

As Introduced

**129th General Assembly
Regular Session
2011-2012**

H. B. No. 502

Representative Martin

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A B I L L

To amend sections 319.301, 1545.21, 3316.041, 1
3316.06, 5705.03, 5705.2111, and 5705.412 and to 2
repeal section 5705.192 of the Revised Code to 3
eliminate the power of taxing authorities to 4
propose a replacement property tax levy. 5

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

Section 1. That sections 319.301, 1545.21, 3316.041, 3316.06, 6
5705.03, 5705.2111, and 5705.412 of the Revised Code be amended to 7
read as follows: 8

Sec. 319.301. (A) The reductions required by division (D) of 9
this section do not apply to any of the following: 10

(1) Taxes levied at whatever rate is required to produce a 11
specified amount of tax money, including a tax levied under 12
section 5705.199, 5705.211, or 5748.09 of the Revised Code, or an 13
amount to pay debt charges; 14

(2) Taxes levied within the one per cent limitation imposed 15
by Section 2 of Article XII, Ohio Constitution; 16

(3) Taxes provided for by the charter of a municipal 17
corporation. 18

(B) As used in this section: 19

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| (1) "Real property" includes real property owned by a railroad. | 20 21 |
| (2) "Carryover property" means all real property on the current year's tax list except: | 22 23 |
| (a) Land and improvements that were not taxed by the district in both the preceding year and the current year; | 24 25 |
| (b) Land and improvements that were not in the same class in both the preceding year and the current year. | 26 27 |
| (3) "Effective tax rate" means with respect to each class of property: | 28 29 |
| (a) The sum of the total taxes that would have been charged and payable for current expenses against real property in that class if each of the district's taxes were reduced for the current year under division (D)(1) of this section without regard to the application of division (E)(3) of this section divided by | 30 31 32 33 34 |
| (b) The taxable value of all real property in that class. | 35 |
| (4) "Taxes charged and payable" means the taxes charged and payable prior to any reduction required by section 319.302 of the Revised Code. | 36 37 38 |
| (C) The tax commissioner shall make the determinations required by this section each year, without regard to whether a taxing district has territory in a county to which section 5715.24 of the Revised Code applies for that year. Separate determinations shall be made for each of the two classes established pursuant to section 5713.041 of the Revised Code. | 39 40 41 42 43 44 |
| (D) With respect to each tax authorized to be levied by each taxing district, the tax commissioner, annually, shall do both of the following: | 45 46 47 |
| (1) Determine by what percentage, if any, the sums levied by such tax against the carryover property in each class would have | 48 49 |

to be reduced for the tax to levy the same number of dollars 50
against such property in that class in the current year as were 51
charged against such property by such tax in the preceding year 52
subsequent to the reduction made under this section but before the 53
reduction made under section 319.302 of the Revised Code. In the 54
case of a tax levied for the first time that is not a renewal of 55
an existing tax, the commissioner shall determine by what 56
percentage the sums that would otherwise be levied by such tax 57
against carryover property in each class would have to be reduced 58
to equal the amount that would have been levied if the full rate 59
thereof had been imposed against the total taxable value of such 60
property in the preceding tax year. ~~A tax or portion of a tax that 61
is designated a replacement levy under section 5705.192 of the 62
Revised Code is not a renewal of an existing tax for purposes of 63
this division.~~ 64

(2) Certify each percentage determined in division (D)(1) of 65
this section, as adjusted under division (E) of this section, and 66
the class of property to which that percentage applies to the 67
auditor of each county in which the district has territory. The 68
auditor, after complying with section 319.30 of the Revised Code, 69
shall reduce the sum to be levied by such tax against each parcel 70
of real property in the district by the percentage so certified 71
for its class. Certification shall be made by the first day of 72
September except in the case of a tax levied for the first time, 73
in which case certification shall be made within fifteen days of 74
the date the county auditor submits the information necessary to 75
make the required determination. 76

(E)(1) As used in division (E)(2) of this section, "pre-1982 77
joint vocational taxes" means, with respect to a class of 78
property, the difference between the following amounts: 79

(a) The taxes charged and payable in tax year 1981 against 80
the property in that class for the current expenses of the joint 81

vocational school district of which the school district is a part 82
after making all reductions under this section; 83

