

**As Reported by the House Economic and Small Business
Development Committee**

**129th General Assembly
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Sub. S. B. No. 314

Senators Wagoner, Cafaro

**Cosponsors: Senators Beagle, Lehner, Manning, Obhof, Widener, Oelslager,
Bacon, Balderson, Burke, Coley, Eklund, Faber, Hite, Jones, LaRose,
Niehaus, Patton, Peterson, Schaffer, Seitz**

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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, 149.311, 149.43, 164.05, 164.06,	7
164.08, 166.01, 166.04, 166.05, 166.11, 166.13,	8
166.14, 166.18, 166.19, 166.25, 166.30, 174.01,	9
184.01, 187.01, 187.03, 187.04, 187.05, 929.03,	10
1551.01, 3735.672, 3746.35, 5117.22, 5709.68,	11
5709.882, 6103.052, and 6117.062, to amend, for	12
the purpose of adopting new section numbers as	13
indicated in parentheses, sections 122.07	14
(122.073) and 122.071 (122.072), to enact new	15
sections 122.07 and 122.071 and sections 122.942,	16
122.97, 184.011, 187.061, 3735.01, and 5701.15,	17
and to repeal sections 122.40, 1525.11, 1525.12,	18
1525.13, and 6111.034 of the Revised Code to	19
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, including by requiring annual ethics 27
training, ethical conduct statements, and the 28
development of a gift policy; to makes changes to 29
the Capital Access Loan Program Fund and to allow 30
transfers to the Capital Access Loan Program Fund 31
from the Minority Business Enterprise Loan Fund; 32
to provide for projects that were started prior to 33
receiving a tax credit from the Ohio Tax Credit 34
Authority; to modify reporting requirements under 35
the Voluntary Action Program; to require the 36
Director of Development Services to administer 37
federal funds received for Brownfields 38
revitalization purposes; to terminate the Water 39
and Sewer Commission; to terminate the Development 40
Financing Advisory Council; to require the 41
Director of Development Services to make certain 42
information available to the public with respect 43
to each project for which state-funded financial 44
assistance is awarded by the Development Services 45
Agency; to expand eligibility for the historic 46
rehabilitation tax credit; to establish an annual 47
debt service limitation on project financing 48
obligations issued for certain economic 49
development programs; and to increase the 50
membership of the Third Frontier Commission. 51

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

Section 1. That sections 9.981, 102.03, 121.02, 121.03, 52
121.22, 122.01, 122.011, 122.07, 122.071, 122.17, 122.171, 53
122.174, 122.175, 122.39, 122.41, 122.42, 122.43, 122.44, 122.48, 54
122.49, 122.50, 122.51, 122.52, 122.53, 122.561, 122.57, 122.60, 55
122.601, 122.602, 122.603, 122.61, 122.62, 122.64, 122.76, 122.80, 56
122.86, 149.311, 149.43, 164.05, 164.06, 164.08, 166.01, 166.04, 57
166.05, 166.11, 166.13, 166.14, 166.18, 166.19, 166.25, 166.30, 58
174.01, 184.01, 187.01, 187.03, 187.04, 187.05, 929.03, 1551.01, 59
3735.672, 3746.35, 5117.22, 5709.68, 5709.882, 6103.052, and 60
6117.062 be amended, sections 122.07 (122.073) and 122.071 61
(122.072) be amended for the purpose of adopting new section 62
numbers as indicated in parentheses, and new sections 122.07 and 63
122.071 and sections 122.942, 122.97, 184.011, 187.061, 3735.01, 64
and 5701.15 of the Revised Code be enacted to read as follows: 65

Sec. 9.981. (A) Sections 9.98 to 9.983 of the Revised Code 66
are applicable to bonds: 67

(1) The payment of the debt service on which is to be 68
provided for directly or indirectly by payments contracted to be 69
made in the bond proceedings by the absolute obligors, being 70
persons other than the issuer; and 71

(2) Which are authorized to be issued under sections 122.39 72
and 122.41 to 122.62, Chapter 165., 902., 3377., 3706., division 73
(A)(4) of section 4582.06, division (A)(8) of section 4582.31, 74
section 4582.48, or Chapter 6121. or 6123. of the Revised Code, 75
notwithstanding other provisions therein. 76

