 5701.15 of the Revised Code 53
be enacted to read as follows: 54

Sec. 9.981. (A) Sections 9.98 to 9.983 of the Revised Code 55
are applicable to bonds: 56

(1) The payment of the debt service on which is to be 57
provided for directly or indirectly by payments contracted to be 58
made in the bond proceedings by the absolute obligors, being 59
persons other than the issuer; and 60

(2) Which are authorized to be issued under sections 122.39 61
and 122.41 to 122.62, Chapter 165., 902., 3377., 3706., division 62
(A)(4) of section 4582.06, division (A)(8) of section 4582.31, 63
section 4582.48, or Chapter 6121. or 6123. of the Revised Code, 64
notwithstanding other provisions therein. 65

(B) Sections 9.98 to 9.983 of the Revised Code are applicable 66
to bonds issued under sections 306.37 and 6119.12 of the Revised 67
Code and Chapters 140., 152., 154., 175., and 349. of the Revised 68
Code, and to any bonds authorized under laws which expressly make 69
those sections applicable. 70

(C) Subject to division (A) of this section, the authority 71
provided in sections 9.98 to 9.983 of the Revised Code is 72
supplemental to and not in derogation of any similar authority 73
provided by, derived from, or implied by, any law, the Ohio 74
Constitution, or any charter, resolution, or ordinance, and no 75
inference shall be drawn to negate the authority thereunder by 76
reason of the express provisions of sections 9.98 to 9.983 of the 77
Revised Code. 78

(D) Sections 9.98 to 9.983 of the Revised Code shall be 79
liberally construed to permit flexibility in the arrangements 80
therein provided to enhance the issuance of such bonds and provide 81

for terms most beneficial and satisfactory to the persons which 82
undertake to provide for their payment, security, and liquidity. 83

Sec. 102.03. (A)(1) No present or former public official or 84
employee shall, during public employment or service or for twelve 85
months thereafter, represent a client or act in a representative 86
capacity for any person on any matter in which the public official 87
or employee personally participated as a public official or 88
employee through decision, approval, disapproval, recommendation, 89
the rendering of advice, investigation, or other substantial 90
exercise of administrative discretion. 91

(2) For twenty-four months after the conclusion of service, 92
no former commissioner or attorney examiner of the public 93
utilities commission shall represent a public utility, as defined 94
in section 4905.02 of the Revised Code, or act in a representative 95
capacity on behalf of such a utility before any state board, 96
commission, or agency. 97

(3) For twenty-four months after the conclusion of employment 98
or service, no former public official or employee who personally 99
participated as a public official or employee through decision, 100
approval, disapproval, recommendation, the rendering of advice, 101
the development or adoption of solid waste management plans, 102
investigation, inspection, or other substantial exercise of 103
administrative discretion under Chapter 343. or 3734. of the 104
Revised Code shall represent a person who is the owner or operator 105
of a facility, as defined in section 3734.01 of the Revised Code, 106
or who is an applicant for a permit or license for a facility 107
under that chapter, on any matter in which the public official or 108
employee personally participated as a public official or employee. 109

(4) For a period of one year after the conclusion of 110
employment or service as a member or employee of the general 111
assembly, no former member or employee of the general assembly 112

shall represent, or act in a representative capacity for, any 113
person on any matter before the general assembly, any committee of 114
the general assembly, or the controlling board. Division (A)(4) of 115
this section does not apply to or affect a person who separates 116
from service with the general assembly on or before December 31, 117
1995. As used in division (A)(4) of this section "person" does not 118
include any state agency or political subdivision of the state. 119

(5) As used in divisions (A)(1), (2), and (3) of this 120
section, "matter" includes any case, proceeding, application, 121
determination, issue, or question, but does not include the 122
proposal, consideration, or enactment of statutes, rules, 123
ordinances, resolutions, or charter or constitutional amendments. 124
As used in division (A)(4) of this section, "matter" includes the 125
proposal, consideration, or enactment of statutes, resolutions, or 126
constitutional amendments. As used in division (A) of this 127
section, "represent" includes any formal or informal appearance 128
before, or any written or oral communication with, any public 129
agency on behalf of any person. 130

(6) Nothing contained in division (A) of this section shall 131
prohibit, during such period, a former public official or employee 132
from being retained or employed to represent, assist, or act in a 133
representative capacity for the public agency by which the public 134
official or employee was employed or on which the public official 135
or employee served. 136

(7) Division (A) of this section shall not be construed to 137
prohibit the performance of ministerial functions, including, but 138
not limited to, the filing or amendment of tax returns, 139
applications for permits and licenses, incorporation papers, and 140
other similar documents. 141

(8) Division (A) of this section does not prohibit a 142
nonelected public official or employee of a state agency, as 143
defined in section 1.60 of the Revised Code, from becoming a 144

public official or employee of another state agency. Division (A) 145
of this section does not prohibit such an official or employee 146
from representing or acting in a representative capacity for the 147
official's or employee's new state agency on any matter in which 148
the public official or employee personally participated as a 149
public official or employee at the official's or employee's former 150
state agency. However, no public official or employee of a state 151
agency shall, during public employment or for twelve months 152
thereafter, represent or act in a representative capacity for the 153
official's or employee's new state agency on any audit or 154
investigation pertaining to the official's or employee's new state 155
agency in which the public official or employee personally 156
participated at the official's or employee's former state agency 157
through decision, approval, disapproval, recommendation, the 158
rendering of advice, investigation, or other substantial exercise 159
of administrative discretion. 160

(9) Division (A) of this section does not prohibit a 161
nonelected public official or employee of a political subdivision 162
from becoming a public official or employee of a different 163
department, division, agency, office, or unit of the same 164
political subdivision. Division (A) of this section does not 165
prohibit such an official or employee from representing or acting 166
in a representative capacity for the official's or employee's new 167
department, division, agency, office, or unit on any matter in 168
which the public official or employee personally participated as a 169
public official or employee at the official's or employee's former 170
department, division, agency, office, or unit of the same 171
political subdivision. As used in this division, "political 172
subdivision" means a county, township, municipal corporation, or 173
any other body corporate and politic that is responsible for 174
government activities in a geographic area smaller than that of 175
the state. 176

(10) No present or former Ohio casino control commission 177
official shall, during public service or for two years thereafter, 178
represent a client, be employed or compensated by a person 179
regulated by the commission, or act in a representative capacity 180
for any person on any matter before or concerning the commission. 181

No present or former commission employee shall, during public 182
employment or for two years thereafter, represent a client or act 183
in a representative capacity on any matter in which the employee 184
personally participated as a commission employee through decision, 185
approval, disapproval, recommendation, the rendering of advice, 186
investigation, or other substantial exercise of administrative 187
discretion. 188

(B) No present or former public official or employee shall 189
disclose or use, without appropriate authorization, any 190
information acquired by the public official or employee in the 191
course of the public official's or employee's official duties that 192
is confidential because of statutory provisions, or that has been 193
clearly designated to the public official or employee as 194
confidential when that confidential designation is warranted 195
because of the status of the proceedings or the circumstances 196
under which the information was received and preserving its 197
confidentiality is necessary to the proper conduct of government 198
business. 199

(C) No public official or employee shall participate within 200
the scope of duties as a public official or employee, except 201
through ministerial functions as defined in division (A) of this 202
section, in any license or rate-making proceeding that directly 203
affects the license or rates of any person, partnership, trust, 204
business trust, corporation, or association in which the public 205
official or employee or immediate family owns or controls more 206
than five per cent. No public official or employee shall 207
participate within the scope of duties as a public official or 208

employee, except through ministerial functions as defined in 209
division (A) of this section, in any license or rate-making 210
proceeding that directly affects the license or rates of any 211
person to whom the public official or employee or immediate 212
family, or a partnership, trust, business trust, corporation, or 213
association of which the public official or employee or the public 214
official's or employee's immediate family owns or controls more 215
than five per cent, has sold goods or services totaling more than 216
one thousand dollars during the preceding year, unless the public 217
official or employee has filed a written statement acknowledging 218
that sale with the clerk or secretary of the public agency and the 219
statement is entered in any public record of the agency's 220
proceedings. This division shall not be construed to require the 221
disclosure of clients of attorneys or persons licensed under 222
section 4732.12 or 4732.15 of the Revised Code, or patients of 223
persons certified under section 4731.14 of the Revised Code. 224

(D) No public official or employee shall use or authorize the 225
use of the authority or influence of office or employment to 226
secure anything of value or the promise or offer of anything of 227
value that is of such a character as to manifest a substantial and 228
improper influence upon the public official or employee with 229
respect to that person's duties. 230

(E) No public official or employee shall solicit or accept 231
anything of value that is of such a character as to manifest a 232
substantial and improper influence upon the public official or 233
employee with respect to that person's duties. 234

(F) No person shall promise or give to a public official or 235
employee anything of value that is of such a character as to 236
manifest a substantial and improper influence upon the public 237
official or employee with respect to that person's duties. 238

(G) In the absence of bribery or another offense under the 239
Revised Code or a purpose to defraud, contributions made to a 240

campaign committee, political party, legislative campaign fund, 241
political action committee, or political contributing entity on 242
behalf of an elected public officer or other public official or 243
employee who seeks elective office shall be considered to accrue 244
ordinarily to the public official or employee for the purposes of 245
divisions (D), (E), and (F) of this section. 246

As used in this division, "contributions," "campaign 247
committee," "political party," "legislative campaign fund," 248
"political action committee," and "political contributing entity" 249
have the same meanings as in section 3517.01 of the Revised Code. 250

(H)(1) No public official or employee, except for the 251
president or other chief administrative officer of or a member of 252
a board of trustees of a state institution of higher education as 253
defined in section 3345.011 of the Revised Code, who is required 254
to file a financial disclosure statement under section 102.02 of 255
the Revised Code shall solicit or accept, and no person shall give 256
to that public official or employee, an honorarium. Except as 257
provided in division (H)(2) of this section, this division and 258
divisions (D), (E), and (F) of this section do not prohibit a 259
public official or employee who is required to file a financial 260
disclosure statement under section 102.02 of the Revised Code from 261
accepting and do not prohibit a person from giving to that public 262
official or employee the payment of actual travel expenses, 263
including any expenses incurred in connection with the travel for 264
lodging, and meals, food, and beverages provided to the public 265
official or employee at a meeting at which the public official or 266
employee participates in a panel, seminar, or speaking engagement 267
or provided to the public official or employee at a meeting or 268
convention of a national organization to which any state agency, 269
including, but not limited to, any state legislative agency or 270
state institution of higher education as defined in section 271
3345.011 of the Revised Code, pays membership dues. Except as 272

provided in division (H)(2) of this section, this division and 273
divisions (D), (E), and (F) of this section do not prohibit a 274
public official or employee who is not required to file a 275
financial disclosure statement under section 102.02 of the Revised 276
Code from accepting and do not prohibit a person from promising or 277
giving to that public official or employee an honorarium or the 278
payment of travel, meal, and lodging expenses if the honorarium, 279
expenses, or both were paid in recognition of demonstrable 280
business, professional, or esthetic interests of the public 281
official or employee that exist apart from public office or 282
employment, including, but not limited to, such a demonstrable 283
interest in public speaking and were not paid by any person or 284
other entity, or by any representative or association of those 285
persons or entities, that is regulated by, doing business with, or 286
seeking to do business with the department, division, institution, 287
board, commission, authority, bureau, or other instrumentality of 288
the governmental entity with which the public official or employee 289
serves. 290

(2) No person who is a member of the board of a state 291
retirement system, a state retirement system investment officer, 292
or an employee of a state retirement system whose position 293
involves substantial and material exercise of discretion in the 294
investment of retirement system funds shall solicit or accept, and 295
no person shall give to that board member, officer, or employee, 296
payment of actual travel expenses, including expenses incurred 297
with the travel for lodging, meals, food, and beverages. 298

(I) A public official or employee may accept travel, meals, 299
and lodging or expenses or reimbursement of expenses for travel, 300
meals, and lodging in connection with conferences, seminars, and 301
similar events related to official duties if the travel, meals, 302
and lodging, expenses, or reimbursement is not of such a character 303
as to manifest a substantial and improper influence upon the 304

public official or employee with respect to that person's duties. 305
The house of representatives and senate, in their code of ethics, 306
and the Ohio ethics commission, under section 111.15 of the 307
Revised Code, may adopt rules setting standards and conditions for 308
the furnishing and acceptance of such travel, meals, and lodging, 309
expenses, or reimbursement. 310

A person who acts in compliance with this division and any 311
applicable rules adopted under it, or any applicable, similar 312
rules adopted by the supreme court governing judicial officers and 313
employees, does not violate division (D), (E), or (F) of this 314
section. This division does not preclude any person from seeking 315
an advisory opinion from the appropriate ethics commission under 316
section 102.08 of the Revised Code. 317

(J) For purposes of divisions (D), (E), and (F) of this 318
section, the membership of a public official or employee in an 319
organization shall not be considered, in and of itself, to be of 320
such a character as to manifest a substantial and improper 321
influence on the public official or employee with respect to that 322
person's duties. As used in this division, "organization" means a 323
church or a religious, benevolent, fraternal, or professional 324
organization that is tax exempt under subsection 501(a) and 325
described in subsection 501(c)(3), (4), (8), (10), or (19) of the 326
"Internal Revenue Code of 1986." This division does not apply to a 327
public official or employee who is an employee of an organization, 328
serves as a trustee, director, or officer of an organization, or 329
otherwise holds a fiduciary relationship with an organization. 330
This division does not allow a public official or employee who is 331
a member of an organization to participate, formally or 332
informally, in deliberations, discussions, or voting on a matter 333
or to use ~~his~~ the public official's or employee's official 334
position with regard to the interests of the organization on the 335
matter if the public official or employee has assumed a particular 336

responsibility in the organization with respect to the matter or 337
if the matter would affect that person's personal, pecuniary 338
interests. 339

(K) It is not a violation of this section for a prosecuting 340
attorney to appoint assistants and employees in accordance with 341
division (B) of section 309.06 and section 2921.421 of the Revised 342
Code, for a chief legal officer of a municipal corporation or an 343
official designated as prosecutor in a municipal corporation to 344
appoint assistants and employees in accordance with sections 345
733.621 and 2921.421 of the Revised Code, for a township law 346
director appointed under section 504.15 of the Revised Code to 347
appoint assistants and employees in accordance with sections 348
504.151 and 2921.421 of the Revised Code, or for a coroner to 349
appoint assistants and employees in accordance with division (B) 350
of section 313.05 of the Revised Code. 351

As used in this division, "chief legal officer" has the same 352
meaning as in section 733.621 of the Revised Code. 353

(L) No present public official or employee with a casino 354
gaming regulatory function shall indirectly invest, by way of an 355
entity the public official or employee has an ownership interest 356
or control in, or directly invest in a casino operator, management 357
company, holding company, casino facility, or gaming-related 358
vendor. No present public official or employee with a casino 359
gaming regulatory function shall directly or indirectly have a 360
financial interest in, have an ownership interest in, be the 361
creditor or hold a debt instrument issued by, or have an interest 362
in a contractual or service relationship with a casino operator, 363
management company, holding company, casino facility, or 364
gaming-related vendor. This section does not prohibit or limit 365
permitted passive investing by the public official or employee. 366

As used in this division, "passive investing" means 367
investment by the public official or employee by means of a mutual 368

fund in which the public official or employee has no control of 369
the investments or investment decisions. "Casino operator," 370
"holding company," "management company," "casino facility," and 371
"gaming-related vendor" have the same meanings as in section 372
3772.01 of the Revised Code. 373

(M) A member of the Ohio casino control commission, the 374
executive director of the commission, or an employee of the 375
commission shall not: 376

(1) Accept anything of value, including but not limited to a 377
gift, gratuity, emolument, or employment from a casino operator, 378
management company, or other person subject to the jurisdiction of 379
the commission, or from an officer, attorney, agent, or employee 380
of a casino operator, management company, or other person subject 381
to the jurisdiction of the commission; 382

(2) Solicit, suggest, request, or recommend, directly or 383
indirectly, to a casino operator, management company, or other 384
person subject to the jurisdiction of the commission, or to an 385
officer, attorney, agent, or employee of a casino operator, 386
management company, or other person subject to the jurisdiction of 387
the commission, the appointment of a person to an office, place, 388
position, or employment; 389

(3) Participate in casino gaming or any other amusement or 390
activity at a casino facility in this state or at an affiliate 391
gaming facility of a licensed casino operator, wherever located. 392

In addition to the penalty provided in section 102.99 of the 393
Revised Code, whoever violates division (M)(1), (2), or (3) of 394
this section forfeits the individual's office or employment. 395

Sec. 121.02. The following administrative departments and 396
their respective directors are hereby created: 397

(A) The office of budget and management, which shall be 398

administered by the director of budget and management;	399
(B) The department of commerce, which shall be administered by the director of commerce;	400 401
(C) The department of administrative services, which shall be administered by the director of administrative services;	402 403
(D) The department of transportation, which shall be administered by the director of transportation;	404 405
(E) The department of agriculture, which shall be administered by the director of agriculture;	406 407
(F) The department of natural resources, which shall be administered by the director of natural resources;	408 409
(G) The department of health, which shall be administered by the director of health;	410 411
(H) The department of job and family services, which shall be administered by the director of job and family services;	412 413
(I) Until July 1, 1997, the department of liquor control, which shall be administered by the director of liquor control;	414 415
(J) The department of public safety, which shall be administered by the director of public safety;	416 417
(K) The department of mental health, which shall be administered by the director of mental health;	418 419
(L) The department of developmental disabilities, which shall be administered by the director of developmental disabilities;	420 421
(M) The department of insurance, which shall be administered by the superintendent of insurance as director thereof;	422 423
(N) The department of development <u>services agency</u> , which shall be administered by the director of development <u>services</u> ;	424 425
(O) The department of youth services, which shall be administered by the director of youth services;	426 427

(P) The department of rehabilitation and correction, which 428
shall be administered by the director of rehabilitation and 429
correction; 430

(Q) The environmental protection agency, which shall be 431
administered by the director of environmental protection; 432

(R) The department of aging, which shall be administered by 433
the director of aging; 434

(S) The department of alcohol and drug addiction services, 435
which shall be administered by the director of alcohol and drug 436
addiction services; 437

(T) The department of veterans services, which shall be 438
administered by the director of veterans services. 439

The director of each department shall exercise the powers and 440
perform the duties vested by law in such department. 441

Sec. 121.03. The following administrative department heads 442
shall be appointed by the governor, with the advice and consent of 443
the senate, and shall hold their offices during the term of the 444
appointing governor, and are subject to removal at the pleasure of 445
the governor. 446

(A) The director of budget and management; 447

(B) The director of commerce; 448

(C) The director of transportation; 449

(D) The director of agriculture; 450

(E) The director of job and family services; 451

(F) Until July 1, 1997, the director of liquor control; 452

(G) The director of public safety; 453

(H) The superintendent of insurance; 454

(I) The director of development services; 455

(J) The tax commissioner;	456
(K) The director of administrative services;	457
(L) The director of natural resources;	458
(M) The director of mental health;	459
(N) The director of developmental disabilities;	460
(O) The director of health;	461
(P) The director of youth services;	462
(Q) The director of rehabilitation and correction;	463
(R) The director of environmental protection;	464
(S) The director of aging;	465
(T) The director of alcohol and drug addiction services;	466
(U) The administrator of workers' compensation who meets the qualifications required under division (A) of section 4121.121 of the Revised Code;	467 468 469
(V) The director of veterans services who meets the qualifications required under section 5902.01 of the Revised Code;	470 471
(W) The chancellor of the Ohio board of regents.	472
Sec. 121.22. (A) This section shall be liberally construed to require public officials to take official action and to conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law.	473 474 475 476
(B) As used in this section:	477
(1) "Public body" means any of the following:	478
(a) Any board, commission, committee, council, or similar decision-making body of a state agency, institution, or authority, and any legislative authority or board, commission, committee, council, agency, authority, or similar decision-making body of any	479 480 481 482

county, township, municipal corporation, school district, or other 483
political subdivision or local public institution; 484

(b) Any committee or subcommittee of a body described in 485
division (B)(1)(a) of this section; 486

(c) A court of jurisdiction of a sanitary district organized 487
wholly for the purpose of providing a water supply for domestic, 488
municipal, and public use when meeting for the purpose of the 489
appointment, removal, or reappointment of a member of the board of 490
directors of such a district pursuant to section 6115.10 of the 491
Revised Code, if applicable, or for any other matter related to 492
such a district other than litigation involving the district. As 493
used in division (B)(1)(c) of this section, "court of 494
jurisdiction" has the same meaning as "court" in section 6115.01 495
of the Revised Code. 496

(2) "Meeting" means any prearranged discussion of the public 497
business of the public body by a majority of its members. 498

(3) "Regulated individual" means either of the following: 499

(a) A student in a state or local public educational 500
institution; 501

(b) A person who is, voluntarily or involuntarily, an inmate, 502
patient, or resident of a state or local institution because of 503
criminal behavior, mental illness or retardation, disease, 504
disability, age, or other condition requiring custodial care. 505

(4) "Public office" has the same meaning as in section 506
149.011 of the Revised Code. 507

(C) All meetings of any public body are declared to be public 508
meetings open to the public at all times. A member of a public 509
body shall be present in person at a meeting open to the public to 510
be considered present or to vote at the meeting and for purposes 511
of determining whether a quorum is present at the meeting. 512

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

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

(1) A grand jury;

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

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

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

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

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

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

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

(9) The state chiropractic board when determining whether to suspend a license without a hearing pursuant to section 4734.37 of the Revised Code;

(10) The executive committee of the emergency response 543
commission when determining whether to issue an enforcement order 544
or request that a civil action, civil penalty action, or criminal 545
action be brought to enforce Chapter 3750. of the Revised Code; 546

(11) The board of directors of the nonprofit corporation 547
formed under section 187.01 of the Revised Code or any committee 548
thereof, and the board of directors of any subsidiary of that 549
corporation or a committee thereof; 550

(12) An audit conference conducted by the audit staff of the 551
department of job and family services with officials of the public 552
office that is the subject of that audit under section 5101.37 of 553
the Revised Code. 554

(E) The controlling board, the ~~development financing advisory~~ 555
~~council~~, the industrial technology and enterprise advisory 556
council, the tax credit authority, or the minority development 557
financing advisory board, when meeting to consider granting 558
assistance pursuant to Chapter 122. or 166. of the Revised Code, 559
in order to protect the interest of the applicant or the possible 560
investment of public funds, by unanimous vote of all board, 561
council, or authority members present, may close the meeting 562
during consideration of the following information confidentially 563
received by the authority, council, or board from the applicant: 564

(1) Marketing plans; 565

(2) Specific business strategy; 566

(3) Production techniques and trade secrets; 567

(4) Financial projections; 568

(5) Personal financial statements of the applicant or members 569
of the applicant's immediate family, including, but not limited 570
to, tax records or other similar information not open to public 571
inspection. 572

The vote by the authority, council, or board to accept or 573
reject the application, as well as all proceedings of the 574
authority, council, or board not subject to this division, shall 575
be open to the public and governed by this section. 576

(F) Every public body, by rule, shall establish a reasonable 577
method whereby any person may determine the time and place of all 578
regularly scheduled meetings and the time, place, and purpose of 579
all special meetings. A public body shall not hold a special 580
meeting unless it gives at least twenty-four hours' advance notice 581
to the news media that have requested notification, except in the 582
event of an emergency requiring immediate official action. In the 583
event of an emergency, the member or members calling the meeting 584
shall notify the news media that have requested notification 585
immediately of the time, place, and purpose of the meeting. 586

The rule shall provide that any person, upon request and 587
payment of a reasonable fee, may obtain reasonable advance 588
notification of all meetings at which any specific type of public 589
business is to be discussed. Provisions for advance notification 590
may include, but are not limited to, mailing the agenda of 591
meetings to all subscribers on a mailing list or mailing notices 592
in self-addressed, stamped envelopes provided by the person. 593

(G) Except as provided in division (J) of this section, the 594
members of a public body may hold an executive session only after 595
a majority of a quorum of the public body determines, by a roll 596
call vote, to hold an executive session and only at a regular or 597
special meeting for the sole purpose of the consideration of any 598
of the following matters: 599

(1) To consider the appointment, employment, dismissal, 600
discipline, promotion, demotion, or compensation of a public 601
employee or official, or the investigation of charges or 602
complaints against a public employee, official, licensee, or 603
regulated individual, unless the public employee, official, 604

licensee, or regulated individual requests a public hearing. 605
Except as otherwise provided by law, no public body shall hold an 606
executive session for the discipline of an elected official for 607
conduct related to the performance of the elected official's 608
official duties or for the elected official's removal from office. 609
If a public body holds an executive session pursuant to division 610
(G)(1) of this section, the motion and vote to hold that executive 611
session shall state which one or more of the approved purposes 612
listed in division (G)(1) of this section are the purposes for 613
which the executive session is to be held, but need not include 614
the name of any person to be considered at the meeting. 615

(2) To consider the purchase of property for public purposes, 616
or for the sale of property at competitive bidding, if premature 617
disclosure of information would give an unfair competitive or 618
bargaining advantage to a person whose personal, private interest 619
is adverse to the general public interest. No member of a public 620
body shall use division (G)(2) of this section as a subterfuge for 621
providing covert information to prospective buyers or sellers. A 622
purchase or sale of public property is void if the seller or buyer 623
of the public property has received covert information from a 624
member of a public body that has not been disclosed to the general 625
public in sufficient time for other prospective buyers and sellers 626
to prepare and submit offers. 627

If the minutes of the public body show that all meetings and 628
deliberations of the public body have been conducted in compliance 629
with this section, any instrument executed by the public body 630
purporting to convey, lease, or otherwise dispose of any right, 631
title, or interest in any public property shall be conclusively 632
presumed to have been executed in compliance with this section 633
insofar as title or other interest of any bona fide purchasers, 634
lessees, or transferees of the property is concerned. 635

(3) Conferences with an attorney for the public body 636

concerning disputes involving the public body that are the subject 637
of pending or imminent court action; 638

(4) Preparing for, conducting, or reviewing negotiations or 639
bargaining sessions with public employees concerning their 640
compensation or other terms and conditions of their employment; 641

(5) Matters required to be kept confidential by federal law 642
or regulations or state statutes; 643

(6) Details relative to the security arrangements and 644
emergency response protocols for a public body or a public office, 645
if disclosure of the matters discussed could reasonably be 646
expected to jeopardize the security of the public body or public 647
office; 648

(7) In the case of a county hospital operated pursuant to 649
Chapter 339. of the Revised Code, a joint township hospital 650
operated pursuant to Chapter 513. of the Revised Code, or a 651
municipal hospital operated pursuant to Chapter 749. of the 652
Revised Code, to consider trade secrets, as defined in section 653
1333.61 of the Revised Code. 654

If a public body holds an executive session to consider any 655
of the matters listed in divisions (G)(2) to (7) of this section, 656
the motion and vote to hold that executive session shall state 657
which one or more of the approved matters listed in those 658
divisions are to be considered at the executive session. 659

A public body specified in division (B)(1)(c) of this section 660
shall not hold an executive session when meeting for the purposes 661
specified in that division. 662

(H) A resolution, rule, or formal action of any kind is 663
invalid unless adopted in an open meeting of the public body. A 664
resolution, rule, or formal action adopted in an open meeting that 665
results from deliberations in a meeting not open to the public is 666
invalid unless the deliberations were for a purpose specifically 667

authorized in division (G) or (J) of this section and conducted at 668
an executive session held in compliance with this section. A 669
resolution, rule, or formal action adopted in an open meeting is 670
invalid if the public body that adopted the resolution, rule, or 671
formal action violated division (F) of this section. 672

(I)(1) Any person may bring an action to enforce this 673
section. An action under division (I)(1) of this section shall be 674
brought within two years after the date of the alleged violation 675
or threatened violation. Upon proof of a violation or threatened 676
violation of this section in an action brought by any person, the 677
court of common pleas shall issue an injunction to compel the 678
members of the public body to comply with its provisions. 679

(2)(a) If the court of common pleas issues an injunction 680
pursuant to division (I)(1) of this section, the court shall order 681
the public body that it enjoins to pay a civil forfeiture of five 682
hundred dollars to the party that sought the injunction and shall 683
award to that party all court costs and, subject to reduction as 684
described in division (I)(2) of this section, reasonable 685
attorney's fees. The court, in its discretion, may reduce an award 686
of attorney's fees to the party that sought the injunction or not 687
award attorney's fees to that party if the court determines both 688
of the following: 689

(i) That, based on the ordinary application of statutory law 690
and case law as it existed at the time of violation or threatened 691
violation that was the basis of the injunction, a well-informed 692
public body reasonably would believe that the public body was not 693
violating or threatening to violate this section; 694

(ii) That a well-informed public body reasonably would 695
believe that the conduct or threatened conduct that was the basis 696
of the injunction would serve the public policy that underlies the 697
authority that is asserted as permitting that conduct or 698
threatened conduct. 699

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

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

(4) A member of a public body who knowingly violates an injunction issued pursuant to division (I)(1) of this section may be removed from office by an action brought in the court of common pleas for that purpose by the prosecuting attorney or the attorney general.

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

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

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

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

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

conducts as an executive session that pertains to the applicant's, 731
recipient's, or former recipient's application for financial 732
assistance. 733

(3) A veterans service commission shall vote on the grant or 734
denial of financial assistance under sections 5901.01 to 5901.15 735
of the Revised Code only in an open meeting of the commission. The 736
minutes of the meeting shall indicate the name, address, and 737
occupation of the applicant, whether the assistance was granted or 738
denied, the amount of the assistance if assistance is granted, and 739
the votes for and against the granting of assistance. 740

Sec. 122.01. (A) As used in the Revised Code, the "department 741
of development" means the development services agency and the 742
"director of development" means the director of development 743
services. Whenever the department or director of development is 744
referred to or designated in any statute, rule, contract, grant, 745
or other document, the reference or designation shall be deemed to 746
refer to the development services agency or director of 747
development services, as the case may be. 748

(B) As used in this chapter: 749

~~(A)~~(1) "Community problems" includes, but is not limited to, 750
taxation, fiscal administration, governmental structure and 751
organization, intergovernmental cooperation, education and 752
training, employment needs, community planning and development, 753
air and water pollution, public safety and the administration of 754
justice, housing, mass transportation, community facilities and 755
services, health, welfare, recreation, open space, and the 756
development of human resources. 757

~~(B)~~(2) "Professional personnel" means either of the 758
following: 759

~~(1)~~(a) Personnel who have earned a bachelor's degree from a 760

college or university; 761

~~(2)~~(b) Personnel who serve as or have the working title of 762
director, assistant director, deputy director, assistant deputy 763
director, manager, office chief, assistant office chief, or 764
program director. 765

~~(C)~~(3) "Technical personnel" means any of the following: 766

~~(1)~~(a) Personnel who provide technical assistance according 767
to their job description or in accordance with the Revised Code; 768

~~(2)~~(b) Personnel employed in the director of ~~development's~~ 769
development services' office or the legal office, communications 770
office, finance office, legislative affairs office, or human 771
resources office of the ~~department of development~~ services agency; 772

~~(3)~~(c) Personnel employed in the technology division of the 773
~~department~~ agency. 774

Sec. 122.011. (A) The ~~department of~~ development services 775
agency shall develop and promote plans and programs designed to 776
assure that state resources are efficiently used, economic growth 777
is properly balanced, community growth is developed in an orderly 778
manner, and local governments are coordinated with each other and 779
the state, and for such purposes may do all of the following: 780

(1) Serve as a clearinghouse for information, data, and other 781
materials that may be helpful or necessary to persons or local 782
governments, as provided in section ~~122.07~~ 122.073 of the Revised 783
Code; 784

(2) Prepare and activate plans for the retention, 785
development, expansion, and use of the resources and commerce of 786
the state, as provided in section 122.04 of the Revised Code; 787

(3) Assist and cooperate with federal, state, and local 788
governments and agencies of federal, state, and local governments 789
in the coordination of programs to carry out the functions and 790

duties of the department <u>agency</u> ;	791
(4) Encourage and foster research and development activities,	792
conduct studies related to the solution of community problems, and	793
develop recommendations for administrative or legislative actions,	794
as provided in section 122.03 of the Revised Code;	795
(5) Serve as the economic and community development planning	796
agency, which shall prepare and recommend plans and programs for	797
the orderly growth and development of this state and which shall	798
provide planning assistance, as provided in section 122.06 of the	799
Revised Code;	800
(6) Cooperate with and provide technical assistance to state	801
departments, political subdivisions, regional and local planning	802
commissions, tourist associations, councils of government,	803
community development groups, community action agencies, and other	804
appropriate organizations for carrying out the functions and	805
duties of the department <u>development services agency</u> or for the	806
solution of community problems;	807
(7) Coordinate the activities of state agencies that have an	808
impact on carrying out the functions and duties of the department	809
<u>development services agency</u> ;	810
(8) Encourage and assist the efforts of and cooperate with	811
local governments to develop mutual and cooperative solutions to	812
their common problems that relate to carrying out the purposes of	813
this section;	814
(9) Study existing structure, operations, and financing of	815
regional or local government and those state activities that	816
involve significant relations with regional or local governmental	817
units, recommend to the governor and to the general assembly such	818
changes in these provisions and activities as will improve the	819
operations of regional or local government, and conduct other	820
studies of legal provisions that affect problems related to	821

carrying out the purposes of this section; 822

(10) Create and operate a division of community development 823
to develop and administer programs and activities that are 824
authorized by federal statute or the Revised Code; 825

(11) Until October 15, 2007, establish fees and charges, in 826
consultation with the director of agriculture, for purchasing 827
loans from financial institutions and providing loan guarantees 828
under the family farm loan program created under sections 901.80 829
to 901.83 of the Revised Code; 830

(12) Provide loan servicing for the loans purchased and loan 831
guarantees provided under section 901.80 of the Revised Code as 832
that section existed prior to October 15, 2007; 833

(13) Until October 15, 2007, and upon approval by the 834
controlling board under division (A)(3) of section 901.82 of the 835
Revised Code of the release of money to be used for purchasing a 836
loan or providing a loan guarantee, request the release of that 837
money in accordance with division (B) of section 166.03 of the 838
Revised Code for use for the purposes of the fund created by 839
section 166.031 of the Revised Code. 840

(14) Allocate that portion of the national recovery zone 841
economic development bond limitation and that portion of the 842
national recovery zone facility bond limitation that has been 843
allocated to the state under section 1400U-1 of the Internal 844
Revenue Code, 26 U.S.C. 1400U-1. If any county or municipal 845
corporation waives any portion of an allocation it receives under 846
division (A)(14) of this section, the ~~department~~ agency may 847
reallocate that amount. Any allocation or reallocation shall be 848
made in accordance with this section and section 1400U-1 of the 849
Internal Revenue Code. 850

(B) The director of development services may request the 851
attorney general to, and the attorney general, in accordance with 852

section 109.02 of the Revised Code, shall bring a civil action in 853
any court of competent jurisdiction. The director may be sued in 854
the director's official capacity, in connection with this chapter, 855
in accordance with Chapter 2743. of the Revised Code. 856

(C) The director ~~of development~~ shall execute a contract 857
pursuant to section 187.04 of the Revised Code with the nonprofit 858
corporation formed under section 187.01 of the Revised Code, and 859
may execute any additional contracts with the corporation 860
providing for the corporation to assist the director or ~~department~~ 861
agency in carrying out any duties of the director or ~~department~~ 862
agency under this chapter, under any other provision of the 863
Revised Code dealing with economic development, or under a 864
contract with the director, subject to section 187.04 of the 865
Revised Code. 866

Sec. 122.07. (A) There is hereby created within the 867
development services agency an office to be known as the office of 868
TourismOhio. The office shall be under the supervision of a 869
director who shall be of equivalent rank of deputy director of the 870
agency and shall serve at the pleasure of the director of 871
development services. 872

(B) The office shall do both of the following: 873

(1) Promote the state as a travel destination and provide 874
related services or otherwise carry out the promotional functions 875
or duties of the agency, as necessary; 876

(2) Perform an annual return-on-investment study analyzing 877
the office's success in promoting Ohio tourism. A report 878
containing the findings of the study shall be submitted to the 879
governor, the speaker of the house of representatives, and the 880
president of the senate. The report shall also be made available 881
to the public. 882

Sec. 122.071. (A) The TourismOhio advisory board is hereby 883
established to advise the director of development services and the 884
director of the office of TourismOhio on strategies for promoting 885
tourism in this state. The board shall consist of the chief 886
investment officer of the nonprofit corporation formed under 887
section 187.01 of the Revised Code, the director of the office of 888
TourismOhio, and eight members to be appointed by the governor as 889
provided in division (B) of this section. All members of the 890
board, except the director of the office of TourismOhio, shall be 891
voting members. 892

(B)(1) The governor shall, within sixty days after the 893
effective date of this section, appoint to the TourismOhio 894
advisory board one individual who is a representative of 895
convention and visitors' bureaus, one individual who is a 896
representative of the lodging industry, one individual who is a 897
representative of the restaurant industry, one individual who is a 898
representative of attractions, one individual who is a 899
representative of special events and festivals, and three 900
individuals who are representatives of the tourism industry. Of 901
the initial appointments, two individuals shall serve a term of 902
one year, two individuals shall serve a term of two years, and the 903
remainder shall serve a term of three years. Each individual 904
appointed to the board shall be a United States citizen. 905

(2) For purposes of division (B)(1) of this section, an 906
individual is a "representative of the tourism industry" if the 907
individual possesses five years or more executive-level experience 908
in the attractions, lodging, restaurant, transportation, or retail 909
industry or five years or more executive-level experience with a 910
destination marketing organization. 911

(C)(1) Each member of the TourismOhio advisory board shall 912
hold office from the date of the member's appointment until the 913

end of the term for which the member is appointed. Vacancies that 914
occur on the board shall be filled in the manner prescribed for 915
regular appointments to the board. A member appointed to fill a 916
vacancy occurring prior to the expiration of the term for which 917
the member's predecessor was appointed shall hold office for the 918
remainder of that predecessor's term. A member shall continue in 919
office subsequent to the expiration date of the member's term 920
until the member's successor takes office or until sixty days have 921
elapsed, whichever occurs first. Any member appointed to the board 922
is eligible for reappointment. 923

(2) The governor shall designate one member of the board as 924
chairperson. 925

(3) Members appointed to the board may be reimbursed for 926
actual and necessary expenses incurred in connection with their 927
official duties. 928

Sec. ~~122.071~~ 122.072. There is hereby created in the state 929
treasury the ~~travel and tourism cooperative projects~~ fund 930
consisting of ~~all~~ money credited or transferred to it and grants, 931
gifts, and contributions made directly to the director of 932
~~development for marketing and promotion of travel and tourism~~ 933
~~within it.~~ Money in the fund shall be used to defray costs 934
incurred by the office of TourismOhio in promoting this state 935
~~pursuant to division (F) of section 122.04 and section 122.07 of~~ 936
~~the Revised Code as a travel destination.~~ 937