(b) The following percentage of the taxable value of all real 84
property in that class: 85

(i) In 1987, five one-hundredths of one per cent; 86

(ii) In 1988, one-tenth of one per cent; 87

(iii) In 1989, fifteen one-hundredths of one per cent; 88

(iv) In 1990 and each subsequent year, two-tenths of one per 89
cent. 90

If the amount in division (E)(1)(b) of this section exceeds 91
the amount in division (E)(1)(a) of this section, the pre-1982 92
joint vocational taxes shall be zero. 93

As used in divisions (E)(2) and (3) of this section, "taxes 94
charged and payable" has the same meaning as in division (B)(4) of 95
this section and excludes any tax charged and payable in 1985 or 96
thereafter under sections 5705.194 to 5705.197 or section 97
5705.199, 5705.213, 5705.219, or 5748.09 of the Revised Code. 98

(2) If in the case of a school district other than a joint 99
vocational or cooperative education school district any percentage 100
required to be used in division (D)(2) of this section for either 101
class of property could cause the total taxes charged and payable 102
for current expenses to be less than two per cent of the taxable 103
value of all real property in that class that is subject to 104
taxation by the district, the commissioner shall determine what 105
percentages would cause the district's total taxes charged and 106
payable for current expenses against that class, after all 107
reductions that would otherwise be made under this section, to 108
equal, when combined with the pre-1982 joint vocational taxes 109
against that class, the lesser of the following: 110

(a) The sum of the rates at which those taxes are authorized 111

| | | |
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| to be levied; | 112 | |
| (b) Two per cent of the taxable value of the property in that class. The auditor shall use such percentages in making the reduction required by this section for that class. | 113 114 115 | |
| (3)(a) If in the case of a joint vocational school district any percentage required to be used in division (D)(2) of this section for either class of property could cause the total taxes charged and payable for current expenses for that class to be less than the designated amount, the commissioner shall determine what percentages would cause the district's total taxes charged and payable for current expenses for that class, after all reductions that would otherwise be made under this section, to equal the designated amount. The auditor shall use such percentages in making the reductions required by this section for that class. | 116 117 118 119 120 121 122 123 124 125 | |
| (b) As used in division (E)(3)(a) of this section, the designated amount shall equal the taxable value of all real property in the class that is subject to taxation by the district times the lesser of the following: | 126 127 128 129 | |
| (i) Two-tenths of one per cent; | 130 | |
| (ii) The district's effective rate plus the following percentage for the year indicated: | 131 132 | |
| WHEN COMPUTING THE TAXES CHARGED FOR | ADD THE FOLLOWING PERCENTAGE: | 133 134 |
| 1987 | 0.025% | 135 |
| 1988 | 0.05% | 136 |
| 1989 | 0.075% | 137 |
| 1990 | 0.1% | 138 |
| 1991 | 0.125% | 139 |
| 1992 | 0.15% | 140 |
| 1993 | 0.175% | 141 |
| 1994 and thereafter | 0.2% | 142 |

(F) No reduction shall be made under this section in the rate 143
at which any tax is levied. 144

(G) The commissioner may order a county auditor to furnish 145
any information the commissioner needs to make the determinations 146
required under division (D) or (E) of this section, and the 147
auditor shall supply the information in the form and by the date 148
specified in the order. If the auditor fails to comply with an 149
order issued under this division, except for good cause as 150
determined by the commissioner, the commissioner shall withhold 151
from such county or taxing district therein fifty per cent of 152
state revenues to local governments pursuant to section 5747.50 of 153
the Revised Code or shall direct the department of education to 154
withhold therefrom fifty per cent of state revenues to school 155
districts pursuant to Chapter 3317. of the Revised Code. The 156
commissioner shall withhold the distribution of such revenues 157
until the county auditor has complied with this division, and the 158
department shall withhold the distribution of such revenues until 159
the commissioner has notified the department that the county 160
auditor has complied with this division. 161