(B) Sections 9.98 to 9.983 of the Revised Code are applicable 77
to bonds issued under sections 306.37 and 6119.12 of the Revised 78
Code and Chapters 140., 152., 154., 175., and 349. of the Revised 79
Code, and to any bonds authorized under laws which expressly make 80
those sections applicable. 81

(C) Subject to division (A) of this section, the authority 82
provided in sections 9.98 to 9.983 of the Revised Code is 83
supplemental to and not in derogation of any similar authority 84
provided by, derived from, or implied by, any law, the Ohio 85
Constitution, or any charter, resolution, or ordinance, and no 86
inference shall be drawn to negate the authority thereunder by 87
reason of the express provisions of sections 9.98 to 9.983 of the 88
Revised Code. 89

(D) Sections 9.98 to 9.983 of the Revised Code shall be 90
liberally construed to permit flexibility in the arrangements 91
therein provided to enhance the issuance of such bonds and provide 92
for terms most beneficial and satisfactory to the persons which 93
undertake to provide for their payment, security, and liquidity. 94

Sec. 102.03. (A)(1) No present or former public official or 95
employee shall, during public employment or service or for twelve 96
months thereafter, represent a client or act in a representative 97
capacity for any person on any matter in which the public official 98
or employee personally participated as a public official or 99
employee through decision, approval, disapproval, recommendation, 100
the rendering of advice, investigation, or other substantial 101
exercise of administrative discretion. 102

(2) For twenty-four months after the conclusion of service, 103
no former commissioner or attorney examiner of the public 104
utilities commission shall represent a public utility, as defined 105
in section 4905.02 of the Revised Code, or act in a representative 106
capacity on behalf of such a utility before any state board, 107
commission, or agency. 108

(3) For twenty-four months after the conclusion of employment 109
or service, no former public official or employee who personally 110
participated as a public official or employee through decision, 111
approval, disapproval, recommendation, the rendering of advice, 112

the development or adoption of solid waste management plans, 113
investigation, inspection, or other substantial exercise of 114
administrative discretion under Chapter 343. or 3734. of the 115
Revised Code shall represent a person who is the owner or operator 116
of a facility, as defined in section 3734.01 of the Revised Code, 117
or who is an applicant for a permit or license for a facility 118
under that chapter, on any matter in which the public official or 119
employee personally participated as a public official or employee. 120

(4) For a period of one year after the conclusion of 121
employment or service as a member or employee of the general 122
assembly, no former member or employee of the general assembly 123
shall represent, or act in a representative capacity for, any 124
person on any matter before the general assembly, any committee of 125
the general assembly, or the controlling board. Division (A)(4) of 126
this section does not apply to or affect a person who separates 127
from service with the general assembly on or before December 31, 128
1995. As used in division (A)(4) of this section "person" does not 129
include any state agency or political subdivision of the state. 130

(5) As used in divisions (A)(1), (2), and (3) of this 131
section, "matter" includes any case, proceeding, application, 132
determination, issue, or question, but does not include the 133
proposal, consideration, or enactment of statutes, rules, 134
ordinances, resolutions, or charter or constitutional amendments. 135
As used in division (A)(4) of this section, "matter" includes the 136
proposal, consideration, or enactment of statutes, resolutions, or 137
constitutional amendments. As used in division (A) of this 138
section, "represent" includes any formal or informal appearance 139
before, or any written or oral communication with, any public 140
agency on behalf of any person. 141

(6) Nothing contained in division (A) of this section shall 142
prohibit, during such period, a former public official or employee 143
from being retained or employed to represent, assist, or act in a 144

representative capacity for the public agency by which the public 145
official or employee was employed or on which the public official 146
or employee served. 147

(7) Division (A) of this section shall not be construed to 148
prohibit the performance of ministerial functions, including, but 149
not limited to, the filing or amendment of tax returns, 150
applications for permits and licenses, incorporation papers, and 151
other similar documents. 152