Sec. ~~122.07~~ 122.073. (A) The ~~department of~~ development 938
services agency may do ~~either~~ any of the following: 939

(1) Disseminate information concerning the industrial, 940
commercial, governmental, educational, cultural, recreational, 941
agricultural, and other advantages and attractions of the state; 942

(2) Provide technical assistance to public and private 943

agencies in the preparation of promotional programs designed to 944
attract business, industry, and tourists to the state; 945

(3) Enter into cooperative or contractual agreements, through 946
the director of development services, with any individual, 947
organization, or business to create, administer, or otherwise be 948
involved with Ohio tourism-related promotional programs. 949
Compensation under such agreements shall be determined by the 950
director and may include deferred compensation. This compensation 951
is payable from the tourism fund created in section 122.072 of the 952
Revised Code. Any excess revenue generated under such a 953
cooperative or contractual agreement shall be remitted to the fund 954
to be reinvested in ongoing tourism marketing initiatives as 955
authorized by law. 956

(B) Records related to tourism market research submitted to 957
or generated by the ~~research~~ office of ~~the division of travel and~~ 958
~~tourism of the department of development~~ TourismOhio, and any 959
information taken for any purpose from such research, are not 960
public records for the purposes of section 149.43 of the Revised 961
Code. The ~~department~~ agency may use, however, such tourism market 962
research in a public report if the director ~~of the department~~ 963
determines that issuing and distributing the report would promote 964
or market the state's travel and tourism industry or otherwise 965
advance the purposes of this section. 966

Sec. 122.17. (A) As used in this section: 967

(1) "Income tax revenue" means the total amount withheld 968
under section 5747.06 of the Revised Code by the taxpayer during 969
the taxable year, or during the calendar year that includes the 970
tax period, from the compensation of each employee employed in the 971
project to the extent the employee's withholdings are not used to 972
determine the credit under section 122.171 of the Revised Code. 973
"Income tax revenue" excludes amounts withheld before the day the 974

taxpayer becomes eligible for the credit. 975

(2) "Baseline income tax revenue" means income tax revenue 976
except that the applicable withholding period is the twelve months 977
immediately preceding the date the tax credit authority approves 978
the taxpayer's application or the date the tax credit authority 979
receives the recommendation described in division (C)(2)(a) of 980
this section, whichever occurs first, multiplied by the sum of one 981
plus an annual pay increase factor to be determined by the tax 982
credit authority. If the taxpayer becomes eligible for the credit 983
after the first day of the taxpayer's taxable year or after the 984
first day of the calendar year that includes the tax period, the 985
taxpayer's baseline income tax revenue for the first such taxable 986
or calendar year of credit eligibility shall be reduced in 987
proportion to the number of days during the taxable or calendar 988
year for which the taxpayer was not eligible for the credit. For 989
subsequent taxable or calendar years, "baseline income tax 990
revenue" equals the unreduced baseline income tax revenue for the 991
preceding taxable or calendar year multiplied by the sum of one 992
plus the pay increase factor. 993

(3) "Excess income tax revenue" means income tax revenue 994
minus baseline income tax revenue. 995

(B) The tax credit authority may make grants under this 996
section to foster job creation in this state. Such a grant shall 997
take the form of a refundable credit allowed against the tax 998
imposed by section 5725.18, 5729.03, 5733.06, or 5747.02 or levied 999
under Chapter 5751. of the Revised Code. The credit shall be 1000
claimed for the taxable years or tax periods specified in the 1001
taxpayer's agreement with the tax credit authority under division 1002
(D) of this section. With respect to taxes imposed under section 1003
5733.06 or 5747.02 or Chapter 5751. of the Revised Code, the 1004
credit shall be claimed in the order required under section 1005
5733.98, 5747.98, or 5751.98 of the Revised Code. The amount of 1006

the credit available for a taxable year or for a calendar year 1007
that includes a tax period equals the excess income tax revenue 1008
for that year multiplied by the percentage specified in the 1009
agreement with the tax credit authority. Any credit granted under 1010
this section against the tax imposed by section 5733.06 or 5747.02 1011
of the Revised Code, to the extent not fully utilized against such 1012
tax for taxable years ending prior to 2008, shall automatically be 1013
converted without any action taken by the tax credit authority to 1014
a credit against the tax levied under Chapter 5751. of the Revised 1015
Code for tax periods beginning on or after July 1, 2008, provided 1016
that the person to whom the credit was granted is subject to such 1017
tax. The converted credit shall apply to those calendar years in 1018
which the remaining taxable years specified in the agreement end. 1019

(C)(1) A taxpayer or potential taxpayer who proposes a 1020
project to create new jobs in this state may apply to the tax 1021
credit authority to enter into an agreement for a tax credit under 1022
this section. The director of development services shall prescribe 1023
the form of the application. After receipt of an application, the 1024
authority may enter into an agreement with the taxpayer for a 1025
credit under this section if it determines all of the following: 1026

~~(1)~~(a) The taxpayer's project will increase payroll and 1027
income tax revenue; 1028

~~(2)~~(b) The taxpayer's project is economically sound and will 1029
benefit the people of this state by increasing opportunities for 1030
employment and strengthening the economy of this state; 1031

~~(3)~~(c) Receiving the tax credit is a major factor in the 1032
taxpayer's decision to go forward with the project. 1033

(2)(a) A taxpayer that chooses to begin the project prior to 1034
receiving the determination of the authority may, upon submitting 1035
the taxpayer's application to the authority, request that the 1036
chief investment officer of the nonprofit corporation formed under 1037

section 187.01 of the Revised Code and the director review the 1038
taxpayer's application and recommend to the authority that the 1039
taxpayer's application be considered. As soon as possible after 1040
receiving such a request, the chief investment officer and the 1041
director shall review the taxpayer's application and, if they 1042
determine that the application warrants consideration by the 1043
authority, make that recommendation to the authority not later 1044
than six months after the application is received by the 1045
authority. 1046

(b) The authority shall consider any taxpayer's application 1047
for which it receives a recommendation under division (C)(2)(a) of 1048
this section. If the authority determines that the taxpayer does 1049
not meet all of the criteria set forth in division (C)(1) of this 1050
section, the authority and the development services agency shall 1051
proceed in accordance with rules adopted by the director pursuant 1052
to division (I) of this section. 1053

(D) An agreement under this section shall include all of the 1054
following: 1055

(1) A detailed description of the project that is the subject 1056
of the agreement; 1057

(2) The term of the tax credit, which shall not exceed 1058
fifteen years, and the first taxable year, or first calendar year 1059
that includes a tax period, for which the credit may be claimed; 1060

(3) A requirement that the taxpayer shall maintain operations 1061
at the project location for at least the greater of seven years or 1062
the term of the credit plus three years; 1063

(4) The percentage, as determined by the tax credit 1064
authority, of excess income tax revenue that will be allowed as 1065
the amount of the credit for each taxable year or for each 1066
calendar year that includes a tax period; 1067

(5) The pay increase factor to be applied to the taxpayer's 1068

baseline income tax revenue; 1069

(6) A requirement that the taxpayer annually shall report to 1070
the director of development services employment, tax withholding, 1071
investment, and other information the director needs to perform 1072
the director's duties under this section; 1073

(7) A requirement that the director of development services 1074
annually review the information reported under division (D)(6) of 1075
this section and verify compliance with the agreement; if the 1076
taxpayer is in compliance, a requirement that the director issue a 1077
certificate to the taxpayer stating that the information has been 1078
verified and identifying the amount of the credit that may be 1079
claimed for the taxable or calendar year; 1080

(8) A provision providing that the taxpayer may not relocate 1081
a substantial number of employment positions from elsewhere in 1082
this state to the project location unless the director of 1083
development services determines that the legislative authority of 1084
the county, township, or municipal corporation from which the 1085
employment positions would be relocated has been notified by the 1086
taxpayer of the relocation. 1087

For purposes of this section, the movement of an employment 1088
position from one political subdivision to another political 1089
subdivision shall be considered a relocation of an employment 1090
position unless the employment position in the first political 1091
subdivision is replaced. 1092

(E) If a taxpayer fails to meet or comply with any condition 1093
or requirement set forth in a tax credit agreement, the tax credit 1094
authority may amend the agreement to reduce the percentage or term 1095
of the tax credit. The reduction of the percentage or term may 1096
take effect in the current taxable or calendar year. 1097

(F) Projects that consist solely of point-of-final-purchase 1098
retail facilities are not eligible for a tax credit under this 1099

section. If a project consists of both point-of-final-purchase 1100
retail facilities and nonretail facilities, only the portion of 1101
the project consisting of the nonretail facilities is eligible for 1102
a tax credit and only the excess income tax revenue from the 1103
nonretail facilities shall be considered when computing the amount 1104
of the tax credit. If a warehouse facility is part of a 1105
point-of-final-purchase retail facility and supplies only that 1106
facility, the warehouse facility is not eligible for a tax credit. 1107
Catalog distribution centers are not considered 1108
point-of-final-purchase retail facilities for the purposes of this 1109
division, and are eligible for tax credits under this section. 1110

(G) Financial statements and other information submitted to 1111
the ~~department of development~~ services agency or the tax credit 1112
authority by an applicant or recipient of a tax credit under this 1113
section, and any information taken for any purpose from such 1114
statements or information, are not public records subject to 1115
section 149.43 of the Revised Code. However, the chairperson of 1116
the authority may make use of the statements and other information 1117
for purposes of issuing public reports or in connection with court 1118
proceedings concerning tax credit agreements under this section. 1119
Upon the request of the tax commissioner or, if the applicant or 1120
recipient is an insurance company, upon the request of the 1121
superintendent of insurance, the chairperson of the authority 1122
shall provide to the commissioner or superintendent any statement 1123
or information submitted by an applicant or recipient of a tax 1124
credit in connection with the credit. The commissioner or 1125
superintendent shall preserve the confidentiality of the statement 1126
or information. 1127

(H) A taxpayer claiming a credit under this section shall 1128
submit to the tax commissioner or, if the taxpayer is an insurance 1129
company, to the superintendent of insurance, a copy of the 1130
director of ~~development~~'s development services' certificate of 1131

verification under division (D)(7) of this section with the 1132
taxpayer's tax report or return for the taxable year or for the 1133
calendar year that includes the tax period. Failure to submit a 1134
copy of the certificate with the report or return does not 1135
invalidate a claim for a credit if the taxpayer submits a copy of 1136
the certificate to the commissioner or superintendent within sixty 1137
days after the commissioner or superintendent requests it. 1138

(I) The director of development services, after consultation 1139
with the tax commissioner and the superintendent of insurance and 1140
in accordance with Chapter 119. of the Revised Code, shall adopt 1141
rules necessary to implement this section, including rules that 1142
establish a procedure to be followed by the tax credit authority 1143
and the development services agency in the event the authority 1144
considers a taxpayer's application for which it receives a 1145
recommendation under division (C)(2)(a) of this section but does 1146
not approve it. The rules may provide for recipients of tax 1147
credits under this section to be charged fees to cover 1148
administrative costs of the tax credit program. The fees collected 1149
shall be credited to the ~~tax incentive programs~~ operating business 1150
assistance fund created in section 122.174 of the Revised Code. At 1151
the time the director gives public notice under division (A) of 1152
section 119.03 of the Revised Code of the adoption of the rules, 1153
the director shall submit copies of the proposed rules to the 1154
chairpersons of the standing committees on economic development in 1155
the senate and the house of representatives. 1156

(J) For the purposes of this section, a taxpayer may include 1157
a partnership, a corporation that has made an election under 1158
subchapter S of chapter one of subtitle A of the Internal Revenue 1159
Code, or any other business entity through which income flows as a 1160
distributive share to its owners. A partnership, S-corporation, or 1161
other such business entity may elect to pass the credit received 1162
under this section through to the persons to whom the income or 1163

profit of the partnership, S-corporation, or other entity is 1164
distributed. The election shall be made on the annual report 1165
required under division (D)(6) of this section. The election 1166
applies to and is irrevocable for the credit for which the report 1167
is submitted. If the election is made, the credit shall be 1168
apportioned among those persons in the same proportions as those 1169
in which the income or profit is distributed. 1170

(K) If the director of development services determines that a 1171
taxpayer who has received a credit under this section is not 1172
complying with the requirement under division (D)(3) of this 1173
section, the director shall notify the tax credit authority of the 1174
noncompliance. After receiving such a notice, and after giving the 1175
taxpayer an opportunity to explain the noncompliance, the tax 1176
credit authority may require the taxpayer to refund to this state 1177
a portion of the credit in accordance with the following: 1178

(1) If the taxpayer maintained operations at the project 1179
location for a period less than or equal to the term of the 1180
credit, an amount not exceeding one hundred per cent of the sum of 1181
any credits allowed and received under this section; 1182

(2) If the taxpayer maintained operations at the project 1183
location for a period longer than the term of the credit, but less 1184
than the greater of seven years or the term of the credit plus 1185
three years, an amount not exceeding seventy-five per cent of the 1186
sum of any credits allowed and received under this section. 1187

In determining the portion of the tax credit to be refunded 1188
to this state, the tax credit authority shall consider the effect 1189
of market conditions on the taxpayer's project and whether the 1190
taxpayer continues to maintain other operations in this state. 1191
After making the determination, the authority shall certify the 1192
amount to be refunded to the tax commissioner or superintendent of 1193
insurance, as appropriate. If the amount is certified to the 1194
commissioner, the commissioner shall make an assessment for that 1195

amount against the taxpayer under Chapter 5733., 5747., or 5751. 1196
of the Revised Code. If the amount is certified to the 1197
superintendent, the superintendent shall make an assessment for 1198
that amount against the taxpayer under Chapter 5725. or 5729. of 1199
the Revised Code. The time limitations on assessments under those 1200
chapters do not apply to an assessment under this division, but 1201
the commissioner or superintendent, as appropriate, shall make the 1202
assessment within one year after the date the authority certifies 1203
to the commissioner or superintendent the amount to be refunded. 1204

(L) On or before the first day of August each year, the 1205
director of development services shall submit a report to the 1206
governor, the president of the senate, and the speaker of the 1207
house of representatives on the tax credit program under this 1208
section. The report shall include information on the number of 1209
agreements that were entered into under this section during the 1210
preceding calendar year, a description of the project that is the 1211
subject of each such agreement, and an update on the status of 1212
projects under agreements entered into before the preceding 1213
calendar year. 1214

(M) There is hereby created the tax credit authority, which 1215
consists of the director of development services and four other 1216
members appointed as follows: the governor, the president of the 1217
senate, and the speaker of the house of representatives each shall 1218
appoint one member who shall be a specialist in economic 1219
development; the governor also shall appoint a member who is a 1220
specialist in taxation. Of the initial appointees, the members 1221
appointed by the governor shall serve a term of two years; the 1222
members appointed by the president of the senate and the speaker 1223
of the house of representatives shall serve a term of four years. 1224
Thereafter, terms of office shall be for four years. Initial 1225
appointments to the authority shall be made within thirty days 1226
after January 13, 1993. Each member shall serve on the authority 1227

until the end of the term for which the member was appointed. 1228
Vacancies shall be filled in the same manner provided for original 1229
appointments. Any member appointed to fill a vacancy occurring 1230
prior to the expiration of the term for which the member's 1231
predecessor was appointed shall hold office for the remainder of 1232
that term. Members may be reappointed to the authority. Members of 1233
the authority shall receive their necessary and actual expenses 1234
while engaged in the business of the authority. The director of 1235
development services shall serve as chairperson of the authority, 1236
and the members annually shall elect a vice-chairperson from among 1237
themselves. Three members of the authority constitute a quorum to 1238
transact and vote on the business of the authority. The majority 1239
vote of the membership of the authority is necessary to approve 1240
any such business, including the election of the vice-chairperson. 1241

The director of development services may appoint a 1242
professional employee of the ~~department of~~ development services 1243
agency to serve as the director's substitute at a meeting of the 1244
authority. The director shall make the appointment in writing. In 1245
the absence of the director from a meeting of the authority, the 1246
appointed substitute shall serve as chairperson. In the absence of 1247
both the director and the director's substitute from a meeting, 1248
the vice-chairperson shall serve as chairperson. 1249

(N) For purposes of the credits granted by this section 1250
against the taxes imposed under sections 5725.18 and 5729.03 of 1251
the Revised Code, "taxable year" means the period covered by the 1252
taxpayer's annual statement to the superintendent of insurance. 1253

Sec. 122.171. (A) As used in this section: 1254

(1) "Capital investment project" means a plan of investment 1255
at a project site for the acquisition, construction, renovation, 1256
or repair of buildings, machinery, or equipment, or for 1257
capitalized costs of basic research and new product development 1258

determined in accordance with generally accepted accounting principles, but does not include any of the following:	1259 1260
(a) Payments made for the acquisition of personal property through operating leases;	1261 1262
(b) Project costs paid before January 1, 2002;	1263
(c) Payments made to a related member as defined in section 5733.042 of the Revised Code or to a consolidated elected taxpayer or a combined taxpayer as defined in section 5751.01 of the Revised Code.	1264 1265 1266 1267
(2) "Eligible business" means a taxpayer and its related members with Ohio operations satisfying all of the following:	1268 1269
(a) The taxpayer employs at least five hundred full-time equivalent employees or has an annual payroll of at least thirty-five million dollars at the time the tax credit authority grants the tax credit under this section;	1270 1271 1272 1273
(b) The taxpayer makes or causes to be made payments for the capital investment project of one of the following:	1274 1275
(i) If the taxpayer is engaged at the project site primarily as a manufacturer, at least fifty million dollars in the aggregate at the project site during a period of three consecutive calendar years, including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted;	1276 1277 1278 1279 1280 1281
(ii) If the taxpayer is engaged at the project site primarily in significant corporate administrative functions, as defined by the director of development <u>services</u> by rule, at least twenty million dollars in the aggregate at the project site during a period of three consecutive calendar years including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted;	1282 1283 1284 1285 1286 1287 1288

(iii) If the taxpayer is applying to enter into an agreement 1289
for a tax credit authorized under division (B)(3) of this section, 1290
at least five million dollars in the aggregate at the project site 1291
during a period of three consecutive calendar years, including the 1292
calendar year that includes a day of the taxpayer's taxable year 1293
or tax period with respect to which the credit is granted. 1294

(c) The taxpayer had a capital investment project reviewed 1295
and approved by the tax credit authority as provided in divisions 1296
(C), (D), and (E) of this section. 1297

(3) "Full-time equivalent employees" means the quotient 1298
obtained by dividing the total number of hours for which employees 1299
were compensated for employment in the project by two thousand 1300
eighty. "Full-time equivalent employees" shall exclude hours that 1301
are counted for a credit under section 122.17 of the Revised Code. 1302

(4) "Income tax revenue" means the total amount withheld 1303
under section 5747.06 of the Revised Code by the taxpayer during 1304
the taxable year, or during the calendar year that includes the 1305
tax period, from the compensation of all employees employed in the 1306
project whose hours of compensation are included in calculating 1307
the number of full-time equivalent employees. 1308

(5) "Manufacturer" has the same meaning as in section 1309
5739.011 of the Revised Code. 1310

(6) "Project site" means an integrated complex of facilities 1311
in this state, as specified by the tax credit authority under this 1312
section, within a fifteen-mile radius where a taxpayer is 1313
primarily operating as an eligible business. 1314

(7) "Related member" has the same meaning as in section 1315
5733.042 of the Revised Code as that section existed on the 1316
effective date of its amendment by Am. Sub. H.B. 215 of the 122nd 1317
general assembly, September 29, 1997. 1318

(8) "Taxable year" includes, in the case of a domestic or 1319

foreign insurance company, the calendar year ending on the 1320
thirty-first day of December preceding the day the superintendent 1321
of insurance is required to certify to the treasurer of state 1322
under section 5725.20 or 5729.05 of the Revised Code the amount of 1323
taxes due from insurance companies. 1324

(B) The tax credit authority created under section 122.17 of 1325
the Revised Code may grant tax credits under this section for the 1326
purpose of fostering job retention in this state. Upon application 1327
by an eligible business and upon consideration of the 1328
recommendation of the director of budget and management, tax 1329
commissioner, the superintendent of insurance in the case of an 1330
insurance company, and director of development services under 1331
division (C) of this section, the tax credit authority may grant 1332
the following credits against the tax imposed by section 5725.18, 1333
5729.03, 5733.06, 5747.02, or 5751.02 of the Revised Code: 1334

(1) A nonrefundable credit to an eligible business; 1335

(2) A refundable credit to an eligible business meeting the 1336
following conditions, provided that the director of budget and 1337
management, tax commissioner, superintendent of insurance in the 1338
case of an insurance company, and director of development services 1339
have recommended the granting of the credit to the tax credit 1340
authority before July 1, 2011: 1341

(a) The business retains at least one thousand full-time 1342
equivalent employees at the project site. 1343

(b) The business makes or causes to be made payments for a 1344
capital investment project of at least twenty-five million dollars 1345
in the aggregate at the project site during a period of three 1346
consecutive calendar years, including the calendar year that 1347
includes a day of the business' taxable year or tax period with 1348
respect to which the credit is granted. 1349

(c) In 2010, the business received a written offer of 1350

financial incentives from another state of the United States that 1351
the director determines to be sufficient inducement for the 1352
business to relocate the business' operations from this state to 1353
that state. 1354

(3) A refundable credit to an eligible business with a total 1355
annual payroll of at least twenty million dollars, provided that 1356
the tax credit authority grants the tax credit on or after July 1, 1357
2011, and before January 1, 2014. 1358

The credits authorized in divisions (B)(1), (2), and (3) of 1359
this section may be granted for a period up to fifteen taxable 1360
years or, in the case of the tax levied by section 5751.02 of the 1361
Revised Code, for a period of up to fifteen calendar years. The 1362
credit amount for a taxable year or a calendar year that includes 1363
the tax period for which a credit may be claimed equals the income 1364
tax revenue for that year multiplied by the percentage specified 1365
in the agreement with the tax credit authority. The percentage may 1366
not exceed seventy-five per cent. The credit shall be claimed in 1367
the order required under section 5725.98, 5729.98, 5733.98, 1368
5747.98, or 5751.98 of the Revised Code. In determining the 1369
percentage and term of the credit, the tax credit authority shall 1370
consider both the number of full-time equivalent employees and the 1371
value of the capital investment project. The credit amount may not 1372
be based on the income tax revenue for a calendar year before the 1373
calendar year in which the tax credit authority specifies the tax 1374
credit is to begin, and the credit shall be claimed only for the 1375
taxable years or tax periods specified in the eligible business' 1376
agreement with the tax credit authority. In no event shall the 1377
credit be claimed for a taxable year or tax period terminating 1378
before the date specified in the agreement. Any credit granted 1379
under this section against the tax imposed by section 5733.06 or 1380
5747.02 of the Revised Code, to the extent not fully utilized 1381
against such tax for taxable years ending prior to 2008, shall 1382

automatically be converted without any action taken by the tax 1383
credit authority to a credit against the tax levied under Chapter 1384
5751. of the Revised Code for tax periods beginning on or after 1385
July 1, 2008, provided that the person to whom the credit was 1386
granted is subject to such tax. The converted credit shall apply 1387
to those calendar years in which the remaining taxable years 1388
specified in the agreement end. 1389

If a nonrefundable credit allowed under division (B)(1) of 1390
this section for a taxable year or tax period exceeds the 1391
taxpayer's tax liability for that year or period, the excess may 1392
be carried forward for the three succeeding taxable or calendar 1393
years, but the amount of any excess credit allowed in any taxable 1394
year or tax period shall be deducted from the balance carried 1395
forward to the succeeding year or period. 1396

(C) A taxpayer that proposes a capital investment project to 1397
retain jobs in this state may apply to the tax credit authority to 1398
enter into an agreement for a tax credit under this section. The 1399
director of development services shall prescribe the form of the 1400
application. After receipt of an application, the authority shall 1401
forward copies of the application to the director of budget and 1402
management, the tax commissioner, the superintendent of insurance 1403
in the case of an insurance company, and the director of 1404
development services, each of whom shall review the application to 1405
determine the economic impact the proposed project would have on 1406
the state and the affected political subdivisions and shall submit 1407
a summary of their determinations and recommendations to the 1408
authority. 1409

(D) Upon review and consideration of the determinations and 1410
recommendations described in division (C) of this section, the tax 1411
credit authority may enter into an agreement with the taxpayer for 1412
a credit under this section if the authority determines all of the 1413
following: 1414

(1) The taxpayer's capital investment project will result in the retention of employment in this state.	1415 1416
(2) The taxpayer is economically sound and has the ability to complete the proposed capital investment project.	1417 1418
(3) The taxpayer intends to and has the ability to maintain operations at the project site for at least the greater of (a) the term of the credit plus three years, or (b) seven years.	1419 1420 1421
(4) Receiving the credit is a major factor in the taxpayer's decision to begin, continue with, or complete the project.	1422 1423
(5) If the taxpayer is applying to enter into an agreement for a tax credit authorized under division (B)(3) of this section, the taxpayer's capital investment project will be located in the political subdivision in which the taxpayer maintains its principal place of business.	1424 1425 1426 1427 1428
(E) An agreement under this section shall include all of the following:	1429 1430
(1) A detailed description of the project that is the subject of the agreement, including the amount of the investment, the period over which the investment has been or is being made, the number of full-time equivalent employees at the project site, and the anticipated income tax revenue to be generated.	1431 1432 1433 1434 1435
(2) The term of the credit, the percentage of the tax credit, the maximum annual value of tax credits that may be allowed each year, and the first year for which the credit may be claimed.	1436 1437 1438
(3) A requirement that the taxpayer maintain operations at the project site for at least the greater of (a) the term of the credit plus three years, or (b) seven years.	1439 1440 1441
(4)(a) In the case of a credit granted under division (B)(1) of this section, a requirement that the taxpayer retain at least five hundred full-time equivalent employees at the project site	1442 1443 1444

and within this state for the entire term of the credit, or a 1445
requirement that the taxpayer maintain an annual payroll of at 1446
least thirty-five million dollars for the entire term of the 1447
credit; 1448

(b) In the case of a credit granted under division (B)(2) of 1449
this section, a requirement that the taxpayer retain at least one 1450
thousand full-time equivalent employees at the project site and 1451
within this state for the entire term of the credit; 1452

(c) In the case of a credit granted under division (B)(3) of 1453
this section, either of the following: 1454

(i) A requirement that the taxpayer retain at least five 1455
hundred full-time equivalent employees at the project site and 1456
within this state for the entire term of the credit and a 1457
requirement that the taxpayer maintain an annual payroll of at 1458
least twenty million dollars for the entire term of the credit; 1459

(ii) A requirement that the taxpayer maintain an annual 1460
payroll of at least thirty-five million dollars for the entire 1461
term of the credit. 1462

(5) A requirement that the taxpayer annually report to the 1463
director of development services employment, tax withholding, 1464
capital investment, and other information the director needs to 1465
perform the director's duties under this section. 1466

(6) A requirement that the director of development services 1467
annually review the annual reports of the taxpayer to verify the 1468
information reported under division (E)(5) of this section and 1469
compliance with the agreement. Upon verification, the director 1470
shall issue a certificate to the taxpayer stating that the 1471
information has been verified and identifying the amount of the 1472
credit for the taxable year or calendar year that includes the tax 1473
period. In determining the number of full-time equivalent 1474
employees, no position shall be counted that is filled by an 1475

employee who is included in the calculation of a tax credit under 1476
section 122.17 of the Revised Code. 1477

(7) A provision providing that the taxpayer may not relocate 1478
a substantial number of employment positions from elsewhere in 1479
this state to the project site unless the director of development 1480
services determines that the taxpayer notified the legislative 1481
authority of the county, township, or municipal corporation from 1482
which the employment positions would be relocated. 1483

For purposes of this section, the movement of an employment 1484
position from one political subdivision to another political 1485
subdivision shall be considered a relocation of an employment 1486
position unless the movement is confined to the project site. The 1487
transfer of an employment position from one political subdivision 1488
to another political subdivision shall not be considered a 1489
relocation of an employment position if the employment position in 1490
the first political subdivision is replaced by another employment 1491
position. 1492

(8) A waiver by the taxpayer of any limitations periods 1493
relating to assessments or adjustments resulting from the 1494
taxpayer's failure to comply with the agreement. 1495

(F) If a taxpayer fails to meet or comply with any condition 1496
or requirement set forth in a tax credit agreement, the tax credit 1497
authority may amend the agreement to reduce the percentage or term 1498
of the credit. The reduction of the percentage or term may take 1499
effect in the current taxable or calendar year. 1500

(G) Financial statements and other information submitted to 1501
the department of development services or the tax credit authority 1502
by an applicant for or recipient of a tax credit under this 1503
section, and any information taken for any purpose from such 1504
statements or information, are not public records subject to 1505
section 149.43 of the Revised Code. However, the chairperson of 1506

the authority may make use of the statements and other information 1507
for purposes of issuing public reports or in connection with court 1508
proceedings concerning tax credit agreements under this section. 1509
Upon the request of the tax commissioner, or the superintendent of 1510
insurance in the case of an insurance company, the chairperson of 1511
the authority shall provide to the commissioner or superintendent 1512
any statement or other information submitted by an applicant for 1513
or recipient of a tax credit in connection with the credit. The 1514
commissioner or superintendent shall preserve the confidentiality 1515
of the statement or other information. 1516

(H) A taxpayer claiming a tax credit under this section shall 1517
submit to the tax commissioner or, in the case of an insurance 1518
company, to the superintendent of insurance, a copy of the 1519
director of ~~development's~~ development services' certificate of 1520
verification under division (E)(6) of this section with the 1521
taxpayer's tax report or return for the taxable year or for the 1522
calendar year that includes the tax period. Failure to submit a 1523
copy of the certificate with the report or return does not 1524
invalidate a claim for a credit if the taxpayer submits a copy of 1525
the certificate to the commissioner or superintendent within sixty 1526
days after the commissioner or superintendent requests it. 1527

(I) For the purposes of this section, a taxpayer may include 1528
a partnership, a corporation that has made an election under 1529
subchapter S of chapter one of subtitle A of the Internal Revenue 1530
Code, or any other business entity through which income flows as a 1531
distributive share to its owners. A partnership, S-corporation, or 1532
other such business entity may elect to pass the credit received 1533
under this section through to the persons to whom the income or 1534
profit of the partnership, S-corporation, or other entity is 1535
distributed. The election shall be made on the annual report 1536
required under division (E)(5) of this section. The election 1537
applies to and is irrevocable for the credit for which the report 1538

is submitted. If the election is made, the credit shall be 1539
apportioned among those persons in the same proportions as those 1540
in which the income or profit is distributed. 1541

(J) If the director of development services determines that a 1542
taxpayer that received a tax credit under this section is not 1543
complying with the requirement under division (E)(3) of this 1544
section, the director shall notify the tax credit authority of the 1545
noncompliance. After receiving such a notice, and after giving the 1546
taxpayer an opportunity to explain the noncompliance, the 1547
authority may terminate the agreement and require the taxpayer to 1548
refund to the state all or a portion of the credit claimed in 1549
previous years, as follows: 1550

(1) If the taxpayer maintained operations at the project site 1551
for less than or equal to the term of the credit, an amount not to 1552
exceed one hundred per cent of the sum of any tax credits allowed 1553
and received under this section. 1554

(2) If the taxpayer maintained operations at the project site 1555
longer than the term of the credit, but less than the greater of 1556
(a) the term of the credit plus three years, or (b) seven years, 1557
the amount required to be refunded shall not exceed seventy-five 1558
per cent of the sum of any tax credits allowed and received under 1559
this section. 1560

In determining the portion of the credit to be refunded to 1561
this state, the authority shall consider the effect of market 1562
conditions on the taxpayer's project and whether the taxpayer 1563
continues to maintain other operations in this state. After making 1564
the determination, the authority shall certify the amount to be 1565
refunded to the tax commissioner or the superintendent of 1566
insurance. If the taxpayer is not an insurance company, the 1567
commissioner shall make an assessment for that amount against the 1568
taxpayer under Chapter 5733., 5747., or 5751. of the Revised Code. 1569
If the taxpayer is an insurance company, the superintendent of 1570

insurance shall make an assessment under section 5725.222 or 1571
5729.102 of the Revised Code. The time limitations on assessments 1572
under those chapters and sections do not apply to an assessment 1573
under this division, but the commissioner or superintendent shall 1574
make the assessment within one year after the date the authority 1575
certifies to the commissioner or superintendent the amount to be 1576
refunded. 1577

(K) The director of development services, after consultation 1578
with the tax commissioner and the superintendent of insurance and 1579
in accordance with Chapter 119. of the Revised Code, shall adopt 1580
rules necessary to implement this section. The rules may provide 1581
for recipients of tax credits under this section to be charged 1582
fees to cover administrative costs of the tax credit program. The 1583
fees collected shall be credited to the ~~tax incentive programs~~ 1584
~~operating~~ business assistance fund created in section 122.174 of 1585
the Revised Code. At the time the director gives public notice 1586
under division (A) of section 119.03 of the Revised Code of the 1587
adoption of the rules, the director shall submit copies of the 1588
proposed rules to the chairpersons of the standing committees on 1589
economic development in the senate and the house of 1590
representatives. 1591

(L) On or before the first day of August of each year, the 1592
director of development services shall submit a report to the 1593
governor, the president of the senate, and the speaker of the 1594
house of representatives on the tax credit program under this 1595
section. The report shall include information on the number of 1596
agreements that were entered into under this section during the 1597
preceding calendar year, a description of the project that is the 1598
subject of each such agreement, and an update on the status of 1599
projects under agreements entered into before the preceding 1600
calendar year. 1601

(M)(1) The aggregate amount of tax credits issued under 1602

division (B)(1) of this section during any calendar year for 1603
capital investment projects reviewed and approved by the tax 1604
credit authority may not exceed the following amounts: 1605

(a) For 2010, thirteen million dollars; 1606

(b) For 2011 through 2023, the amount of the limit for the 1607
preceding calendar year plus thirteen million dollars; 1608

(c) For 2024 and each year thereafter, one hundred 1609
ninety-five million dollars. 1610

(2) The aggregate amount of tax credits authorized under 1611
divisions (B)(2) and (3) of this section and allowed to be claimed 1612
by taxpayers in any calendar year for capital improvement projects 1613
reviewed and approved by the tax credit authority in 2011, 2012, 1614
and 2013 combined shall not exceed twenty-five million dollars. An 1615
amount equal to the aggregate amount of credits first authorized 1616
in calendar year 2011, 2012, and 2013 may be claimed over the 1617
ensuing period up to fifteen years, subject to the terms of 1618
individual tax credit agreements. 1619

The limitations in division (M) of this section do not apply 1620
to credits for capital investment projects approved by the tax 1621
credit authority before July 1, 2009. 1622

Sec. 122.174. There is hereby created in the state treasury 1623
the ~~tax incentive programs operating~~ business assistance fund. 1624
~~Money collected~~ The fund shall consist of any amounts appropriated 1625
to it and money credited to the fund pursuant to division (I) of 1626
section 121.17, division (K) of section 122.171, division (K) of 1627
section 122.175, division (C) of section 3735.672, and division 1628
(C) of section 5709.68 of the Revised Code ~~shall be credited to~~ 1629
~~the fund.~~ The director of development services shall use money in 1630
the fund to pay expenses related to the administration of the ~~tax~~ 1631
~~credit programs authorized by sections 122.17, 122.171, 3735.672,~~ 1632

and ~~5709.68~~ of the Revised Code business services division of the 1633
development services agency. 1634

Sec. 122.175. (A) As used in this section: 1635

(1) "Capital investment project" means a plan of investment 1636
at a project site for the acquisition, construction, renovation, 1637
expansion, replacement, or repair of a computer data center or of 1638
computer data center equipment, but does not include any of the 1639
following: 1640

(a) Project costs paid before a date determined by the tax 1641
credit authority for each capital investment project; 1642

(b) Payments made to a related member as defined in section 1643
5733.042 of the Revised Code or to a consolidated elected taxpayer 1644
or a combined taxpayer as defined in section 5751.01 of the 1645
Revised Code. 1646

(2) "Computer data center" means a facility used or to be 1647
used primarily to house computer data center equipment used or to 1648
be used in conducting a computer data center business, as 1649
determined by the tax credit authority. 1650

(3) "Computer data center business" means, as may be further 1651
determined by the tax credit authority, a business that provides 1652
electronic information services as defined in division (Y)(1)(c) 1653
of section 5739.01 of the Revised Code. "Computer data center 1654
business" does not include providing electronic publishing as 1655
defined in division (LLL) of that section. 1656

(4) "Computer data center equipment" means tangible personal 1657
property used or to be used for any of the following: 1658

(a) To conduct a computer data center business, including 1659
equipment cooling systems to manage the performance of computer 1660
data center equipment; 1661

(b) To generate, transform, transmit, distribute, or manage 1662

electricity necessary to operate the tangible personal property 1663
used or to be used in conducting a computer data center business; 1664

(c) As building and construction materials sold to 1665
construction contractors for incorporation into a computer data 1666
center. 1667

(5) "Eligible computer data center" means a computer data 1668
center that satisfies all of the following requirements: 1669

(a) The taxpayer will make payments for a capital investment 1670
project of at least one hundred million dollars in the aggregate 1671
at the project site during a period of three consecutive calendar 1672
years; 1673

(b) The taxpayer will pay annual compensation that is subject 1674
to the withholding obligation imposed under section 5747.06 of the 1675
Revised Code of at least five million dollars to employees 1676
employed at the project site for the term of the agreement. 1677

(6) "Person" has the same meaning as in section 5701.01 of 1678
the Revised Code. 1679

(7) "Project site," "related member," and "tax credit 1680
authority" have the same meanings as in sections 122.17 and 1681
122.171 of the Revised Code. 1682

(8) "Taxpayer" means any person subject to the taxes imposed 1683
under Chapters 5739. and 5741. of the Revised Code. 1684

(B) The tax credit authority may completely or partially 1685
exempt from the taxes levied under Chapters 5739. and 5741. of the 1686
Revised Code the sale, storage, use, or other consumption of 1687
computer data center equipment used or to be used at an eligible 1688
computer data center. Any such exemption shall extend to charges 1689
for the delivery, installation, or repair of the computer data 1690
center equipment subject to the exemption under this section. 1691

(C) A taxpayer that proposes a capital improvement project 1692

for an eligible computer data center in this state may apply to 1693
the tax credit authority to enter into an agreement under this 1694
section for a complete or partial exemption from the taxes imposed 1695
under Chapters 5739. and 5741. of the Revised Code on computer 1696
data center equipment used or to be used at the eligible computer 1697
data center. The director of development services shall prescribe 1698
the form of the application. After receipt of an application, the 1699
authority shall forward copies of the application to the director 1700
of budget and management, the tax commissioner, and the director 1701
of development services, each of whom shall review the application 1702
to determine the economic impact that the proposed eligible 1703
computer data center would have on the state and any affected 1704
political subdivisions and submit to the authority a summary of 1705
their determinations and recommendations. 1706