(H) If the commissioner is unable to certify a tax reduction 162
factor for either class of property in a taxing district located 163
in more than one county by the last day of November because 164
information required under division (G) of this section is 165
unavailable, the commissioner may compute and certify an estimated 166
tax reduction factor for that district for that class. The 167
estimated factor shall be based upon an estimate of the 168
unavailable information. Upon receipt of the actual information 169
for a taxing district that received an estimated tax reduction 170
factor, the commissioner shall compute the actual tax reduction 171
factor and use that factor to compute the taxes that should have 172
been charged and payable against each parcel of property for the 173
year for which the estimated reduction factor was used. The amount 174

by which the estimated factor resulted in an overpayment or 175
underpayment in taxes on any parcel shall be added to or 176
subtracted from the amount due on that parcel in the ensuing tax 177
year. 178

A percentage or a tax reduction factor determined or computed 179
by the commissioner under this section shall be used solely for 180
the purpose of reducing the sums to be levied by the tax to which 181
it applies for the year for which it was determined or computed. 182
It shall not be used in making any tax computations for any 183
ensuing tax year. 184

(I) In making the determinations under division (D)(1) of 185
this section, the tax commissioner shall take account of changes 186
in the taxable value of carryover property resulting from 187
complaints filed under section 5715.19 of the Revised Code for 188
determinations made for the tax year in which such changes are 189
reported to the commissioner. Such changes shall be reported to 190
the commissioner on the first abstract of real property filed with 191
the commissioner under section 5715.23 of the Revised Code 192
following the date on which the complaint is finally determined by 193
the board of revision or by a court or other authority with 194
jurisdiction on appeal. The tax commissioner shall account for 195
such changes in making the determinations only for the tax year in 196
which the change in valuation is reported. Such a valuation change 197
shall not be used to recompute the percentages determined under 198
division (D)(1) of this section for any prior tax year. 199

Sec. 1545.21. The board of park commissioners, by resolution, 200
may submit to the electors of the park district the question of 201
levying taxes for the use of the district. The resolution shall 202
declare the necessity of levying such taxes, shall specify the 203
purpose for which such taxes shall be used, the annual rate 204
proposed, and the number of consecutive years the rate shall be 205

levied. Such resolution shall be forthwith certified to the board 206
of elections in each county in which any part of such district is 207
located, not later than the ninetieth day before the day of the 208
election, and the question of the levy of taxes as provided in 209
such resolution shall be submitted to the electors of the district 210
at a special election to be held on whichever of the following 211
occurs first: 212

(A) The day of the next general election; 213

(B) The first Tuesday after the first Monday in May in any 214
calendar year, except that if a presidential primary election is 215
held in that calendar year, then the day of that election. The 216
ballot shall set forth the purpose for which the taxes shall be 217
levied, the annual rate of levy, and the number of years of such 218
levy. If the tax is to be placed on the current tax list, the form 219
of the ballot shall state that the tax will be levied in the 220
current tax year and shall indicate the first calendar year the 221
tax will be due. ~~If the resolution of the board of park 222
commissioners provides that an existing levy will be canceled upon 223
the passage of the new levy, the ballot may include a statement 224
that: "an existing levy of ... mills (stating the original levy 225
millage), having ... years remaining, will be canceled and 226
replaced upon the passage of this levy." In such case, the ballot 227
may refer to the new levy as a "replacement levy" if the new 228
millage does not exceed the original millage of the levy being 229
canceled or as a "replacement and additional levy" if the new 230
millage exceeds the original millage of the levy being canceled.~~ 231
~~If 232~~

If a majority of the electors voting upon the question of 233
such levy vote in favor thereof, such taxes shall be levied and 234
shall be in addition to the taxes authorized by section 1545.20 of 235
the Revised Code, and all other taxes authorized by law. The rate 236
submitted to the electors at any one time shall not exceed two 237

mills annually upon each dollar of valuation. When a tax levy has
been authorized as provided in this section or in section 1545.041
of the Revised Code, the board of park commissioners may issue
bonds pursuant to section 133.24 of the Revised Code in
anticipation of the collection of such levy, provided that such
bonds shall be issued only for the purpose of acquiring and
improving lands. Such levy, when collected, shall be applied in
payment of the bonds so issued and the interest thereon. The
amount of bonds so issued and outstanding at any time shall not
exceed one per cent of the total tax valuation in such district.
Such bonds shall bear interest at a rate not to exceed the rate
determined as provided in section 9.95 of the Revised Code.