(8) Division (A) of this section does not prohibit a 153
nonelected public official or employee of a state agency, as 154
defined in section 1.60 of the Revised Code, from becoming a 155
public official or employee of another state agency. Division (A) 156
of this section does not prohibit such an official or employee 157
from representing or acting in a representative capacity for the 158
official's or employee's new state agency on any matter in which 159
the public official or employee personally participated as a 160
public official or employee at the official's or employee's former 161
state agency. However, no public official or employee of a state 162
agency shall, during public employment or for twelve months 163
thereafter, represent or act in a representative capacity for the 164
official's or employee's new state agency on any audit or 165
investigation pertaining to the official's or employee's new state 166
agency in which the public official or employee personally 167
participated at the official's or employee's former state agency 168
through decision, approval, disapproval, recommendation, the 169
rendering of advice, investigation, or other substantial exercise 170
of administrative discretion. 171

(9) Division (A) of this section does not prohibit a 172
nonelected public official or employee of a political subdivision 173
from becoming a public official or employee of a different 174
department, division, agency, office, or unit of the same 175
political subdivision. Division (A) of this section does not 176

prohibit such an official or employee from representing or acting 177
in a representative capacity for the official's or employee's new 178
department, division, agency, office, or unit on any matter in 179
which the public official or employee personally participated as a 180
public official or employee at the official's or employee's former 181
department, division, agency, office, or unit of the same 182
political subdivision. As used in this division, "political 183
subdivision" means a county, township, municipal corporation, or 184
any other body corporate and politic that is responsible for 185
government activities in a geographic area smaller than that of 186
the state. 187

(10) No present or former Ohio casino control commission 188
official shall, during public service or for two years thereafter, 189
represent a client, be employed or compensated by a person 190
regulated by the commission, or act in a representative capacity 191
for any person on any matter before or concerning the commission. 192

No present or former commission employee shall, during public 193
employment or for two years thereafter, represent a client or act 194
in a representative capacity on any matter in which the employee 195
personally participated as a commission employee through decision, 196
approval, disapproval, recommendation, the rendering of advice, 197
investigation, or other substantial exercise of administrative 198
discretion. 199

(B) No present or former public official or employee shall 200
disclose or use, without appropriate authorization, any 201
information acquired by the public official or employee in the 202
course of the public official's or employee's official duties that 203
is confidential because of statutory provisions, or that has been 204
clearly designated to the public official or employee as 205
confidential when that confidential designation is warranted 206
because of the status of the proceedings or the circumstances 207
under which the information was received and preserving its 208

confidentiality is necessary to the proper conduct of government 209
business. 210

(C) No public official or employee shall participate within 211
the scope of duties as a public official or employee, except 212
through ministerial functions as defined in division (A) of this 213
section, in any license or rate-making proceeding that directly 214
affects the license or rates of any person, partnership, trust, 215
business trust, corporation, or association in which the public 216
official or employee or immediate family owns or controls more 217
than five per cent. No public official or employee shall 218
participate within the scope of duties as a public official or 219
employee, except through ministerial functions as defined in 220
division (A) of this section, in any license or rate-making 221
proceeding that directly affects the license or rates of any 222
person to whom the public official or employee or immediate 223
family, or a partnership, trust, business trust, corporation, or 224
association of which the public official or employee or the public 225
official's or employee's immediate family owns or controls more 226
than five per cent, has sold goods or services totaling more than 227
one thousand dollars during the preceding year, unless the public 228
official or employee has filed a written statement acknowledging 229
that sale with the clerk or secretary of the public agency and the 230
statement is entered in any public record of the agency's 231
proceedings. This division shall not be construed to require the 232
disclosure of clients of attorneys or persons licensed under 233
section 4732.12 or 4732.15 of the Revised Code, or patients of 234
persons certified under section 4731.14 of the Revised Code. 235

(D) No public official or employee shall use or authorize the 236
use of the authority or influence of office or employment to 237
secure anything of value or the promise or offer of anything of 238
value that is of such a character as to manifest a substantial and 239
improper influence upon the public official or employee with 240

respect to that person's duties. 241

(E) No public official or employee shall solicit or accept 242
anything of value that is of such a character as to manifest a 243
substantial and improper influence upon the public official or 244
employee with respect to that person's duties. 245

(F) No person shall promise or give to a public official or 246
employee anything of value that is of such a character as to 247
manifest a substantial and improper influence upon the public 248
official or employee with respect to that person's duties. 249