(D) Upon review and consideration of such determinations and 1707
recommendations, the tax credit authority may enter into an 1708
agreement with the taxpayer for a complete or partial exemption 1709
from the taxes imposed under Chapters 5739. and 5741. of the 1710
Revised Code on computer data center equipment used or to be used 1711
at an eligible computer data center if the authority determines 1712
all of the following: 1713

(1) The taxpayer's capital investment project for the 1714
eligible computer data center will increase payroll and the amount 1715
of income taxes to be withheld from employee compensation pursuant 1716
to section 5747.06 of the Revised Code. 1717

(2) The taxpayer is economically sound and has the ability to 1718
complete the proposed capital investment project. 1719

(3) The taxpayer intends to and has the ability to maintain 1720
operations at the project site for the term of the agreement. 1721

(4) Receiving the exemption is a major factor in the 1722
taxpayer's decision to begin, continue with, or complete the 1723

capital investment project. 1724

(E) An agreement entered into under this section shall 1725
include all of the following: 1726

(1) A detailed description of the capital investment project 1727
that is the subject of the agreement, including the amount of the 1728
investment, the period over which the investment has been or is 1729
being made, the annual compensation to be paid by the taxpayer to 1730
its employees at the project site, and the anticipated amount of 1731
income taxes to be withheld from employee compensation pursuant to 1732
section 5747.06 of the Revised Code. 1733

(2) The percentage of the exemption from the taxes imposed 1734
under Chapters 5739. and 5741. of the Revised Code for the 1735
computer data center equipment used or to be used at the eligible 1736
computer data center, the length of time the computer data center 1737
equipment will be exempted, and the first date on which the 1738
exemption applies. 1739

(3) A requirement that the taxpayer maintain the computer 1740
data center as an eligible computer data center during the term of 1741
the agreement and that the taxpayer maintain operations at the 1742
eligible computer data center during that term. 1743

(4) A requirement that during each year of the term of the 1744
agreement the taxpayer pay annual compensation that is subject to 1745
the withholding obligation imposed under section 5747.06 of the 1746
Revised Code of at least five million dollars to its employees at 1747
the eligible computer data center. 1748

(5) A requirement that the taxpayer annually report to the 1749
director of development services employment, tax withholding, 1750
capital investment, and other information required by the director 1751
to perform the director's duties under this section. 1752

(6) A requirement that the director of development services 1753
annually review the annual reports of the taxpayer to verify the 1754

information reported under division (E)(5) of this section and 1755
compliance with the agreement. Upon verification, the director 1756
shall issue a certificate to the taxpayer stating that the 1757
information has been verified and that the taxpayer remains 1758
eligible for the exemption specified in the agreement. 1759

(7) A provision providing that the taxpayer may not relocate 1760
a substantial number of employment positions from elsewhere in 1761
this state to the project site unless the director of development 1762
services determines that the taxpayer notified the legislative 1763
authority of the county, township, or municipal corporation from 1764
which the employment positions would be relocated. For purposes of 1765
this paragraph, the movement of an employment position from one 1766
political subdivision to another political subdivision shall be 1767
considered a relocation of an employment position unless the 1768
movement is confined to the project site. The transfer of an 1769
employment position from one political subdivision to another 1770
political subdivision shall not be considered a relocation of an 1771
employment position if the employment position in the first 1772
political subdivision is replaced by another employment position. 1773

(8) A waiver by the taxpayer of any limitations periods 1774
relating to assessments or adjustments resulting from the 1775
taxpayer's failure to comply with the agreement. 1776

(F) The term of an agreement under this section shall be 1777
determined by the tax credit authority, and the amount of the 1778
exemption shall not exceed one hundred per cent of such taxes that 1779
would otherwise be owed in respect to the exempted computer data 1780
center equipment. 1781

(G) If a taxpayer fails to meet or comply with any condition 1782
or requirement set forth in an agreement under this section, the 1783
tax credit authority may amend the agreement to reduce the 1784
percentage of the exemption or term during which the exemption 1785
applies to the computer data center equipment used or to be used 1786

at an eligible computer data center. The reduction of the 1787
percentage or term may take effect in the current calendar year. 1788

(H) Financial statements and other information submitted to 1789
the department of development services or the tax credit authority 1790
by an applicant for or recipient of an exemption under this 1791
section, and any information taken for any purpose from such 1792
statements or information, are not public records subject to 1793
section 149.43 of the Revised Code. However, the chairperson of 1794
the authority may make use of the statements and other information 1795
for purposes of issuing public reports or in connection with court 1796
proceedings concerning tax exemption agreements under this 1797
section. Upon the request of the tax commissioner, the chairperson 1798
of the authority shall provide to the tax commissioner any 1799
statement or other information submitted by an applicant for or 1800
recipient of an exemption under this section. The tax commissioner 1801
shall preserve the confidentiality of the statement or other 1802
information. 1803

(I) The tax commissioner shall issue a direct payment permit 1804
under section 5739.031 of the Revised Code to a taxpayer that 1805
enters into an agreement under this section. Such direct payment 1806
permit shall authorize the taxpayer to pay any sales and use taxes 1807
due on purchases of computer data center equipment used or to be 1808
used in an eligible computer data center and to pay any sales and 1809
use taxes due on purchases of tangible personal property or 1810
taxable services other than computer data center equipment used or 1811
to be used in an eligible computer data center directly to the tax 1812
commissioner. Each taxpayer shall pay pursuant to such direct 1813
payment permit all sales tax levied on such purchases under 1814
sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised 1815
Code and all use tax levied on such purchases under sections 1816
5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code, 1817
consistent with the terms of the agreement entered into under this 1818

section. 1819

During the term of an agreement under this section the 1820
taxpayer shall submit to the tax commissioner a return that shows 1821
the amount of computer data center equipment purchased for use at 1822
the eligible computer data center, the amount of tangible personal 1823
property and taxable services other than computer data center 1824
equipment purchased for use at the eligible computer data center, 1825
the amount of tax under Chapter 5739. or 5741. of the Revised Code 1826
that would be due in the absence of the agreement under this 1827
section, the exemption percentage for computer data center 1828
equipment specified in the agreement, and the amount of tax due 1829
under Chapter 5739. or 5741. of the Revised Code as a result of 1830
the agreement under this section. The taxpayer shall pay the tax 1831
shown on the return to be due in the manner and at the times as 1832
may be further prescribed by the tax commissioner. The taxpayer 1833
shall include a copy of the director of ~~development's~~ development 1834
services' certificate of verification issued under division (E)(6) 1835
of this section. Failure to submit a copy of the certificate with 1836
the return does not invalidate the claim for exemption if the 1837
taxpayer submits a copy of the certificate to the tax commissioner 1838
within sixty days after the tax commissioner requests it. 1839

(J) If the director of development services determines that a 1840
taxpayer that received an exemption under this section is not 1841
complying with the requirement under division (E)(3) of this 1842
section, the director shall notify the tax credit authority of the 1843
noncompliance. After receiving such a notice, and after giving the 1844
taxpayer an opportunity to explain the noncompliance, the 1845
authority may terminate the agreement and require the taxpayer to 1846
pay to the state all or a portion of the taxes that would have 1847
been owed in regards to the exempt equipment in previous years, 1848
all as determined under rules adopted pursuant to division (K) of 1849
this section. In determining the portion of the taxes that would 1850

have been owed on the previously exempted equipment to be paid to 1851
this state by the taxpayer, the authority shall consider the 1852
effect of market conditions on the taxpayer's eligible computer 1853
data center and whether the taxpayer continues to maintain other 1854
operations in this state. After making the determination, the 1855
authority shall certify to the tax commissioner the amount to be 1856
paid by the taxpayer. The tax commissioner shall make an 1857
assessment for that amount against the taxpayer under Chapter 1858
5739. or 5741. of the Revised Code. The time limitations on 1859
assessments under those chapters do not apply to an assessment 1860
under this division, but the tax commissioner shall make the 1861
assessment within one year after the date the authority certifies 1862
to the tax commissioner the amount to be paid by the taxpayer. 1863

(K) The director of development services, after consultation 1864
with the tax commissioner and in accordance with Chapter 119. of 1865
the Revised Code, shall adopt rules necessary to implement this 1866
section. The rules may provide for recipients of tax exemptions 1867
under this section to be charged fees to cover administrative 1868
costs incurred in the administration of this section. The fees 1869
collected shall be credited to the ~~tax incentive programs~~ 1870
~~operating~~ business assistance fund created in section 122.174 of 1871
the Revised Code. At the time the director gives public notice 1872
under division (A) of section 119.03 of the Revised Code of the 1873
adoption of the rules, the director shall submit copies of the 1874
proposed rules to the chairpersons of the standing committees on 1875
economic development in the senate and the house of 1876
representatives. 1877

(L) On or before the first day of August of each year, the 1878
director of development services shall submit a report to the 1879
governor, the president of the senate, and the speaker of the 1880
house of representatives on the tax exemption authorized under 1881
this section. The report shall include information on the number 1882

of agreements that were entered into under this section during the 1883
preceding calendar year, a description of the eligible computer 1884
data center that is the subject of each such agreement, and an 1885
update on the status of eligible computer data centers under 1886
agreements entered into before the preceding calendar year. 1887

Sec. 122.39. As used in sections 122.39 and 122.41 to 122.62 1888
of the Revised Code: 1889

(A) "Financial institution" means any banking corporation, 1890
trust company, insurance company, savings and loan association, 1891
building and loan association, or corporation, partnership, 1892
federal lending agency, foundation, or other institution engaged 1893
in lending or investing funds for industrial or business purposes. 1894

(B) "Project" means any real or personal property connected 1895
with or being a part of an industrial, distribution, commercial, 1896
or research facility to be acquired, constructed, reconstructed, 1897
enlarged, improved, furnished, or equipped, or any combination 1898
thereof, with aid furnished pursuant to Chapter 122. of the 1899
Revised Code, for industrial, commercial, distribution, and 1900
research development of the state. 1901

(C) "Community improvement corporation" means a corporation 1902
organized under Chapter 1724. of the Revised Code. 1903

(D) "Ohio development corporation" means a corporation 1904
organized under Chapter 1726. of the Revised Code. 1905

(E) "Mortgage" means the lien imposed on a project by a 1906
mortgage on real property, or by financing statements on personal 1907
property, or by a combination of a mortgage and financing 1908
statements when a project consists of both real and personal 1909
property. 1910

(F) "Mortgagor" means the principal user of a project or the 1911
person, corporation, partnership, or association unconditionally 1912

guaranteeing performance by such principal user of its obligations 1913
under the mortgage. 1914

Sec. 122.41. ~~(A) The development financing advisory council~~ 1915
~~and the director of development~~ are services is invested with the 1916
powers and duties provided in Chapter 122. of the Revised Code, in 1917
order to promote the welfare of the people of the state, to 1918
stabilize the economy, to provide employment, to assist in the 1919
development within the state of industrial, commercial, 1920
distribution, and research activities required for the people of 1921
the state, and for their gainful employment, or otherwise to 1922
create or preserve jobs and employment opportunities, or improve 1923
the economic welfare of the people of the state, and also to 1924
assist in the financing of air, water, or thermal pollution 1925
control facilities and solid waste disposal facilities by mortgage 1926
insurance as provided in section 122.451 of the Revised Code. It 1927
is hereby determined that the accomplishment of such purposes is 1928
essential so that the people of the state may maintain their 1929
present high standards in comparison with the people of other 1930
states and so that opportunities for employment and for favorable 1931
markets for the products of the state's natural resources, 1932
agriculture, and manufacturing shall be improved and that it is 1933
necessary for the state to establish the programs authorized 1934
pursuant to Chapter 122. of the Revised Code, ~~to establish the~~ 1935
~~development financing advisory council,~~ and ~~to invest it and the~~ 1936
director of development services with the powers and duties 1937
provided in Chapter 122. of the Revised Code. The powers granted 1938
to the director ~~of development~~ by Chapter 165. of the Revised Code 1939
are independent of and in addition and alternate to, and are not 1940
limited or restricted by, Chapter 122. of the Revised Code. 1941

~~(B) The development financing advisory council shall:~~ 1942

~~(1) Make recommendations to the director of development as to~~ 1943

~~applications for assistance pursuant to sections 122.39 to 122.62
or Chapter 166. of the Revised Code. The council may revise its
recommendations to reflect any changes in the proposed assistance
made by the director.~~

~~(2) Advise the director in the administration of sections
122.39 to 122.62 and Chapter 166. of the Revised Code;~~

~~(3) Adopt bylaws to govern the conduct of the council's
business.~~

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

(1) Receive applications for assistance under sections 122.39
and 122.41 to 122.62 of the Revised Code, ~~and, after processing,
forward them to the development financing advisory board together
with necessary supporting information;~~

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

(3) Transmit determinations to approve assistance to the
controlling board together with any information the controlling
board requires for the board's review and decision as to whether
to approve the assistance;

(4) Issue revenue bonds of the state through the treasurer of
state, as necessary, payable solely from revenues and other
sources as provided in sections 122.39 and 122.41 to 122.62 of the
Revised Code.

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

(1) Fix the rate of interest and charges to be made upon or
with respect to moneys loaned by the director and the terms upon
which mortgages and lease rentals may be guaranteed and the rates
of charges to be made for the loans and guarantees and to make

provisions for the operation of the funds established by the 1974
director in accordance with this section and sections 122.54, 1975
122.55, 122.56, and 122.57 of the Revised Code; 1976

(2) Loan moneys from the fund established in accordance with 1977
section 122.54 of the Revised Code pursuant to and in compliance 1978
with sections 122.39 and 122.41 to 122.62 of the Revised Code; 1979

(3) Acquire in the name of the director any property of any 1980
kind or character in accordance with sections 122.39 and 122.41 to 1981
122.62 of the Revised Code, by purchase, purchase at foreclosure, 1982
or exchange on such terms and in such manner as the director 1983
considers proper; 1984

(4) Make and enter into all contracts and agreements 1985
necessary or incidental to the performance of the director's 1986
duties and the exercise of the director's powers under sections 1987
122.39 and 122.41 to 122.62 of the Revised Code; 1988

(5) Maintain, protect, repair, improve, and insure any 1989
property which the director has acquired and dispose of the same 1990
by sale, exchange, or lease for the consideration and on the terms 1991
and in the manner as the director considers proper, but is not 1992
authorized to operate any such property as a business except as 1993
the lessor of the property; 1994

(6)(a) When the cost of any contract for the maintenance, 1995
protection, repair, or improvement of any property held by the 1996
director other than compensation for personal services involves an 1997
expenditure of more than one thousand dollars, the director shall 1998
make a written contract with the lowest responsive and responsible 1999
bidder in accordance with section 9.312 of the Revised Code after 2000
advertisement for not less than two consecutive weeks in a 2001
newspaper of general circulation in the county where such 2002
contract, or some substantial part of it, is to be performed, and 2003
in such other publications as the director determines, which 2004

notice shall state the general character of the work and the 2005
general character of the materials to be furnished, the place 2006
where plans and specifications may be examined, and the time and 2007
place of receiving bids. 2008

(b) Each bid for a contract for the construction, demolition, 2009
alteration, repair, or reconstruction of an improvement shall 2010
contain the full name of every person interested in it and meet 2011
the requirements of section 153.54 of the Revised Code. 2012

(c) Each bid for a contract, except as provided in division 2013
(B)(6)(b) of this section, shall contain the full name of every 2014
person interested in it and shall be accompanied by bond or 2015
certified check on a solvent bank, in such amount as the director 2016
considers sufficient, that if the bid is accepted a contract will 2017
be entered into and the performance of the proposal secured. 2018

(d) The director may reject any and all bids. 2019

(e) A bond with good and sufficient surety, approved by the 2020
director, shall be required of every contractor awarded a contract 2021
except as provided in division (B)(6)(b) of this section, in an 2022
amount equal to at least fifty per cent of the contract price, 2023
conditioned upon faithful performance of the contract. 2024

(7) Employ financial consultants, appraisers, consulting 2025
engineers, superintendents, managers, construction and accounting 2026
experts, attorneys, and other employees and agents as are 2027
necessary in the director's judgment and fix their compensation; 2028

(8) Assist qualified persons in the coordination and 2029
formation of a small business development company, having a 2030
statewide area of operation, conditional upon the company's 2031
agreeing to seek to obtain certification from the federal small 2032
business administration as a certified statewide development 2033
company and participation in the guaranteed loan program 2034
administered by the small business administration pursuant to the 2035

Act of July 2, 1980, 94 Stat. 837, 15 U.S.C.A. 697. During the 2036
initial period of formation of the statewide small business 2037
development company, the director shall provide technical and 2038
financial expertise, legal and managerial assistance, and other 2039
services as are necessary and proper to enable the company to 2040
obtain and maintain federal certification and participation in the 2041
federal guaranteed loan program. The director may charge a fee, in 2042
such amount and on such terms and conditions as the director 2043
determines necessary and proper, for assistance and services 2044
provided pursuant to division (B)(8) of this section. 2045

Persons chosen by the director to receive assistance in the 2046
formation of a statewide small business development company 2047
pursuant to division (B)(8) of this section shall make a special 2048
effort to use their participation in the federal guaranteed loan 2049
program to assist small businesses which are minority business 2050
enterprises as defined in division (E) of section 122.71 of the 2051
Revised Code. The director, with the assistance of the minority 2052
business development division of the department of development, 2053
shall provide technical and financial expertise, legal and 2054
managerial assistance, and other services in such a manner to 2055
enable the development company to provide assistance to small 2056
businesses which are minority business enterprises, and shall make 2057
available to the development company information pertaining to 2058
assistance available to minority business enterprises under 2059
programs established pursuant to sections 122.71 to 122.83, 122.87 2060
to 122.89, 122.92 to 122.94, 123.151, and 125.081 of the Revised 2061
Code. 2062

(9) Receive and accept grants, gifts, and contributions of 2063
money, property, labor, and other things of value to be held, 2064
used, and applied only for the purpose for which such grants, 2065
gifts, and contributions are made, from individuals, private and 2066
public corporations, from the United States or any agency of the 2067

United States, from the state or any agency of the state, and from 2068
any political subdivision of the state, and may agree to repay any 2069
contribution of money or to return any property contributed or the 2070
value of the property at such times, in such amounts, and on such 2071
terms and conditions, excluding the payment of interest, as the 2072
director determines at the time such contribution is made, and may 2073
evidence such obligations by notes, bonds, or other written 2074
instruments; 2075

(10) Establish with the treasurer of state the funds provided 2076
in sections 122.54, 122.55, 122.56, and 122.57 of the Revised 2077
Code, in addition to such funds as the director determines are 2078
necessary or proper; 2079

(11) Do all acts and things necessary or proper to carry out 2080
the powers expressly granted and the duties imposed in sections 2081
122.39 and 122.41 to 122.62 and Chapter 163. of the Revised Code. 2082

(C) All expenses and obligations incurred by the director in 2083
carrying out the director's powers and in exercising the 2084
director's duties under sections 122.39 and 122.41 to 122.62 of 2085
the Revised Code, shall be payable solely from the proceeds of 2086
revenue bonds issued pursuant to those sections, from revenues or 2087
other receipts or income of the director, from grants, gifts, and 2088
contributions, or funds established in accordance with those 2089
sections. Those sections do not authorize the director to incur 2090
indebtedness or to impose liability on the state or any political 2091
subdivision of the state. 2092

(D) Financial statements and financial data submitted to the 2093
director by any corporation, partnership, or person in connection 2094
with a loan application, or any information taken from such 2095
statements or data for any purpose, shall not be open to public 2096
inspection. 2097

Sec. 122.43. The director of development services, with 2098

controlling board approval, may lend funds which are obtained from 2099
the sale of revenue bonds issued by the treasurer of state 2100
pursuant to sections 122.39 and 122.41 to 122.62 of the Revised 2101
Code, from revenues or other receipts or income of the director, 2102
or funds established in accordance with sections 122.39 and 122.41 2103
to 122.62 of the Revised Code, and from grants, gifts, and 2104
contributions subject to any provisions of resolutions authorizing 2105
the revenue bonds or of trust agreements securing such bonds, to 2106
community improvement corporations and Ohio development 2107
corporations and other corporations, partnerships, and persons for 2108
the purpose of procuring or improving real or personal property, 2109
or both, for the establishment, location, or expansion of 2110
industrial, distribution, commercial, or research facilities in 2111
the state, and to community improvement corporations and Ohio 2112
development corporations for the purpose of loaning funds to other 2113
corporations, partnerships, and persons for the purpose of 2114
procuring or improving real or personal property, or both, for the 2115
establishment, location, or expansion of industrial, distribution, 2116
commercial, or research facilities in the state, if the director 2117
finds that: 2118

(A) The project is economically sound and will benefit the 2119
people of the state by increasing opportunities for employment and 2120
strengthening the economy of the state; 2121

(B) The proposed borrower, if other than a community 2122
improvement corporation or an Ohio development corporation, is 2123
unable to finance the proposed project through ordinary financial 2124
channels upon reasonable terms and at comparable interest rates, 2125
or the borrower, if a community improvement corporation or an Ohio 2126
development corporation, should not, in the opinion of the 2127
director, be required to finance the proposed project without a 2128
loan from the director; 2129

(C) The value of the project is, or upon completion thereof 2130

will be, at least equal to the total amount of the money expended 2131
in such procurement or improvement of which amount one or more 2132
financial institutions have loaned or invested not less than forty 2133
per cent; 2134

(D) The amount to be loaned by the director will not exceed 2135
fifty per cent of the total amount expended in the procurement or 2136
improvement of the project; 2137

(E) The amount to be loaned by the director will be 2138
adequately secured by a first or second mortgage upon the project, 2139
and by mortgages, leases, liens, assignments, or pledges on or of 2140
such other property or contracts as the director shall require and 2141
that such mortgage will not be subordinate to any other liens or 2142
mortgages except the liens securing loans or investments made by 2143
financial institutions referred to in division (C) of this 2144
section, and the liens securing loans previously made by any 2145
financial institution in connection with the procurement or 2146
expansion of all or part of a project. 2147

In no event may the ~~director~~ DIRECTOR director lend funds 2148
under the authority of this section for the purpose of procuring 2149
or improving motor vehicles, power driven vehicles, office 2150
equipment, raw materials, small tools, supplies, inventories, or 2151
accounts receivable. 2152

Sec. 122.44. Fees, charges, rates of interest, times of 2153
payment of interest and principal, and other terms, conditions, 2154
and provisions of the loans made by the director of development 2155
services pursuant to sections 122.39 and 122.41 to 122.62 of the 2156
Revised Code shall be such as the director determines to be 2157
appropriate and in furtherance of the purpose for which the loans 2158
are made, but the mortgage lien securing any money loaned by the 2159
director may be subordinate to the mortgage lien securing any 2160
money loaned or invested by a financial institution, but shall be 2161

superior to that securing any money loaned or expended by any 2162
other corporation or person. The funds used in making such loans 2163
shall be disbursed upon order of the director. 2164

Sec. 122.48. Each issue of revenue bonds issued by the 2165
treasurer of state pursuant to sections 122.39 and 122.41 to 2166
122.62 of the Revised Code, shall be dated, shall bear interest at 2167
a rate or rates or at a variable rate, as provided in or 2168
authorized by the proceedings authorizing or providing for the 2169
terms and conditions of the revenue bonds, shall mature at such 2170
time or times, not to exceed forty years from date, as determined 2171
by the director of development services and may be made redeemable 2172
before maturity at the option of the director at such price or 2173
prices and under such terms and conditions as are fixed by the 2174
director prior to the issuance of the bonds. The director shall 2175
determine the form of the bonds, including any interest coupons to 2176
be attached thereto, and the denomination or denominations of the 2177
bonds and the place or places of payment of principal and 2178
interest, which may be at any bank or trust company within or 2179
without the state. 2180

The bonds shall be executed by the signature or facsimile 2181
signature of the treasurer of state, the official seal or a 2182
facsimile thereof of the state shall be affixed thereto and 2183
attested by the treasurer of state or designated treasurer of 2184
state, and any coupons attached thereto shall bear the facsimile 2185
signature of the treasurer of state. In case the person whose 2186
signature, or a facsimile of whose signature, appears on any bonds 2187
or coupons ceases to be such officer before delivery of bonds or 2188
in case such person was not at the date of such bonds or coupons 2189
such officer but at the actual date of execution of such bonds or 2190
coupons was the proper officer, such signature or facsimile shall 2191
nevertheless be valid and sufficient for all purposes the same as 2192
if ~~he~~ the person had remained in office until such delivery. 2193

All revenue bonds issued under sections 122.39 and 122.41 to 2194
122.62 of the Revised Code, shall be negotiable instruments. The 2195
bonds may be issued in coupon or in registered form or both, as 2196
the treasurer determines. Provision may be made for the 2197
registration of any coupon bonds as to the principal alone and 2198
also as to both principal and interest, and for the reconversion 2199
into coupon bonds of any bonds registered as to both principal and 2200
interest. The treasurer of state may sell such bonds in the manner 2201
and for the price ~~he~~ the treasurer of state determines to be for 2202
the best interest of the state. 2203

Prior to the preparation of definitive bonds, the treasurer 2204
of state may, under like restrictions, issue interim receipts or 2205
temporary bonds, with or without coupons, exchangeable for 2206
definitive bonds when such bonds have been executed and are 2207
available for delivery. The treasurer of state may also provide 2208
for the replacement of any bonds which become mutilated or are 2209
destroyed, stolen, or lost. Bonds may be issued under sections 2210
122.39 to 122.62 of the Revised Code, without obtaining the 2211
consent of any department, division, commission, board, bureau, or 2212
agency of the state, and without any other proceeding or the 2213
happening of any other conditions or things than those 2214
proceedings, conditions, or things which are specifically required 2215
by such sections. 2216

Sec. 122.49. The proceeds of each issue of revenue bonds 2217
issued pursuant to sections 122.39 and 122.41 to 122.62 of the 2218
Revised Code shall be used for the making of loans authorized in 2219
sections 122.43 and 122.45 of the Revised Code, for the purchase 2220
and improvement of property authorized in section 122.46 of the 2221
Revised Code, for insuring mortgage payments authorized in section 2222
122.451 of the Revised Code, and for the crediting into and among 2223
the funds established in accordance with sections 122.35, 122.54, 2224
122.55, 122.56, 122.561, and 122.57 of the Revised Code, but 2225

subject to such conditions, limitations, and covenants with the 2226
purchasers and holders of the bonds as shall be provided for in 2227
the bond authorization proceedings and in the trust agreement 2228
securing the same. 2229

Provision shall be made by the director of development 2230
services for the payment of the expenses of the director in 2231
operating the assistance programs authorized under this chapter in 2232
such manner and to such extent as shall be determined by the 2233
director. 2234

Sec. 122.50. Revenue bonds issued under sections 122.39 and 2235
122.41 to 122.62, inclusive, of the Revised Code, do not 2236
constitute a debt, or a pledge of the faith and credit, of the 2237
state or of any political subdivision thereof, but such bonds 2238
shall be payable solely from the funds pledged for their payment 2239
as authorized by such sections, or by funds derived from the 2240
issuance of refunding bonds as authorized in section 122.52 of the 2241
Revised Code, which refunding bonds shall be payable solely from 2242
funds pledged for their payment as authorized by such section. All 2243
such revenue bonds shall contain on the face thereof a statement 2244
to the effect that the bonds, as to both principal and interest, 2245
are not an obligation of the state or of any political subdivision 2246
thereof, but are payable solely from revenues pledged for their 2247
payment. 2248

Sec. 122.51. All revenue bonds issued under sections 122.39 2249
and 122.41 to 122.62, inclusive, of the Revised Code, are lawful 2250
investments of banks, building and loan and savings and loan 2251
associations, deposit guarantee associations, trust companies, 2252
trustees, fiduciaries, trustees or other officers having charge of 2253
sinking or bond retirement funds of municipal corporations and 2254
other subdivisions of this state, and of domestic insurance 2255
companies notwithstanding sections 3907.14 and 3925.08 of the 2256

Revised Code, and are acceptable as security for the deposit of 2257
public moneys. 2258

Sec. 122.52. The director of development services may provide 2259
for the issuance of revenue refunding bonds of the state by the 2260
treasurer of state, payable solely from the sinking funds 2261
established in accordance with section 122.51 of the Revised Code 2262
at the times and in the order and manner provided by the director 2263
and in any trust agreement securing such bonds and shall also be 2264
secured by moneys in the other funds established pursuant to 2265
sections 122.39 and 122.41 to 122.62 of the Revised Code to the 2266
extent and on the terms specified by the director, for the purpose 2267
of refunding any revenue bonds then outstanding which have been 2268
issued under sections 122.39 and 122.41 to 122.62 of the Revised 2269
Code, including the payment of any redemption premium thereon and 2270
any interest accrued or to accrue to the date of redemption of 2271
such bonds. The issuance of such bonds, the maturities and other 2272
details thereof, the rights of the holders thereof, and the 2273
rights, duties, and obligations of the director and treasurer of 2274
state in respect to such bonds shall be governed by such sections 2275
insofar as they are applicable. 2276

Sec. 122.53. In the discretion of the treasurer of state, any 2277
bonds issued under sections 122.39 and 122.41 to 122.62 of the 2278
Revised Code, may be secured by a trust agreement between the 2279
treasurer of state and a corporate trustee, which trustee may be 2280
any trust company or bank having the powers of a trust company 2281
within or without the state. 2282

Any such trust agreement may pledge or assign payments of 2283
principal of and interest on loans, charges, fees, and other 2284
revenue to be received by the director of development services, 2285
all rentals received under leases made by the director, and all 2286
proceeds of the sale or other disposition of property held by the 2287

director, and may provide for the holding in trust by the trustee 2288
to the extent provided for in the proceedings authorizing such 2289
bonds, of all such moneys and moneys otherwise payable into the 2290
mortgage guarantee fund created by section 122.56 of the Revised 2291
Code, and all moneys otherwise payable into the mortgage insurance 2292
fund created by section 122.561 of the Revised Code, and of moneys 2293
payable into the sinking fund or funds referred to in section 2294
122.57 of the Revised Code, but shall not convey or mortgage any 2295
of the real or personal property held by the director or any part 2296
thereof. Any such trust agreement, or any proceedings providing 2297
for the issuance of such bonds, may contain such provisions for 2298
protecting and enforcing the rights and remedies of the 2299
bondholders as are reasonable and proper and not in violation of 2300
law, including covenants setting forth the duties of the director 2301
in relation to the acquisition of property, and the construction, 2302
improvement, maintenance, repair, operation, and insurance of 2303
facilities, the making of loans and leases and the terms and 2304
provisions thereof, and the custody, safeguarding, investment, and 2305
application of all moneys, and provisions for the employment of 2306
consulting engineers or other consultants in connection with the 2307
making of loans and leases and the construction or operation of 2308
any facility. Any bank or trust company incorporated under the 2309
laws of this state which may act as trustee or as depository of 2310
the proceeds of bonds or of revenue may furnish such indemnifying 2311
bonds or may pledge such securities as are required by the 2312
treasurer of state. Any such trust agreement may set forth the 2313
rights and remedies of the bondholders and of the trustee, and may 2314
restrict the individual right of action by bondholders as is 2315
customary in trust agreements or trust indentures securing bonds 2316
or debentures of corporations. Such trust agreement may contain 2317
such other provisions as the treasurer of state deems reasonable 2318
and proper for the security of the bondholders. All expenses 2319
incurred by the treasurer of state in carrying out the provisions 2320

of any such trust agreement shall be treated as a part of the cost 2321
of the operation of the assistance programs authorized pursuant to 2322
Chapter 122. of the Revised Code. Any such trust agreement may 2323
provide the method whereby general administrative overhead expense 2324
of the director with respect to those assistance programs shall be 2325
allocated among the funds established pursuant to Chapter 122. of 2326
the Revised Code with respect to the operating expenses of the 2327
director payable out of the income of the assistance programs. 2328

Sec. 122.561. The mortgage insurance fund of the director of 2329
development services is hereby created to consist of all money 2330
allocated by the director from the proceeds of the sale of any 2331
issue of revenue bonds, to the extent and subject to the 2332
conditions provided in the proceedings authorizing such bonds or 2333
in the trust agreements securing such bonds, for the purpose of 2334
insuring mortgage payments pursuant to section 122.451 of the 2335
Revised Code, all grants and contributions made to the director 2336
for such purpose, all moneys deposited or credited to the mortgage 2337
insurance fund pursuant to section 169.05 of the Revised Code, all 2338
other moneys and property designated by the director and by law 2339
for such purpose, all mortgage insurance premiums charged and 2340
collected as provided in this section, and all receipts and 2341
proceeds from the sale, disposal, lease, or rental of real or 2342
personal property which the director may hold as a result of a 2343
default in an insured mortgage. The director shall fix mortgage 2344
insurance premiums for the insurance of mortgage payments pursuant 2345
to section 122.451 of the Revised Code, to be computed as a 2346
percentage of the principal obligation of the mortgage outstanding 2347
at the beginning of each mortgage year. Such insurance premiums 2348
shall not be more than three per cent per annum of the outstanding 2349
principal obligation, and shall be calculated on the basis of all 2350
pertinent available data. Such premiums shall be payable by the 2351
mortgagors or the mortgagees in such manner as is prescribed by 2352

the director. The amount of premium need not be uniform among the 2353
various mortgages insured. The director may provide for the 2354
custody, investment, and use of the unclaimed funds trust fund 2355
created by section 169.05 of the Revised Code and all mortgage 2356
insurance premiums, including the payment therefrom of the 2357
expenses and costs of the director in insuring mortgage payments 2358
pursuant to section 122.451 of the Revised Code. Any financial 2359
statements or financial data submitted to the director, ~~the~~ 2360
~~development financing advisory council,~~ or the controlling board 2361
in connection with any application for the insurance of mortgage 2362
payments, or any information taken from such statements or data, 2363
is not open to public inspection. 2364

Sec. 122.57. All payments of principal of and interest on the 2365
loans made by the director of development services, all rentals 2366
received under leases made by ~~him~~ the director, and all proceeds 2367
of the sale or other disposition of property held by ~~him~~ the 2368
director shall be placed in separate sinking funds to the extent 2369
provided in the proceedings authorizing revenue bonds which are 2370
hereby pledged to and charged with the payment of interest on, 2371
principal of and redemption premium on, the revenue bonds issued 2372
pursuant to sections 122.39 and 122.41 to 122.62 of the Revised 2373
Code to the extent provided in the proceedings authorizing and the 2374
trust agreements securing such bonds. The moneys therein in excess 2375
of the amounts required by the bond proceedings and trust 2376
agreements and all payments not so required to be paid into such 2377
sinking funds shall be retained or placed in such fund or in the 2378
other funds provided for by sections 122.35, 122.54, 122.42, 2379
122.55, 122.56, 122.561, and 122.57 of the Revised Code as the 2380
director shall determine, and shall be available for the uses for 2381
which such funds are established. 2382

Sec. 122.60. As used in sections 122.60 to 122.605 of the 2383

Revised Code:	2384
(A) "Capital access loan" means a loan made by a participating financial institution to an eligible business that may be secured by a deposit of money from the fund into the participating financial institution's program reserve account.	2385 2386 2387 2388
(B) "Department <u>of development</u> " means the department of development <u>services agency</u> .	2389 2390
(C) "Eligible business" means a for-profit business entity, or a nonprofit entity, that had total annual sales in its most recently completed fiscal year of less than ten million dollars and that has a principal place of for-profit business or nonprofit entity activity within the state, the operation of which, alone or in conjunction with other facilities, will create new jobs or preserve existing jobs and employment opportunities and will improve the economic welfare of the people of the state. As used in this division, "new jobs" does not include existing jobs transferred from another facility within the state, and "existing jobs" means only existing jobs at facilities within the same municipal corporation or township in which the project, activity, or enterprise that is the subject of a capital access loan is located.	2391 2392 2393 2394 2395 2396 2397 2398 2399 2400 2401 2402 2403 2404
(D) "Financial institution" means any bank, trust company, savings bank, or savings and loan association that is chartered by and has a significant presence in the state, or any national bank, federal savings and loan association, or federal savings bank that has a significant presence in the state.	2405 2406 2407 2408 2409
(E) "Fund" means the capital access loan program fund.	2410
(F) " <u>Minority business supplier development council</u> " has the <u>same meaning as in section 122.71 of the Revised Code.</u>	2411 2412
(G) " <u>Participating financial institution</u> " means a financial	2413

institution that has a valid, current participation agreement with 2414
the ~~department~~ development services agency. 2415

~~(G)~~(H) "Participation agreement" means the agreement between 2416
a financial institution and the ~~department~~ agency under which a 2417
financial institution may participate in the program. 2418

~~(H)~~(I) "Passive real estate ownership" means the ownership of 2419
real estate for the sole purpose of deriving income from it by 2420
speculation, trade, or rental. 2421

~~(I)~~(J) "Program" means the capital access loan program 2422
created under section 122.602 of the Revised Code. 2423

~~(J)~~(K) "Program reserve account" means a dedicated account at 2424
each participating financial institution that is the property of 2425
the state and may be used by the participating financial 2426
institution only for the purpose of recovering a claim under 2427
section 122.604 of the Revised Code arising from a default on a 2428
loan made by the participating financial institution under the 2429
program. 2430

Sec. 122.601. There is hereby created in the state treasury 2431
the capital access loan program fund. The fund shall consist of 2432
money deposited into it from the minority business enterprise loan 2433
fund pursuant to section 122.80 of the Revised Code and the 2434
facilities establishment fund pursuant to section 166.03 of the 2435
Revised Code and all money deposited into it pursuant to section 2436
122.602 of the Revised Code. The total amount of money deposited 2437
into the fund from the minority business enterprise loan fund or 2438
the facilities establishment fund shall not exceed three million 2439
dollars during any particular fiscal year of the ~~department~~ 2440
development services agency. 2441

The ~~department~~ agency shall disburse money from the fund only 2442
to pay the operating costs of the program, including the 2443

administrative costs incurred by the ~~department~~ agency in 2444
connection with the program, and only in keeping with the purposes 2445
specified in sections 122.60 to 122.605 of the Revised Code. 2446

Sec. 122.602. (A) There is hereby created in the department 2447
of development the capital access loan program to assist 2448
participating financial institutions in making program loans to 2449
eligible businesses that face barriers in accessing working 2450
capital and obtaining fixed asset financing. In administering the 2451
program, the director of development may do any of the following: 2452

(1) Receive and accept grants, gifts, and contributions of 2453
money, property, labor, and other things of value to be held, 2454
used, and applied only for the purpose for which the grants, 2455
gifts, and contributions are made, from individuals, private and 2456
public corporations, the United States or any agency of the United 2457
States, the state or any agency of the state, or any political 2458
subdivision of the state; 2459