Sec. 3316.041. (A) Notwithstanding any provision of Chapter
133. or sections 3313.483 to 3313.4811 of the Revised Code, and
subject to the approval of the superintendent of public
instruction, a school district that is in a state of fiscal watch
declared under section 3316.03 of the Revised Code may restructure
or refinance loans obtained or in the process of being obtained
under section 3313.483 of the Revised Code if all of the following
requirements are met:

(1) The operating deficit certified for the school district
for the current or preceding fiscal year under section 3313.483 of
the Revised Code exceeds fifteen per cent of the district's
general revenue fund for the fiscal year preceding the year for
which the certification of the operating deficit is made.

(2) The school district voters have, during the period of the
fiscal watch, approved the levy of a tax under section 718.09,
718.10, 5705.194, 5705.21, 5748.02, or 5748.09 of the Revised Code
that is not a renewal ~~or replacement~~ levy, or a levy under section
5705.199 of the Revised Code, and that will provide new operating
revenue.

(3) The board of education of the school district has adopted 269
or amended the financial plan required by section 3316.04 of the 270
Revised Code to reflect the restructured or refinanced loans, and 271
sets forth the means by which the district will bring projected 272
operating revenues and expenditures, and projected debt service 273
obligations, into balance for the life of any such loan. 274

(B) Subject to the approval of the superintendent of public 275
instruction, the school district may issue securities to evidence 276
the restructuring or refinancing authorized by this section. Such 277
securities may extend the original period for repayment not to 278
exceed ten years, and may alter the frequency and amount of 279
repayments, interest or other financing charges, and other terms 280
or agreements under which the loans were originally contracted, 281
provided the loans received under sections 3313.483 of the Revised 282
Code are repaid from funds the district would otherwise receive 283
under Chapter 3317. of the Revised Code, as required under 284
division (E)(3) of section 3313.483 of the Revised Code. 285
Securities issued for the purpose of restructuring or refinancing 286
under this section shall be repaid in equal payments and at equal 287
intervals over the term of the debt and are not eligible to be 288
included in any subsequent proposal to restructure or refinance. 289

(C) Unless the district is declared to be in a state of 290
fiscal emergency under division (D) of section 3316.04 of the 291
Revised Code, a school district shall remain in a state of fiscal 292
watch for the duration of the repayment period of any loan 293
restructured or refinanced under this section. 294

Sec. 3316.06. (A) Within one hundred twenty days after the 295
first meeting of a school district financial planning and 296
supervision commission, the commission shall adopt a financial 297
recovery plan regarding the school district for which the 298
commission was created. During the formulation of the plan, the 299

commission shall seek appropriate input from the school district 300
board and from the community. This plan shall contain the 301
following: 302

(1) Actions to be taken to: 303

(a) Eliminate all fiscal emergency conditions declared to 304
exist pursuant to division (B) of section 3316.03 of the Revised 305
Code; 306

(b) Satisfy any judgments, past-due accounts payable, and all 307
past-due and payable payroll and fringe benefits; 308

(c) Eliminate the deficits in all deficit funds, except that 309
any prior year deficits in the capital and maintenance fund 310
established pursuant to section 3315.18 of the Revised Code shall 311
be forgiven; 312

(d) Restore to special funds any moneys from such funds that 313
were used for purposes not within the purposes of such funds, or 314
borrowed from such funds by the purchase of debt obligations of 315
the school district with the moneys of such funds, or missing from 316
the special funds and not accounted for, if any; 317

(e) Balance the budget, avoid future deficits in any funds, 318
and maintain on a current basis payments of payroll, fringe 319
benefits, and all accounts; 320

(f) Avoid any fiscal emergency condition in the future; 321

(g) Restore the ability of the school district to market 322
long-term general obligation bonds under provisions of law 323
applicable to school districts generally. 324

(2) The management structure that will enable the school 325
district to take the actions enumerated in division (A)(1) of this 326
section. The plan shall specify the level of fiscal and management 327
control that the commission will exercise within the school 328
district during the period of fiscal emergency, and shall 329

enumerate respectively, the powers and duties of the commission 330
and the powers and duties of the school board during that period. 331
The commission may elect to assume any of the powers and duties of 332
the school board it considers necessary, including all powers 333
related to personnel, curriculum, and legal issues in order to 334
successfully implement the actions described in division (A)(1) of 335
this section. 336