(G) In the absence of bribery or another offense under the 250
Revised Code or a purpose to defraud, contributions made to a 251
campaign committee, political party, legislative campaign fund, 252
political action committee, or political contributing entity on 253
behalf of an elected public officer or other public official or 254
employee who seeks elective office shall be considered to accrue 255
ordinarily to the public official or employee for the purposes of 256
divisions (D), (E), and (F) of this section. 257

As used in this division, "contributions," "campaign 258
committee," "political party," "legislative campaign fund," 259
"political action committee," and "political contributing entity" 260
have the same meanings as in section 3517.01 of the Revised Code. 261

(H)(1) No public official or employee, except for the 262
president or other chief administrative officer of or a member of 263
a board of trustees of a state institution of higher education as 264
defined in section 3345.011 of the Revised Code, who is required 265
to file a financial disclosure statement under section 102.02 of 266
the Revised Code shall solicit or accept, and no person shall give 267
to that public official or employee, an honorarium. Except as 268
provided in division (H)(2) of this section, this division and 269
divisions (D), (E), and (F) of this section do not prohibit a 270
public official or employee who is required to file a financial 271

disclosure statement under section 102.02 of the Revised Code from 272
accepting and do not prohibit a person from giving to that public 273
official or employee the payment of actual travel expenses, 274
including any expenses incurred in connection with the travel for 275
lodging, and meals, food, and beverages provided to the public 276
official or employee at a meeting at which the public official or 277
employee participates in a panel, seminar, or speaking engagement 278
or provided to the public official or employee at a meeting or 279
convention of a national organization to which any state agency, 280
including, but not limited to, any state legislative agency or 281
state institution of higher education as defined in section 282
3345.011 of the Revised Code, pays membership dues. Except as 283
provided in division (H)(2) of this section, this division and 284
divisions (D), (E), and (F) of this section do not prohibit a 285
public official or employee who is not required to file a 286
financial disclosure statement under section 102.02 of the Revised 287
Code from accepting and do not prohibit a person from promising or 288
giving to that public official or employee an honorarium or the 289
payment of travel, meal, and lodging expenses if the honorarium, 290
expenses, or both were paid in recognition of demonstrable 291
business, professional, or esthetic interests of the public 292
official or employee that exist apart from public office or 293
employment, including, but not limited to, such a demonstrable 294
interest in public speaking and were not paid by any person or 295
other entity, or by any representative or association of those 296
persons or entities, that is regulated by, doing business with, or 297
seeking to do business with the department, division, institution, 298
board, commission, authority, bureau, or other instrumentality of 299
the governmental entity with which the public official or employee 300
serves. 301

(2) No person who is a member of the board of a state 302
retirement system, a state retirement system investment officer, 303
or an employee of a state retirement system whose position 304

involves substantial and material exercise of discretion in the 305
investment of retirement system funds shall solicit or accept, and 306
no person shall give to that board member, officer, or employee, 307
payment of actual travel expenses, including expenses incurred 308
with the travel for lodging, meals, food, and beverages. 309

(I) A public official or employee may accept travel, meals, 310
and lodging or expenses or reimbursement of expenses for travel, 311
meals, and lodging in connection with conferences, seminars, and 312
similar events related to official duties if the travel, meals, 313
and lodging, expenses, or reimbursement is not of such a character 314
as to manifest a substantial and improper influence upon the 315
public official or employee with respect to that person's duties. 316
The house of representatives and senate, in their code of ethics, 317
and the Ohio ethics commission, under section 111.15 of the 318
Revised Code, may adopt rules setting standards and conditions for 319
the furnishing and acceptance of such travel, meals, and lodging, 320
expenses, or reimbursement. 321

A person who acts in compliance with this division and any 322
applicable rules adopted under it, or any applicable, similar 323
rules adopted by the supreme court governing judicial officers and 324
employees, does not violate division (D), (E), or (F) of this 325
section. This division does not preclude any person from seeking 326
an advisory opinion from the appropriate ethics commission under 327
section 102.08 of the Revised Code. 328