(2) Agree to repay any contribution of money or return any 2460
property contributed or the value of that property at the times, 2461
in the amounts, and on the terms and conditions, excluding the 2462
payment of interest, that the director consents to at the time a 2463
contribution is made; and evidence obligations by notes, bonds, or 2464
other written instruments; 2465

(3) Adopt rules under Chapter 119. of the Revised Code to 2466
carry out the purposes of the program specified in sections 122.60 2467
to 122.605 of the Revised Code; 2468

(4) Engage in all other acts, and enter into contracts and 2469
execute all instruments, necessary or appropriate to carry out the 2470
purposes specified in sections 122.60 to 122.605 of the Revised 2471
Code. 2472

(B) The director shall determine the eligibility of a 2473

financial institution to participate in the program and may set a 2474
limit on the number of financial institutions that may participate 2475
in the program. 2476

(C) To be considered eligible by the director to participate 2477
in the program, a financial institution shall enter into a 2478
participation agreement with the department that sets out the 2479
terms and conditions under which the department will deposit 2480
moneys from the fund into the financial institution's program 2481
reserve account, specifies the criteria for loan qualification 2482
under the program, and contains any additional terms the director 2483
considers necessary. 2484

(D) After receiving the certification required under division 2485
(C) of section 122.603 of the Revised Code, the director may 2486
disburse moneys from the fund to a participating financial 2487
institution for deposit in its program reserve account if the 2488
director determines that the capital access loan involved meets 2489
all of the following criteria: 2490

(1) It will be made to an eligible business. 2491

(2) It will be used by the eligible business for a project, 2492
activity, or enterprise that fosters economic development. 2493

(3) It will not be made in order to enroll in the program 2494
prior debt that is not covered under the program and that is owed 2495
or was previously owed by an eligible business to the financial 2496
institution. 2497

(4) It will not be utilized for a project or development 2498
related to the on-site construction or purchase of residential 2499
housing. 2500

(5) It will not be used to finance passive real estate 2501
ownership. 2502

(6) It conforms to the requirements of divisions (E), (F), 2503

(G), (H), and (I) of this section, and to the rules adopted by the 2504
director under division (A)(3) of this section. 2505

(E) The director shall not approve a deposit amount from the 2506
fund for a capital access loan to an eligible business that 2507
exceeds two hundred fifty thousand dollars for working capital or 2508
five hundred thousand dollars for the purchase of fixed assets. An 2509
eligible business may apply for the maximum deposit amount ~~of~~ for 2510
both working capital and the purchase of fixed assets in the same 2511
capital access loan enrollment. 2512

(F) A financial institution may apply to the director for the 2513
approval of a capital access loan to any business that is owned or 2514
operated by a person that has previously defaulted under any state 2515
financial assistance program. 2516

(G) Eligible businesses that apply for a capital access loan 2517
shall comply with section 9.66 of the Revised Code. 2518

(H) A financial institution may apply to the director for the 2519
approval of a capital access loan that refinances a nonprogram 2520
loan made by another financial institution. 2521

(I) The director shall not approve a capital access loan that 2522
refinances a nonprogram loan made by the same financial 2523
institution, unless the amount of the refinanced loan exceeds the 2524
existing debt, in which case only the amount exceeding the 2525
existing debt is eligible for a loan under the program. 2526

Sec. 122.603. (A)(1) Upon approval by the director of 2527
development services and after entering into a participation 2528
agreement with the ~~department of~~ development services agency, a 2529
participating financial institution making a capital access loan 2530
shall establish a program reserve account. The account shall be an 2531
interest-bearing account and shall contain only moneys deposited 2532
into it under the program and the interest payable on the moneys 2533

in the account. 2534

(2) All interest payable on the moneys in the program reserve 2535
account shall be added to the moneys and held as an additional 2536
loss reserve. The director may require that a portion or all of 2537
the accrued interest so held in the account be released to the 2538
~~department~~ agency. If the director causes a release of accrued 2539
interest, the director shall deposit the released amount into the 2540
capital access loan program fund created in section 122.601 of the 2541
Revised Code. The director shall not require the release of that 2542
accrued interest more than twice in a fiscal year. 2543

(B) When a participating financial institution makes a 2544
capital access loan, it shall require the eligible business to pay 2545
to the participating financial institution a fee in an amount that 2546
is not less than one and one-half per cent, and not more than 2547
three per cent, of the principal amount of the loan. The 2548
participating financial institution shall deposit the fee into its 2549
program reserve account, and it also shall deposit into the 2550
account an amount of its own funds equal to the amount of the fee. 2551
The participating financial institution may recover from the 2552
eligible business all or part of the amount that the participating 2553
financial institution is required to deposit into the account 2554
under this division in any manner agreed to by the participating 2555
financial institution and the eligible business. 2556

(C) For each capital access loan made by a participating 2557
financial institution, the participating financial institution 2558
shall certify to the director, within a period specified by the 2559
director, that the participating financial institution has made 2560
the loan. The certification shall include the amount of the loan, 2561
the amount of the fee received from the eligible business, the 2562
amount of its own funds that the participating financial 2563
institution deposited into its program reserve account to reflect 2564

that fee, and any other information specified by the director. The 2565
certification also shall indicate if the eligible business 2566
receiving the capital access loan is a minority business 2567
enterprise as defined in section 122.71 of the Revised Code or 2568
certified by the minority business supplier development council. 2569

(D)(1)(a) Upon receipt of each of the first three 2570
certifications from a participating financial institution made 2571
under division (C) of this section and subject to section 122.602 2572
of the Revised Code, the director shall disburse to the 2573
participating financial institution from the capital access loan 2574
program fund an amount ~~equal~~ not to exceed fifty per cent of the 2575
principal amount of the particular capital access loan for deposit 2576
into the participating financial institution's program reserve 2577
account. Thereafter, upon receipt of a certification from that 2578
participating financial institution made under division (C) of 2579
this section and subject to section 122.602 of the Revised Code, 2580
the director shall disburse to the participating financial 2581
institution from the capital access loan program fund an amount 2582
equal to ten per cent of the principal amount of the particular 2583
capital access loan for deposit into the participating financial 2584
institution's program reserve account. 2585

(b) Notwithstanding division (D)(1)(a) of this section, and 2586
subject to section 122.602 of the Revised Code, upon receipt of 2587
any certification from a participating financial institution made 2588
under division (C) of this section with respect to a capital 2589
access loan made to an eligible business that is a minority 2590
business enterprise, the director shall disburse to the 2591
participating financial institution from the capital access loan 2592
program fund an amount ~~equal~~ not to exceed eighty per cent of the 2593
principal amount of the particular capital access loan for deposit 2594
into the participating financial institution's program reserve 2595
account. 2596

(2) The disbursement of moneys from the fund to a participating financial institution does not require approval from the controlling board.

(E) If the amount in a program reserve account exceeds an amount equal to thirty-three per cent of a participating financial institution's outstanding capital access loans, the ~~department~~ agency may cause the withdrawal of the excess amount and the deposit of the withdrawn amount into the capital access loan program fund.

(F)(1) The ~~department~~ agency may cause the withdrawal of the total amount in a participating financial institution's program reserve account if any of the following applies:

(a) The financial institution is no longer eligible to participate in the program.

(b) The participation agreement expires without renewal by the ~~department~~ agency or the financial institution.

(c) The financial institution has no outstanding capital access loans.

(d) The financial institution has not made a capital access loan within the preceding twenty-four months.

(2) If the ~~department~~ agency causes a withdrawal under division (F)(1) of this section, the ~~department~~ agency shall deposit the withdrawn amount into the capital access loan program fund.

Sec. 122.61. The exercise of the powers granted by sections 122.39 and 122.41 to 122.62 of the Revised Code, will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of conditions of employment, and will constitute the performance of essential governmental functions; therefore the director of

development services shall not be required to pay any taxes upon 2627
any ~~of~~ property or assets held by ~~him~~ the director, or upon any 2628
property acquired or used by ~~him~~ the director under sections 2629
122.39 and 122.41 to 122.62 of the Revised Code, or upon the 2630
income therefrom, provided, such exemption shall not apply to any 2631
property held by the director while it is in the possession of a 2632
private person, partnership, or corporation and used for private 2633
purposes for profit. The bonds, notes, or other obligations issued 2634
under such sections, their transfer, and the income therefrom, 2635
including any profit made on the sale thereof, shall at all times 2636
be free from taxation within the state. 2637

Sec. 122.62. All moneys received under sections 122.39 and 2638
122.41 to 122.62 of the Revised Code as proceeds from the sale of 2639
bonds are trust funds. All moneys received under those sections 2640
shall be held and applied solely as provided in such sections and 2641
section 166.03 of the Revised Code. All such moneys, except as 2642
otherwise provided in any proceedings authorizing revenue bonds or 2643
in any trust agreement securing such bonds or except when 2644
deposited with the treasurer of state, or except as they may be 2645
invested pursuant to section 122.58 of the Revised Code, shall be 2646
kept in depositories as selected by the director of development 2647
services in the manner provided in sections 135.01 to 135.21 of 2648
the Revised Code, insofar as such sections are applicable, and the 2649
deposits shall be secured as provided in sections 135.01 to 135.21 2650
of the Revised Code. The proceedings authorizing the issuance of 2651
bonds of any issue or the trust agreement securing such bonds 2652
shall provide that any official to whom, or any bank or trust 2653
company to which, such moneys are paid, shall act as trustee of 2654
such moneys and hold and apply them for the purposes of sections 2655
122.39 and 122.41 to 122.62 of the Revised Code, subject to such 2656
rules as such sections and such bond issuance proceedings or trust 2657
agreement provide. 2658

Sec. 122.64. (A) There is hereby established in the 2659
~~department of development~~ services agency a business services 2660
~~division of economic development.~~ The division shall be supervised 2661
by a deputy director appointed by the director of development 2662
services. 2663

The division is responsible for the administration of the 2664
state economic development financing programs established pursuant 2665
to sections 122.17 and 122.18, sections 122.39 and 122.41 to 2666
122.62, and Chapter 166. of the Revised Code ~~and for coordinating~~ 2667
~~the activities of the development financing advisory council so as~~ 2668
~~to ensure the efficient administration of the programs.~~ 2669

(B) The director of development services shall: 2670

(1) ~~Appoint an individual to serve as director of the~~ 2671
~~development financing advisory council;~~ 2672

~~(2)~~ Receive applications for assistance pursuant to sections 2673
122.39 and 122.41 to 122.62 and Chapter 166. of the Revised Code. 2674
The director shall process the applications ~~and, except as~~ 2675
~~provided in division (C)(2) of section 166.05 of the Revised Code,~~ 2676
~~forward them to the development financing advisory council. As~~ 2677
~~appropriate, the director shall receive the recommendations of the~~ 2678
~~council as to applications for assistance.~~ 2679

~~(3)~~(2) With the approval of the director of administrative 2680
services, establish salary schedules for employees of the various 2681
positions of employment with the division and assign the various 2682
positions to those salary schedules; 2683

~~(4)~~ ~~Furnish and pay for, out of funds appropriated to the~~ 2684
~~department of development for that purpose, office space and~~ 2685
~~associated utilities service, for the development financing~~ 2686
~~advisory council;~~ 2687

~~(5)~~(3) Employ and fix the compensation of financial 2688

consultants, appraisers, consulting engineers, superintendents, 2689
managers, construction and accounting experts, attorneys, and 2690
other agents for the assistance programs authorized pursuant to 2691
sections 122.17 and 122.18, sections 122.39 and 122.41 to 122.62, 2692
and Chapter 166. of the Revised Code as are necessary; 2693

~~(6)~~(4) Supervise the administrative operations of the 2694
division; 2695

~~(7)~~(5) On or before the first day of October in each year, 2696
make an annual report of the activities and operations under 2697
assistance programs authorized pursuant to sections 122.39 and 2698
122.41 to 122.62 and Chapter 166. of the Revised Code for the 2699
preceding fiscal year to the governor and the general assembly. 2700
Each such report shall set forth a complete operating and 2701
financial statement covering such activities and operations during 2702
the year in accordance with generally accepted accounting 2703
principles and shall be audited by a certified public accountant. 2704
The director of development services shall transmit a copy of the 2705
audited financial report to the office of budget and management. 2706

Sec. 122.76. (A) The director of development services, with 2707
controlling board approval, may lend funds to minority business 2708
enterprises and to community improvement corporations, Ohio 2709
development corporations, minority contractors business assistance 2710
organizations, and minority business supplier development councils 2711
for the purpose of loaning funds to minority business enterprises 2712
and for the purpose of procuring or improving real or personal 2713
property, or both, for the establishment, location, or expansion 2714
of industrial, distribution, commercial, or research facilities in 2715
the state, and to community development corporations that 2716
predominantly benefit minority business enterprises or are located 2717
in a census tract that has a population that is sixty per cent or 2718
more minority if the director determines, in the director's sole 2719

discretion, that all of the following apply: 2720

(1) The project is economically sound and will benefit the 2721
people of the state by increasing opportunities for employment, by 2722
strengthening the economy of the state, or expanding minority 2723
business enterprises. 2724

(2) The proposed minority business enterprise borrower is 2725
unable to finance the proposed project through ordinary financial 2726
channels at comparable terms. 2727

(3) The value of the project is or, upon completion, will be 2728
at least equal to the total amount of the money expended in the 2729
procurement or improvement of the project. 2730

(4) The amount to be loaned by the director will not exceed 2731
~~sixty~~ seventy-five per cent of the total amount expended in the 2732
procurement or improvement of the project. 2733

(5) The amount to be loaned by the director will be 2734
adequately secured by a first or second mortgage upon the project 2735
or by mortgages, leases, liens, assignments, or pledges on or of 2736
other property or contracts as the director requires, and such 2737
mortgage will not be subordinate to any other liens or mortgages 2738
except the liens securing loans or investments made by financial 2739
institutions referred to in division (A)(3) of this section, and 2740
the liens securing loans previously made by any financial 2741
institution in connection with the procurement or expansion of all 2742
or part of a project. 2743

(B) Any proposed minority business enterprise borrower 2744
submitting an application for assistance under this section shall 2745
not have defaulted on a previous loan from the director, and no 2746
full or limited partner, major shareholder, or holder of an equity 2747
interest of the proposed minority business enterprise borrower 2748
shall have defaulted on a loan from the director. 2749

(C) The proposed minority business enterprise borrower shall 2750

demonstrate to the satisfaction of the director that it is able to 2751
successfully compete in the private sector if it obtains the 2752
necessary financial, technical, or managerial support and that 2753
support is available through the director, the minority business 2754
development office of the department of development, or other 2755
identified and acceptable sources. In determining whether a 2756
minority business enterprise borrower will be able to successfully 2757
compete, the director may give consideration to such factors as 2758
the successful completion of or participation in courses of study, 2759
recognized by the board of regents as providing financial, 2760
technical, or managerial skills related to the operation of the 2761
business, by the economically disadvantaged individual, owner, or 2762
partner, and the prior success of the individual, owner, or 2763
partner in personal, career, or business activities, as well as to 2764
other factors identified by the director. 2765

(D) The director shall not lend funds for the purpose of 2766
procuring or improving motor vehicles or accounts receivable. 2767

Sec. 122.80. There is hereby created in the state treasury 2768
the minority business enterprise loan fund. The fund shall consist 2769
of money deposited into the fund from the facilities establishment 2770
fund pursuant to section 166.03 of the Revised Code and all money 2771
deposited into the fund pursuant to section 122.81 of the Revised 2772
Code. The director of development shall use the fund to pay 2773
operating costs of the minority development financing advisory 2774
board, make loans to minority business enterprises as authorized 2775
in division (A) of section 122.76 of the Revised Code ~~and~~, loan 2776
guarantees to small businesses as authorized in division (A) of 2777
section 122.77 of the Revised Code, and for transfer to the 2778
capital access loan program fund established in section 122.601 of 2779
the Revised Code. 2780

Sec. 122.86. (A) As used in this section and section 5747.81 2781

of the Revised Code: 2782

(1) "Small business enterprise" means a corporation, 2783
pass-through entity, or other person satisfying all of the 2784
following: 2785

(a) At the time of a qualifying investment, the enterprise 2786
meets all of the following requirements: 2787

(i) Has no outstanding tax or other liabilities owed to the 2788
state; 2789

(ii) Is in good standing with the secretary of state, if the 2790
enterprise is required to be registered with the secretary; 2791

(iii) Is current with any court-ordered payments; 2792

(iv) Is not engaged in any illegal activity. 2793

(b) At the time of a qualifying investment, the enterprise's 2794
assets according to generally accepted accounting principles do 2795
not exceed fifty million dollars, or its annual sales do not 2796
exceed ten million dollars. When making this determination, the 2797
assets and annual sales of all of the enterprise's related or 2798
affiliated entities shall be included in the calculation. 2799

~~(b)~~(c) The enterprise employs at least fifty full-time 2800
equivalent employees in this state for whom the enterprise is 2801
required to withhold income tax under section 5747.06 of the 2802
Revised Code, or more than one-half the enterprise's total number 2803
of full-time equivalent employees employed anywhere in the United 2804
States are employed in this state and are subject to that 2805
withholding requirement. 2806

~~(e)~~(d) The enterprise, within six months after an eligible 2807
investor's qualifying investment is made, invests in or incurs 2808
cost for one or more of the following in an amount at least equal 2809
to the amount of the qualifying investment: 2810

(i) Tangible personal property, other than motor vehicles	2811
operated on public roads and highways, used in business and	2812
physically located in this state from the time of its acquisition	2813
by the enterprise until the end of the investor's holding period;	2814
(ii) Motor vehicles operated on public roads and highways if,	2815
from the time of acquisition by the enterprise until the end of	2816
the investor's holding period, the motor vehicles are purchased in	2817
this state, registered in this state under Chapter 4503. of the	2818
Revised Code, are used primarily for business purposes, and are	2819
necessary for the operation of the enterprise's business;	2820
(iii) Real property located in this state that is used in	2821
business from the time of its acquisition by the enterprise until	2822
the end of the holding period;	2823
(iv) Intangible personal property, including patents,	2824
copyrights, trademarks, service marks, or licenses used in	2825
business primarily in this state from the time of its acquisition	2826
by the enterprise until the end of the holding period;	2827
(v) Compensation for new employees of the enterprise for whom	2828
the enterprise is required to withhold income tax under section	2829
5747.06 of the Revised Code, not including increased compensation	2830
for owners, officers, or managers of the enterprise. For this	2831
purpose compensation for new employees includes compensation for	2832
newly hired or retained employees.	2833
(2) "Qualifying investment" means an investment of money made	2834
on or after July 1, 2011, to acquire capital stock or other equity	2835
interest in a small business enterprise. "Qualifying investment"	2836
does not include any <u>either of the following:</u>	2837
(a) <u>Any</u> investment of money an eligible investor derives,	2838
directly or indirectly, from a grant or loan from the federal	2839
government or the state or a political subdivision, including the	2840
third frontier program under Chapter 184. of the Revised Code;	2841

(b) Any investment of money which is the basis of a tax credit granted under any other section of the Revised Code. 2842
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(3) "Eligible investor" means an individual, estate, or trust subject to the tax imposed by section 5747.02 of the Revised Code, or a pass-through entity in which such an individual, estate, or trust holds a direct or indirect ownership or other equity interest. To qualify as an eligible investor, the individual, estate, trust, or pass-through entity shall not owe any outstanding tax or other liability to the state at the time of a qualifying investment. 2844
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(4) "Holding period" means: 2852

(a) For qualifying investments made on or after July 1, 2011, but before July 1, 2013, the two-year period beginning on the day the investment was made; 2853
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(b) For qualifying investments made on or after July 1, 2013, the five-year period beginning on the day the investment was made. 2856
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(5) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code. 2858
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(B) Any eligible investor that makes a qualifying investment in a small business enterprise on or after July 1, 2011, may apply to the director of development services to obtain a small business investment certificate from the director. Alternatively, a small business enterprise may apply on behalf of eligible investors to obtain the certificates for those investors. The director, in consultation with the tax commissioner, shall prescribe the form or manner in which an applicant shall apply for the certificate, devise the form of the certificate, and prescribe any records or other information an applicant shall furnish with the application to evidence the qualifying investment. The applicant shall state the amount of the intended investment. The applicant shall pay an application fee equal to the greater of one-tenth of one per cent 2860
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of the amount of the intended investment or one hundred dollars. 2873

A small business investment certificate entitles the 2874
certificate holder to receive a tax credit under section 5747.81 2875
of the Revised Code if the certificate holder qualifies for the 2876
credit as otherwise provided in this section. If the certificate 2877
holder is a pass-through entity, the certificate entitles the 2878
entity's equity owners to receive their distributive or 2879
proportionate shares of the credit. In any fiscal biennium, an 2880
eligible investor may not apply for small business investment 2881
certificates representing intended investment amounts in excess of 2882
ten million dollars. Such certificates are not transferable. 2883

The director of development ~~shall issue~~ services may reserve 2884
small business investment certificates to qualifying applicants in 2885
the order in which the director receives applications, but may 2886
issue the certificates as the applications are completed. An 2887
application is completed when the director has validated that an 2888
eligible investor has made a qualified investment and the small 2889
business enterprise has made the appropriate reinvestment of the 2890
qualified investment pursuant to the requirements of division 2891
(A)(1)(d) of this section. To qualify for a certificate, an 2892
eligible investor must satisfy both of the following, subject to 2893
the limitation on the amount of qualifying investments for which 2894
certificates may be issued under division (C) of this section: 2895

(1) The eligible investor makes a qualifying investment on or 2896
after July 1, 2011. 2897

(2) The eligible investor pledges not to sell or otherwise 2898
dispose of the qualifying investment before the conclusion of the 2899
applicable holding period. 2900

(C)(1) The amount of any eligible investor's qualifying 2901
investments for which small business investment certificates may 2902
be issued for a fiscal biennium shall not exceed ten million 2903

dollars. 2904

(2) The director of development services shall not issue a 2905
small business investment certificate to an eligible investor 2906
representing an amount of qualifying investment in excess of the 2907
amount of the intended investment indicated on the investor's 2908
application for the certificate. 2909

(3) The director of development services shall not issue 2910
small business investment certificates in a total amount that 2911
would cause the tax credits claimed in any fiscal biennium to 2912
exceed one hundred million dollars. 2913

(4) The director of development services may issue a small 2914
business investment certificate only if both of the following 2915
apply at the time of issuance: 2916

(a) The small business enterprise meets all the requirements 2917
listed in divisions (A)(1)(a)(i) to (iv) of this section; 2918

(b) The eligible investor does not owe any outstanding tax or 2919
other liability to the state. 2920

(D) Before the end of the applicable holding period of a 2921
qualifying investment, each enterprise in which a qualifying 2922
investment was made for which a small business investment 2923
certificate has been issued, upon the request of the director of 2924
development services, shall provide to the director records or 2925
other evidence satisfactory to the director that the enterprise is 2926
a small business enterprise for the purposes of this section. Each 2927
enterprise shall also provide to the director records or evidence 2928
regarding the number of jobs created or retained in the state. No 2929
credit may be claimed under this section and section 5747.81 of 2930
the Revised Code if the director finds that an enterprise is not a 2931
small business enterprise for the purposes of this section. The 2932
director shall compile and maintain a register of small business 2933
enterprises qualifying under this section and shall certify the 2934

register to the tax commissioner. The director shall also compile 2935
and maintain a record of the number of jobs created or retained as 2936
a result of qualifying investments made pursuant to this section. 2937

(E) After the conclusion of the applicable holding period for 2938
a qualifying investment, a person to whom a small business 2939
investment certificate has been issued under this section may 2940
claim a credit as provided under section 5747.81 of the Revised 2941
Code. 2942

(F) The director of development services, in consultation 2943
with the tax commissioner, may adopt rules for the administration 2944
of this section, including rules governing the following: 2945

(1) Documents, records, or other information eligible 2946
investors shall provide to the director; 2947

(2) Any information a small business enterprise shall provide 2948
for the purposes of this section and section 5747.81 of the 2949
Revised Code; 2950

(3) Determination of the number of full-time equivalent 2951
employees of a small business enterprise; 2952

(4) Verification of a small business enterprise's investment 2953
in tangible personal property and intangible personal property 2954
under division (A)(1)~~(e)~~(d) of this section, including when such 2955
investments have been made and where the property is used in 2956
business; 2957

(5) Circumstances under which small business enterprises or 2958
eligible investors may be subverting the purposes of this section 2959
and section 5747.81 of the Revised Code. 2960

There is hereby created in the state treasury the InvestOhio 2961
support fund. The fund shall consist of the fees paid under 2962
division (B) of this section and shall be used by the development 2963
services agency to pay the costs of administering the small 2964

business investment certificate program established under this 2965
section. 2966

Sec. 122.97. (A) The business development and assistance fund 2967
is hereby created in the state treasury. Investment earnings on 2968
moneys in the fund shall be credited to the fund. The development 2969
services agency shall deposit any money it receives for business 2970
development services and business assistance services to the 2971
credit of the fund, including: 2972

(1) Reimbursements for services provided for business 2973
development and business assistance services; 2974

(2) Contract or grant payments from private entities; 2975

(3) Donations or sponsorship payments from private entities; 2976

(4) Contract or grant payments from public agencies or 2977
political subdivisions. 2978

(B) The agency shall use money in the fund for any agency 2979
operating purposes or programs providing business support or 2980
business assistance, including grants, loans, or administrative 2981
expenses. 2982

Sec. 149.43. (A) As used in this section: 2983

(1) "Public record" means records kept by any public office, 2984
including, but not limited to, state, county, city, village, 2985
township, and school district units, and records pertaining to the 2986
delivery of educational services by an alternative school in this 2987
state kept by the nonprofit or for-profit entity operating the 2988
alternative school pursuant to section 3313.533 of the Revised 2989
Code. "Public record" does not mean any of the following: 2990

(a) Medical records; 2991

(b) Records pertaining to probation and parole proceedings or 2992
to proceedings related to the imposition of community control 2993

sanctions and post-release control sanctions;	2994
(c) Records pertaining to actions under section 2151.85 and	2995
division (C) of section 2919.121 of the Revised Code and to	2996
appeals of actions arising under those sections;	2997
(d) Records pertaining to adoption proceedings, including the	2998
contents of an adoption file maintained by the department of	2999
health under section 3705.12 of the Revised Code;	3000
(e) Information in a record contained in the putative father	3001
registry established by section 3107.062 of the Revised Code,	3002
regardless of whether the information is held by the department of	3003
job and family services or, pursuant to section 3111.69 of the	3004
Revised Code, the office of child support in the department or a	3005
child support enforcement agency;	3006
(f) Records listed in division (A) of section 3107.42 of the	3007
Revised Code or specified in division (A) of section 3107.52 of	3008
the Revised Code;	3009
(g) Trial preparation records;	3010
(h) Confidential law enforcement investigatory records;	3011
(i) Records containing information that is confidential under	3012
section 2710.03 or 4112.05 of the Revised Code;	3013
(j) DNA records stored in the DNA database pursuant to	3014
section 109.573 of the Revised Code;	3015
(k) Inmate records released by the department of	3016
rehabilitation and correction to the department of youth services	3017
or a court of record pursuant to division (E) of section 5120.21	3018
of the Revised Code;	3019
(l) Records maintained by the department of youth services	3020
pertaining to children in its custody released by the department	3021
of youth services to the department of rehabilitation and	3022
correction pursuant to section 5139.05 of the Revised Code;	3023

(m) Intellectual property records;	3024
(n) Donor profile records;	3025
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	3026 3027
(p) Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information;	3028 3029 3030 3031 3032
(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;	3033 3034 3035 3036 3037
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	3038 3039
(s) Records provided to, statements made by review board members during meetings of, and all work products of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code, and child fatality review data submitted by the child fatality review board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code;	3040 3041 3042 3043 3044 3045 3046 3047
(t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code other than the information released under that section;	3048 3049 3050 3051
(u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that	3052 3053

the board of examiners of nursing home administrators administers 3054
under section 4751.04 of the Revised Code or contracts under that 3055
section with a private or government entity to administer; 3056

(v) Records the release of which is prohibited by state or 3057
federal law; 3058

(w) Proprietary information of or relating to any person that 3059
is submitted to or compiled by the Ohio venture capital authority 3060
created under section 150.01 of the Revised Code; 3061

(x) Information reported and evaluations conducted pursuant 3062
to section 3701.072 of the Revised Code; 3063

(y) Financial statements and data any person submits for any 3064
purpose to the Ohio housing finance agency or the controlling 3065
board in connection with applying for, receiving, or accounting 3066
for financial assistance from the agency, and information that 3067
identifies any individual who benefits directly or indirectly from 3068
financial assistance from the agency; 3069

(z) Records listed in section 5101.29 of the Revised Code; 3070

(aa) Discharges recorded with a county recorder under section 3071
317.24 of the Revised Code, as specified in division (B)(2) of 3072
that section; 3073

(bb) Usage information including names and addresses of 3074
specific residential and commercial customers of a municipally 3075
owned or operated public utility; 3076

(cc) Records described in division (C) of section 187.04 of 3077
the Revised Code that are not designated to be made available to 3078
the public as provided in that division. 3079

(2) "Confidential law enforcement investigatory record" means 3080
any record that pertains to a law enforcement matter of a 3081
criminal, quasi-criminal, civil, or administrative nature, but 3082
only to the extent that the release of the record would create a 3083

high probability of disclosure of any of the following: 3084

(a) The identity of a suspect who has not been charged with 3085
the offense to which the record pertains, or of an information 3086
source or witness to whom confidentiality has been reasonably 3087
promised; 3088

(b) Information provided by an information source or witness 3089
to whom confidentiality has been reasonably promised, which 3090
information would reasonably tend to disclose the source's or 3091
witness's identity; 3092

(c) Specific confidential investigatory techniques or 3093
procedures or specific investigatory work product; 3094

(d) Information that would endanger the life or physical 3095
safety of law enforcement personnel, a crime victim, a witness, or 3096
a confidential information source. 3097

(3) "Medical record" means any document or combination of 3098
documents, except births, deaths, and the fact of admission to or 3099
discharge from a hospital, that pertains to the medical history, 3100
diagnosis, prognosis, or medical condition of a patient and that 3101
is generated and maintained in the process of medical treatment. 3102

(4) "Trial preparation record" means any record that contains 3103
information that is specifically compiled in reasonable 3104
anticipation of, or in defense of, a civil or criminal action or 3105
proceeding, including the independent thought processes and 3106
personal trial preparation of an attorney. 3107

(5) "Intellectual property record" means a record, other than 3108
a financial or administrative record, that is produced or 3109
collected by or for faculty or staff of a state institution of 3110
higher learning in the conduct of or as a result of study or 3111
research on an educational, commercial, scientific, artistic, 3112
technical, or scholarly issue, regardless of whether the study or 3113
research was sponsored by the institution alone or in conjunction 3114

with a governmental body or private concern, and that has not been 3115
publicly released, published, or patented. 3116

(6) "Donor profile record" means all records about donors or 3117
potential donors to a public institution of higher education 3118
except the names and reported addresses of the actual donors and 3119
the date, amount, and conditions of the actual donation. 3120

(7) "Peace officer, parole officer, probation officer, 3121
bailiff, prosecuting attorney, assistant prosecuting attorney, 3122
correctional employee, youth services employee, firefighter, EMT, 3123
or investigator of the bureau of criminal identification and 3124
investigation residential and familial information" means any 3125
information that discloses any of the following about a peace 3126
officer, parole officer, probation officer, bailiff, prosecuting 3127
attorney, assistant prosecuting attorney, correctional employee, 3128
youth services employee, firefighter, EMT, or investigator of the 3129
bureau of criminal identification and investigation: 3130

(a) The address of the actual personal residence of a peace 3131
officer, parole officer, probation officer, bailiff, assistant 3132
prosecuting attorney, correctional employee, youth services 3133
employee, firefighter, EMT, or an investigator of the bureau of 3134
criminal identification and investigation, except for the state or 3135
political subdivision in which the peace officer, parole officer, 3136
probation officer, bailiff, assistant prosecuting attorney, 3137
correctional employee, youth services employee, firefighter, EMT, 3138
or investigator of the bureau of criminal identification and 3139
investigation resides; 3140

(b) Information compiled from referral to or participation in 3141
an employee assistance program; 3142

(c) The social security number, the residential telephone 3143
number, any bank account, debit card, charge card, or credit card 3144
number, or the emergency telephone number of, or any medical 3145

information pertaining to, a peace officer, parole officer, 3146
probation officer, bailiff, prosecuting attorney, assistant 3147
prosecuting attorney, correctional employee, youth services 3148
employee, firefighter, EMT, or investigator of the bureau of 3149
criminal identification and investigation; 3150

(d) The name of any beneficiary of employment benefits, 3151
including, but not limited to, life insurance benefits, provided 3152
to a peace officer, parole officer, probation officer, bailiff, 3153
prosecuting attorney, assistant prosecuting attorney, correctional 3154
employee, youth services employee, firefighter, EMT, or 3155
investigator of the bureau of criminal identification and 3156
investigation by the peace officer's, parole officer's, probation 3157
officer's, bailiff's, prosecuting attorney's, assistant 3158
prosecuting attorney's, correctional employee's, youth services 3159
employee's, firefighter's, EMT's, or investigator of the bureau of 3160
criminal identification and investigation's employer; 3161

(e) The identity and amount of any charitable or employment 3162
benefit deduction made by the peace officer's, parole officer's, 3163
probation officer's, bailiff's, prosecuting attorney's, assistant 3164
prosecuting attorney's, correctional employee's, youth services 3165
employee's, firefighter's, EMT's, or investigator of the bureau of 3166
criminal identification and investigation's employer from the 3167
peace officer's, parole officer's, probation officer's, bailiff's, 3168
prosecuting attorney's, assistant prosecuting attorney's, 3169
correctional employee's, youth services employee's, firefighter's, 3170
EMT's, or investigator of the bureau of criminal identification 3171
and investigation's compensation unless the amount of the 3172
deduction is required by state or federal law; 3173

(f) The name, the residential address, the name of the 3174
employer, the address of the employer, the social security number, 3175
the residential telephone number, any bank account, debit card, 3176
charge card, or credit card number, or the emergency telephone 3177

number of the spouse, a former spouse, or any child of a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation;

(g) A photograph of a peace officer who holds a position or has an assignment that may include undercover or plain clothes positions or assignments as determined by the peace officer's appointing authority.

As used in divisions (A)(7) and (B)(9) of this section, "peace officer" has the same meaning as in section 109.71 of the Revised Code and also includes the superintendent and troopers of the state highway patrol; it does not include the sheriff of a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

As used in divisions (A)(7) and (B)(5) of this section, "correctional employee" means any employee of the department of rehabilitation and correction who in the course of performing the employee's job duties has or has had contact with inmates and persons under supervision.

As used in divisions (A)(7) and (B)(5) of this section, "youth services employee" means any employee of the department of youth services who in the course of performing the employee's job duties has or has had contact with children committed to the custody of the department of youth services.

As used in divisions (A)(7) and (B)(9) of this section, "firefighter" means any regular, paid or volunteer, member of a lawfully constituted fire department of a municipal corporation, township, fire district, or village.