(3) The target dates for the commencement, progress upon, and 337
completion of the actions enumerated in division (A)(1) of this 338
section and a reasonable period of time expected to be required to 339
implement the plan. The commission shall prepare a reasonable time 340
schedule for progress toward and achievement of the requirements 341
for the plan, and the plan shall be consistent with that time 342
schedule. 343

(4) The amount and purpose of any issue of debt obligations 344
that will be issued, together with assurances that any such debt 345
obligations that will be issued will not exceed debt limits 346
supported by appropriate certifications by the fiscal officer of 347
the school district and the county auditor. Debt obligations 348
issued pursuant to section 133.301 of the Revised Code shall 349
include assurances that such debt shall be in an amount not to 350
exceed the amount certified under division (B) of such section. If 351
the commission considers it necessary in order to maintain or 352
improve educational opportunities of pupils in the school 353
district, the plan may include a proposal to restructure or 354
refinance outstanding debt obligations incurred by the board under 355
section 3313.483 of the Revised Code contingent upon the approval, 356
during the period of the fiscal emergency, by district voters of a 357
tax levied under section 718.09, 718.10, 5705.194, 5705.21, 358
5748.02, 5748.08, or 5748.09 of the Revised Code that is not a 359
renewal ~~or replacement~~ levy, or a levy under section 5705.199 of 360
the Revised Code, and that will provide new operating revenue. 361

Notwithstanding any provision of Chapter 133. or sections 3313.483 362
to 3313.4811 of the Revised Code, following the required approval 363
of the district voters and with the approval of the commission, 364
the school district may issue securities to evidence the 365
restructuring or refinancing. Those securities may extend the 366
original period for repayment, not to exceed ten years, and may 367
alter the frequency and amount of repayments, interest or other 368
financing charges, and other terms of agreements under which the 369
debt originally was contracted, at the discretion of the 370
commission, provided that any loans received pursuant to section 371
3313.483 of the Revised Code shall be paid from funds the district 372
would otherwise receive under Chapter 3317. of the Revised Code, 373
as required under division (E)(3) of section 3313.483 of the 374
Revised Code. The securities issued for the purpose of 375
restructuring or refinancing the debt shall be repaid in equal 376
payments and at equal intervals over the term of the debt and are 377
not eligible to be included in any subsequent proposal for the 378
purpose of restructuring or refinancing debt under this section. 379

(B) Any financial recovery plan may be amended subsequent to 380
its adoption. Each financial recovery plan shall be updated 381
annually. 382

(C) Each school district financial planning and supervision 383
commission shall submit the financial recovery plan it adopts or 384
updates under this section to the state superintendent of public 385
instruction for approval immediately following its adoption or 386
updating. The state superintendent shall evaluate the plan and 387
either approve or disapprove it within thirty calendar days from 388
the date of its submission. If the plan is disapproved, the state 389
superintendent shall recommend modifications that will render it 390
acceptable. No financial planning and supervision commission shall 391
implement a financial recovery plan that is adopted or updated on 392
or after April 10, 2001, unless the state superintendent has 393

approved it. 394

Sec. 5705.03. (A) The taxing authority of each subdivision 395
may levy taxes annually, subject to the limitations of sections 396
5705.01 to 5705.47 of the Revised Code, on the real and personal 397
property within the subdivision for the purpose of paying the 398
current operating expenses of the subdivision and acquiring or 399
constructing permanent improvements. The taxing authority of each 400
subdivision and taxing unit shall, subject to the limitations of 401
such sections, levy such taxes annually as are necessary to pay 402
the interest and sinking fund on and retire at maturity the bonds, 403
notes, and certificates of indebtedness of such subdivision and 404
taxing unit, including levies in anticipation of which the 405
subdivision or taxing unit has incurred indebtedness. 406