(J) For purposes of divisions (D), (E), and (F) of this 329
section, the membership of a public official or employee in an 330
organization shall not be considered, in and of itself, to be of 331
such a character as to manifest a substantial and improper 332
influence on the public official or employee with respect to that 333
person's duties. As used in this division, "organization" means a 334
church or a religious, benevolent, fraternal, or professional 335
organization that is tax exempt under subsection 501(a) and 336

described in subsection 501(c)(3), (4), (8), (10), or (19) of the
"Internal Revenue Code of 1986." This division does not apply to a
public official or employee who is an employee of an organization,
serves as a trustee, director, or officer of an organization, or
otherwise holds a fiduciary relationship with an organization.
This division does not allow a public official or employee who is
a member of an organization to participate, formally or
informally, in deliberations, discussions, or voting on a matter
or to use ~~his~~ the public official's or employee's official
position with regard to the interests of the organization on the
matter if the public official or employee has assumed a particular
responsibility in the organization with respect to the matter or
if the matter would affect that person's personal, pecuniary
interests.

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

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

(L) No present public official or employee with a casino
gaming regulatory function shall indirectly invest, by way of an
entity the public official or employee has an ownership interest
or control in, or directly invest in a casino operator, management

company, holding company, casino facility, or gaming-related 369
vendor. No present public official or employee with a casino 370
gaming regulatory function shall directly or indirectly have a 371
financial interest in, have an ownership interest in, be the 372
creditor or hold a debt instrument issued by, or have an interest 373
in a contractual or service relationship with a casino operator, 374
management company, holding company, casino facility, or 375
gaming-related vendor. This section does not prohibit or limit 376
permitted passive investing by the public official or employee. 377

As used in this division, "passive investing" means 378
investment by the public official or employee by means of a mutual 379
fund in which the public official or employee has no control of 380
the investments or investment decisions. "Casino operator," 381
"holding company," "management company," "casino facility," and 382
"gaming-related vendor" have the same meanings as in section 383
3772.01 of the Revised Code. 384

(M) A member of the Ohio casino control commission, the 385
executive director of the commission, or an employee of the 386
commission shall not: 387

(1) Accept anything of value, including but not limited to a 388
gift, gratuity, emolument, or employment from a casino operator, 389
management company, or other person subject to the jurisdiction of 390
the commission, or from an officer, attorney, agent, or employee 391
of a casino operator, management company, or other person subject 392
to the jurisdiction of the commission; 393

(2) Solicit, suggest, request, or recommend, directly or 394
indirectly, to a casino operator, management company, or other 395
person subject to the jurisdiction of the commission, or to an 396
officer, attorney, agent, or employee of a casino operator, 397
management company, or other person subject to the jurisdiction of 398
the commission, the appointment of a person to an office, place, 399
position, or employment; 400

(3) Participate in casino gaming or any other amusement or 401
activity at a casino facility in this state or at an affiliate 402
gaming facility of a licensed casino operator, wherever located. 403

In addition to the penalty provided in section 102.99 of the 404
Revised Code, whoever violates division (M)(1), (2), or (3) of 405
this section forfeits the individual's office or employment. 406

Sec. 121.02. The following administrative departments and 407
their respective directors are hereby created: 408

(A) The office of budget and management, which shall be 409
administered by the director of budget and management; 410

(B) The department of commerce, which shall be administered 411
by the director of commerce; 412

(C) The department of administrative services, which shall be 413
administered by the director of administrative services; 414

(D) The department of transportation, which shall be 415
administered by the director of transportation; 416

(E) The department of agriculture, which shall be 417
administered by the director of agriculture; 418

(F) The department of natural resources, which shall be 419
administered by the director of natural resources; 420

(G) The department of health, which shall be administered by 421
the director of health; 422

(H) The department of job and family services, which shall be 423
administered by the director of job and family services; 424

(I) Until July 1, 1997, the department of liquor control, 425
which shall be administered by the director of liquor control; 426

(J) The department of public safety, which shall be 427
administered by the director of public safety; 428

(K) The department of mental health, which shall be 429
administered by the director of mental health; 430

(L) The department of developmental disabilities, which shall 431
be administered by the director of developmental disabilities; 432

(M) The department of insurance, which shall be administered 433
by the superintendent of insurance as director thereof; 434

(N) The ~~department of~~ development services agency, which 435
shall be administered by the director of development services; 436

(O) The department of youth services, which shall be 437
administered by the director of youth services; 438