As used in divisions (A)(7) and (B)(9) of this section, "EMT"

means EMTs-basic, EMTs-I, and paramedics that provide emergency 3209
medical services for a public emergency medical service 3210
organization. "Emergency medical service organization," 3211
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as in 3212
section 4765.01 of the Revised Code. 3213

As used in divisions (A)(7) and (B)(9) of this section, 3214
"investigator of the bureau of criminal identification and 3215
investigation" has the meaning defined in section 2903.11 of the 3216
Revised Code. 3217

(8) "Information pertaining to the recreational activities of 3218
a person under the age of eighteen" means information that is kept 3219
in the ordinary course of business by a public office, that 3220
pertains to the recreational activities of a person under the age 3221
of eighteen years, and that discloses any of the following: 3222

(a) The address or telephone number of a person under the age 3223
of eighteen or the address or telephone number of that person's 3224
parent, guardian, custodian, or emergency contact person; 3225

(b) The social security number, birth date, or photographic 3226
image of a person under the age of eighteen; 3227

(c) Any medical record, history, or information pertaining to 3228
a person under the age of eighteen; 3229

(d) Any additional information sought or required about a 3230
person under the age of eighteen for the purpose of allowing that 3231
person to participate in any recreational activity conducted or 3232
sponsored by a public office or to use or obtain admission 3233
privileges to any recreational facility owned or operated by a 3234
public office. 3235

(9) "Community control sanction" has the same meaning as in 3236
section 2929.01 of the Revised Code. 3237

(10) "Post-release control sanction" has the same meaning as 3238

in section 2967.01 of the Revised Code. 3239

(11) "Redaction" means obscuring or deleting any information 3240
that is exempt from the duty to permit public inspection or 3241
copying from an item that otherwise meets the definition of a 3242
"record" in section 149.011 of the Revised Code. 3243

(12) "Designee" and "elected official" have the same meanings 3244
as in section 109.43 of the Revised Code. 3245

(B)(1) Upon request and subject to division (B)(8) of this 3246
section, all public records responsive to the request shall be 3247
promptly prepared and made available for inspection to any person 3248
at all reasonable times during regular business hours. Subject to 3249
division (B)(8) of this section, upon request, a public office or 3250
person responsible for public records shall make copies of the 3251
requested public record available at cost and within a reasonable 3252
period of time. If a public record contains information that is 3253
exempt from the duty to permit public inspection or to copy the 3254
public record, the public office or the person responsible for the 3255
public record shall make available all of the information within 3256
the public record that is not exempt. When making that public 3257
record available for public inspection or copying that public 3258
record, the public office or the person responsible for the public 3259
record shall notify the requester of any redaction or make the 3260
redaction plainly visible. A redaction shall be deemed a denial of 3261
a request to inspect or copy the redacted information, except if 3262
federal or state law authorizes or requires a public office to 3263
make the redaction. 3264

(2) To facilitate broader access to public records, a public 3265
office or the person responsible for public records shall organize 3266
and maintain public records in a manner that they can be made 3267
available for inspection or copying in accordance with division 3268
(B) of this section. A public office also shall have available a 3269
copy of its current records retention schedule at a location 3270

readily available to the public. If a requester makes an ambiguous 3271
or overly broad request or has difficulty in making a request for 3272
copies or inspection of public records under this section such 3273
that the public office or the person responsible for the requested 3274
public record cannot reasonably identify what public records are 3275
being requested, the public office or the person responsible for 3276
the requested public record may deny the request but shall provide 3277
the requester with an opportunity to revise the request by 3278
informing the requester of the manner in which records are 3279
maintained by the public office and accessed in the ordinary 3280
course of the public office's or person's duties. 3281

(3) If a request is ultimately denied, in part or in whole, 3282
the public office or the person responsible for the requested 3283
public record shall provide the requester with an explanation, 3284
including legal authority, setting forth why the request was 3285
denied. If the initial request was provided in writing, the 3286
explanation also shall be provided to the requester in writing. 3287
The explanation shall not preclude the public office or the person 3288
responsible for the requested public record from relying upon 3289
additional reasons or legal authority in defending an action 3290
commenced under division (C) of this section. 3291

(4) Unless specifically required or authorized by state or 3292
federal law or in accordance with division (B) of this section, no 3293
public office or person responsible for public records may limit 3294
or condition the availability of public records by requiring 3295
disclosure of the requester's identity or the intended use of the 3296
requested public record. Any requirement that the requester 3297
disclose the requestor's identity or the intended use of the 3298
requested public record constitutes a denial of the request. 3299

(5) A public office or person responsible for public records 3300
may ask a requester to make the request in writing, may ask for 3301
the requester's identity, and may inquire about the intended use 3302

of the information requested, but may do so only after disclosing 3303
to the requester that a written request is not mandatory and that 3304
the requester may decline to reveal the requester's identity or 3305
the intended use and when a written request or disclosure of the 3306
identity or intended use would benefit the requester by enhancing 3307
the ability of the public office or person responsible for public 3308
records to identify, locate, or deliver the public records sought 3309
by the requester. 3310

(6) If any person chooses to obtain a copy of a public record 3311
in accordance with division (B) of this section, the public office 3312
or person responsible for the public record may require that 3313
person to pay in advance the cost involved in providing the copy 3314
of the public record in accordance with the choice made by the 3315
person seeking the copy under this division. The public office or 3316
the person responsible for the public record shall permit that 3317
person to choose to have the public record duplicated upon paper, 3318
upon the same medium upon which the public office or person 3319
responsible for the public record keeps it, or upon any other 3320
medium upon which the public office or person responsible for the 3321
public record determines that it reasonably can be duplicated as 3322
an integral part of the normal operations of the public office or 3323
person responsible for the public record. When the person seeking 3324
the copy makes a choice under this division, the public office or 3325
person responsible for the public record shall provide a copy of 3326
it in accordance with the choice made by the person seeking the 3327
copy. Nothing in this section requires a public office or person 3328
responsible for the public record to allow the person seeking a 3329
copy of the public record to make the copies of the public record. 3330

(7) Upon a request made in accordance with division (B) of 3331
this section and subject to division (B)(6) of this section, a 3332
public office or person responsible for public records shall 3333
transmit a copy of a public record to any person by United States 3334

mail or by any other means of delivery or transmission within a 3335
reasonable period of time after receiving the request for the 3336
copy. The public office or person responsible for the public 3337
record may require the person making the request to pay in advance 3338
the cost of postage if the copy is transmitted by United States 3339
mail or the cost of delivery if the copy is transmitted other than 3340
by United States mail, and to pay in advance the costs incurred 3341
for other supplies used in the mailing, delivery, or transmission. 3342

Any public office may adopt a policy and procedures that it 3343
will follow in transmitting, within a reasonable period of time 3344
after receiving a request, copies of public records by United 3345
States mail or by any other means of delivery or transmission 3346
pursuant to this division. A public office that adopts a policy 3347
and procedures under this division shall comply with them in 3348
performing its duties under this division. 3349

In any policy and procedures adopted under this division, a 3350
public office may limit the number of records requested by a 3351
person that the office will transmit by United States mail to ten 3352
per month, unless the person certifies to the office in writing 3353
that the person does not intend to use or forward the requested 3354
records, or the information contained in them, for commercial 3355
purposes. For purposes of this division, "commercial" shall be 3356
narrowly construed and does not include reporting or gathering 3357
news, reporting or gathering information to assist citizen 3358
oversight or understanding of the operation or activities of 3359
government, or nonprofit educational research. 3360

(8) A public office or person responsible for public records 3361
is not required to permit a person who is incarcerated pursuant to 3362
a criminal conviction or a juvenile adjudication to inspect or to 3363
obtain a copy of any public record concerning a criminal 3364
investigation or prosecution or concerning what would be a 3365
criminal investigation or prosecution if the subject of the 3366

investigation or prosecution were an adult, unless the request to 3367
inspect or to obtain a copy of the record is for the purpose of 3368
acquiring information that is subject to release as a public 3369
record under this section and the judge who imposed the sentence 3370
or made the adjudication with respect to the person, or the 3371
judge's successor in office, finds that the information sought in 3372
the public record is necessary to support what appears to be a 3373
justiciable claim of the person. 3374

(9)(a) Upon written request made and signed by a journalist 3375
on or after December 16, 1999, a public office, or person 3376
responsible for public records, having custody of the records of 3377
the agency employing a specified peace officer, parole officer, 3378
probation officer, bailiff, prosecuting attorney, assistant 3379
prosecuting attorney, correctional employee, youth services 3380
employee, firefighter, EMT, or investigator of the bureau of 3381
criminal identification and investigation shall disclose to the 3382
journalist the address of the actual personal residence of the 3383
peace officer, parole officer, probation officer, bailiff, 3384
prosecuting attorney, assistant prosecuting attorney, correctional 3385
employee, youth services employee, firefighter, EMT, or 3386
investigator of the bureau of criminal identification and 3387
investigation and, if the peace officer's, parole officer's, 3388
probation officer's, bailiff's, prosecuting attorney's, assistant 3389
prosecuting attorney's, correctional employee's, youth services 3390
employee's, firefighter's, EMT's, or investigator of the bureau of 3391
criminal identification and investigation's spouse, former spouse, 3392
or child is employed by a public office, the name and address of 3393
the employer of the peace officer's, parole officer's, probation 3394
officer's, bailiff's, prosecuting attorney's, assistant 3395
prosecuting attorney's, correctional employee's, youth services 3396
employee's, firefighter's, EMT's, or investigator of the bureau of 3397
criminal identification and investigation's spouse, former spouse, 3398
or child. The request shall include the journalist's name and 3399

title and the name and address of the journalist's employer and 3400
shall state that disclosure of the information sought would be in 3401
the public interest. 3402

(b) Division (B)(9)(a) of this section also applies to 3403
journalist requests for customer information maintained by a 3404
municipally owned or operated public utility, other than social 3405
security numbers and any private financial information such as 3406
credit reports, payment methods, credit card numbers, and bank 3407
account information. 3408

(c) As used in division (B)(9) of this section, "journalist" 3409
means a person engaged in, connected with, or employed by any news 3410
medium, including a newspaper, magazine, press association, news 3411
agency, or wire service, a radio or television station, or a 3412
similar medium, for the purpose of gathering, processing, 3413
transmitting, compiling, editing, or disseminating information for 3414
the general public. 3415

(C)(1) If a person allegedly is aggrieved by the failure of a 3416
public office or the person responsible for public records to 3417
promptly prepare a public record and to make it available to the 3418
person for inspection in accordance with division (B) of this 3419
section or by any other failure of a public office or the person 3420
responsible for public records to comply with an obligation in 3421
accordance with division (B) of this section, the person allegedly 3422
aggrieved may commence a mandamus action to obtain a judgment that 3423
orders the public office or the person responsible for the public 3424
record to comply with division (B) of this section, that awards 3425
court costs and reasonable attorney's fees to the person that 3426
instituted the mandamus action, and, if applicable, that includes 3427
an order fixing statutory damages under division (C)(1) of this 3428
section. The mandamus action may be commenced in the court of 3429
common pleas of the county in which division (B) of this section 3430
allegedly was not complied with, in the supreme court pursuant to 3431

its original jurisdiction under Section 2 of Article IV, Ohio 3432
Constitution, or in the court of appeals for the appellate 3433
district in which division (B) of this section allegedly was not 3434
complied with pursuant to its original jurisdiction under Section 3435
3 of Article IV, Ohio Constitution. 3436

If a requestor transmits a written request by hand delivery 3437
or certified mail to inspect or receive copies of any public 3438
record in a manner that fairly describes the public record or 3439
class of public records to the public office or person responsible 3440
for the requested public records, except as otherwise provided in 3441
this section, the requestor shall be entitled to recover the 3442
amount of statutory damages set forth in this division if a court 3443
determines that the public office or the person responsible for 3444
public records failed to comply with an obligation in accordance 3445
with division (B) of this section. 3446

The amount of statutory damages shall be fixed at one hundred 3447
dollars for each business day during which the public office or 3448
person responsible for the requested public records failed to 3449
comply with an obligation in accordance with division (B) of this 3450
section, beginning with the day on which the requester files a 3451
mandamus action to recover statutory damages, up to a maximum of 3452
one thousand dollars. The award of statutory damages shall not be 3453
construed as a penalty, but as compensation for injury arising 3454
from lost use of the requested information. The existence of this 3455
injury shall be conclusively presumed. The award of statutory 3456
damages shall be in addition to all other remedies authorized by 3457
this section. 3458

The court may reduce an award of statutory damages or not 3459
award statutory damages if the court determines both of the 3460
following: 3461

(a) That, based on the ordinary application of statutory law 3462
and case law as it existed at the time of the conduct or 3463

threatened conduct of the public office or person responsible for 3464
the requested public records that allegedly constitutes a failure 3465
to comply with an obligation in accordance with division (B) of 3466
this section and that was the basis of the mandamus action, a 3467
well-informed public office or person responsible for the 3468
requested public records reasonably would believe that the conduct 3469
or threatened conduct of the public office or person responsible 3470
for the requested public records did not constitute a failure to 3471
comply with an obligation in accordance with division (B) of this 3472
section; 3473

(b) That a well-informed public office or person responsible 3474
for the requested public records reasonably would believe that the 3475
conduct or threatened conduct of the public office or person 3476
responsible for the requested public records would serve the 3477
public policy that underlies the authority that is asserted as 3478
permitting that conduct or threatened conduct. 3479

(2)(a) If the court issues a writ of mandamus that orders the 3480
public office or the person responsible for the public record to 3481
comply with division (B) of this section and determines that the 3482
circumstances described in division (C)(1) of this section exist, 3483
the court shall determine and award to the relator all court 3484
costs. 3485

(b) If the court renders a judgment that orders the public 3486
office or the person responsible for the public record to comply 3487
with division (B) of this section, the court may award reasonable 3488
attorney's fees subject to reduction as described in division 3489
(C)(2)(c) of this section. The court shall award reasonable 3490
attorney's fees, subject to reduction as described in division 3491
(C)(2)(c) of this section when either of the following applies: 3492

(i) The public office or the person responsible for the 3493
public records failed to respond affirmatively or negatively to 3494
the public records request in accordance with the time allowed 3495

under division (B) of this section. 3496

(ii) The public office or the person responsible for the 3497
public records promised to permit the relator to inspect or 3498
receive copies of the public records requested within a specified 3499
period of time but failed to fulfill that promise within that 3500
specified period of time. 3501

(c) Court costs and reasonable attorney's fees awarded under 3502
this section shall be construed as remedial and not punitive. 3503
Reasonable attorney's fees shall include reasonable fees incurred 3504
to produce proof of the reasonableness and amount of the fees and 3505
to otherwise litigate entitlement to the fees. The court may 3506
reduce an award of attorney's fees to the relator or not award 3507
attorney's fees to the relator if the court determines both of the 3508
following: 3509

(i) That, based on the ordinary application of statutory law 3510
and case law as it existed at the time of the conduct or 3511
threatened conduct of the public office or person responsible for 3512
the requested public records that allegedly constitutes a failure 3513
to comply with an obligation in accordance with division (B) of 3514
this section and that was the basis of the mandamus action, a 3515
well-informed public office or person responsible for the 3516
requested public records reasonably would believe that the conduct 3517
or threatened conduct of the public office or person responsible 3518
for the requested public records did not constitute a failure to 3519
comply with an obligation in accordance with division (B) of this 3520
section; 3521

(ii) That a well-informed public office or person responsible 3522
for the requested public records reasonably would believe that the 3523
conduct or threatened conduct of the public office or person 3524
responsible for the requested public records as described in 3525
division (C)(2)(c)(i) of this section would serve the public 3526
policy that underlies the authority that is asserted as permitting 3527

that conduct or threatened conduct. 3528

(D) Chapter 1347. of the Revised Code does not limit the 3529
provisions of this section. 3530

(E)(1) To ensure that all employees of public offices are 3531
appropriately educated about a public office's obligations under 3532
division (B) of this section, all elected officials or their 3533
appropriate designees shall attend training approved by the 3534
attorney general as provided in section 109.43 of the Revised 3535
Code. In addition, all public offices shall adopt a public records 3536
policy in compliance with this section for responding to public 3537
records requests. In adopting a public records policy under this 3538
division, a public office may obtain guidance from the model 3539
public records policy developed and provided to the public office 3540
by the attorney general under section 109.43 of the Revised Code. 3541
Except as otherwise provided in this section, the policy may not 3542
limit the number of public records that the public office will 3543
make available to a single person, may not limit the number of 3544
public records that it will make available during a fixed period 3545
of time, and may not establish a fixed period of time before it 3546
will respond to a request for inspection or copying of public 3547
records, unless that period is less than eight hours. 3548

(2) The public office shall distribute the public records 3549
policy adopted by the public office under division (E)(1) of this 3550
section to the employee of the public office who is the records 3551
custodian or records manager or otherwise has custody of the 3552
records of that office. The public office shall require that 3553
employee to acknowledge receipt of the copy of the public records 3554
policy. The public office shall create a poster that describes its 3555
public records policy and shall post the poster in a conspicuous 3556
place in the public office and in all locations where the public 3557
office has branch offices. The public office may post its public 3558
records policy on the internet web site of the public office if 3559

the public office maintains an internet web site. A public office 3560
that has established a manual or handbook of its general policies 3561
and procedures for all employees of the public office shall 3562
include the public records policy of the public office in the 3563
manual or handbook. 3564

(F)(1) The bureau of motor vehicles may adopt rules pursuant 3565
to Chapter 119. of the Revised Code to reasonably limit the number 3566
of bulk commercial special extraction requests made by a person 3567
for the same records or for updated records during a calendar 3568
year. The rules may include provisions for charges to be made for 3569
bulk commercial special extraction requests for the actual cost of 3570
the bureau, plus special extraction costs, plus ten per cent. The 3571
bureau may charge for expenses for redacting information, the 3572
release of which is prohibited by law. 3573

(2) As used in division (F)(1) of this section: 3574

(a) "Actual cost" means the cost of depleted supplies, 3575
records storage media costs, actual mailing and alternative 3576
delivery costs, or other transmitting costs, and any direct 3577
equipment operating and maintenance costs, including actual costs 3578
paid to private contractors for copying services. 3579

(b) "Bulk commercial special extraction request" means a 3580
request for copies of a record for information in a format other 3581
than the format already available, or information that cannot be 3582
extracted without examination of all items in a records series, 3583
class of records, or data base by a person who intends to use or 3584
forward the copies for surveys, marketing, solicitation, or resale 3585
for commercial purposes. "Bulk commercial special extraction 3586
request" does not include a request by a person who gives 3587
assurance to the bureau that the person making the request does 3588
not intend to use or forward the requested copies for surveys, 3589
marketing, solicitation, or resale for commercial purposes. 3590

(c) "Commercial" means profit-seeking production, buying, or 3591
selling of any good, service, or other product. 3592

(d) "Special extraction costs" means the cost of the time 3593
spent by the lowest paid employee competent to perform the task, 3594
the actual amount paid to outside private contractors employed by 3595
the bureau, or the actual cost incurred to create computer 3596
programs to make the special extraction. "Special extraction 3597
costs" include any charges paid to a public agency for computer or 3598
records services. 3599

(3) For purposes of divisions (F)(1) and (2) of this section, 3600
"surveys, marketing, solicitation, or resale for commercial 3601
purposes" shall be narrowly construed and does not include 3602
reporting or gathering news, reporting or gathering information to 3603
assist citizen oversight or understanding of the operation or 3604
activities of government, or nonprofit educational research. 3605

Sec. 164.05. (A) The director of the Ohio public works 3606
commission shall do all of the following: 3607

(1) Approve requests for financial assistance from district 3608
public works integrating committees and enter into agreements with 3609
one or more local subdivisions to provide loans, grants, and local 3610
debt support and credit enhancements for a capital improvement 3611
project if the director determines that: 3612

(a) The project is an eligible project pursuant to this 3613
chapter; 3614

(b) The financial assistance for the project has been 3615
properly approved and requested by the district committee of the 3616
district which includes the recipient of the loan or grant; 3617

(c) The amount of the financial assistance, when added to all 3618
other financial assistance provided during the fiscal year for 3619
projects within the district, does not exceed that district's 3620

allocation of money from the state capital improvements fund for 3621
that fiscal year; 3622

(d) The district committee has provided such documentation 3623
and other evidence as the director may require that the district 3624
committee has satisfied the requirements of section 164.06 or 3625
164.14 of the Revised Code; 3626

(e) The portion of a district's annual allocation which the 3627
director approves in the form of loans and local debt support and 3628
credit enhancements for eligible projects is consistent with 3629
divisions (E) and (F) of this section. 3630

(2) Authorize payments to local subdivisions or their 3631
contractors for costs incurred for capital improvement projects 3632
which have been approved pursuant to this chapter. All requests 3633
for payments shall be submitted to the director on forms and in 3634
accordance with procedures specified in rules adopted by the 3635
director pursuant to division (A)(4) of this section. 3636

(3) Retain the services of or employ financial consultants, 3637
engineers, accountants, attorneys, and such other employees as the 3638
director determines are necessary to carry out the director's 3639
duties under this chapter and fix the compensation for their 3640
services; 3641

(4) Adopt rules establishing the procedures for making 3642
applications, reviewing, approving, and rejecting projects for 3643
which assistance is authorized under this chapter, and any other 3644
rules needed to implement the provisions of this chapter. Such 3645
rules shall be adopted under Chapter 119. of the Revised Code. 3646

(5) Provide information and other assistance to local 3647
subdivisions and district public works integrating committees in 3648
developing their requests for financial assistance for capital 3649
improvements under this chapter and encourage cooperation and 3650
coordination of requests and the development of multisubdivision 3651

and multidistrict projects in order to maximize the benefits that 3652
may be derived by districts from each year's allocation; 3653

(6) Require local subdivisions, to the extent practicable, to 3654
use Ohio products, materials, services, and labor in connection 3655
with any capital improvement project financed in whole or in part 3656
under this chapter; 3657

(7) Notify the director of budget and management of all 3658
approved projects, and supply all information necessary to track 3659
approved projects through the state accounting system; 3660

(8) Appoint the administrator of the Ohio small government 3661
capital improvements commission; 3662

(9) Do all other acts, enter into contracts, and execute all 3663
instruments necessary or appropriate to carry out this chapter; 3664

(10) Develop a standardized methodology for evaluating 3665
capital improvement needs which will be used by local subdivisions 3666
in preparing the plans required by division (C) of section 164.06 3667
of the Revised Code. The director shall develop this methodology 3668
not later than July 1, 1991. 3669

(11) Establish a program to provide local subdivisions with 3670
technical assistance in preparing project applications. The 3671
program shall be designed to assist local subdivisions that lack 3672
the financial or technical resources to prepare project 3673
applications on their own. 3674

(B) When the director of the Ohio public works commission 3675
decides to conditionally approve or disapprove projects, the 3676
director's decisions and the reasons for which they are made shall 3677
be made in writing. These written decisions shall be conclusive 3678
for the purposes of the validity and enforceability of such 3679
determinations. 3680

(C) Fees, charges, rates of interest, times of payment of 3681

interest and principal, and other terms, conditions, and 3682
provisions of and security for financial assistance provided 3683
pursuant to the provisions of this chapter shall be such as the 3684
director determines to be appropriate. If any payments required by 3685
a loan agreement entered into pursuant to this chapter are not 3686
paid, the funds which would otherwise be apportioned to the local 3687
subdivision from the county undivided local government fund, 3688
pursuant to sections 5747.51 to 5747.53 of the Revised Code, may, 3689
at the direction of the director of the Ohio public works 3690
commission, be reduced by the amount payable. The county treasurer 3691
shall, at the direction of the director, pay the amount of such 3692
reductions to the state capital improvements revolving loan fund. 3693
The director may renegotiate a loan repayment schedule with a 3694
local subdivision whose payments from the county undivided local 3695
government fund could be reduced pursuant to this division, but 3696
such a renegotiation may occur only one time with respect to any 3697
particular loan agreement. 3698

(D) Grants approved for the repair and replacement of 3699
existing infrastructure pursuant to this chapter shall not exceed 3700
ninety per cent of the estimated total cost of the capital 3701
improvement project. Grants approved for new or expanded 3702
infrastructure shall not exceed fifty per cent of the estimated 3703
cost of the new or expansion elements of the capital improvement 3704
project. A local subdivision share of the estimated cost of a 3705
capital improvement may consist of any of the following: 3706

(1) The reasonable value, as determined by the director or 3707
the administrator, of labor, materials, and equipment that will be 3708
contributed by the local subdivision in performing the capital 3709
improvement project; 3710

(2) Moneys received by the local subdivision in any form from 3711
an authority, commission, or agency of the United States for use 3712
in performing the capital improvement project; 3713

(3) Loans made to the local subdivision under this chapter; 3714

(4) Engineering costs incurred by the local subdivision in 3715
 performing engineering activities related to the project. 3716

A local subdivision share of the cost of a capital 3717
 improvement shall not include any amounts awarded to it from the 3718
 local transportation improvement program fund created in section 3719
 164.14 of the Revised Code. 3720

(E) The following portion of a district public works 3721
 integrating committee's annual allocation share pursuant to 3722
 section 164.08 of the Revised Code may be awarded to subdivisions 3723
 only in the form of interest-free, low-interest, market rate of 3724
 interest, or blended-rate loans: 3725

YEAR IN WHICH	PORTION USED FOR	
MONEYS ARE ALLOCATED	LOANS	
Year 1	0%	3728
Year 2	0%	3729
Year 3	10%	3730
Year 4	12%	3731
Year 5	15%	3732
Year 6	20%	3733
Year 7, 8, 9, and 10	22%	3734

(F) The following portion of a district public works 3735
 integrating committee's annual allocation pursuant to section 3736
 164.08 of the Revised Code shall be awarded to subdivisions in the 3737
 form of local debt supported and credit enhancements: 3738

YEAR IN WHICH	PORTIONS USED FOR	
MONEYS ARE ALLOCATED	LOCAL DEBT SUPPORT	
	AND CREDIT ENHANCEMENTS	
Year 1	0%	3742
Year 2	0%	3743
Year 3	3%	3744

Year 4	5%	3745
Year 5	5%	3746
Year 6	7%	3747
Year 7	7%	3748
Year 8	8%	3749
Year 9	8%	3750
Year 10	8%	3751

(G) For the period commencing on March 29, 1988 and ending on 3752
 June 30, 1993, for the period commencing July 1, 1993, and ending 3753
 June 30, 1999, and for each five-year period thereafter, the total 3754
 amount of financial assistance awarded under sections 164.01 to 3755
 164.08 of the Revised Code for capital improvement projects 3756
 located wholly or partially within a county shall be equal to at 3757
 least thirty per cent of the amount of what the county would have 3758
 been allocated from the obligations authorized to be sold under 3759
 this chapter during each period, if such amounts had been 3760
 allocable to each county on a per capita basis. 3761

(H) The amount of the annual allocations made pursuant to 3762
 divisions (B)(1) and ~~(6)~~(5) of section 164.08 of the Revised Code 3763
 which can be used for new or expanded infrastructure is limited as 3764
 follows: 3765

YEAR IN WHICH	PORTION WHICH MAY	
MONEYS ARE ALLOCATED	BE USED FOR NEW OR	
	EXPANSION INFRASTRUCTURE	
Year 1	5%	3769
Year 2	5%	3770
Year 3	10%	3771
Year 4	10%	3772
Year 5	10%	3773
Year 6	15%	3774
Year 7	15%	3775
Year 8	20%	3776

Year 9	20%	3777
Year 10 and each year		3778
thereafter	20%	3779
(I) The following portion of a district public works		3780
integrating committee's annual allocation share pursuant to		3781
section 164.08 of the Revised Code shall be awarded to		3782
subdivisions in the form of interest-free, low-interest, market		3783
rate of interest, or blended-rate loans, or local debt support and		3784
credit enhancements:		3785
	PORTION USED FOR LOANS	3786
YEAR IN WHICH	OR LOCAL DEBT SUPPORT	3787
MONEYS ARE ALLOCATED	AND CREDIT ENHANCEMENTS	3788
Year 11 and each year		3789
thereafter	20%	3790
(J) No project shall be approved under this section unless		3791
the project is designed to have a useful life of at least seven		3792
years. In addition, the average useful life of all projects for		3793
which grants or loans are awarded in each district during a		3794
program year shall not be less than twenty years.		3795
Sec. 164.06. (A) Each district public works integrating		3796
committee shall evaluate materials submitted to it by the local		3797
subdivisions located in the district concerning capital		3798
improvements for which assistance is sought from the state capital		3799
improvements fund and shall, pursuant to division (B) of this		3800
section, select the requests for financial assistance that will be		3801
formally submitted by the district to the director of the Ohio		3802
public works commission. In order to provide for the efficient use		3803
of the district's state capital improvements fund allocation each		3804
year, a district committee shall assist its subdivisions in the		3805
preparation and coordination of project plans.		3806
(B) In selecting the requests for assistance for capital		3807

improvement projects which will be submitted to the director, and 3808
in determining the nature, amount, and terms of the assistance 3809
that will be requested, a district public works integrating 3810
committee shall give priority to capital improvement projects for 3811
the repair or replacement of existing infrastructure and which 3812
would be unlikely to be undertaken without assistance under this 3813
chapter, and shall specifically consider all of the following 3814
factors: 3815

(1) The infrastructure repair and replacement needs of the 3816
district; 3817

(2) The age and condition of the system to be repaired or 3818
replaced; 3819

(3) Whether the project would generate revenue in the form of 3820
user fees or assessments; 3821

(4) The importance of the project to the health and safety of 3822
the citizens of the district; 3823

(5) The cost of the project and whether it is consistent with 3824
division (G) of section 164.05 of the Revised Code and the 3825
district's allocation for grants, loans, and local debt support 3826
and credit enhancements for that year; 3827

(6) The effort and ability of the benefited local 3828
subdivisions to assist in financing the project; 3829

(7) The availability of federal or other funds for the 3830
project; 3831

(8) The overall economic health of the particular local 3832
subdivision; 3833

(9) The adequacy of the planning for the project and the 3834
readiness of the applicant to proceed should the project be 3835
approved; 3836

(10) Any other factors relevant to a particular project. 3837

(C) Prior to filing an application with its district public works integrating committee for assistance in financing a capital improvement project under this section, a local subdivision shall conduct a study of its existing capital improvements, the condition of those improvements, and the projected capital improvement needs of the subdivision in the ensuing five-year period. After completing this study, the subdivision shall compile a report that includes an inventory of its existing capital improvements, a plan detailing the capital improvement needs of the subdivision in the ensuing five-year period, and a list of the subdivision's priorities with respect to addressing those needs. Each year, the report shall be reviewed and updated by the subdivision to reflect capital improvement projects undertaken or completed in the past year and any changes in the subdivision's plan or priorities. The report and annual updates shall be made available upon request to the Ohio public works commission, the Ohio small government capital improvements commission, and the district public works integrating committee of the district of which the subdivision is a part.

(D) In addition to reviewing and selecting the projects for which approval will be sought from the director of the Ohio public works commission for financial assistance from the state capital improvements fund, each district public works integrating committee shall appoint a subcommittee of its members that will represent the interests of villages and townships and that will review and select the capital improvement projects which will be submitted by the subcommittee to the administrator of the Ohio small government capital improvements commission for consideration of assistance from the portion of the net proceeds of obligations issued and sold by the treasurer of state which is allocated pursuant to division (B)(1) of section 164.08 of the Revised Code. In reviewing and approving the projects selected by its subcommittee, the administrator, and the Ohio small government

capital improvements commission shall be guided by the provisions 3871
of division (B) of this section, and shall also take into account 3872
the fact that villages and townships may have different public 3873
infrastructure needs than larger subdivisions. 3874

(E) The district public works integrating committee for each 3875
district that includes at least one county with a population of 3876
less than eighty-five thousand according to the most recent 3877
decennial census shall appoint a subcommittee of its members for 3878
the purposes of the small counties capital improvement program 3879
created under division (F) of section 164.02 of the Revised Code. 3880
The subcommittee shall select and submit to the director the 3881
projects that will be considered for assistance from the money 3882
allocated to the program under division (B)~~(4)~~(3) of section 3883
164.08 of the Revised Code. 3884

Sec. 164.08. (A) Except as provided in sections 151.01 and 3885
151.08 or section 164.09 of the Revised Code, the net proceeds of 3886
obligations issued and sold by the treasurer of state pursuant to 3887
section 164.09 of the Revised Code before September 30, 2000, or 3888
pursuant to sections 151.01 and 151.08 of the Revised Code, for 3889
the purpose of financing or assisting in the financing of the cost 3890
of public infrastructure capital improvement projects of local 3891
subdivisions, as provided for in Section 2k, 2m, or 2p of Article 3892
VIII, Ohio Constitution, and this chapter, shall be paid into the 3893
state capital improvements fund, which is hereby created in the 3894
state treasury. Investment earnings on moneys in the fund shall be 3895
credited to the fund. 3896

(B) Beginning July 1, 2011, each program year the amount of 3897
obligations authorized by the general assembly in accordance with 3898
sections 151.01 and 151.08 or section 164.09 of the Revised Code, 3899
excluding the proceeds of refunding or renewal obligations, shall 3900
be allocated by the director of the Ohio public works commission 3901

as follows: 3902

(1) First, fifteen million dollars of the amount of 3903
obligations authorized shall be allocated to provide financial 3904
assistance to villages and to townships with populations in the 3905
unincorporated areas of the township of less than five thousand 3906
persons, for capital improvements in accordance with section 3907
164.051 and division (D) of section 164.06 of the Revised Code. As 3908
used in division (B)(1) of this section, "capital improvements" 3909
includes resurfacing and improving roads. 3910

(2) Following the allocation required by division (B)(1) of 3911
this section, the director may allocate three million dollars of 3912
the authorized obligations to provide financial assistance to 3913
local subdivisions for capital improvement projects which in the 3914
judgment of the director of the Ohio public works commission are 3915
necessary for the immediate preservation of the health, safety, 3916
and welfare of the citizens of the local subdivision requesting 3917
assistance. 3918

~~(3) For the second, third, fourth, and fifth years that 3919
obligations are authorized and are available for allocation under 3920
this chapter, one million dollars shall be allocated to the sewer 3921
and water fund created in section 1525.11 of the Revised Code. 3922
Money from this allocation shall be transferred to that fund when 3923
needed to support specific payments from that fund. 3924~~

~~(4) For program years twelve and fourteen that obligations 3925
are authorized and available for allocation under this chapter, 3926
two million dollars each program year shall be allocated to the 3927
small county capital improvement program for use in providing 3928
financial assistance under division (F) of section 164.02 of the 3929
Revised Code. 3930~~

~~(5) After the allocation required by division (B)(3) of this 3931
section is made, the (4) The director shall determine the amount 3932~~

of the remaining obligations authorized to be issued and sold that 3933
each county would receive if such amounts were allocated on a per 3934
capita basis each year. If a county's per capita share for the 3935
year would be less than three hundred thousand dollars, the 3936
director shall allocate to the district in which that county is 3937
located an amount equal to the difference between three hundred 3938
thousand dollars and the county's per capita share. 3939

~~(6)~~(5) After making the allocation required by division 3940
(B)~~(5)~~(4) of this section, the director shall allocate the 3941
remaining amount to each district on a per capita basis. 3942

(C)(1) There is hereby created in the state treasury the 3943
state capital improvements revolving loan fund, into which shall 3944
be deposited all repayments of loans made to local subdivisions 3945
for capital improvements pursuant to this chapter. Investment 3946
earnings on moneys in the fund shall be credited to the fund. 3947

(2) There may also be deposited in the state capital 3948
improvements revolving loan fund moneys obtained from federal or 3949
private grants, or from other sources, which are to be used for 3950
any of the purposes authorized by this chapter. Such moneys shall 3951
be allocated each year in accordance with division (B)~~(6)~~(5) of 3952
this section. 3953

(3) Moneys deposited into the state capital improvements 3954
revolving loan fund shall be used to make loans for the purpose of 3955
financing or assisting in the financing of the cost of capital 3956
improvement projects of local subdivisions. 3957

(4) Investment earnings credited to the state capital 3958
improvements revolving loan fund that exceed the amounts required 3959
to meet estimated federal arbitrage rebate requirements shall be 3960
used to pay costs incurred by the public works commission in 3961
administering this section. Investment earnings credited to the 3962
state capital improvements revolving loan fund that exceed the 3963

amounts required to pay for the administrative costs and estimated 3964
rebate requirements shall be allocated to each district on a per 3965
capita basis. 3966

(5) Each program year, loan repayments received and on 3967
deposit in the state capital improvements revolving loan fund 3968
shall be allocated as follows: 3969

(a) Each district public works integrating committee shall be 3970
allocated an amount equal to the sum of all loan repayments made 3971
to the state capital improvements revolving loan fund by local 3972
subdivisions that are part of the district. Moneys not used in a 3973
program year may be used in the next program year in the same 3974
manner and for the same purpose as originally allocated. 3975

(b) Loan repayments made pursuant to projects approved under 3976
division (B)(1) of this section shall be used to make loans in 3977
accordance with section 164.051 and division (D) of section 164.06 3978
of the Revised Code. Allocations for this purpose made pursuant to 3979
division (C)(5) of this section shall be in addition to the 3980
allocation provided in division (B)(1) of this section. 3981

(c) Loan repayments made pursuant to projects approved under 3982
division (B)(2) of this section shall be used to make loans in 3983
accordance with division (B)(2) of this section. Allocations for 3984
this purpose made pursuant to division (C)(5) of this section 3985
shall be in addition to the allocation provided in division (B)(2) 3986
of this section. 3987

(d) Loans made from the state capital improvements revolving 3988
loan fund shall not be limited in their usage by divisions (E), 3989
(F), (G), (H), and (I) of section 164.05 of the Revised Code. 3990

(D) Investment earnings credited to the state capital 3991
improvements fund that exceed the amounts required to meet 3992
estimated federal arbitrage rebate requirements shall be used to 3993
pay costs incurred by the public works commission in administering 3994

sections 164.01 to 164.12 of the Revised Code. 3995

(E) The director of the Ohio public works commission shall 3996
notify the director of budget and management of the amounts 3997
allocated pursuant to this section and such information shall be 3998
entered into the state accounting system. The director of budget 3999
and management shall establish appropriation line items as needed 4000
to track these allocations. 4001

(F) If the amount of a district's allocation in a program 4002
year exceeds the amount of financial assistance approved for the 4003
district by the commission for that year, the remaining portion of 4004
the district's allocation shall be added to the district's 4005
allocation pursuant to division (B) of this section for the next 4006
succeeding year for use in the same manner and for the same 4007
purposes as it was originally allocated, except that any portion 4008
of a district's allocation which was available for use on new or 4009
expanded infrastructure pursuant to division (H) of section 164.05 4010
of the Revised Code shall be available in succeeding years only 4011
for the repair and replacement of existing infrastructure. 4012

(G) When an allocation based on population is made by the 4013
director pursuant to division (B) of this section, the director 4014
shall use the most recent decennial census statistics, and shall 4015
not make any reallocations based upon a change in a district's 4016
population. 4017

Sec. 166.01. As used in this chapter: 4018

(A) "Allowable costs" means all or part of the costs of 4019
project facilities, eligible projects, eligible innovation 4020
projects, eligible research and development projects, eligible 4021
advanced energy projects, or eligible logistics and distribution 4022
projects, including costs of acquiring, constructing, 4023
reconstructing, rehabilitating, renovating, enlarging, improving, 4024
equipping, or furnishing project facilities, eligible projects, 4025

eligible innovation projects, eligible research and development 4026
projects, eligible advanced energy projects, or eligible logistics 4027
and distribution projects, site clearance and preparation, 4028
supplementing and relocating public capital improvements or 4029
utility facilities, designs, plans, specifications, surveys, 4030
studies, and estimates of costs, expenses necessary or incident to 4031
determining the feasibility or practicability of assisting an 4032
eligible project, an eligible innovation project, an eligible 4033
research and development project, an eligible advanced energy 4034
project, or an eligible logistics and distribution project, or 4035
providing project facilities or facilities related to an eligible 4036
project, an eligible innovation project, an eligible research and 4037
development project, an eligible advanced energy project, or an 4038
eligible logistics and distribution project, architectural, 4039
engineering, and legal services fees and expenses, the costs of 4040
conducting any other activities as part of a voluntary action, and 4041
such other expenses as may be necessary or incidental to the 4042
establishment or development of an eligible project, an eligible 4043
innovation project, an eligible research and development project, 4044
an eligible advanced energy project, or an eligible logistics and 4045
distribution project, and reimbursement of moneys advanced or 4046
applied by any governmental agency or other person for allowable 4047
costs. 4048

(B) "Allowable innovation costs" includes allowable costs of 4049
eligible innovation projects and, in addition, includes the costs 4050
of research and development of eligible innovation projects; 4051
obtaining or creating any requisite software or computer hardware 4052
related to an eligible innovation project or the products or 4053
services associated therewith; testing (including, without 4054
limitation, quality control activities necessary for initial 4055
production), perfecting, and marketing of such products and 4056
services; creating and protecting intellectual property related to 4057
an eligible innovation project or any products or services related 4058

thereto, including costs of securing appropriate patent, 4059
trademark, trade secret, trade dress, copyright, or other form of 4060
intellectual property protection for an eligible innovation 4061
project or related products and services; all to the extent that 4062
such expenditures could be capitalized under then-applicable 4063
generally accepted accounting principles; and the reimbursement of 4064
moneys advanced or applied by any governmental agency or other 4065
person for allowable innovation costs. 4066

(C) "Eligible innovation project" includes an eligible 4067
project, including any project facilities associated with an 4068
eligible innovation project and, in addition, includes all 4069
tangible and intangible property related to a new product or 4070
process based on new technology or the creative application of 4071
existing technology, including research and development, product 4072
or process testing, quality control, market research, and related 4073
activities, that is to be acquired, established, expanded, 4074
remodeled, rehabilitated, or modernized for industry, commerce, 4075
distribution, or research, or any combination thereof, the 4076
operation of which, alone or in conjunction with other eligible 4077
projects, eligible innovation projects, or innovation property, 4078
will create new jobs or preserve existing jobs and employment 4079
opportunities and improve the economic welfare of the people of 4080
the state. 4081

(D) "Eligible project" means project facilities to be 4082
acquired, established, expanded, remodeled, rehabilitated, or 4083
modernized for industry, commerce, distribution, or research, or 4084
any combination thereof, the operation of which, alone or in 4085
conjunction with other facilities, will create new jobs or 4086
preserve existing jobs and employment opportunities and improve 4087
the economic welfare of the people of the state. "Eligible 4088
project" includes, without limitation, a voluntary action. For 4089
purposes of this division, "new jobs" does not include existing 4090

jobs transferred from another facility within the state, and 4091
"existing jobs" includes only those existing jobs with work places 4092
within the municipal corporation or unincorporated area of the 4093
county in which the eligible project is located. 4094

"Eligible project" does not include project facilities to be 4095
acquired, established, expanded, remodeled, rehabilitated, or 4096
modernized for industry, commerce, distribution, or research, or 4097
any combination of industry, commerce, distribution, or research, 4098
if the project facilities consist solely of 4099
point-of-final-purchase retail facilities. If the project 4100
facilities consist of both point-of-final-purchase retail 4101
facilities and nonretail facilities, only the portion of the 4102
project facilities consisting of nonretail facilities is an 4103
eligible project. If a warehouse facility is part of a 4104
point-of-final-purchase retail facility and supplies only that 4105
facility, the warehouse facility is not an eligible project. 4106
Catalog distribution facilities are not considered 4107
point-of-final-purchase retail facilities for purposes of this 4108
paragraph, and are eligible projects. 4109

(E) "Eligible research and development project" means an 4110
eligible project, including project facilities, comprising, 4111
within, or related to, a facility or portion of a facility at 4112
which research is undertaken for the purpose of discovering 4113
information that is technological in nature and the application of 4114
which is intended to be useful in the development of a new or 4115
improved product, process, technique, formula, or invention, a new 4116
product or process based on new technology, or the creative 4117
application of existing technology. 4118

(F) "Financial assistance" means inducements under division 4119
(B) of section 166.02 of the Revised Code, loan guarantees under 4120
section 166.06 of the Revised Code, and direct loans under section 4121
166.07 of the Revised Code. 4122

(G) "Governmental action" means any action by a governmental agency relating to the establishment, development, or operation of an eligible project, eligible innovation project, eligible research and development project, eligible advanced energy project, or eligible logistics and distribution project, and project facilities that the governmental agency acting has authority to take or provide for the purpose under law, including, but not limited to, actions relating to contracts and agreements, zoning, building, permits, acquisition and disposition of property, public capital improvements, utility and transportation service, taxation, employee recruitment and training, and liaison and coordination with and among governmental agencies.