(B)(1) When a taxing authority determines that it is 407
necessary to levy a tax outside the ten-mill limitation for any 408
purpose authorized by the Revised Code, the taxing authority shall 409
certify to the county auditor a resolution or ordinance requesting 410
that the county auditor certify to the taxing authority the total 411
current tax valuation of the subdivision, and the number of mills 412
required to generate a specified amount of revenue, or the dollar 413
amount of revenue that would be generated by a specified number of 414
mills. The resolution or ordinance shall state the purpose of the 415
tax, whether the tax is an additional levy or a renewal ~~or a~~ 416
~~replacement~~ of an existing tax, and the section of the Revised 417
Code authorizing submission of the question of the tax. If a 418
subdivision is located in more than one county, the county auditor 419
shall obtain from the county auditor of each other county in which 420
the subdivision is located the current tax valuation for the 421
portion of the subdivision in that county. The county auditor 422
shall issue the certification to the taxing authority within ten 423
days after receiving the taxing authority's resolution or 424
ordinance requesting it. 425

(2) When considering the tangible personal property component 426
of the tax valuation of the subdivision, the county auditor shall 427
take into account the assessment percentages prescribed in section 428
5711.22 of the Revised Code. The tax commissioner may issue rules, 429
orders, or instructions directing how the assessment percentages 430
must be utilized. 431

(3) If, upon receiving the certification from the county 432
auditor, the taxing authority proceeds with the submission of the 433
question of the tax to electors, the taxing authority shall 434
certify its resolution or ordinance, accompanied by a copy of the 435
county auditor's certification, to the proper county board of 436
elections in the manner and within the time prescribed by the 437
section of the Revised Code governing submission of the question, 438
and shall include with its certification the rate of the tax levy, 439
expressed in mills for each one dollar in tax valuation as 440
estimated by the county auditor. The county board of elections 441
shall not submit the question of the tax to electors unless a copy 442
of the county auditor's certification accompanies the resolution 443
or ordinance the taxing authority certifies to the board. Before 444
requesting a taxing authority to submit a tax levy, any agency or 445
authority authorized to make that request shall first request the 446
certification from the county auditor provided under this section. 447

(4) This division is supplemental to, and not in derogation 448
of, any similar requirement governing the certification by the 449
county auditor of the tax valuation of a subdivision or necessary 450
tax rates for the purposes of the submission of the question of a 451
tax in excess of the ten-mill limitation, including sections 452
133.18 and 5705.195 of the Revised Code. 453

(C) All taxes levied on property shall be extended on the tax 454
duplicate by the county auditor of the county in which the 455
property is located, and shall be collected by the county 456
treasurer of such county in the same manner and under the same 457

laws and rules as are prescribed for the assessment and collection 458
of county taxes. The proceeds of any tax levied by or for any 459
subdivision when received by its fiscal officer shall be deposited 460
in its treasury to the credit of the appropriate fund. 461

Sec. 5705.2111. (A) If the board of directors of a regional 462
student education district created under section 3313.83 of the 463
Revised Code desires to levy a tax in excess of the ten-mill 464
limitation throughout the district for the purpose of funding the 465
services to be provided by the district to students enrolled in 466
the school districts of which the district is composed and their 467
immediate family members, the board shall propose the levy to each 468
of the boards of education of those school districts. The proposal 469
shall specify the rate or amount of the tax, the number of years 470
the tax will be levied or that it will be levied for a continuing 471
period of time, and that the aggregate rate of the tax shall not 472
exceed three mills per dollar of taxable value in the regional 473
student education district. 474

(B)(1) If a majority of the boards of education of the school 475
districts of which the regional student education district is 476
composed approves the proposal for the tax levy, the board of 477
directors of the regional student education district may adopt a 478
resolution approved by a majority of the board's full membership 479
declaring the necessity of levying the proposed tax in excess of 480
the ten-mill limitation throughout the district for the purpose of 481
funding the services to be provided by the district to students 482
enrolled in the school districts of which the district is composed 483
and their immediate family members. The resolution shall provide 484
for the question of the tax to be submitted to the electors of the 485
district at a general, primary, or special election on a day to be 486
specified in the resolution that is consistent with the 487
requirements of section 3501.01 of the Revised Code and that 488
occurs at least ninety days after the resolution is certified to 489

the board of elections. The resolution shall specify the rate or 490
amount of the tax and the number of years the tax will be levied 491
or that the tax will be levied for a continuing period of time. 492
The aggregate rate of tax levied by a regional student education 493
district under this section at any time shall not exceed three 494
mills per dollar of taxable value in the district. A tax levied 495
under this section may be renewed, subject to section 5705.25 of 496
the Revised Code, ~~or replaced as provided in section 5705.192 of~~ 497
~~the Revised Code.~~ 498