(P) The department of rehabilitation and correction, which 439
shall be administered by the director of rehabilitation and 440
correction; 441

(Q) The environmental protection agency, which shall be 442
administered by the director of environmental protection; 443

(R) The department of aging, which shall be administered by 444
the director of aging; 445

(S) The department of alcohol and drug addiction services, 446
which shall be administered by the director of alcohol and drug 447
addiction services; 448

(T) The department of veterans services, which shall be 449
administered by the director of veterans services. 450

The director of each department shall exercise the powers and 451
perform the duties vested by law in such department. 452

Sec. 121.03. The following administrative department heads 453
shall be appointed by the governor, with the advice and consent of 454
the senate, and shall hold their offices during the term of the 455
appointing governor, and are subject to removal at the pleasure of 456
the governor. 457

(A) The director of budget and management;	458
(B) The director of commerce;	459
(C) The director of transportation;	460
(D) The director of agriculture;	461
(E) The director of job and family services;	462
(F) Until July 1, 1997, the director of liquor control;	463
(G) The director of public safety;	464
(H) The superintendent of insurance;	465
(I) The director of development <u>services</u> ;	466
(J) The tax commissioner;	467
(K) The director of administrative services;	468
(L) The director of natural resources;	469
(M) The director of mental health;	470
(N) The director of developmental disabilities;	471
(O) The director of health;	472
(P) The director of youth services;	473
(Q) The director of rehabilitation and correction;	474
(R) The director of environmental protection;	475
(S) The director of aging;	476
(T) The director of alcohol and drug addiction services;	477
(U) The administrator of workers' compensation who meets the	478
qualifications required under division (A) of section 4121.121 of	479
the Revised Code;	480
(V) The director of veterans services who meets the	481
qualifications required under section 5902.01 of the Revised Code;	482
(W) The chancellor of the Ohio board of regents.	483

Sec. 121.22. (A) This section shall be liberally construed to 484
require public officials to take official action and to conduct 485
all deliberations upon official business only in open meetings 486
unless the subject matter is specifically excepted by law. 487

(B) As used in this section: 488

(1) "Public body" means any of the following: 489

(a) Any board, commission, committee, council, or similar 490
decision-making body of a state agency, institution, or authority, 491
and any legislative authority or board, commission, committee, 492
council, agency, authority, or similar decision-making body of any 493
county, township, municipal corporation, school district, or other 494
political subdivision or local public institution; 495

(b) Any committee or subcommittee of a body described in 496
division (B)(1)(a) of this section; 497

(c) A court of jurisdiction of a sanitary district organized 498
wholly for the purpose of providing a water supply for domestic, 499
municipal, and public use when meeting for the purpose of the 500
appointment, removal, or reappointment of a member of the board of 501
directors of such a district pursuant to section 6115.10 of the 502
Revised Code, if applicable, or for any other matter related to 503
such a district other than litigation involving the district. As 504
used in division (B)(1)(c) of this section, "court of 505
jurisdiction" has the same meaning as "court" in section 6115.01 506
of the Revised Code. 507

(2) "Meeting" means any prearranged discussion of the public 508
business of the public body by a majority of its members. 509

(3) "Regulated individual" means either of the following: 510

(a) A student in a state or local public educational 511
institution; 512

(b) A person who is, voluntarily or involuntarily, an inmate, 513

patient, or resident of a state or local institution because of 514
criminal behavior, mental illness or retardation, disease, 515
disability, age, or other condition requiring custodial care. 516

(4) "Public office" has the same meaning as in section 517
149.011 of the Revised Code. 518

(C) All meetings of any public body are declared to be public 519
meetings open to the public at all times. A member of a public 520
body shall be present in person at a meeting open to the public to 521
be considered present or to vote at the meeting and for purposes 522
of determining whether a quorum is present at the meeting. 523

The minutes of a regular or special meeting of any public 524
body shall be promptly prepared, filed, and maintained and shall 525
be open to public inspection. The minutes need only reflect the 526
general subject matter of discussions in executive sessions 527
authorized under division (G) or (J) of this section. 528

(D) This section does not apply to any of the following: 529

(1) A grand jury; 530

(2) An audit conference conducted by the auditor of state or 531
independent certified public accountants with officials of the 532
public office that is the subject of the audit; 533