(H) "Governmental agency" means the state and any state department, division, commission, institution or authority; a municipal corporation, county, or township, and any agency thereof, and any other political subdivision or public corporation or the United States or any agency thereof; any agency, commission, or authority established pursuant to an interstate compact or agreement; and any combination of the above.

(I) "Innovation financial assistance" means inducements under division (B) of section 166.12 of the Revised Code, innovation Ohio loan guarantees under section 166.15 of the Revised Code, and innovation Ohio loans under section 166.16 of the Revised Code.

(J) "Innovation Ohio loan guarantee reserve requirement" means, at any time, with respect to innovation loan guarantees made under section 166.15 of the Revised Code, a balance in the innovation Ohio loan guarantee fund equal to the greater of twenty per cent of the then-outstanding principal amount of all outstanding innovation loan guarantees made pursuant to section 166.15 of the Revised Code or fifty per cent of the principal amount of the largest outstanding guarantee made pursuant to section 166.15 of the Revised Code.

(K) "Innovation property" includes property and also includes 4155
software, inventory, licenses, contract rights, goodwill, 4156
intellectual property, including without limitation, patents, 4157
patent applications, trademarks and service marks, and trade 4158
secrets, and other tangible and intangible property, and any 4159
rights and interests in or connected to the foregoing. 4160

(L) "Loan guarantee reserve requirement" means, at any time, 4161
with respect to loan guarantees made under section 166.06 of the 4162
Revised Code, a balance in the loan guarantee fund equal to the 4163
greater of twenty per cent of the then-outstanding principal 4164
amount of all outstanding guarantees made pursuant to section 4165
166.06 of the Revised Code or fifty per cent of the principal 4166
amount of the largest outstanding guarantee made pursuant to 4167
section 166.06 of the Revised Code. 4168

(M) "Person" means any individual, firm, partnership, 4169
association, corporation, or governmental agency, and any 4170
combination thereof. 4171

(N) "Project facilities" means buildings, structures, and 4172
other improvements, and equipment and other property, excluding 4173
small tools, supplies, and inventory, and any one, part of, or 4174
combination of the above, comprising all or part of, or serving or 4175
being incidental to, an eligible project, an eligible innovation 4176
project, an eligible research and development project, an eligible 4177
advanced energy project, or an eligible logistics and distribution 4178
project, including, but not limited to, public capital 4179
improvements. 4180

(O) "Property" means real and personal property and interests 4181
therein. 4182

(P) "Public capital improvements" means capital improvements 4183
or facilities that any governmental agency has authority to 4184
acquire, pay the costs of, own, maintain, or operate, or to 4185

contract with other persons to have the same done, including, but 4186
not limited to, highways, roads, streets, water and sewer 4187
facilities, railroad and other transportation facilities, and air 4188
and water pollution control and solid waste disposal facilities. 4189
For purposes of this division, "air pollution control facilities" 4190
includes, without limitation, solar, geothermal, biofuel, biomass, 4191
wind, hydro, wave, and other advanced energy projects as defined 4192
in section 3706.25 of the Revised Code. 4193

(Q) "Research and development financial assistance" means 4194
inducements under section 166.17 of the Revised Code, research and 4195
development loans under section 166.21 of the Revised Code, and 4196
research and development tax credits under sections 5733.352 and 4197
5747.331 of the Revised Code. 4198

(R) "Targeted innovation industry sectors" means industry 4199
sectors involving the production or use of advanced materials, 4200
instruments, controls and electronics, power and propulsion, 4201
biosciences, and information technology, or such other sectors as 4202
may be designated by the director of development services. 4203

(S) "Voluntary action" means a voluntary action, as defined 4204
in section 3746.01 of the Revised Code, that is conducted under 4205
the voluntary action program established in Chapter 3746. of the 4206
Revised Code. 4207

(T) "Project financing obligations" means obligations issued 4208
pursuant to section 166.08 of the Revised Code other than 4209
obligations for which the bond proceedings provide that bond 4210
service charges shall be paid from receipts of the state 4211
representing gross profit on the sale of spirituous liquor as 4212
referred to in division (B)(4) of section 4310.10 of the Revised 4213
Code. 4214

(U) "Regional economic development entity" means an entity 4215
that is under contract with the director ~~of development~~ to 4216

administer a loan program under this chapter in a particular area 4217
of this state. 4218

(V) "Advanced energy research and development fund" means the 4219
advanced energy research and development fund created in section 4220
3706.27 of the Revised Code. 4221

(W) "Advanced energy research and development taxable fund" 4222
means the advanced energy research and development taxable fund 4223
created in section 3706.27 of the Revised Code. 4224

(X) "Eligible advanced energy project" means an eligible 4225
project that is an "advanced energy project" as defined in section 4226
3706.25 of the Revised Code. 4227

(Y) "Eligible logistics and distribution project" means an 4228
eligible project, including project facilities, to be acquired, 4229
established, expanded, remodeled, rehabilitated, or modernized for 4230
transportation logistics and distribution infrastructure purposes. 4231
As used in this division, "transportation logistics and 4232
distribution infrastructure purposes" means promoting, providing 4233
for, and enabling improvements to the ground, air, and water 4234
transportation infrastructure comprising the transportation system 4235
in this state, including, without limitation, highways, streets, 4236
roads, bridges, railroads carrying freight, and air and water 4237
ports and port facilities, and all related supporting facilities. 4238

(Z) "Department of development" means the development 4239
services agency and "director of development" means the director 4240
of development services. 4241

Sec. 166.04. (A) Prior to entering into each agreement to 4242
provide assistance under sections 166.02, 166.06, and 166.07 of 4243
the Revised Code, the director of development services shall 4244
determine whether the assistance will conform to the requirements 4245
of sections 166.01 to 166.11 of the Revised Code. Such 4246

determination, and the facts upon which it is based, shall be set 4247
forth, where required, by the director in submissions made to the 4248
controlling board ~~for purposes of section 166.03 and, unless~~ 4249
~~provision of the assistance has been recommended to the director~~ 4250
~~by a regional economic development entity, to the development~~ 4251
~~financing advisory council under section 166.05~~ when the director 4252
seeks a release of moneys under section 166.02 of the Revised 4253
Code. An agreement to provide assistance under sections 166.02, 4254
166.06, and 166.07 of the Revised Code shall set forth such 4255
determination, which shall be conclusive for purposes of the 4256
validity and enforceability of such agreement and any loan 4257
guarantees, loans, or other agreements entered into pursuant to 4258
such agreement to provide assistance. 4259

(B) Whenever a person applies for financial assistance under 4260
sections 166.02, 166.06, and 166.07 of the Revised Code and the 4261
project for which assistance is requested is to relocate 4262
facilities that are currently being operated by the person and 4263
that are located in another county, municipal corporation, or 4264
township, the director shall provide written notification to the 4265
appropriate local governmental bodies and state officials. The 4266
notification shall contain the following information: 4267

(1) The name of the person applying for financial assistance; 4268

(2) The county, and the municipal corporation or township, in 4269
which the project for which assistance is requested is located; 4270
and 4271

(3) The county, and the municipal corporation or township, in 4272
which the facility to be replaced is located. 4273

~~The director shall provide the written notification to the~~ 4274
~~appropriate local governmental bodies and state officials so that~~ 4275
~~they receive the notification at least five days before the~~ 4276
~~development financing advisory council meeting at which the~~ 4277

~~council considers the request for financial assistance pursuant to~~ 4278
~~section 166.05 of the Revised Code.~~ 4279

(C) As used in division (B) of this section: 4280

(1) "Appropriate local governmental bodies" means: 4281

(a) The boards of county commissioners or legislative 4282
authorities of the county in which the project for which 4283
assistance is requested is located and of the county in which the 4284
facility to be replaced is located; 4285

(b) The legislative authority of the municipal corporation or 4286
the board of township trustees of the township in which the 4287
project for which assistance is requested is located; and 4288

(c) The legislative authority of the municipal corporation or 4289
the board of township trustees of the township in which the 4290
facility to be replaced is located. 4291

(2) "State officials" means: 4292

(a) The state representative and state senator in whose 4293
districts the project for which assistance is requested is 4294
located; 4295

(b) The state representative and state senator in whose 4296
districts the facility to be replaced is located. 4297

Sec. 166.05. (A) In determining the projects to be assisted 4298
and the nature, amount, and terms of assistance to be provided for 4299
an eligible project under sections 166.02, 166.06, and 166.07 of 4300
the Revised Code: 4301

(1) ~~Except as otherwise provided in division (A)(3) of this~~ 4302
~~section, the~~ The director of development services shall take into 4303
consideration all of the following: 4304

(a) The number of jobs to be created or preserved, directly 4305
or indirectly; 4306

(b) Payrolls, and the taxes generated, at both state and local levels, by the eligible project and by the employment created or preserved by the eligible project;	4307 4308 4309
(c) The size, nature, and cost of the eligible project, including the prospect of the project for providing long-term jobs in enterprises consistent with the changing economics of the state and the nation;	4310 4311 4312 4313
(d) The needs, and degree of needs, of the area in which the eligible project is to be located;	4314 4315
(e) The needs of any private sector enterprise to be assisted;	4316 4317
(f) The competitive effect of the assistance on other enterprises providing jobs for people of the state;	4318 4319
(g) The amount and kind of assistance, if any, to be provided to the private sector enterprise by other governmental agencies through tax exemption or abatement, financing assistance with industrial development bonds, and otherwise, with respect to the eligible project;	4320 4321 4322 4323 4324
(h) The impact of the eligible project and its operations on local government services, including school services, and on public facilities;	4325 4326 4327
(i) The effect of the assistance on the loss of or damage to or destruction of prime farmland, or the removal from agricultural production of prime farmland. As used in this section, "prime farmland" means agricultural land that meets the criteria for this classification as defined by the United States soil conservation service.	4328 4329 4330 4331 4332 4333
(j) The length of time the operator of the project has been operating facilities within the state.	4334 4335
(2) The benefits to the local area, including taxes, jobs,	4336

and reduced unemployment and reduced welfare costs, among others, 4337
may be accorded value in the leasing or sales of project 4338
facilities and in loan and guarantee arrangements. 4339

(B) Prior to granting final approval of the assistance to be 4340
provided, the director shall determine that the benefits to be 4341
derived by the state and local area from the establishment or 4342
development, and operation, of the eligible project will exceed 4343
the cost of providing such assistance and, ~~except as provided in~~ 4344
~~division (C)(2) of this section,~~ shall submit to the development 4345
~~financing advisory council and to the~~ controlling board a copy of 4346
that determination including the basis for the determination. 4347

~~(C)(1) Except as provided in division (C)(2) of this section,~~ 4348
~~prior to the submission provided for in division (B) of this~~ 4349
~~section to the controlling board, the director shall submit to the~~ 4350
~~development financing advisory council data pertinent to the~~ 4351
~~considerations set forth in division (A) of this section, the~~ 4352
~~terms of the proposed assistance, and such other relevant~~ 4353
~~information as the development financing advisory council may~~ 4354
~~request.~~ 4355

~~(2) The director is not required to submit any determination,~~ 4356
~~data, terms, or other application materials or information to the~~ 4357
~~development financing advisory council when provision of the~~ 4358
~~assistance has been recommended to the director by a regional~~ 4359
~~economic development entity.~~ 4360

~~(D) The development financing advisory council, on the basis~~ 4361
~~of such data, shall make recommendations as to the appropriateness~~ 4362
~~of the assistance to be provided. The recommendations may be~~ 4363
~~revised to reflect any changes in the proposed assistance as the~~ 4364
~~director may submit to the council. The recommendations, as~~ 4365
~~amended, of the council as to the appropriateness of the proposed~~ 4366
~~assistance shall be submitted to the controlling board.~~ 4367

~~(E) Financial statements and other data submitted to the 4368
director of development, the development financing advisory 4369
council, services or the controlling board by any private sector 4370
person in connection with financial assistance under sections 4371
166.02, 166.06, and 166.07 of the Revised Code, or any information 4372
taken from such statements or data for any purpose, shall not be 4373
open to public inspection. The development financing advisory 4374
council in considering confidential information in connection with 4375
financial assistance under sections 166.02, 166.06, and 166.07 of 4376
the Revised Code may, only for consideration of the confidential 4377
information referred to, and in the manner provided in division 4378
(E) of section 121.22 of the Revised Code, close the meeting 4379
during such consideration. 4380~~

Sec. 166.13. (A) Prior to entering into each agreement to 4381
provide innovation financial assistance under sections 166.12, 4382
166.15, and 166.16 of the Revised Code, the director of 4383
development services shall determine whether the assistance will 4384
conform to the requirements of sections 166.12 to 166.16 of the 4385
Revised Code. Such determination, and the facts upon which it is 4386
based, shall be set forth by the director in submissions made to 4387
the controlling board ~~for purposes of section 166.16 of the 4388
Revised Code and to the development financing advisory council 4389
under section 166.14~~ when the director seeks a release of moneys 4390
under section 166.12 of the Revised Code. An agreement to provide 4391
assistance under sections 166.12, 166.15, and 166.16 of the 4392
Revised Code shall set forth the determination, which shall be 4393
conclusive for purposes of the validity and enforceability of the 4394
agreement and any innovation loan guarantees, innovation loans, or 4395
other agreements entered into pursuant to the agreement to provide 4396
innovation financial assistance. 4397

(B) Whenever a person applies for innovation financial 4398
assistance under sections 166.12, 166.15, and 166.16 of the 4399

Revised Code and the eligible innovation project for which 4400
innovation financial assistance is requested is to relocate an 4401
eligible innovation project that is currently being operated by 4402
the person and that is located in another county, municipal 4403
corporation, or township, the director shall provide written 4404
notification to the appropriate local governmental bodies and 4405
state officials. The notification shall contain the following 4406
information: 4407

(1) The name of the person applying for innovation financial 4408
assistance; 4409

(2) The county, and the municipal corporation or township, in 4410
which the eligible innovation project for which innovation 4411
financial assistance is requested is located; and 4412

(3) The county, and the municipal corporation or township, in 4413
which the eligible innovation project to be replaced is located. 4414

~~The director shall provide the written notification to the 4415
appropriate local governmental bodies and state officials so that 4416
they receive the notification at least five days before the 4417
development financing advisory council meeting at which the 4418
council considers the request for innovation financial assistance 4419
pursuant to sections 166.12, 166.15, and 166.16 of the Revised 4420
Code. 4421~~

(C) As used in division (B) of this section: 4422

(1) "Appropriate local governmental bodies" means: 4423

(a) The boards of county commissioners or legislative 4424
authorities of the county in which the project for which 4425
innovation financial assistance is requested is located and of the 4426
county in which the eligible innovation project to be replaced is 4427
located; 4428

(b) The legislative authority of the municipal corporation or 4429

the board of township trustees of the township in which the 4430
eligible innovation project for which innovation financial 4431
assistance is requested is located; and 4432

(c) The legislative authority of the municipal corporation or 4433
the board of township trustees of the township in which the 4434
eligible innovation project to be replaced is located. 4435

(2) "State officials" means: 4436

(a) The state representative and state senator in whose 4437
districts the project for which innovation financial assistance is 4438
requested is located; 4439

(b) The state representative and state senator in whose 4440
districts the innovation project to be replaced is located. 4441

Sec. 166.14. (A) In determining the eligible innovation 4442
projects to be assisted and the nature, amount, and terms of 4443
innovation financial assistance to be provided for an eligible 4444
innovation project under sections 166.12 to 166.16 of the Revised 4445
Code: 4446

(1) The director of development services shall take into 4447
consideration all of the following: 4448

(a) The number of jobs to be created or preserved by the 4449
eligible innovation project, directly or indirectly; 4450

(b) Payrolls, and the taxes generated, at both state and 4451
local levels, by or in connection with the eligible innovation 4452
project and by the employment created or preserved by or in 4453
connection with the eligible innovation project; 4454

(c) The size, nature, and cost of the eligible innovation 4455
project, including the prospect of the eligible innovation project 4456
for providing long-term jobs in enterprises consistent with the 4457
changing economics of the state and the nation; 4458

(d) The needs of any private sector enterprise to be 4459
assisted; 4460

(e) The amount and kind of assistance, if any, to be provided 4461
to the private sector enterprise by other governmental agencies 4462
through tax exemption or abatement, financing assistance with 4463
industrial development bonds, and otherwise, with respect to the 4464
eligible innovation project or with respect to any providers of 4465
innovation property to be included as part of the eligible 4466
innovation project; 4467

(f) The likelihood of the successful implementation of the 4468
proposed eligible innovation project; 4469

(g) Whether the eligible innovation project involves the use 4470
of technology in a targeted innovation industry sector. 4471

(2) The benefits to the local area, including taxes, jobs, 4472
and reduced unemployment and reduced welfare costs, among others, 4473
may be accorded value in the leasing or sales of innovation 4474
project facilities and in loan and guarantee arrangements. 4475

(3) In making determinations under division (A)(1) of this 4476
section, the director may consider the effect of an eligible 4477
innovation project upon any entity engaged to provide innovation 4478
property to be acquired, leased, or licensed in connection with 4479
such assistance. 4480

~~(B) The director shall submit to the development financing 4481
advisory council data pertinent to the considerations set forth in 4482
division (A) of this section, the terms of the proposed innovation 4483
financial assistance, and such other relevant information as the 4484
council may request. 4485~~

~~(C) The development financing advisory council, on the basis 4486
of such data, shall make recommendations as to the appropriateness 4487
of the innovation financial assistance to be provided. The 4488
recommendations may be revised to reflect any changes in the 4489~~

~~proposed innovation financial assistance as the director may 4490
submit to the council. The recommendations, as amended, of the 4491
council as to the appropriateness of the proposed innovation 4492
financial assistance shall be submitted to the controlling board. 4493~~

~~(D) Financial statements and other data submitted to the 4494
director of development, the development financing advisory 4495
council, services or the controlling board by any private sector 4496
person in connection with innovation financial assistance under 4497
sections 166.12, 166.15, and 166.16 of the Revised Code, or any 4498
information taken from such statements or data for any purpose, 4499
shall not be open to public inspection. The development financing 4500
advisory council in considering confidential information in 4501
connection with innovation financial assistance under this chapter 4502
may, only for consideration of the confidential information 4503
referred to, and in the manner provided in division (E) of section 4504
121.22 of the Revised Code, close the meeting during such 4505
consideration. 4506~~

Sec. 166.18. (A) Prior to entering into each agreement to 4507
provide research and development financial assistance, the 4508
director of development services shall determine whether the 4509
assistance will conform to the requirements of sections 166.17 to 4510
166.21, 5733.352, and 5747.331 of the Revised Code. Such 4511
determination, and the facts upon which it is based, shall be set 4512
forth by the director in submissions made to the controlling board 4513
~~for purposes of section 166.17 of the Revised Code and to the 4514
development financing advisory council under section 166.19 when 4515
the director seeks a release of moneys under section 166.17 of the 4516
Revised Code. An agreement to provide research and development 4517
financial assistance under section 166.17 or 166.21 of the Revised 4518
Code shall set forth the determination, which shall be conclusive 4519
for purposes of the validity and enforceability of the agreement, 4520
and any loans or other agreements entered into pursuant to the 4521~~

agreement, to provide research and development financial 4522
assistance. 4523

(B) Whenever a person applies for research and development 4524
financial assistance, and the eligible research and development 4525
project for which that assistance is requested is to relocate an 4526
eligible research and development project that is currently being 4527
operated by the person and that is located in another county, 4528
municipal corporation, or township within the state, the director 4529
shall provide written notification to the appropriate local 4530
governmental bodies and state officials. The notification shall 4531
state all of the following: 4532

(1) The name of the person applying for research and 4533
development financial assistance; 4534

(2) The county, and the municipal corporation or township, in 4535
which the project for which research and development financial 4536
assistance is requested will be located; 4537

(3) The county, and the municipal corporation or township, in 4538
which the eligible research and development project is located at 4539
the time such financial assistance is requested. 4540

~~The director shall provide the written notification to the 4541
appropriate local governmental bodies and state officials so that 4542
they receive the notification at least five days before the 4543
development financing advisory council meeting at which the 4544
council considers the request for research and development 4545
financial assistance. 4546~~

(C) As used in division (B) of this section: 4547

(1) "Appropriate local governmental bodies" means all of the 4548
following: 4549

(a) The board of county commissioners of or legislative 4550
authorities of special districts in the county in which the 4551

eligible research and development project for which research and 4552
development financial assistance is requested is located and of 4553
the county in which the project will be located; 4554

(b) The legislative authority of the municipal corporation or 4555
the board of township trustees of the township in which the 4556
eligible research and development project for which research and 4557
development financial assistance is requested is located and of 4558
the municipal corporation or township in which the project will be 4559
located. 4560

(2) "State officials" means both of the following: 4561

(a) The state representative and state senator in whose 4562
district the eligible research and development project for which 4563
research and development financial assistance is requested is 4564
located; 4565

(b) The state representative and state senator in whose 4566
district the eligible research and development project will be 4567
located. 4568

Sec. 166.19. (A)(1) In determining the eligible research and 4569
development projects to be assisted and the nature, amount, and 4570
terms of the research and development financial assistance to be 4571
provided, the director of development services shall consider all 4572
of the following: 4573

(a) The number of jobs to be created or preserved, directly 4574
or indirectly, by or in connection with the eligible research and 4575
development project; 4576

(b) Payrolls, and the taxes generated at both state and local 4577
levels, by the eligible research and development project and by 4578
the employment created or preserved by or in connection with the 4579
project; 4580

(c) The size, nature, and cost of the eligible research and 4581

development project; 4582

(d) The likelihood that the eligible research and development 4583
project will create long-term jobs in enterprises consistent with 4584
the changing economy of the state and nation; 4585

(e) The needs of any private sector enterprise to be 4586
assisted, taking into consideration the amount and kind of 4587
assistance, if any, to be provided to the private sector 4588
enterprise by other governmental agencies through tax exemption or 4589
abatement, financing assistance with industrial development bonds, 4590
and otherwise, with respect to the eligible research and 4591
development project or with respect to any providers of research 4592
and development property to be included as part of the project; 4593

(f) The likelihood that the eligible research and development 4594
project will be successfully implemented. 4595

(2) The director may consider the benefits to the local area, 4596
including taxes, jobs, and reduced unemployment and reduced 4597
welfare costs, in the leasing or sale of eligible research and 4598
development project facilities and in loan arrangements. 4599

(3) The director may consider the effect of an eligible 4600
research and development project upon any entity engaged to 4601
provide research and development property to be acquired, leased, 4602
or licensed in connection with research and development financial 4603
assistance. 4604

~~(B) The director shall submit to the development financing 4605
advisory council data pertinent to the considerations set forth in 4606
division (A) of this section, the terms of the proposed research 4607
and development assistance, and such other relevant information as 4608
the council may request. 4609~~

~~(C) The development financing advisory council, on the basis 4610
of the data submitted under division (B) of this section, shall 4611
make recommendations as to the appropriateness of the research and 4612~~

~~development financial assistance to be provided. The 4613
recommendations may be revised to reflect any changes in the 4614
proposed research and development financial assistance that the 4615
director may submit to the council. The recommendations of the 4616
council as to the appropriateness of the proposed research and 4617
development financial assistance shall be submitted to the 4618
controlling board. 4619~~

~~(D) Financial statements and other data submitted to the 4620
director of development, the development financing advisory 4621
council, services or the controlling board by any private sector 4622
person in connection with research and development financial 4623
assistance, or any information taken from such statements or data 4624
for any purpose, shall not be open to public inspection. The 4625
development financing advisory council, in considering 4626
confidential information in connection with research and 4627
development financial assistance may, only for consideration of 4628
the confidential information referred to and in the manner 4629
provided in division (E) of section 121.22 of the Revised Code, 4630
close the meeting during such consideration. 4631~~

Sec. 166.25. (A) The director of development services, with 4632
the approval of the controlling board and subject to the other 4633
applicable provisions of this chapter, may lend money in the 4634
logistics and distribution infrastructure fund and the logistics 4635
and distribution infrastructure taxable bond fund to persons for 4636
the purpose of paying allowable costs of eligible logistics and 4637
distribution projects. 4638

(B) In determining the eligible logistics and distribution 4639
projects to be assisted and the nature, amount, and terms of 4640
assistance to be provided for an eligible logistics and 4641
distribution project, the director shall consult with appropriate 4642
governmental agencies, including the department of transportation 4643

and the Ohio rail development commission. 4644

~~(C)(1) The director shall submit to the development financing advisory council the terms of the proposed assistance to be provided for an eligible logistics and distribution project and such other relevant information as the council may request.~~ 4645
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~~(2) The council, on the basis of such information, shall make recommendations as to the appropriateness of the assistance to be provided. The recommendations may be revised to reflect any changes in the proposed assistance the director may submit to the council.~~ 4649
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~~(3) The director shall submit the terms of the proposed assistance to be provided, along with the recommendations, as amended, of the council as to the appropriateness of the proposed assistance, to the controlling board.~~ 4654
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~~(D)~~ Any loan made pursuant to this section shall be evidenced by a loan agreement, which shall contain such terms as the director determines necessary or appropriate, including performance measures and reporting requirements. The director may take actions necessary or appropriate to collect or otherwise deal with any loan made under this section, including requiring a loan recipient to repay the amount of the loan plus interest at a rate of three per cent above the federal short term interest rate or any other rate determined by the director. 4658
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Sec. 166.30. (A) The Ohio air quality development authority, with the approval of the controlling board and subject to sections 3706.25 to 3706.30 of the Revised Code, may provide grants from money in the advanced energy research and development fund and may lend money in the advanced energy research and development taxable fund to persons for the purposes of paying allowable costs of eligible advanced energy projects. 4667
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(B) In determining the eligible advanced energy projects to be assisted and the nature, amount, and terms of assistance to be provided for an eligible advanced energy project, the authority shall consult with appropriate governmental agencies.

~~(C)(1) The authority shall submit to the development financing advisory council the terms of the proposed assistance to be provided for an eligible advanced energy project and such other relevant information as the council may request.~~

~~(2) The council, on the basis of such information, shall make recommendations as to the appropriateness of the assistance to be provided. The recommendations may be revised to reflect any changes in the proposed assistance the authority may submit to the council.~~

~~(3) The authority shall submit the terms of the proposed assistance to be provided, along with the recommendations, as amended, of the council as to the appropriateness of the proposed assistance, to the controlling board.~~

~~(D)~~ Any grant or loan made pursuant to this section shall be evidenced by an agreement, which shall contain such terms as the authority determines necessary or appropriate, including performance measures and reporting requirements. The authority may take actions necessary or appropriate to collect or otherwise deal with any assistance provided under this section, including requiring a loan or grant recipient to repay the amount of the loan or grant plus interest at a rate of three per cent above the federal short term interest rate or any other rate determined by the authority.

Sec. 174.01. As used in this chapter:

(A) "Financial assistance" means grants, loans, loan guarantees, an equity position in a project, or loan subsidies.

(B) "Grant" means funding the ~~department of~~ development 4704
services agency or the Ohio housing finance agency provides for 4705
which the ~~department or the~~ relevant agency does not require 4706
repayment. 4707

(C) "Housing" means housing for owner-occupancy and 4708
multifamily rental housing. 4709

(D) "Housing for owner-occupancy" means housing that is 4710
intended for occupancy by an owner as a principal residence. 4711
"Housing for owner-occupancy" may be any type of structure and may 4712
be owned in any type of ownership. 4713

(E) "Housing trust fund" means the low- and moderate-income 4714
housing trust fund created and administered pursuant to Chapter 4715
174. of the Revised Code. 4716

(F) "Lending institution" means any financial institution 4717
qualified to conduct business in this state, a subsidiary 4718
corporation that is wholly owned by a financial institution 4719
qualified to conduct business in this state, and a mortgage lender 4720
whose regular business is originating, servicing, or brokering 4721
real estate loans and who is qualified to do business in this 4722
state. 4723

(G) "Loan" means any extension of credit or other form of 4724
financing or indebtedness directly or indirectly to a borrower 4725
with the expectation that it will be repaid in accordance with the 4726
terms of the underlying loan agreement or other pertinent 4727
document. "Loan" includes financing extended to lending 4728
institutions and indebtedness purchased from lending institutions. 4729

(H) "Loan guarantee" means any agreement in favor of a 4730
lending institution or other lender in which the credit and 4731
resources of the housing trust fund are pledged to secure the 4732
payment or collection of financing extended to a borrower for the 4733
acquisition, construction, improvement, rehabilitation or 4734

preservation of housing, or to refinance any financing previously 4735
extended for those purposes by any lender. 4736

(I) "Loan subsidy" means any deposit of funds into a lending 4737
institution with the authorization or direction that the income or 4738
revenues the deposit earns, or could have earned at competitive 4739
rates, be applied directly or indirectly to the benefit of housing 4740
assistance or financial assistance. 4741

(J) "Low_ and moderate_income persons" means individuals and 4742
families who qualify as low- and moderate-income persons pursuant 4743
to guidelines the ~~department of~~ development services agency 4744
establishes. 4745

(K) "Multifamily rental housing" means multiple unit housing 4746
intended for rental occupancy. 4747

(L) "Nonprofit organization" means a nonprofit organization 4748
in good standing and qualified to conduct business in this state 4749
including any corporation whose members are members of a 4750
metropolitan housing authority. 4751

(M) "Department of development" means the development 4752
services agency and "director of development" means the director 4753
of development services. 4754

Sec. 184.01. (A) There is hereby created the third frontier 4755
commission in the ~~department of~~ development services agency. The 4756
purpose of the commission is to coordinate and administer science 4757
and technology programs to promote the welfare of the people of 4758
the state and to maximize the economic growth of the state through 4759
expansion of both of the following: 4760

(1) The state's high technology research and development 4761
capabilities; 4762

(2) The state's product and process innovation and 4763
commercialization. 4764

(B)(1) The commission shall consist of ~~nine~~ eleven members: 4765
the director of development services, the chancellor of the Ohio 4766
board of regents, the governor's science and technology advisor, 4767
the chief investment officer of the nonprofit corporation formed 4768
under section 187.01 of the Revised Code, and ~~six~~ seven persons 4769
appointed by the governor with the advice and consent of the 4770
senate. 4771

(2) Of the ~~six~~ seven persons appointed by the governor, one 4772
shall represent the central region, which is composed of the 4773
counties of Delaware, Fairfield, Fayette, Franklin, Hocking, Knox, 4774
Licking, Logan, Madison, Marion, Morrow, Perry, Pickaway, Ross, 4775
and Union; one shall represent the west central region, which is 4776
composed of the counties of Champaign, Clark, Darke, Greene, 4777
Miami, Montgomery, Preble, and Shelby; one shall represent the 4778
northeast region, which is composed of the counties of Ashland, 4779
Ashtabula, Carroll, Crawford, Columbiana, Cuyahoga, Erie, Geauga, 4780
Holmes, Huron, Lake, Lorain, Mahoning, Medina, Portage, Richland, 4781
Stark, Summit, Trumbull, Tuscarawas, and Wayne; one shall 4782
represent the northwest region, which is composed of the counties 4783
of Allen, Auglaize, Defiance, Fulton, Hancock, Hardin, Henry, 4784
Lucas, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van 4785
Wert, Williams, Wood, and Wyandot; one shall represent the 4786
southeast region, which shall represent the counties of Adams, 4787
Athens, Belmont, Coshocton, Gallia, Guernsey, Harrison, Jackson, 4788
Jefferson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, 4789
Pike, Scioto, Vinton, and Washington; ~~and~~ one shall represent the 4790
southwest region, which is composed of the counties of Butler, 4791
Brown, Clermont, Clinton, Hamilton, Highland, and Warren; and one 4792
shall represent the public at large. Of the initial appointments, 4793
two shall be for one year, two shall be for two years, and two 4794
shall be for three years as assigned by the governor. Thereafter, 4795
appointments shall be for three-year terms. Members may be 4796
reappointed and vacancies shall be filled in the same manner as 4797

appointments. A person must have a background in business or 4798
research in order to be eligible for appointment to the 4799
commission. 4800

(3) The governor shall select a chairperson from among the 4801
members, who shall serve in that role at the pleasure of the 4802
governor. Sections 101.82 to 101.87 of the Revised Code do not 4803
apply to the commission. 4804

(C) The commission shall meet at least once during each 4805
quarter of the calendar year or at the call of the chairperson. A 4806
majority of all members of the commission constitutes a quorum, 4807
and no action shall be taken without the concurrence of a majority 4808
of the members. 4809

(D) The commission shall administer any money that may be 4810
appropriated to it by the general assembly. The commission may use 4811
such money for research and commercialization and for any other 4812
purposes that may be designated by the commission. 4813

(E) The ~~department of development~~ services agency shall 4814
provide office space and facilities for the commission. 4815
Administrative costs associated with the operation of the 4816
commission or with any program or activity administered by the 4817
commission shall be paid from amounts appropriated to the 4818
commission or to the ~~department of development~~ agency for such 4819
purposes. 4820

(F) The attorney general shall serve as the legal 4821
representative for the commission and may appoint other counsel as 4822
necessary for that purpose in accordance with section 109.07 of 4823
the Revised Code. 4824

(G) Members of the commission shall serve without 4825
compensation, but shall receive their reasonable and necessary 4826
expenses incurred in the conduct of commission business. 4827

(H) Members of the commission shall file financial disclosure 4828

statements described in division (B) of section 102.02 of the Revised Code.

Sec. 184.011. As used in this chapter, "department of development" means the development services agency and "director of development" means the director of development services.

Sec. 187.01. As used in this chapter, "JobsOhio" means the nonprofit corporation formed under this section, and includes any subsidiary of that corporation. In any section of law that refers to the nonprofit corporation formed under this section, reference to the corporation includes reference to any such subsidiary unless otherwise specified or clearly appearing from the context.

The governor is hereby authorized to form a nonprofit corporation, to be named "JobsOhio," with the purposes of promoting economic development, job creation, job retention, job training, and the recruitment of business to this state. Except as otherwise provided in this chapter, the corporation shall be organized and operated in accordance with Chapter 1702. of the Revised Code. The governor shall sign and file articles of incorporation for the corporation with the secretary of state. The legal existence of the corporation shall begin upon the filing of the articles.