(2) The resolution shall take effect immediately upon 499
passage, and no publication of the resolution is necessary other 500
than that provided in the notice of election. The resolution shall 501
be certified and submitted in the manner provided under section 502
5705.25 of the Revised Code, and that section governs the 503
arrangements governing submission of the question and other 504
matters concerning the election. 505

Sec. 5705.412. (A) As used in this section, "qualifying 506
contract" means any agreement for the expenditure of money under 507
which aggregate payments from the funds included in the school 508
district's five-year forecast under section 5705.391 of the 509
Revised Code will exceed the lesser of the following amounts: 510

(1) Five hundred thousand dollars; 511

(2) One per cent of the total revenue to be credited in the 512
current fiscal year to the district's general fund, as specified 513
in the district's most recent certificate of estimated resources 514
certified under section 5705.36 of the Revised Code. 515

(B)(1) Notwithstanding section 5705.41 of the Revised Code, 516
no school district shall adopt any appropriation measure, make any 517
qualifying contract, or increase during any school year any wage 518
or salary schedule unless there is attached thereto a certificate, 519
signed as required by this section, that the school district has 520

in effect the authorization to levy taxes including the renewal ~~or~~ 521
~~replacement~~ of existing levies which, when combined with the 522
estimated revenue from all other sources available to the district 523
at the time of certification, are sufficient to provide the 524
operating revenues necessary to enable the district to maintain 525
all personnel and programs for all the days set forth in its 526
adopted school calendars for the current fiscal year and for a 527
number of days in succeeding fiscal years equal to the number of 528
days instruction was held or is scheduled for the current fiscal 529
year, as follows: 530

(a) A certificate attached to an appropriation measure under 531
this section shall cover only the fiscal year in which the 532
appropriation measure is effective and shall not consider the 533
renewal ~~or replacement~~ of an existing levy as the authority to 534
levy taxes that are subject to appropriation in the current fiscal 535
year unless the renewal ~~or replacement~~ levy has been approved by 536
the electors and is subject to appropriation in the current fiscal 537
year. 538

(b) A certificate attached, in accordance with this section, 539
to any qualifying contract shall cover the term of the contract. 540

(c) A certificate attached under this section to a wage or 541
salary schedule shall cover the term of the schedule. 542

If the board of education has not adopted a school calendar 543
for the school year beginning on the first day of the fiscal year 544
in which a certificate is required, the certificate attached to an 545
appropriation measure shall include the number of days on which 546
instruction was held in the preceding fiscal year and other 547
certificates required under this section shall include that number 548
of days for the fiscal year in which the certificate is required 549
and any succeeding fiscal years that the certificate must cover. 550

The certificate shall be signed by the treasurer and 551

president of the board of education and the superintendent of the 552
school district, unless the district is in a state of fiscal 553
emergency declared under Chapter 3316. of the Revised Code. In 554
that case, the certificate shall be signed by a member of the 555
district's financial planning and supervision commission who is 556
designated by the commission for this purpose. 557

(2) In lieu of the certificate required under division (B) of 558
this section, an alternative certificate stating the following may 559
be attached: 560

(a) The contract is a multi-year contract for materials, 561
equipment, or nonpayroll services essential to the education 562
program of the district; 563

(b) The multi-year contract demonstrates savings over the 564
duration of the contract as compared to costs that otherwise would 565
have been demonstrated in a single year contract, and the terms 566
will allow the district to reduce the deficit it is currently 567
facing in future years as demonstrated in its five-year forecast 568
adopted in accordance with section 5705.391 of the Revised Code. 569

The certificate shall be signed by the treasurer and 570
president of the board of education and the superintendent of the 571
school district, unless the district is in a state of fiscal 572
emergency declared under Chapter 3316. of the Revised Code. In 573
that case, the certificate shall be signed by a member of the 574
district's financial planning and supervision commission who is 575
designated by the commission for this purpose. 576

(C) Every qualifying contract made or wage or salary schedule 577
adopted or put into effect without such a certificate shall be 578
void, and no payment of any amount due thereon shall be made. 579