(3) The adult parole authority when its hearings are 534
conducted at a correctional institution for the sole purpose of 535
interviewing inmates to determine parole or pardon; 536

(4) The organized crime investigations commission established 537
under section 177.01 of the Revised Code; 538

(5) Meetings of a child fatality review board established 539
under section 307.621 of the Revised Code and meetings conducted 540
pursuant to sections 5153.171 to 5153.173 of the Revised Code; 541

(6) The state medical board when determining whether to 542
suspend a certificate without a prior hearing pursuant to division 543

(G) of either section 4730.25 or 4731.22 of the Revised Code; 544

(7) The board of nursing when determining whether to suspend 545
a license or certificate without a prior hearing pursuant to 546
division (B) of section 4723.281 of the Revised Code; 547

(8) The state board of pharmacy when determining whether to 548
suspend a license without a prior hearing pursuant to division (D) 549
of section 4729.16 of the Revised Code; 550

(9) The state chiropractic board when determining whether to 551
suspend a license without a hearing pursuant to section 4734.37 of 552
the Revised Code; 553

(10) The executive committee of the emergency response 554
commission when determining whether to issue an enforcement order 555
or request that a civil action, civil penalty action, or criminal 556
action be brought to enforce Chapter 3750. of the Revised Code; 557

(11) The board of directors of the nonprofit corporation 558
formed under section 187.01 of the Revised Code or any committee 559
thereof, and the board of directors of any subsidiary of that 560
corporation or a committee thereof; 561

(12) An audit conference conducted by the audit staff of the 562
department of job and family services with officials of the public 563
office that is the subject of that audit under section 5101.37 of 564
the Revised Code. 565

(E) The controlling board, the ~~development financing advisory~~ 566
~~council~~, the industrial technology and enterprise advisory 567
council, the tax credit authority, or the minority development 568
financing advisory board, when meeting to consider granting 569
assistance pursuant to Chapter 122. or 166. of the Revised Code, 570
in order to protect the interest of the applicant or the possible 571
investment of public funds, by unanimous vote of all board, 572
council, or authority members present, may close the meeting 573
during consideration of the following information confidentially 574

received by the authority, council, or board from the applicant: 575

(1) Marketing plans; 576

(2) Specific business strategy; 577

(3) Production techniques and trade secrets; 578

(4) Financial projections; 579

(5) Personal financial statements of the applicant or members 580
of the applicant's immediate family, including, but not limited 581
to, tax records or other similar information not open to public 582
inspection. 583

The vote by the authority, council, or board to accept or 584
reject the application, as well as all proceedings of the 585
authority, council, or board not subject to this division, shall 586
be open to the public and governed by this section. 587

(F) Every public body, by rule, shall establish a reasonable 588
method whereby any person may determine the time and place of all 589
regularly scheduled meetings and the time, place, and purpose of 590
all special meetings. A public body shall not hold a special 591
meeting unless it gives at least twenty-four hours' advance notice 592
to the news media that have requested notification, except in the 593
event of an emergency requiring immediate official action. In the 594
event of an emergency, the member or members calling the meeting 595
shall notify the news media that have requested notification 596
immediately of the time, place, and purpose of the meeting. 597

The rule shall provide that any person, upon request and 598
payment of a reasonable fee, may obtain reasonable advance 599
notification of all meetings at which any specific type of public 600
business is to be discussed. Provisions for advance notification 601
may include, but are not limited to, mailing the agenda of 602
meetings to all subscribers on a mailing list or mailing notices 603
in self-addressed, stamped envelopes provided by the person. 604

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

(1) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official, licensee, or regulated individual requests a public hearing. Except as otherwise provided by law, no public body shall hold an executive session for the discipline of an elected official for conduct related to the performance of the elected official's official duties or for the elected official's removal from office. If a public body holds an executive session pursuant to division (G)(1) of this section, the motion and vote to hold that executive session shall state which one or more of the approved purposes listed in division (G)(1) of this section are the purposes for which the executive session is to be held, but need not include the name of any person to be considered at the meeting.