In addition to meeting the requirements for articles of incorporation in Chapter 1702. of the Revised Code, the articles of incorporation for the nonprofit corporation shall set forth the following:

(A) The designation of the name of the corporation as JobsOhio;

(B) The creation of a board of directors consisting of nine directors, to be appointed by the governor, who satisfy the qualifications prescribed by section 187.02 of the Revised Code;

(C) A requirement that the governor make initial appointments 4859
to the board within sixty days after the filing of the articles of 4860
incorporation. Of the initial appointments made to the board, two 4861
shall be for a term ending one year after the date the articles 4862
were filed, two shall be for a term ending two years after the 4863
date the articles were filed, and five shall be for a term ending 4864
four years after the date the articles were filed. The articles 4865
shall state that, following the initial appointments, the governor 4866
shall appoint directors to terms of office of four years, with 4867
each term of office ending on the same day of the same month as 4868
did the term that it succeeds. If any director dies, resigns, or 4869
the director's status changes such that any of the requirements of 4870
division (C) of section 187.02 of the Revised Code are no longer 4871
met, that director's seat on the board shall become immediately 4872
vacant. The governor shall forthwith fill the vacancy by 4873
appointment for the remainder of the term of office of the vacated 4874
seat. 4875

(D) A requirement that the governor appoint one director to 4876
be chairperson of the board and procedures for electing directors 4877
to serve as officers of the corporation and members of an 4878
executive committee; 4879

(E) A provision for the appointment of a chief investment 4880
officer of the corporation by the recommendation of the board and 4881
approval of the governor. The chief investment officer shall serve 4882
at the pleasure of the board and shall have the power to execute 4883
contracts, spend corporation funds, and hire employees on behalf 4884
of the corporation. If the position of chief investment officer 4885
becomes vacant for any reason, the vacancy shall be filled in the 4886
same manner as provided in this division. 4887

(F) Provisions requiring the board to do all of the 4888
following: 4889

(1) Adopt one or more resolutions providing for compensation 4890

- of the chief investment officer; 4891
- (2) Approve an employee compensation plan recommended by the 4892
chief investment officer; 4893
- (3) Approve a contract with the director of development 4894
services for the corporation to assist the director and the 4895
~~department of~~ development services agency with providing services 4896
or otherwise carrying out the functions or duties of the 4897
~~department~~ agency, including the operation and management of 4898
programs, offices, divisions, or boards, as may be determined by 4899
the director of development services in consultation with the 4900
governor; 4901
- (4) Approve all major contracts for services recommended by 4902
the chief investment officer; 4903
- (5) Establish an annual strategic plan and standards of 4904
measure to be used in evaluating the corporation's success in 4905
executing the plan; 4906
- (6) Establish a conflicts of interest policy that, at a 4907
minimum, complies with section 187.06 of the Revised Code; 4908
- (7) Hold a minimum of four board of directors meetings per 4909
year at which a quorum of the board is physically present, and 4910
such other meetings, at which directors' physical presence is not 4911
required, as may be necessary. Meetings at which a quorum of the 4912
board is required to be physically present are subject to 4913
divisions (C), (D), and (E) of section 187.03 of the Revised Code. 4914
- (8) Establish a records retention policy and present the 4915
policy, and any subsequent changes to the policy, at a meeting of 4916
the board of directors at which a quorum of the board is required 4917
to be physically present pursuant to division (F)(7) of this 4918
section; 4919
- (9) Adopt standards of conduct for the directors. 4920

(G) A statement that directors shall not receive any 4921
compensation from the corporation, except that directors may be 4922
reimbursed for actual and necessary expenses incurred in 4923
connection with services performed for the corporation; 4924

(H) A provision authorizing the board to amend provisions of 4925
the corporation's articles of incorporation or regulations, except 4926
provisions required by this chapter; 4927

(I) Procedures by which the corporation would be dissolved 4928
and by which all corporation rights and assets would be 4929
distributed to the state or to another corporation organized under 4930
this chapter. These procedures shall incorporate any separate 4931
procedures subsequently set forth in this chapter for the 4932
dissolution of the corporation. The articles shall state that no 4933
dissolution shall take effect until the corporation has made 4934
adequate provision for the payment of any outstanding bonds, 4935
notes, or other obligations. 4936

(J) A provision establishing an audit committee to be 4937
comprised of directors. The articles shall require that the audit 4938
committee hire an independent certified public accountant to 4939
perform a financial audit of the corporation at least once every 4940
year. 4941

(K) A provision authorizing a majority of the disinterested 4942
directors to remove a director for misconduct, as that term may be 4943
defined in the articles or regulations of the corporation. The 4944
removal of a director under this division creates a vacancy on the 4945
board that the governor shall fill by appointment for the 4946
remainder of the term of office of the vacated seat. 4947

Sec. 187.03. (A) JobsOhio may perform such functions as 4948
permitted and shall perform such duties as prescribed by law and 4949
as set forth in any contract entered into under section 187.04 of 4950
the Revised Code, but shall not be considered a state or public 4951

department, agency, office, body, institution, or instrumentality 4952
for purposes of section 1.60 or Chapter 102., 121., 125., or 149. 4953
of the Revised Code. JobsOhio and its board of directors are not 4954
subject to the following sections of Chapter 1702. of the Revised 4955
Code: sections 1702.03, 1702.08, 1702.09, 1702.21, 1702.24, 4956
1702.26, 1702.27, 1702.28, 1702.29, 1702.301, 1702.33, 1702.34, 4957
1702.37, 1702.38, 1702.40 to 1702.52, 1702.521, 1702.54, 1702.57, 4958
1702.58, 1702.59, 1702.60, 1702.80, and 1702.99. Nothing in this 4959
division shall be construed to impair the powers and duties of the 4960
Ohio ethics commission described in section 102.06 of the Revised 4961
Code to investigate and enforce section 102.02 of the Revised Code 4962
with regard to individuals required to file statements under 4963
division (B)(2) of this section. 4964

(B)(1) Directors and employees of JobsOhio are not employees 4965
or officials of the state and, except as provided in division 4966
(B)(2) of this section, are not subject to Chapter 102., 124., 4967
145., or 4117. of the Revised Code. 4968

(2) The chief investment officer, any other officer or 4969
employee with significant administrative, supervisory, 4970
contracting, or investment authority, and any director of JobsOhio 4971
shall file, with the Ohio ethics commission, a financial 4972
disclosure statement pursuant to section 102.02 of the Revised 4973
Code that includes, in place of the information required by 4974
divisions (A)(2), (7), (8), and (9) of that section, the 4975
information required by divisions (A) and (B) of section 102.022 4976
of the Revised Code. The governor shall comply with all applicable 4977
requirements of section 102.02 of the Revised Code. 4978

(3) Actual or in-kind expenditures for the travel, meals, or 4979
lodging of the governor or of any public official or employee 4980
designated by the governor for the purpose of this division shall 4981
not be considered a violation of section 102.03 of the Revised 4982

Code if the expenditures are made by the corporation, or on behalf 4983
of the corporation by any person, in connection with the 4984
governor's performance of official duties related to JobsOhio. The 4985
governor may designate any person, including a person who is a 4986
public official or employee as defined in section 102.01 of the 4987
Revised Code, for the purpose of this division if such 4988
expenditures are made on behalf of the person in connection with 4989
the governor's performance of official duties related to JobsOhio. 4990
A public official or employee so designated by the governor shall 4991
comply with all applicable requirements of section 102.02 of the 4992
Revised Code. 4993

At the times and frequency agreed to under division (B)(2)(b) 4994
of section 187.04 of the Revised Code, beginning in 2012, the 4995
corporation shall file with the ~~department of development~~ services 4996
agency a written report of all such expenditures paid or incurred 4997
during the preceding calendar year. The report shall state the 4998
dollar value and purpose of each expenditure, the date of each 4999
expenditure, the name of the person that paid or incurred each 5000
expenditure, and the location, if any, where services or benefits 5001
of an expenditure were received, provided that any such 5002
information that may disclose proprietary information as defined 5003
in division (C) of this section shall not be included in the 5004
report. 5005

(4) The prohibition applicable to former public officials or 5006
employees in division (A)(1) of section 102.03 of the Revised Code 5007
does not apply to any person appointed to be a director or hired 5008
as an employee of JobsOhio. 5009

(5) Notwithstanding division (A)(2) of section 145.01 of the 5010
Revised Code, any person who is a former state employee shall no 5011
longer be considered a public employee for purposes of Chapter 5012
145. of the Revised Code upon commencement of employment with 5013
JobsOhio. 5014

(6) Any director, officer, or employee of JobsOhio may request an advisory opinion from the Ohio ethics commission with regard to questions concerning the provisions of sections 102.02 and 102.022 of the Revised Code to which the person is subject.

(C) Meetings of the board of directors at which a quorum of the board is required to be physically present pursuant to division (F) of section 187.01 of the Revised Code shall be open to the public except, by a majority vote of the directors present at the meeting, such a meeting may be closed to the public only for one or more of the following purposes:

(1) To consider business strategy of the corporation;

(2) To consider proprietary information belonging to potential applicants or potential recipients of business recruitment, retention, or creation incentives. For the purposes of this division, "proprietary information" means marketing plans, specific business strategy, production techniques and trade secrets, financial projections, or personal financial statements of applicants or members of the applicants' immediate family, including, but not limited to, tax records or other similar information not open to the public inspection.

(3) To consider legal matters, including litigation, in which the corporation is or may be involved;

(4) To consider personnel matters related to an individual employee of the corporation.

(D) The board of directors shall establish a reasonable method whereby any person may obtain the time and place of all public meetings described in division (C) of this section. The method shall provide that any person, upon request and payment of a reasonable fee, may obtain reasonable advance notification of all such meetings.

(E) The board of directors shall promptly prepare, file, and

maintain minutes of all public meetings described in division (C) 5046
of this section. 5047

(F) Not later than March 1, 2012, and the first day of March 5048
of each year thereafter, the chief investment officer of JobsOhio 5049
shall prepare and submit a report of the corporation's activities 5050
for the preceding year to the governor, the speaker and minority 5051
leader of the house of representatives, and the president and 5052
minority leader of the senate. The annual report shall include the 5053
following: 5054

(1) An analysis of the state's economy; 5055

(2) A description of the structure, operation, and financial 5056
status of the corporation; 5057

(3) A description of the corporation's strategy to improve 5058
the state economy and the standards of measure used to evaluate 5059
its progress; 5060

(4) An evaluation of the performance of current strategies 5061
and major initiatives; 5062

(5) An analysis of any statutory or administrative barriers 5063
to successful economic development, business recruitment, and job 5064
growth in the state identified by JobsOhio during the preceding 5065
year. 5066

Sec. 187.04. (A) The director of development services, as 5067
soon as practical after ~~the effective date of this section~~ 5068
February 18, 2011, shall execute a contract with JobsOhio for the 5069
corporation to assist the director and the ~~department of~~ 5070
development services agency with providing services or otherwise 5071
carrying out the functions or duties of the ~~department~~ agency, 5072
including the operation and management of programs, offices, 5073
divisions, or boards, as may be determined by the director in 5074
consultation with the governor. The approval or disapproval of 5075

awards involving public money shall remain functions of the 5076
~~department~~ agency. All contracts for grants, loans, and tax 5077
incentives involving public money shall be between the ~~department~~ 5078
agency and the recipient and shall be enforced by the ~~department~~ 5079
agency. JobsOhio may not execute contracts obligating the 5080
~~department~~ agency for loans, grants, tax credits, or incentive 5081
awards recommended by JobsOhio to the ~~department~~ agency. Prior to 5082
execution, all contracts between the director and JobsOhio entered 5083
into under this section that obligate the agency to pay JobsOhio 5084
for services rendered are subject to controlling board approval. 5085

The term of a an initial contract entered into under this 5086
section shall not extend beyond June 30, 2013. Thereafter, the 5087
director and JobsOhio may renew the contract for subsequent fiscal 5088
biennia, but at no time shall a particular contract be effective 5089
for longer than a fiscal biennium of the general assembly, ~~but may~~ 5090
~~be renewed or amended by the parties.~~ 5091

JobsOhio's provision of services to the agency as described 5092
in this section shall be pursuant to a contract entered into under 5093
this section. If at any time the director determines that the 5094
contract with JobsOhio may not be renewed for the subsequent 5095
fiscal biennium, the director shall notify JobsOhio of the 5096
director's decision not later than one hundred twenty days prior 5097
to the end of the current fiscal biennium. If the director does 5098
not provide such written notice to JobsOhio prior to one hundred 5099
days before the end of the current fiscal biennium, the contract 5100
shall be renewed upon such terms as the parties may agree, subject 5101
to the requirements of this section. 5102

(B) A contract entered into under this section shall include 5103
all of the following: 5104

(1) Terms assigning to the corporation the duties of advising 5105
and assisting the director ~~of development~~ in the director's 5106

evaluation of the ~~department~~ agency and the formulation of 5107
recommendations under section 187.05 of the Revised Code; 5108

(2) Terms designating records created or received by JobsOhio 5109
that shall be made available to the public under the same 5110
conditions as are public records under section 149.43 of the 5111
Revised Code. Documents designated to be made available to the 5112
public pursuant to the contract shall be kept on file with the 5113
~~department of development~~ agency. 5114

Among records to be designated under this division shall be 5115
the following: 5116

(a) The corporation's federal income tax returns; 5117

(b) The report of expenditures described in division (B)(3) 5118
of section 187.03 of the Revised Code. The records shall be filed 5119
with the ~~department~~ agency at such times and frequency as agreed 5120
to by the corporation and the ~~department~~ agency, which shall not 5121
be less frequently than quarterly. 5122

(c) The annual total compensation paid to each officer and 5123
employee of the corporation; 5124

(d) A copy of the audit report for each financial audit of 5125
the corporation performed by an independent certified public 5126
accountant pursuant to division (J) of section 187.01 of the 5127
Revised Code. 5128

(e) Records of any fully executed incentive proposals, to be 5129
filed annually; 5130

(f) Records pertaining to the monitoring of commitments made 5131
by incentive recipients, to be filed annually; 5132

(g) A copy of the minutes of all public meetings described in 5133
division (C) of section 187.03 of the Revised Code not otherwise 5134
closed to the public. 5135

(3) The following statement acknowledging that JobsOhio is 5136

not acting as an agent of the state: 5137

"JobsOhio shall have no power or authority to bind the state 5138
or to assume or create an obligation or responsibility, expressed 5139
or implied, on behalf of the state or in its name, nor shall 5140
JobsOhio represent to any person that it has any such power or 5141
authority, except as expressly provided in this contract." 5142

(C) Records created or received by JobsOhio are not public 5143
records for the purposes of section 149.43 of the Revised Code, 5144
regardless of who may have custody of the records, unless the 5145
record is designated to be available to the public by the contract 5146
under division (B)(2) of this section. 5147

(D) Any contract executed under authority of this section 5148
shall not negate, impair, or otherwise adversely affect the 5149
obligation of this state to pay debt charges on securities 5150
executed by the director ~~of development~~ or issued by the treasurer 5151
of state, Ohio public facilities commission, or any other issuing 5152
authority under Chapter 122., 151., 165., or 166. of the Revised 5153
Code to fund economic development programs of the state, or to 5154
abide by any pledge or covenant relating to the payment of those 5155
debt charges made in any related proceedings. As used in this 5156
division, "debt charges," "proceedings," and "securities" have the 5157
same meanings as in section 133.01 of the Revised Code. 5158

(E) Nothing in this section, other than the requirement of 5159
controlling board approval, shall prohibit the ~~department~~ agency 5160
from contracting with JobsOhio to perform any of the following 5161
functions: 5162

- (1) Promoting and advocating for the state; 5163
- (2) Making recommendations to the ~~department~~ agency; 5164
- (3) Performing research for the ~~department~~ agency; 5165
- (4) Establishing and managing programs or offices on behalf 5166

of the ~~department~~ agency, by contract; 5167

(5) Negotiating on behalf of the state. 5168

(F) Nothing in this section, other than the requirement of 5169
controlling board approval, shall prohibit the ~~department~~ agency 5170
from compensating JobsOhio from funds currently appropriated to 5171
the ~~department~~ agency to perform the functions described in 5172
division (E) of this section. 5173

Sec. 187.05. The director of development services, as soon as 5174
practical after ~~the effective date of this section~~ February 18, 5175
2011, shall, in consultation with the governor, evaluate all 5176
powers, functions, and duties of the ~~department~~ development 5177
services agency. Within six months after ~~that effective date~~ 5178
February 18, 2011, the director shall submit a report to the 5179
general assembly recommending statutory changes necessary to 5180
improve the functioning and efficiency of the ~~department~~ agency 5181
and to transfer specified powers, functions, and duties of the 5182
~~department~~ agency to other existing agencies of the state or to 5183
JobsOhio, or eliminate specified powers, functions, or duties. The 5184
recommendations shall be submitted in writing to the speaker and 5185
minority leader of the house of representatives and the president 5186
and minority leader of the senate. 5187

After submitting the report, the director, in consultation 5188
with the governor, shall continue to evaluate the ~~department~~ 5189
agency and make additional recommendations on such matters to the 5190
general assembly. 5191

Sec. 929.03. (A)(1) No public entity with authority to levy 5192
special assessments on real property shall collect an assessment 5193
for purposes of sewer, water, or electrical service on real 5194
property that is within an agricultural district as described in 5195
division (A)(2) of this section without the permission of the 5196

owner, except that any assessment may be collected on a lot 5197
surrounding a dwelling or other structure not used in agricultural 5198
production that does not exceed one acre or the minimum area 5199
required by local zoning or subdivision rules, whichever is the 5200
greater area. 5201

(2) For purposes of division (A)(1) of this section, an 5202
agricultural district is such a district that is established: 5203

(a) In the case of counties, prior to the adoption of a 5204
resolution of necessity by a board of county commissioners, 5205
pursuant to section 6103.05 or 6117.06 of the Revised Code; 5206

(b) In the case of municipal corporations, prior to whichever 5207
of the following occurs first: 5208

(i) The adoption of the resolution of necessity by the 5209
municipal legislative authority, pursuant to section 727.12 or 5210
729.02 of the Revised Code; 5211

(ii) The service of notice on all or some of the owners to be 5212
assessed pursuant to section 729.06 of the Revised Code; 5213

(iii) The adoption of the resolution or ordinance by the 5214
municipal legislative authority declaring the necessity for the 5215
improvement, the costs of which are to be assessed under 5216
procedures authorized by a municipal charter adopted pursuant to 5217
Section 7 of Article XVIII, Ohio Constitution, or, if no such 5218
ordinance or resolution is required under the charter, the service 5219
of the first notice on all or some of the owners of lands to be 5220
assessed, or the adoption of the first ordinance or resolution by 5221
the municipal legislative authority pertaining to the assessment 5222
proceedings under the charter. 5223

(c) In the case of a regional water and sewer district 5224
established pursuant to Chapter 6119. of the Revised Code, prior 5225
to the adoption of a resolution of necessity by the board of 5226
trustees of the district under section 6119.25 of the Revised 5227

Code.	5228
(B) For each special assessment levied by a public entity on	5229
real property within an agricultural district for purposes of	5230
sewer, water, or electrical service, the county auditor shall make	5231
and maintain a list showing:	5232
(1) The name of the owner of each lot, tract, or parcel of	5233
land that is exempt from the collection of the special assessment	5234
under this section;	5235
(2) A description of the exempt land;	5236
(3) The purpose of the special assessment;	5237
(4) The amount of the uncollected assessment on the exempt	5238
land.	5239
In the case of a county project constructed under Chapter	5240
6103. or 6117. of the Revised Code, the county auditor may use a	5241
list provided for in those chapters in lieu of the list required	5242
by division (B) of this section. The auditor shall also record in	5243
the water works record required by section 6103.16 of the Revised	5244
Code or the sewer improvement record required by section 6117.33	5245
of the Revised Code those assessments not collected under this	5246
section. The recording of the assessments does not permit the	5247
collection of the assessments until such time as exempt lands are	5248
withdrawn from agricultural districts or converted to	5249
nonagricultural use.	5250
(C) If at any time any of the owner's exempt land, other than	5251
a lot sold or transferred to a son, daughter, brother, sister,	5252
mother, or father for the purpose of constructing a dwelling in	5253
which the relative will reside for at least three years, is	5254
withdrawn from an agricultural district or if the owner of the	5255
exempt land uses on that land the service for which the special	5256
assessment was assessed, the public entity may collect the entire	5257
uncollected assessment, except as otherwise provided in this	5258

division, in addition to an amount equal to the rate of interest 5259
that any bonds or notes issued for the project for which the 5260
assessment was made did bear for the number of years the land was 5261
exempted, not to exceed twenty-five or the number of years for 5262
which the bonds or notes were issued, whichever is the lesser 5263
number. The owner shall notify the county auditor of any 5264
withdrawal from a district or use of the service within ninety 5265
days following the withdrawal or use of the service. The charge 5266
shall constitute a lien of the public entity upon the land and 5267
shall continue until discharged. All liens shall be recorded in 5268
the appropriate county recorder's office. Moneys collected as a 5269
result of the charge shall be deposited in the appropriate fund of 5270
the public entity that levied the special assessment. 5271

If the owner of exempt land sells or transfers a lot to ~~his~~ 5272
the owner's son, daughter, brother, sister, mother, or father for 5273
the purpose of constructing a dwelling in which the relative will 5274
reside for at least three years, and if the owner or the buyer of 5275
the lot uses the service for which the special assessment was 5276
assessed only to provide service to that lot, the owner of the lot 5277
shall pay only that portion of the uncollected assessment and 5278
interest that applies to the lot. 5279

If at any time any part of an owner's exempt land is 5280
appropriated, the owner shall pay only that portion of the 5281
uncollected assessment and interest that applies to the 5282
appropriated parcel of land. 5283

In lieu of immediate payment of the uncollected assessment 5284
and interest, the board of county commissioners, legislative 5285
authority of a municipal corporation, or other governing board of 5286
any other public entity may, upon the request of the owner, 5287
establish an extended repayment schedule for the owner. If the 5288
board, legislative authority, or other governing board establishes 5289
such a schedule, it shall notify the county auditor of the 5290

schedule. 5291

~~(D) A board of county commissioners, legislative authority of 5292
a municipal corporation, or other governing board of any other 5293
public entity may apply to the water and sewer commission, created 5294
by division (C) of section 1525.11 of the Revised Code, for an 5295
advance of moneys from the water and sewer fund, created by 5296
division (A) of section 1525.11 of the Revised Code, in an amount 5297
equal to that portion of the costs of a water or sewer improvement 5298
authorized by law that is to be financed by assessments whose 5299
collection is prohibited under division (A) of this section. The 5300
application for such an advance of moneys shall be made in the 5301
manner prescribed by rules of the commission. Upon collection of 5302
any assessment whose collection was prohibited under division (A) 5303
of this section, the board of county commissioners, legislative 5304
authority, or other governing board shall repay the commission the 5305
amount of any moneys advanced by it in regard to the assessments. 5306~~

Sec. 1551.01. As used in this chapter: 5307

(A) "Governmental agency" means the United States government 5308
or any department, agency, or instrumentality thereof; any 5309
department, agency, or instrumentality of a state government; any 5310
municipal corporation, county, township, board of education, or 5311
other political subdivision or any other body corporate and 5312
politic of a state; or any agency, commission, or authority 5313
established under an interstate compact or agreement. 5314

(B) "Energy resource development facility" means any energy 5315
resource development, research, or conservation facility, 5316
including pilot as well as demonstration facilities, and including 5317
undivided or other interests therein, acquired or to be acquired, 5318
or constructed or to be constructed under this chapter or Chapter 5319
6121. or 6123. of the Revised Code, or acquired or to be acquired, 5320
or constructed or to be constructed by a governmental agency or 5321

person with all or a part of the cost thereof being paid from a 5322
loan or grant under such chapters, including all buildings and 5323
facilities that the director of development services determines 5324
necessary for the operation of the facility, together with all 5325
property, rights, easements, and interests that may be required 5326
for the operation of the facility, which facilities may include: 5327

(1) Any building, testing facility, testing device, or 5328
support facilities which would provide experimental, 5329
demonstration, or testing capabilities or services not otherwise 5330
available in this state and which are necessary for the 5331
accomplishment of the purposes of this chapter; 5332

(2) Any method, process, structure, or equipment that is used 5333
to store coal, oil, natural gas, fuel for nuclear reactors, or any 5334
other form of energy; 5335

(3) Any method, process, structure, or equipment that is used 5336
to recover or convert coal, oil, natural gas, steam, or other form 5337
of energy from property located within the state for the purpose 5338
of supplying energy for utilization; 5339

(4) Any method, process, structure, or equipment that is 5340
designed to result in more efficient recovery, conversion, or 5341
utilization of energy resources within the state, including any 5342
scrap tire recovery facility for which a registration certificate 5343
or permit has been issued under section 3734.78 of the Revised 5344
Code; 5345

(5) Any improvement that is designed to improve the thermal 5346
efficiency of a building or structure or reduce the fuel or power 5347
needed to heat, cool, light, ventilate, or provide hot water in a 5348
building or structure; 5349

(6) Any improvement designed to enable the substitution of 5350
coal or alternate fuel, other than natural gas, for natural gas or 5351
a petroleum fuel, or the conversion of coal to other fuels; 5352

(7) Any improvement designed to enable the combustion of high sulfur coal in compliance with air or water pollution control or solid waste disposal laws, including, but not limited to, any facility for processing coal to remove sulfur before combustion of the coal, for fluidized bed combustion, or for removal of the sulfur before the products of combustion are emitted or discharged.

(C) "Cost" as applied to an energy resource development facility means the cost of acquisition and construction, the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights, and interests required for such acquisition and construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of acquiring or constructing and equipping a principal office and sub-offices of the department of development, the cost of diverting highways, interchange of highways, access roads to private property, including the cost of land or easements for such access roads, the cost of public utility and common carrier relocation or duplication, the cost of all machinery, furnishings, and equipment, financing charges, interest prior to and during construction and for no more than eighteen months after completion of construction, engineering, expenses of research and development with respect to the facility, legal expenses, plans, specifications, surveys, studies, estimates of cost and revenues, working capital, other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing such facility, administrative expense, and such other expense as may be necessary or incident to the acquisition or construction of the facility, the financing of such acquisition or construction, including the amount authorized in the resolution of the Ohio water development authority providing for the issuance of energy resource development revenue bonds to

be paid into any special funds from the proceeds of such bonds, 5386
and the financing of the placing of such facility in operation. 5387
Any obligation, cost, or expense incurred after August 26, 1975, 5388
by any governmental agency or person for surveys, borings, 5389
preparation of plans and specifications, and other engineering 5390
services, or any other cost described above, in connection with 5391
the acquisition or construction of a facility may be regarded as a 5392
part of the cost of such facility and may be reimbursed out of the 5393
proceeds of energy resource development revenue bonds. 5394

(D) "Revenues" means all rentals and other charges received 5395
by the Ohio water development authority for the use or services of 5396
any energy resource development facility, any contract, gift, or 5397
grant received with respect to any energy resource development 5398
facility, and moneys received with respect to the lease, sublease, 5399
sale, including installment sale or conditional sale, or other 5400
disposition of an energy resource development facility, moneys 5401
received in repayment of and for interest on any loans made by the 5402
authority to a person or governmental agency, whether from the 5403
United States or any department, administration, or agency 5404
thereof, or otherwise, proceeds of energy resource development 5405
revenue bonds to the extent that the use thereof for payment of 5406
principal of, premium, if any, or interest on the bonds is 5407
authorized by the authority, proceeds from any insurance, 5408
condemnation, or guaranty pertaining to a facility or property 5409
mortgaged to secure bonds or pertaining to the financing of a 5410
facility, and income and profit from the investment of the 5411
proceeds of energy resource development revenue bonds or of any 5412
revenues. 5413

(E) "Construction," unless the context indicates a different 5414
meaning or intent, includes construction, reconstruction, 5415
enlargement, improvement, or providing furnishings or equipment. 5416

(F) "Energy resource development revenue bonds," unless the 5417

context indicates a different meaning or intent, includes energy 5418
resource development revenue bonds, energy resource development 5419
revenue notes, and energy resource development revenue refunding 5420
bonds. 5421

(G) "Energy" means work or heat that is, or can be, produced 5422
from any fuel or source whatsoever. 5423

(H) "Energy audit" means any process by which energy usage or 5424
costs of heating, cooling, lighting, and climate control in a 5425
building or structure are determined. 5426

(I) "Energy conservation" means preservation of energy 5427
resources by efficient utilization, and reduction of waste. 5428

(J) "Energy conservation measure" means any modification of a 5429
building, structure, machine, appliance, vehicle, improvement, or 5430
process in order to improve its efficiency of energy use or energy 5431
costs. 5432

(K) "Fuel" means petroleum, crude oil, petroleum product, 5433
coal, natural gas, synthetic natural or artificial gas, nuclear, 5434
or other substance used primarily for its energy content. 5435

(L) "Net energy analysis" means the determination of the 5436
amount of energy remaining after all energy outputs have been 5437
subtracted from the energy inputs of a given system. 5438

(M) "Department of development" means the development 5439
services agency and "director of development" means the director 5440
of development services. 5441

Sec. 3735.01. As used in this chapter, "department of 5442
development" means the development services agency and "director 5443
of development" means the director of development services. 5444

Sec. 3735.672. (A) On or before the thirty-first day of March 5445
each year, a legislative authority that has entered into an 5446

agreement with a party under section 3735.671 of the Revised Code 5447
shall submit to the director of development services and the board 5448
of education of each school district of which a municipal 5449
corporation or township to which such an agreement applies is a 5450
part a report on all such agreements in effect during the 5451
preceding calendar year. The report shall include the following 5452
information: 5453

(1) The designation, assigned by the director of development 5454
services, of each community reinvestment area within the municipal 5455
corporation or county, and the total population of each area 5456
according to the most recent data available; 5457

(2) The number of agreements and the number of full-time 5458
employees subject to those agreements within each area, each 5459
according to the most recent data available and identified and 5460
categorized by the appropriate standard industrial code, and the 5461
rate of unemployment in the municipal corporation or county in 5462
which the area is located for each year since the area was 5463
certified; 5464

(3) The number of agreements approved and executed during the 5465
calendar year for which the report is submitted, the total number 5466
of agreements in effect on the thirty-first day of December of the 5467
preceding calendar year, the number of agreements that expired 5468
during the calendar year for which the report is submitted, and 5469
the number of agreements scheduled to expire during the calendar 5470
year in which the report is submitted. For each agreement that 5471
expired during the calendar year for which the report is 5472
submitted, the legislative authority shall include the amount of 5473
taxes exempted under the agreement. 5474

(4) The number of agreements receiving compliance reviews by 5475
the tax incentive review council in the municipal corporation or 5476
county during the calendar year for which the report is submitted, 5477
including all of the following information: 5478

(a) The number of agreements the terms of which the party has 5479
complied with, indicating separately for each such agreement the 5480
value of the real property exempted pursuant to the agreement and 5481
a comparison of the stipulated and actual schedules for hiring new 5482
employees, for retaining existing employees, and for the amount of 5483
payroll of the party attributable to these employees; 5484

(b) The number of agreements the terms of which a party has 5485
failed to comply with, indicating separately for each such 5486
agreement the value of the real and personal property exempted 5487
pursuant to the agreement and a comparison of the stipulated and 5488
actual schedules for hiring new employees, for retaining existing 5489
employees, and for the amount of payroll of the enterprise 5490
attributable to these employees; 5491

(c) The number of agreements about which the tax incentive 5492
review council made recommendations to the legislative authority, 5493
and the number of such recommendations that have not been 5494
followed; 5495

(d) The number of agreements rescinded during the calendar 5496
year for which the report is submitted. 5497

(5) The number of parties subject to agreements that expanded 5498
within each area, including the number of new employees hired and 5499
existing employees retained by that party, and the number of new 5500
parties subject to agreements that established within each area, 5501
including the number of new employees hired by each party; 5502

(6) For each agreement in effect during any part of the 5503
preceding year, the number of employees employed by the party at 5504
the property that is the subject of the agreement immediately 5505
prior to formal approval of the agreement, the number of employees 5506
employed by the party at that property on the thirty-first day of 5507
December of the preceding year, the payroll of the party for the 5508
preceding year, the amount of taxes paid on real property that was 5509

exempted under the agreement, and the amount of such taxes that 5510
were not paid because of the exemption. 5511

(B) Upon the failure of a municipal corporation or county to 5512
comply with division (A) of this section: 5513

(1) Beginning on the first day of April of the calendar year 5514
in which the municipal corporation or county fails to comply with 5515
that division, the municipal corporation or county shall not enter 5516
into any agreements under section 3735.671 of the Revised Code 5517
until the municipal corporation or county has complied with 5518
division (A) of this section. 5519

(2) On the first day of each ensuing calendar month until the 5520
municipal corporation or county complies with that division, the 5521
director of development services shall either order the proper 5522
county auditor to deduct from the next succeeding payment of taxes 5523
to the municipal corporation or county under section 321.31, 5524
321.32, 321.33, or 321.34 of the Revised Code an amount equal to 5525
five hundred dollars for each calendar month the municipal 5526
corporation or county fails to comply with that division, or order 5527
the county auditor to deduct such an amount from the next 5528
succeeding payment to the municipal corporation or county from the 5529
undivided local government fund under section 5747.51 of the 5530
Revised Code. At the time such a payment is made, the county 5531
auditor shall comply with the director's order by issuing a 5532
warrant, drawn on the fund from which such money would have been 5533
paid, to the director of development services, who shall deposit 5534
the warrant into the state community reinvestment area program 5535
administration fund created in division (C) of this section. 5536

(C) The director, by rule, shall establish the state's 5537
application fee for applications submitted to a municipal 5538
corporation or county to enter into an agreement under section 5539
3735.671 of the Revised Code. In establishing the amount of the 5540
fee, the director shall consider the state's cost of administering 5541

the community reinvestment area program, including the cost of 5542
reviewing the reports required under division (A) of this section. 5543
The director may change the amount of the fee at such times and in 5544
such increments as the director considers necessary. Any municipal 5545
corporation or county that receives an application shall collect 5546
the application fee and remit the fee for deposit in the state 5547
treasury to the credit of the ~~tax incentive programs operating~~ 5548
business assistance fund created in section 122.174 of the Revised 5549
Code. 5550

Sec. 3746.35. (A) Not later than September 1, 1996, and not 5551
later than the first day of September of each subsequent year, the 5552
director of environmental protection shall prepare and submit to 5553
the chairpersons of the respective standing committees of the 5554
senate and house of representatives primarily responsible for 5555
considering environmental and taxation matters a report regarding 5556
the voluntary action program established under this chapter and 5557
rules adopted under it and the tax abatements granted pursuant to 5558
sections 5709.87 and 5709.88 of the Revised Code for properties 5559
where voluntary actions were conducted. Each annual report shall 5560
include, without limitation, all of the following: 5561

(1) Both of the following for each property for which a 5562
covenant not to sue was issued under section 3746.12 of the 5563
Revised Code during the preceding calendar year: 5564

(a) The address of the property and name of the person who 5565
undertook the voluntary action at the property; 5566

(b) Whether the applicable standards governing the voluntary 5567
action were the interim standards established in section 3746.07 5568
of the Revised Code or the generic numerical clean-up standards 5569
established in rules adopted under division (B)(1) of section 5570
3746.04 of the Revised Code, were established through the 5571
performance of a risk assessment pursuant to rules adopted under 5572

division (B)(2) of section 3746.04 of the Revised Code, or were 5573
set forth in a variance issued under section 3746.09 of the 5574
Revised Code. 5575

(2) All of the following for each property for which a 5576
variance was issued under section 3746.09 of the Revised Code 5577
during the preceding calendar year: 5578

(a) The address of the property and the name of the person to 5579
whom the variance was issued; 5580

(b) A summary of the alternative standards and terms and 5581
conditions of the variance and brief description of the 5582
improvement in environmental conditions at the property that is 5583
anticipated to result from compliance with the alternative 5584
standards and terms and conditions set forth in the variance; 5585

(c) A brief description of the economic benefits to the 5586
person to whom the variance was issued and the community in which 5587
the property is located that are anticipated to result from the 5588
undertaking of the voluntary action in compliance with the 5589
alternative standards and terms and conditions set forth in the 5590
variance. 5591

(3) The number of audits performed under section 3746.17 of 5592
the Revised Code during the preceding calendar year and, in 5593
connection with each of them, at least the following information: 5594

(a) The address of the property in connection with which the 5595
audit was performed and the name of the person who undertook the 5596
voluntary action at the property; 5597

(b) An indication as to whether the audit was a random audit 5598
or was conducted in accordance with the priorities established in 5599
rules adopted under divisions (A)(9)(a) to (f) of section 3746.04 5600
of the Revised Code and, if the audit was conducted in accordance 5601
with those priorities, an indication as to which of them resulted 5602
in the selection of the voluntary action for an audit; 5603

(c) A brief summary of the findings of the audit and any action taken by the environmental protection agency as a result of those findings.

(4) The number of covenants not to sue revoked during the preceding calendar year through the operation of divisions (A)(2)(c) and (B) of section 3746.12, division (B)(2) of section 3746.18, and division (B) of section 3746.19 of the Revised Code and for each property for which a covenant was revoked, at least both of the following:

(a) The address of the property affected by the revocation and name of the person who undertook the voluntary action at the property;

(b) The reason for the revocation.

(5) The amount of money credited to the voluntary action administration fund created in section 3746.16 of the Revised Code during the preceding fiscal year from the fees established in divisions (D) and (H) of section 3746.07 and division (C) of section 3746.13 of the Revised Code and from civil penalties imposed under section 3746.22 of the Revised Code. The report shall indicate the amount of money that arose from each of the fees and from the civil penalties. The report also shall include the amount of money expended from the fund during the preceding fiscal year by program category, including, without limitation, the amount expended for conducting audits under section 3746.17 of the Revised Code during the preceding fiscal year.

(6) For each property that is receiving a tax abatement under section 5709.87 of the Revised Code for the preceding tax year, the amount of the valuation exempted from real property taxation for that tax year under that section. In order to comply with division (A)(6) of this section, the director shall include in the annual report the report required ~~to be provided to the director~~

~~by the director of development under division (B)(2) of this 5635
section. The sole responsibility of the director of environmental 5636
protection regarding the report provided to the director under 5637
that division is to include it in the annual report prepared under 5638
division (A) of this section. 5639~~

(7) For each property that is receiving a tax abatement 5640
pursuant to an agreement with a municipal corporation or county 5641
entered into under section 5709.88 of the Revised Code, the amount 5642
of the valuation exempted from real or personal property taxation. 5643
In order to comply with division (A)(7) of this section, the 5644
director shall include in the annual report the report required ~~to 5645
be provided to the director by the director of development under 5646
division (C) of this section. The sole responsibility of the 5647
director of environmental protection regarding the report provided 5648
to the director under that division is to include it in the annual 5649
report prepared under division (A) of this section. 5650~~

(B)(1) Not later than March 31, 1996, the county auditor of 5651
each county in which is located any property that is receiving a 5652
tax abatement under section 5709.87 of the Revised Code shall 5653
report to the director of ~~development~~ environmental protection for 5654
each such property both of the following as applicable to tax year 5655
1995: 5656

(a) The address of the property and the name of the owner as 5657
stated in the records of the county auditor of the county in which 5658
the property is located; 5659

(b) The amount of the valuation of the property that was 5660
exempted from real property taxation under that section. 5661

Not later than the thirty-first day of March of each 5662
subsequent year, each such county auditor shall report the 5663
information described in those divisions to the director of 5664
~~development~~ environmental protection for each property within the 5665

county that is receiving a tax abatement under that section for 5666
the preceding tax year. 5667

(2) Not later than July 1, 1996, and not later than the first 5668
day of July of each subsequent year, the director of ~~development~~ 5669
environmental protection shall compile the information provided to 5670
the director under division (B)(1) of this section applicable to 5671
the preceding tax year into a report covering all of the counties 5672
in the state in which are located properties receiving a tax 5673
abatement under section 5709.87 of the Revised Code for the 5674
preceding tax year ~~and shall forward the report to the director of~~ 5675
~~environmental protection. The sole responsibility of the director~~ 5676
~~of development in preparing the report is to compile the~~ 5677
~~information submitted to the director by the county auditors under~~ 5678
~~division (B)(1) of this section.~~ 5679

(C) Not later than July 1, 1996, and not later than the first 5680
day of July of each subsequent year, the director of ~~development~~ 5681
environmental protection shall compile the information provided to 5682
the director by municipal corporations and counties under division 5683
(A) of section 5709.882 of the Revised Code applicable to the 5684
preceding calendar year into a report covering, by county, all of 5685
the municipal corporations and counties in this state in which are 5686
located properties receiving a tax abatement pursuant to an 5687
agreement entered into under section 5709.88 of the Revised Code 5688
~~and shall forward the report to the director of environmental~~ 5689
~~protection. The sole responsibility of the director of development~~ 5690
~~in preparing the report is to compile the information submitted to~~ 5691
~~him by municipal corporations and counties under division (A) of~~ 5692
~~section 5709.882 of the Revised Code.~~ 5693

Sec. 5117.22. All petroleum violation escrow funds received 5694
by this state from the federal government shall be deposited in 5695
the state treasury to the credit of the energy oil overcharge 5696

fund, which is hereby created. The fund shall be used by the 5697
~~department of development~~ services agency for energy conservation 5698
and assistance programs approved by the United States department 5699
of energy. All investment earnings of the fund shall be credited 5700
to the fund. 5701

Sec. 5701.15. As used in Title LVII of the Revised Code, 5702
"department of development" means the development services agency 5703
and "director of development" means the director of development 5704
services. 5705

Sec. 5709.68. (A) On or before the thirty-first day of March 5706
each year, a municipal corporation or county that has entered into 5707
an agreement with an enterprise under section 5709.62, 5709.63, or 5708
5709.632 of the Revised Code shall submit to the director of 5709
development services and the board of education of each school 5710
district of which a municipal corporation or township to which 5711
such an agreement applies is a part a report on all of those 5712
agreements in effect during the preceding calendar year. The 5713
report shall include all of the following information: 5714

(1) The designation, assigned by the director of development 5715
services, of each urban jobs and enterprise zone within the 5716
municipal corporation or county, the date each zone was certified, 5717
the name of each municipal corporation or township within each 5718
zone, and the total population of each zone according to the most 5719
recent data available; 5720

(2) The number of enterprises that are subject to those 5721
agreements and the number of full-time employees subject to those 5722
agreements within each zone, each according to the most recent 5723
data available and identified and categorized by the appropriate 5724
standard industrial code, and the rate of unemployment in the 5725
municipal corporation or county in which the zone is located for 5726

each year since each zone was certified; 5727

(3) The number of agreements approved and executed during the 5728
calendar year for which the report is submitted, the total number 5729
of agreements in effect on the thirty-first day of December of the 5730
preceding calendar year, the number of agreements that expired 5731
during the calendar year for which the report is submitted, and 5732
the number of agreements scheduled to expire during the calendar 5733
year in which the report is submitted. For each agreement that 5734
expired during the calendar year for which the report is 5735
submitted, the municipal corporation or county shall include the 5736
amount of taxes exempted and the estimated dollar value of any 5737
other incentives provided under the agreement. 5738

(4) The number of agreements receiving compliance reviews by 5739
the tax incentive review council in the municipal corporation or 5740
county during the calendar year for which the report is submitted, 5741
including all of the following information: 5742

(a) The number of agreements the terms of which an enterprise 5743
has complied with, indicating separately for each agreement the 5744
value of the real and personal property exempted pursuant to the 5745
agreement and a comparison of the stipulated and actual schedules 5746
for hiring new employees, for retaining existing employees, for 5747
the amount of payroll of the enterprise attributable to these 5748
employees, and for investing in establishing, expanding, 5749
renovating, or occupying a facility; 5750

(b) The number of agreements the terms of which an enterprise 5751
has failed to comply with, indicating separately for each 5752
agreement the value of the real and personal property exempted 5753
pursuant to the agreement and a comparison of the stipulated and 5754
actual schedules for hiring new employees, for retaining existing 5755
employees, for the amount of payroll of the enterprise 5756
attributable to these employees, and for investing in 5757
establishing, expanding, renovating, or occupying a facility; 5758

(c) The number of agreements about which the tax incentive review council made recommendations to the legislative authority of the municipal corporation or county, and the number of those recommendations that have not been followed;

(d) The number of agreements rescinded during the calendar year for which the report is submitted.