(D) The department of education and the auditor of state 580
jointly shall adopt rules governing the methods by which 581
treasurers, presidents of boards of education, superintendents, 582

and members of financial planning and supervision commissions 583
shall estimate revenue and determine whether such revenue is 584
sufficient to provide necessary operating revenue for the purpose 585
of making certifications required by this section. 586

(E) The auditor of state shall be responsible for determining 587
whether school districts are in compliance with this section. At 588
the time a school district is audited pursuant to section 117.11 589
of the Revised Code, the auditor of state shall review each 590
certificate issued under this section since the district's last 591
audit, and the appropriation measure, contract, or wage and salary 592
schedule to which such certificate was attached. If the auditor of 593
state determines that a school district has not complied with this 594
section with respect to any qualifying contract or wage or salary 595
schedule, the auditor of state shall notify the prosecuting 596
attorney for the county, the city director of law, or other chief 597
law officer of the school district. That officer may file a civil 598
action in any court of appropriate jurisdiction to seek a 599
declaration that the contract or wage or salary schedule is void, 600
to recover for the school district from the payee the amount of 601
payments already made under it, or both, except that the officer 602
shall not seek to recover payments made under any collective 603
bargaining agreement entered into under Chapter 4117. of the 604
Revised Code. If the officer does not file such an action within 605
one hundred twenty days after receiving notice of noncompliance 606
from the auditor of state, any taxpayer may institute the action 607
in the taxpayer's own name on behalf of the school district. 608

(F) This section does not apply to any contract or increase 609
in any wage or salary schedule that is necessary in order to 610
enable a board of education to comply with division (B) of section 611
3317.13 of the Revised Code, provided the contract or increase 612
does not exceed the amount required to be paid to be in compliance 613
with such division. 614

(G) Any officer, employee, or other person who expends or 615
authorizes the expenditure of any public funds or authorizes or 616
executes any contract or schedule contrary to this section, 617
expends or authorizes the expenditure of any public funds on the 618
void contract or schedule, or issues a certificate under this 619
section which contains any false statements is liable to the 620
school district for the full amount paid from the district's funds 621
on the contract or schedule. The officer, employee, or other 622
person is jointly and severally liable in person and upon any 623
official bond that the officer, employee, or other person has 624
given to the school district to the extent of any payments on the 625
void claim, not to exceed ten thousand dollars. However, no 626
officer, employee, or other person shall be liable for a mistaken 627
estimate of available resources made in good faith and based upon 628
reasonable grounds. If an officer, employee, or other person is 629
found to have complied with rules jointly adopted by the 630
department of education and the auditor of state under this 631
section governing methods by which revenue shall be estimated and 632
determined sufficient to provide necessary operating revenue for 633
the purpose of making certifications required by this section, the 634
officer, employee, or other person shall not be liable under this 635
section if the estimates and determinations made according to 636
those rules do not, in fact, conform with actual revenue. The 637
prosecuting attorney of the county, the city director of law, or 638
other chief law officer of the district shall enforce this 639
liability by civil action brought in any court of appropriate 640
jurisdiction in the name of and on behalf of the school district. 641
If the prosecuting attorney, city director of law, or other chief 642
law officer of the district fails, upon the written request of any 643
taxpayer, to institute action for the enforcement of the 644
liability, the attorney general, or the taxpayer in the taxpayer's 645
own name, may institute the action on behalf of the subdivision. 646

(H) This section does not require the attachment of an 647

additional certificate beyond that required by section 5705.41 of 648
the Revised Code for current payrolls of, or contracts of 649
employment with, any employees or officers of the school district. 650

This section does not require the attachment of a certificate 651
to a temporary appropriation measure if all of the following 652
apply: 653

(1) The amount appropriated does not exceed twenty-five per 654
cent of the total amount from all sources available for 655
expenditure from any fund during the preceding fiscal year; 656

(2) The measure will not be in effect on or after the 657
thirtieth day following the earliest date on which the district 658
may pass an annual appropriation measure; 659

(3) An amended official certificate of estimated resources 660
for the current year, if required, has not been certified to the 661
board of education under division (B) of section 5705.36 of the 662
Revised Code. 663

Section 2. That existing sections 319.301, 1545.21, 3316.041, 664
3316.06, 5705.03, 5705.2111, and 5705.412 and section 5705.192 of 665
the Revised Code are hereby repealed. 666