(5) The number of enterprises that are subject to agreements that expanded within each zone, including the number of new employees hired and existing employees retained by each enterprise, and the number of new enterprises that are subject to agreements and that established within each zone, including the number of new employees hired by each enterprise;

(6)(a) The number of enterprises that are subject to agreements and that closed or reduced employment at any place of business within the state for the primary purpose of establishing, expanding, renovating, or occupying a facility, indicating separately for each enterprise the political subdivision in which the enterprise closed or reduced employment at a place of business and the number of full-time employees transferred and retained by each such place of business;

(b) The number of enterprises that are subject to agreements and that closed or reduced employment at any place of business outside the state for the primary purpose of establishing, expanding, renovating, or occupying a facility.

(7) For each agreement in effect during any part of the preceding year, the number of employees employed by the enterprise at the project site immediately prior to formal approval of the agreement, the number of employees employed by the enterprise at the project site on the thirty-first day of December of the preceding year, the payroll of the enterprise for the preceding year, the amount of taxes paid on tangible personal property

situated at the project site and the amount of those taxes that 5790
were not paid because of the exemption granted under the 5791
agreement, and the amount of taxes paid on real property 5792
constituting the project site and the amount of those taxes that 5793
were not paid because of the exemption granted under the 5794
agreement. If an agreement was entered into under section 5709.632 5795
of the Revised Code with an enterprise described in division 5796
(B)(2) of that section, the report shall include the number of 5797
employee positions at all of the enterprise's locations in this 5798
state. If an agreement is conditioned on a waiver issued under 5799
division (B) of section 5709.633 of the Revised Code on the basis 5800
of the circumstance described in division (B)(3)(a) or (b) of that 5801
section, the report shall include the number of employees at the 5802
facilities referred to in division (B)(3)(a)(i) or (b)(i) of that 5803
section, respectively. 5804

(B) Upon the failure of a municipal corporation or county to 5805
comply with division (A) of this section: 5806

(1) Beginning on the first day of April of the calendar year 5807
in which the municipal corporation or county fails to comply with 5808
that division, the municipal corporation or county shall not enter 5809
into any agreements with an enterprise under section 5709.62, 5810
5709.63, or 5709.632 of the Revised Code until the municipal 5811
corporation or county has complied with division (A) of this 5812
section. 5813

(2) On the first day of each ensuing calendar month until the 5814
municipal corporation or county complies with division (A) of this 5815
section, the director of development services shall either order 5816
the proper county auditor to deduct from the next succeeding 5817
payment of taxes to the municipal corporation or county under 5818
section 321.31, 321.32, 321.33, or 321.34 of the Revised Code an 5819
amount equal to one thousand dollars for each calendar month the 5820
municipal corporation or county fails to comply with that 5821

division, or order the county auditor to deduct that amount from 5822
the next succeeding payment to the municipal corporation or county 5823
from the undivided local government fund under section 5747.51 of 5824
the Revised Code. At the time such a payment is made, the county 5825
auditor shall comply with the director's order by issuing a 5826
warrant, drawn on the fund from which the money would have been 5827
paid, to the director of development services, who shall deposit 5828
the warrant into the state enterprise zone program administration 5829
fund created in division (C) of this section. 5830

(C) The director, by rule, shall establish the state's 5831
application fee for applications submitted to a municipal 5832
corporation or county to enter into an agreement under section 5833
5709.62, 5709.63, or 5709.632 of the Revised Code. In establishing 5834
the amount of the fee, the director shall consider the state's 5835
cost of administering the enterprise zone program, including the 5836
cost of reviewing the reports required under division (A) of this 5837
section. The director may change the amount of the fee at the 5838
times and in the increments the director considers necessary. Any 5839
municipal corporation or county that receives an application shall 5840
collect the application fee and remit the fee for deposit in the 5841
state treasury to the credit of the ~~tax incentive programs~~ 5842
~~operating~~ business assistance fund created in section 122.174 of 5843
the Revised Code. 5844

(D) On or before the thirtieth day of June each year, the 5845
director of development services shall certify to the tax 5846
commissioner the information described under division (A)(7) of 5847
this section, derived from the reports submitted to the director 5848
under this section. 5849

On the basis of the information certified under this 5850
division, the tax commissioner annually shall submit a report to 5851
the governor, the speaker of the house of representatives, the 5852
president of the senate, and the chairpersons of the ways and 5853

means committees of the respective houses of the general assembly, 5854
indicating for each enterprise zone the amount of state and local 5855
taxes that were not required to be paid because of exemptions 5856
granted under agreements entered into under section 5709.62, 5857
5709.63, or 5709.632 of the Revised Code and the amount of 5858
additional taxes paid from the payroll of new employees. 5859

Sec. 5709.882. (A) On or before the thirty-first day of March 5860
each year, a municipal corporation or county that has entered into 5861
an agreement with an enterprise under section 5709.88 of the 5862
Revised Code shall submit to the ~~director~~ directors of development 5863
services and environmental protection and the board of education 5864
of each school district of which a municipal corporation or county 5865
to which such an agreement applies is a part a report on all such 5866
agreements in effect during the preceding calendar year. The 5867
report shall include all of the following information: 5868

(1) The number of enterprises that are subject to such 5869
agreements and the number of full-time employees subject to those 5870
agreements in the county or municipal corporation; 5871

(2) The number of agreements approved and executed during the 5872
calendar year for which the report is submitted, the total number 5873
of agreements in effect on the thirty-first day of December of the 5874
preceding calendar year, the number of agreements that expired 5875
during the calendar year for which the report is submitted, and 5876
the number of agreements scheduled to expire during the calendar 5877
year in which the report is submitted. For each agreement that 5878
expired during the calendar year for which the report is 5879
submitted, the municipal corporation or county shall include the 5880
amount of taxes exempted and the estimated dollar value of any 5881
other incentives provided under the agreement. 5882

(3) The number of agreements receiving compliance reviews by 5883
the tax incentive review council in the municipal corporation or 5884

county under section 5709.883 of the Revised Code during the 5885
calendar year for which the report is submitted, including all of 5886
the following information: 5887

(a) The number of agreements the terms of which an enterprise 5888
has complied with, indicating separately for each such agreement 5889
the value of the real and personal property exempted pursuant to 5890
the agreement and a comparison of the stipulated and actual 5891
schedules for hiring new employees, for retaining existing 5892
employees, for the amount of payroll of the enterprise 5893
attributable to these employees, and for remediating and investing 5894
in establishing, expanding, renovating, or occupying a facility; 5895

(b) The number of agreements the terms of which an enterprise 5896
has failed to comply with, indicating separately for each such 5897
agreement the value of the real and personal property exempted 5898
pursuant to the agreement and a comparison of the stipulated and 5899
actual schedules for hiring new employees, for retaining existing 5900
employees, for the amount of payroll of the enterprise 5901
attributable to these employees, and for remediating and investing 5902
in establishing, expanding, renovating, or occupying a facility; 5903

(c) The number of agreements about which the tax incentive 5904
review council made recommendations to the legislative authority 5905
of the municipal corporation or county, and the number of such 5906
recommendations that have not been followed; 5907

(d) The number of agreements rescinded during the calendar 5908
year for which the report is submitted. 5909

(4) The number of enterprises that are subject to agreements 5910
and the number of new employees hired and existing employees 5911
retained by each such enterprise; 5912

(5)(a) The number of enterprises that are subject to 5913
agreements and that closed or reduced employment at any place of 5914
business within the state for the primary purpose of remediating 5915

and establishing, expanding, renovating, or occupying a facility, 5916
indicating separately for each such enterprise the political 5917
subdivision in which the enterprise closed or reduced employment 5918
at a place of business and the number of full-time employees 5919
transferred and retained by each such place of business; 5920

(b) The number of enterprises that are subject to agreements 5921
and that closed or reduced employment at any place of business 5922
outside the state for the primary purpose of remediating and 5923
establishing, expanding, renovating, or occupying a facility. 5924

(B) Upon the failure of a municipal corporation or county to 5925
comply with division (A) of this section, both of the following 5926
apply: 5927

(1) Beginning on the first day of April of the calendar year 5928
in which the municipal corporation or county fails to comply with 5929
that division, the municipal corporation or county shall not enter 5930
into any agreements with an enterprise under section 5709.88 of 5931
the Revised Code until the municipal corporation or county has 5932
complied with division (A) of this section; 5933

(2) On the first day of each ensuing calendar month until the 5934
municipal corporation or county complies with that division, the 5935
director of development services shall either order the proper 5936
county auditor to deduct from the next succeeding payment of taxes 5937
to the municipal corporation or county under section 321.31, 5938
321.32, 321.33, or 321.34 of the Revised Code an amount equal to 5939
five hundred dollars for each calendar month the municipal 5940
corporation or county fails to comply with that division, or order 5941
the county auditor to deduct such an amount from the next 5942
succeeding payment to the municipal corporation or county from the 5943
undivided local government fund under section 5747.51 of the 5944
Revised Code. At the time such a payment is made, the county 5945
auditor shall comply with the director's order by issuing a 5946
warrant, drawn on the fund from which such money would have been 5947

paid, to the director of development services, who shall deposit 5948
the warrant into the contaminated sites development program 5949
administration fund created in division (C) of this section. 5950

(C) The director, by rule, shall establish the state's 5951
application fee for applications submitted to a municipal 5952
corporation or county to enter into an agreement under section 5953
5709.88 of the Revised Code. In establishing the amount of the 5954
fee, the director shall consider the state's cost of administering 5955
this section and section 5709.88 of the Revised Code. The director 5956
may change the amount of the fee at such times and in such 5957
increments as ~~he~~ the director considers necessary. Any municipal 5958
corporation or county that receives an application shall collect 5959
the application fee and remit the fee for deposit in the state 5960
treasury to the credit of the contaminated sites development 5961
program administration fund, which is hereby created. Money 5962
credited to the fund shall be used by the ~~department of~~ 5963
development services agency to pay the costs of administering this 5964
section and section 5709.88 of the Revised Code. 5965

Sec. 6103.052. (A) ~~A board of county commissioners may apply 5966
to the water and sewer commission, created by division (C) of 5967
section 1525.11 of the Revised Code, for an advance of moneys from 5968
the water and sewer fund, created by division (A) of section 5969
1525.11 of the Revised Code, in an amount equal to that portion of 5970
the costs of an improvement authorized under sections 6103.02 to 5971
6103.30 of the Revised Code which is to be financed by assessments 5972
whose collection is deferred pursuant to division (B) of this 5973
section. The application for such an advance of moneys shall be 5974
made in the manner prescribed by rules of the commission. 5975~~

~~(B)~~ At any time prior to the expiration of the five-day 5976
period provided by section 6103.05 of the Revised Code for the 5977
filing of written objections, any owner of property which is 5978

classified on the general tax list of the county auditor as 5979
agricultural land and has been assessed for the extension of a 5980
main water line over or along such property under sections 6103.02 5981
to 6103.30 of the Revised Code may file with the board of county 5982
commissioners a request in writing for deferment of the collection 5983
of ~~his~~ the owner's assessment if the main water line ~~serves a~~ 5984
~~purpose set forth in section 1525.13 of the Revised Code for which~~ 5985
~~the water and sewer fund may be used~~ provides water facilities to 5986
aid in the establishment of new industrial plants, the expansion 5987
of existing industrial plants, or such other industrial 5988
development, or provides water facilities to aid in the 5989
establishment of commercial and residential developments. Such 5990
request shall identify the property in connection with which the 5991
request for deferment is made, shall describe its present use and 5992
present classification on the general tax list of the county 5993
auditor, shall state its estimated market value, showing 5994
separately the value of the land and the value of the buildings 5995
thereon, shall state the reasons, if any, why a portion of the 5996
benefit of the improvement will not be realized until the use of 5997
the land is changed, and shall state the amount to be deferred. 5998
The board shall promptly consider such request and may order the 5999
deferment of the collection of that portion of the assessment 6000
representing a benefit from the improvement that will not be 6001
realized until the use of the land is changed. The board may, upon 6002
request of an owner whose property has been assessed for the 6003
extension of a main water line over or along such property under 6004
sections 6103.02 to 6103.31 of the Revised Code, defer all or any 6005
part of the assessment on property which is classified on the 6006
general tax list of the county auditor as agricultural land, by 6007
attributing the amount of such assessment or part thereof as 6008
tap-in charges, if the main water line ~~serves a purpose set forth~~ 6009
~~in section 1525.13 of the Revised Code for which the water and~~ 6010
~~sewer fund may be used. A deferment under this section may be~~ 6011

~~conditioned upon the approval of the advance of moneys applied for~~ 6012
~~pursuant to division (A) of this section, and a maximum length of~~ 6013
~~the deferment may be fixed to coincide with the maximum time~~ 6014
~~within which the advance must be repaid. The decision on the~~ 6015
~~request for deferment of collection of assessments shall be made~~ 6016
~~pursuant to standards established by rules of the commission~~ 6017
provides water facilities to aid in the establishment of new 6018
industrial plants, the expansion of existing industrial plants, or 6019
such other industrial development, or provides water facilities to 6020
aid in the establishment of commercial and residential 6021
developments. Upon determination and approval of final 6022
assessments, the board of county commissioners shall certify all 6023
deferred assessments and a fee equal to ~~any fee paid by the board~~ 6024
~~to the commission pursuant to division (C) of section 1525.12 of~~ 6025
~~the Revised Code attributable to the~~ two per cent of the amount of 6026
the deferred assessments to the county auditor. For purposes of 6027
this section, "assessment," "deferred assessment," or "assessment 6028
deferred under this section" mean the fee and the deferred 6029
assessment certified to the county auditor. The county auditor 6030
shall record an assessment deferred under this section in the 6031
water works record. Such record shall be kept until such time as 6032
the assessments are paid in full or certified for collection in 6033
installments as provided in this section. During the time when the 6034
assessment is deferred there shall be a lien on the property 6035
assessed, which lien shall arise at the time of recordation by the 6036
county auditor and shall be in force until the assessments are 6037
paid in full or certified for collection in installments. 6038

~~(C)~~(B) The board of county commissioners shall defer the 6039
collection of an assessment, except the amount of such assessment 6040
or part thereof attributable as tap-in charges, which has been 6041
deferred pursuant to division ~~(B)~~(A) of this section on or before 6042
January 1, 1987, beyond the expiration of the maximum time for the 6043
original deferment if the property owner requests in writing, no 6044

later than six months prior to the expiration of the original 6045
deferment, that the assessment be further deferred and as long as 6046
the property owner's land could qualify for placement in an 6047
agricultural district pursuant to section 929.02 of the Revised 6048
Code. 6049

The board shall regularly review the use and ownership of the 6050
property for which the collection of assessments has been deferred 6051
pursuant to this division, and upon finding that the land could no 6052
longer qualify for placement in an agricultural district pursuant 6053
to section 929.02 of the Revised Code, the board shall immediately 6054
collect, without interest, the full amount of the assessment 6055
~~deferred and repay the commission the amount of any moneys~~ 6056
~~advanced by it in regard to such assessment. The board shall pay~~ 6057
~~all such amounts to the commission in one annual payment or longer~~ 6058
~~period as approved by the commission. The board shall pay, from~~ 6059
~~the general funds of the county, interest annually at the interest~~ 6060
~~rate per annum equal to that rate of interest published as the~~ 6061
~~20 bond index rate in "The Bond Buyer" minus four per cent per~~ 6062
~~annum or at five per cent per annum, whichever is greater, for any~~ 6063
~~moneys not repaid to the commission pursuant to this division~~ 6064
~~within one year of the date of the disqualification of the~~ 6065
~~property for the continual deferment which requires such~~ 6066
~~repayment. The interest rate for any moneys not repaid to the~~ 6067
~~commission shall be calculated one year from the date of the~~ 6068
~~disqualification of the property for the continual deferment which~~ 6069
~~requires such repayment, and annually thereafter.~~ 6070

~~(D)~~(C) The board of county commissioners shall send a notice 6071
by regular or certified mail to all owners of property on which 6072
assessments have been deferred pursuant to division ~~(B)~~(A) of this 6073
section, which lists the expiration of the deferment, not later 6074
than two hundred ten days prior to the expiration of the deferment 6075
of those assessments. 6076

~~(E)~~(D) The board shall collect the assessments, without 6077
interest, which have been deferred pursuant to division ~~(B)~~(A) of 6078
this section upon expiration of the maximum time for which 6079
deferments were made ~~and repay the commission the amount of any~~ 6080
~~moneys advanced by it in regard to such assessments;~~ provided, 6081
that for a property owner who requests in writing, no later than 6082
six months prior to the expiration of the deferment period, that 6083
payment of ~~his~~ the owner's deferred assessments be in 6084
installments, the board of county commissioners upon expiration of 6085
the deferment period may by resolution further certify for 6086
collection pursuant to section 6103.16 of the Revised Code, such 6087
deferred assessments in installments over not more than twenty 6088
years, as determined by the board, together with interest thereon 6089
each year on the unpaid balance at the same rate borne by bonds of 6090
the county which shall be issued in anticipation thereof as 6091
provided in Chapter 133. of the Revised Code, ~~and the proceeds of~~ 6092
~~the bond issue used to repay such deferred assessments to the~~ 6093
~~commission.~~ 6094

Assessments which have been deferred by attribution as tap-in 6095
charges under division ~~(B)~~(A) of this section shall be collected 6096
as deferred assessments at that time. ~~As the board collects tap-in~~ 6097
~~charges which are deferred assessments under division (B) of this~~ 6098
~~section, it shall repay the commission the amount thereof which~~ 6099
~~was advanced by it in regard to such assessments.~~ An owner of 6100
property for which assessments have been deferred under division 6101
~~(B)~~(A) of this section, in requesting a tap-in may, subject to the 6102
approval of the board, designate a part of an entire assessed 6103
tract as the part which the tap-in is to serve, and the board 6104
shall collect the deferred assessment on that tract in the 6105
proportion that the part bears to the entire tract, on a front 6106
foot or other basis approved by the commission, but if in the 6107
judgment of the board the tap-in is reasonably intended to serve 6108
the entire tract or substantially all of the tract, it shall 6109

collect the deferred assessment for the entire tract. 6110

Prior to the expiration of the maximum time of deferment, the 6111
board shall regularly review the use of the property for which the 6112
collection of assessments has been deferred and upon finding, 6113
~~pursuant to the rules of the commission,~~ that the use of the land 6114
has changed from the use at the time of the deferment so that the 6115
benefit of the improvement can then be realized, the board shall 6116
immediately collect the full amount of the assessment for the 6117
portion of the property for which the use has so changed, without 6118
interest, ~~and repay the commission the amount of any moneys~~ 6119
~~advanced by it in regard to such assessment. The board shall pay~~ 6120
~~all such amounts to the commission in one annual payment or longer~~ 6121
~~period as approved by the commission. The board of county~~ 6122
~~commissioners shall pay, from the general funds of the county,~~ 6123
~~interest annually at the interest rate per annum equal to that~~ 6124
~~rate of interest published as the 20 bond index rate in "The Bond~~ 6125
~~Buyer" minus four per cent per annum or at five per cent per~~ 6126
~~annum, whichever is greater, for any moneys not repaid to the~~ 6127
~~commission pursuant to this division within one year of the date~~ 6128
~~of the change in the use of property requiring such repayment, or~~ 6129
~~of the date upon which payment of a tap in charge is required by~~ 6130
~~law to be made, whichever date is applicable. The interest rate~~ 6131
~~for any moneys not repaid to the commission shall be calculated~~ 6132
~~one year from the date of the change in the use of property~~ 6133
~~requiring such repayment or from the date upon which payment of a~~ 6134
~~tap in charge is required by law to be made, whichever date is~~ 6135
~~applicable, and annually thereafter.~~ 6136

Sec. 6117.062. (A) ~~A board of county commissioners may apply~~ 6137
~~to the water and sewer commission, created by division (C) of~~ 6138
~~section 1525.11 of the Revised Code, for an advance of moneys from~~ 6139
~~the water and sewer fund, created by division (A) of section~~ 6140
~~1525.11 of the Revised Code, in an amount equal to that portion of~~ 6141

~~the costs of an improvement authorized under sections 6117.01 to 6142
6117.45 of the Revised Code which is to be financed by assessments 6143
whose collection is deferred pursuant to division (B) of this 6144
section. The application for such an advance of moneys shall be 6145
made in the manner prescribed by rules of the commission. 6146~~

(B) At any time prior to the expiration of the five-day 6147
period provided by section 6117.06 of the Revised Code for the 6148
filing of written objections, any owner of property which is 6149
classified on the general tax list of the county auditor as 6150
agricultural land and has been assessed for the extension of a 6151
trunk sewer line over or along such property under sections 6152
6117.01 to 6117.45 of the Revised Code may file with the board of 6153
county commissioners a request in writing for deferment of the 6154
collection of ~~his~~ the assessment if the trunk sewer line ~~serves a~~ 6155
~~purpose, as set forth in section 1525.13 of the Revised Code, for~~ 6156
~~which the fund may be used~~ provides sewer facilities to aid in the 6157
establishment of new industrial plants, the expansion of existing 6158
industrial plants, or such other industrial development, or 6159
provides sewer facilities to aid in the establishment of 6160
commercial and residential developments. Such request shall 6161
identify the property in connection with which the request for 6162
deferment is made, shall describe its present use and present 6163
classification on the general tax list of the county auditor, 6164
shall state its estimated market value, showing separately the 6165
value of the land and the value of the buildings thereon, shall 6166
state the reasons, if any, why a portion of the benefit of the 6167
improvement will not be realized until the use of the land is 6168
changed, and shall state the amount to be deferred. The board 6169
shall promptly consider such request and may order the deferment 6170
of the collection of that portion of the assessment representing a 6171
benefit from the improvement which will not be realized until the 6172
use of the land is changed. The board may, upon request of an 6173
owner whose property has been assessed for the extension of a 6174

trunk sewer line over or along such property under sections 6175
6117.01 to 6117.45 of the Revised Code, defer all or any part of 6176
the assessment on property which is classified on the general tax 6177
list as agricultural land, by attributing the amount of such 6178
assessment or part thereof as tap-in charges, if the trunk sewer 6179
line ~~serves a purpose set forth in section 1525.13 of the Revised~~ 6180
~~Code for which the fund may be used. A deferment under this~~ 6181
~~section may be conditioned upon the approval of the advance of~~ 6182
~~moneys applied for pursuant to division (A) of this section, and a~~ 6183
~~maximum length of the deferment may be fixed to coincide with the~~ 6184
~~maximum time within which the advance must be repaid. The decision~~ 6185
~~on the request for deferment of collection of assessments shall be~~ 6186
~~made pursuant to standards established by rules of the commission~~ 6187
provides sewer facilities to aid in the establishment of new 6188
industrial plants, the expansion of existing industrial plants, or 6189
such other industrial development, or provides sewer facilities to 6190
aid in the establishment of commercial and residential 6191
developments. Upon determination and approval of final 6192
assessments, the board of county commissioners shall certify all 6193
deferred assessments and a fee equal to ~~any fee paid by the board~~ 6194
~~to the commission pursuant to division (C) of section 1525.12 of~~ 6195
~~the Revised Code attributable to the deferred payments~~ two per 6196
cent of the amount of the deferred assessments to the county 6197
auditor. For purposes of this section, "assessment," "deferred 6198
assessment," or "assessment deferred under this section" mean the 6199
fee and the deferred assessment certified to the county auditor. 6200
The county auditor shall record an assessment deferred under this 6201
section in the sewer improvement record. Such record shall be kept 6202
until such time as the assessments are paid in full or certified 6203
for collection in installments as provided in this section. During 6204
the time when the assessment is deferred there shall be a lien on 6205
the property assessed, which lien shall arise at the time of 6206
recordation by the county auditor and which shall be in force 6207

until the assessments are paid in full or certified for collection 6208
in installments. 6209

~~(C)~~(B) The board of county commissioners shall defer the 6210
collection of an assessment, except the amount of such assessment 6211
or part thereof attributable as tap-in charges, which has been 6212
deferred pursuant to division ~~(B)~~(A) of this section on or before 6213
January 1, 1987, beyond the expiration of the maximum time for the 6214
original deferment if the property owner requests in writing, no 6215
later than six months prior to the expiration of the original 6216
deferment, that the assessment be further deferred and as long as 6217
the property owner's land could qualify for placement in an 6218
agricultural district pursuant to section 929.02 of the Revised 6219
Code. 6220

The board shall regularly review the use and ownership of the 6221
property for which the collection of assessments has been deferred 6222
pursuant to this division, and upon finding that the land could no 6223
longer qualify for placement in an agricultural district pursuant 6224
to section 929.02 of the Revised Code, the board shall immediately 6225
collect, without interest, the full amount of the assessment 6226
~~deferred and repay the commission the amount of any moneys~~ 6227
~~advanced by it in regard to such assessment. The board shall pay~~ 6228
~~all such amounts to the commission in one annual payment or longer~~ 6229
~~period as approved by the commission. The board shall pay, from~~ 6230
~~the general funds of the county, interest annually at the interest~~ 6231
~~rate per annum equal to that rate of interest published as the~~ 6232
~~20 bond index rate in "The Bond Buyer" minus four per cent per~~ 6233
~~annum or at five per cent per annum, whichever rate is greater,~~ 6234
~~for any moneys not repaid to the commission pursuant to this~~ 6235
~~division within one year of the date of the disqualification of~~ 6236
~~the property for the continual deferment which requires such~~ 6237
~~repayment. The interest rate for any moneys not repaid to the~~ 6238
~~commission shall be calculated one year from the date of the~~ 6239

~~disqualification of the property for the continual deferment which~~ 6240
~~requires such repayment, and annually thereafter.~~ 6241

~~(D)~~(C) The board of county commissioners shall send a notice 6242
by regular or certified mail to all owners of property on which 6243
assessments have been deferred pursuant to division ~~(B)~~(A) of this 6244
section, which lists the expiration of the deferment, not later 6245
than two hundred ten days prior to the expiration of the deferment 6246
of those assessments. 6247

~~(E)~~(D) The board shall collect assessments, without interest, 6248
which have been deferred pursuant to division ~~(B)~~(A) of this 6249
section upon expiration of the maximum time for which deferments 6250
were made ~~and repay the commission the amount of any moneys~~ 6251
~~advanced by it in regard to such assessments;~~ provided that for a 6252
property owner who requests in writing, no later than six months 6253
prior to the expiration of the deferment period, that payment of 6254
~~his~~ the deferred assessments be in installments, the board of 6255
county commissioners upon expiration of the deferment period may 6256
by resolution further certify for collection pursuant to section 6257
6117.33 of the Revised Code, such deferred assessments in 6258
installments over not more than twenty years, as determined by the 6259
board, together with interest thereon each year on the unpaid 6260
balance at the same rate borne by bonds of the county which shall 6261
be issued in anticipation thereof as provided in Chapter 133. of 6262
the Revised Code, ~~and the proceeds of the bond issue used to repay~~ 6263
~~such deferred assessments to the commission.~~ Prior to the 6264
expiration of the maximum time of deferment, the board shall 6265
regularly review the use of the property for which the collection 6266
of assessments has been deferred and upon finding, ~~pursuant to the~~ 6267
~~rules of the commission,~~ that the use of the land has changed from 6268
the use at the time of the deferment so that the benefit of the 6269
improvement can then be realized, the board shall immediately 6270
collect the full amount of the assessment for the portion of the 6271

~~property for which the use has so changed, without interest, and 6272
repay the commission the amount of any moneys advanced by it in 6273
regard to such assessment. The board shall pay all such amounts to 6274
the commission in one annual payment or longer period as approved 6275
by the commission. The board shall pay, from the general funds of 6276
the county, interest annually at the interest rate per annum equal 6277
to that rate of interest published as the 20 bond index rate in 6278
"The Bond Buyer" minus four per cent per annum or at five per cent 6279
per annum, whichever is greater, for any moneys not repaid to the 6280
commission pursuant to this division within one year of the date 6281
of the change in the use of property requiring such repayment, or 6282
of the date upon which payment of a tap in charge is required by 6283
law to be made, whichever date is applicable. The interest rate 6284
for any moneys not repaid to the commission shall be calculated 6285
one year from the date of the change in the use of property 6286
requiring such repayment or from the date upon which payment of a 6287
tap in charge is required by law to be made, whichever date is 6288
applicable, and annually thereafter. 6289~~

Section 2. That existing sections 9.981, 102.03, 121.02, 6290
121.03, 121.22, 122.01, 122.011, 122.07, 122.071, 122.17, 122.171, 6291
122.174, 122.175, 122.39, 122.41, 122.42, 122.43, 122.44, 122.48, 6292
122.49, 122.50, 122.51, 122.52, 122.53, 122.561, 122.57, 122.60, 6293
122.601, 122.602, 122.603, 122.61, 122.62, 122.64, 122.76, 122.80, 6294
122.86, 149.43, 164.05, 164.06, 164.08, 166.01, 166.04, 166.05, 6295
166.13, 166.14, 166.18, 166.19, 166.25, 166.30, 174.01, 184.01, 6296
187.01, 187.03, 187.04, 187.05, 929.03, 1551.01, 3735.672, 6297
3746.35, 5117.22, 5709.68, 5709.882, 6103.052, and 6117.062 and 6298
sections 1525.11, 1525.12, 1525.13, and 6111.034 of the Revised 6299
Code are hereby repealed. 6300

Section 3. Section 122.40 of the Revised Code is hereby 6301
repealed, effective July 1, 2012. 6302

Section 4. In enacting this act, it is the intent of the 6303
General Assembly that changing the name of the "Department of 6304
Development" to the Development Services Agency and the name of 6305
the "Director of Development" to the Director of Development 6306
Services does not do either of the following: 6307

(A) Make substantive changes in statutory law; 6308

(B) Cause unnecessary expense. The letterhead, forms, printed 6309
materials, and signage displaying the former name of the 6310
Department may be used until they are replaced. 6311

Section 5. Upon the effective date of this act, all 6312
references to the Department of Development or Director of 6313
Development in other uncodified sections of law in Am. Sub. H.B. 6314
153 of the 129th General Assembly and Am. Sub. H.B. 114 of the 6315
129th General Assembly, shall be deemed to refer to the 6316
Development Services Agency or the Director of Development 6317
Services, respectively. 6318

Section 6. (A) There is hereby established a five-year pilot 6319
program to test a new funding mechanism for the state's travel and 6320
tourism marketing. The funding mechanism shall begin operation in 6321
fiscal year 2014 and be calculated as follows: 6322

(1)(a) Not later than the twentieth day of October of each 6323
year, starting in 2013 and ending in 2017, the Tax Commissioner 6324
shall calculate the growth in fiscal year sales tax revenue from 6325
certain defined categories that are related to tourism and certify 6326
that amount to the Director of Budget and Management. 6327

(b) Not later than the twentieth day of October of each year, 6328
starting in 2013 and ending in 2017, the Commissioner shall 6329
calculate and certify to the Director the difference, if greater 6330
than zero, between the revenue collected from the tax imposed 6331

under section 5739.02 of the Revised Code during the twelve-month 6332
period ending on the last day of the preceding June and the 6333
revenue collected during the same twelve-month period one year 6334
earlier, for all vendors classified under the industry codes 6335
identified in division (A)(2) of this section. On or before the 6336
last day of October of each year, starting in 2013 and ending in 6337
2017, the Director of Budget and Management shall transfer from 6338
the General Revenue Fund to the Tourism Fund created in section 6339
122.072 of the Revised Code the amount certified by the 6340
Commissioner under this division, except that the transfer shall 6341
not exceed ten million dollars for any fiscal year. 6342

(c) Each fiscal year, beginning in fiscal year 2015, the Tax 6343
Commissioner shall adjust the ten million annual dollar limit on 6344
transfers to the Tourism Fund. The adjustment shall be made by 6345
adding to the annual limit the product of multiplying the limit 6346
for the preceding fiscal year by the sum of one plus the 6347
percentage increase in the Consumer Price Index for all urban 6348
consumers for the Midwest region, as determined by the United 6349
States Bureau of Labor Statistics, for the twelve-month period 6350
corresponding to the preceding fiscal year. The result shall be 6351
rounded to the nearest one thousand dollars. The calculation of 6352
the percentage increase in the Consumer Price Index shall be done 6353
by taking the average index value over the twelve months of the 6354
last completed fiscal year and comparing that to the average index 6355
value over the twelve months of the immediately preceding fiscal 6356
year. 6357

(2) The following industries included in the industrial 6358
classification system used by the Tax Commissioner shall be used 6359
in the computations under division (A)(1) of this section: air 6360
transportation; water transportation; interurban and rural bus 6361
transportation; taxi service; limousine service; other transit and 6362
ground passenger transportation; scenic and sightseeing 6363

transportation; support activities for air transportation; 6364
automotive equipment rental and leasing; travel arrangement and 6365
reservation services; performing arts companies; spectator sports; 6366
independent artists, writers, and performers; museums, historical 6367
sites, and similar institutions; amusement parks and arcades; 6368
gambling industries; hotels and motels; casino hotels; 6369
bed-and-breakfast inns; other travel accommodations; recreational 6370
vehicle parks and recreational camps; full-service restaurants; 6371
limited-service eating places; drinking places (alcoholic 6372
beverages). 6373

(B) The pilot program shall terminate when the last transfer 6374
of funds made in accordance with division (A)(1)(b) of this 6375
section occurs in fiscal year 2018, specifically in October 2017. 6376
At that time, the Director of Development Services, the Director 6377
of Budget and Management, and the Tax Commissioner shall jointly 6378
review the pilot program and make recommendations to the Governor 6379
and the General Assembly on whether to make the funding mechanism 6380
permanent and, if so, whether any changes should be made to it. If 6381
the recommendation is to make the funding mechanism permanent, the 6382
Director of Development Services, the Director of Budget and 6383
Management, and the Tax Commissioner shall also study and make 6384
recommendations to the Governor and the General Assembly as to 6385
whether the Office of TourismOhio and its functions should be 6386
removed from the Development Services Agency and established as a 6387
private nonprofit corporation or a subsidiary corporation of 6388
JobsOhio. 6389

Section 7. (A) As used in this section, "federal act" means 6390
the "Small Business Liability Relief and Brownfields 6391
Revitalization Act," 115 Stat. 2356 (2002), 42 U.S.C. 9601 and 6392
9604. 6393

(B) There is hereby created in the state treasury the 6394

Brownfields Revolving Loan Fund. The Fund shall consist of all 6395
moneys received by the state from the United States Department of 6396
Environmental Protection under the federal act. The Fund shall be 6397
used to make grants and loans by the Director of Development 6398
Services. 6399

(C) The Director shall administer moneys received into the 6400
Fund and comply with all requirements imposed by the federal act 6401
in its application for, and administration of, the funds as grants 6402
and loans. 6403

(D) The Director shall establish a schedule of fees and 6404
charges payable by grant and loan recipients to the Director for 6405
the administration of this section. 6406

Section 8. The amendments by this act to sections 9.981, 6407
121.22, 122.39, 122.41, 122.42, 122.43, 122.44, 122.48, 122.49, 6408
122.50, 122.51, 122.52, 122.53, 122.561, 122.57, 122.61, 122.62, 6409
122.64, 166.04, 166.05, 166.13, 166.14, 166.18, 166.19, 166.25, 6410
and 166.30 of the Revised Code take effect July 1, 2012. 6411

Section 9. Section 122.42 of the Revised Code is presented in 6412
this act as a composite of the section as amended by both Am. Sub. 6413
H.B. 117 and Am. Sub. H.B. 356 of the 121st General Assembly. The 6414
General Assembly, applying the principle stated in division (B) of 6415
section 1.52 of the Revised Code that amendments are to be 6416
harmonized if reasonably capable of simultaneous operation, finds 6417
that the composite is the resulting version of the section in 6418
effect prior to the effective date of the section as presented in 6419
this act. 6420

Section 10. Section 149.43 of the Revised Code is presented 6421
in this act as a composite of the section as amended by both Sub. 6422
H.B. 64 and Am. Sub. H.B. 153 of the 129th General Assembly. The 6423
General Assembly, applying the principle stated in division (B) of 6424

section 1.52 of the Revised Code that amendments are to be	6425
harmonized if reasonably capable of simultaneous operation, finds	6426
that the composite is the resulting version of the section in	6427
effect prior to the effective date of the section as presented in	6428
this act.	6429