(2) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest. No member of a public body shall use division (G)(2) of this section as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member of a public body that has not been disclosed to the general

public in sufficient time for other prospective buyers and sellers 637
to prepare and submit offers. 638

If the minutes of the public body show that all meetings and 639
deliberations of the public body have been conducted in compliance 640
with this section, any instrument executed by the public body 641
purporting to convey, lease, or otherwise dispose of any right, 642
title, or interest in any public property shall be conclusively 643
presumed to have been executed in compliance with this section 644
insofar as title or other interest of any bona fide purchasers, 645
lessees, or transferees of the property is concerned. 646

(3) Conferences with an attorney for the public body 647
concerning disputes involving the public body that are the subject 648
of pending or imminent court action; 649

(4) Preparing for, conducting, or reviewing negotiations or 650
bargaining sessions with public employees concerning their 651
compensation or other terms and conditions of their employment; 652

(5) Matters required to be kept confidential by federal law 653
or regulations or state statutes; 654

(6) Details relative to the security arrangements and 655
emergency response protocols for a public body or a public office, 656
if disclosure of the matters discussed could reasonably be 657
expected to jeopardize the security of the public body or public 658
office; 659

(7) In the case of a county hospital operated pursuant to 660
Chapter 339. of the Revised Code, a joint township hospital 661
operated pursuant to Chapter 513. of the Revised Code, or a 662
municipal hospital operated pursuant to Chapter 749. of the 663
Revised Code, to consider trade secrets, as defined in section 664
1333.61 of the Revised Code. 665

If a public body holds an executive session to consider any 666
of the matters listed in divisions (G)(2) to (7) of this section, 667

the motion and vote to hold that executive session shall state 668
which one or more of the approved matters listed in those 669
divisions are to be considered at the executive session. 670

A public body specified in division (B)(1)(c) of this section 671
shall not hold an executive session when meeting for the purposes 672
specified in that division. 673

(H) A resolution, rule, or formal action of any kind is 674
invalid unless adopted in an open meeting of the public body. A 675
resolution, rule, or formal action adopted in an open meeting that 676
results from deliberations in a meeting not open to the public is 677
invalid unless the deliberations were for a purpose specifically 678
authorized in division (G) or (J) of this section and conducted at 679
an executive session held in compliance with this section. A 680
resolution, rule, or formal action adopted in an open meeting is 681
invalid if the public body that adopted the resolution, rule, or 682
formal action violated division (F) of this section. 683

(I)(1) Any person may bring an action to enforce this 684
section. An action under division (I)(1) of this section shall be 685
brought within two years after the date of the alleged violation 686
or threatened violation. Upon proof of a violation or threatened 687
violation of this section in an action brought by any person, the 688
court of common pleas shall issue an injunction to compel the 689
members of the public body to comply with its provisions. 690

(2)(a) If the court of common pleas issues an injunction 691
pursuant to division (I)(1) of this section, the court shall order 692
the public body that it enjoins to pay a civil forfeiture of five 693
hundred dollars to the party that sought the injunction and shall 694
award to that party all court costs and, subject to reduction as 695
described in division (I)(2) of this section, reasonable 696
attorney's fees. The court, in its discretion, may reduce an award 697
of attorney's fees to the party that sought the injunction or not 698
award attorney's fees to that party if the court determines both 699

of the following: 700

(i) That, based on the ordinary application of statutory law 701
and case law as it existed at the time of violation or threatened 702
violation that was the basis of the injunction, a well-informed 703
public body reasonably would believe that the public body was not 704
violating or threatening to violate this section; 705

(ii) That a well-informed public body reasonably would 706
believe that the conduct or threatened conduct that was the basis 707
of the injunction would serve the public policy that underlies the 708
authority that is asserted as permitting that conduct or 709
threatened conduct. 710

(b) If the court of common pleas does not issue an injunction 711
pursuant to division (I)(1) of this section and the court 712
determines at that time that the bringing of the action was 713
frivolous conduct, as defined in division (A) of section 2323.51 714
of the Revised Code, the court shall award to the public body all 715
court costs and reasonable attorney's fees, as determined by the 716
court. 717

(3) Irreparable harm and prejudice to the party that sought 718
the injunction shall be conclusively and irrebuttably presumed 719
upon proof of a violation or threatened violation of this section. 720

(4) A member of a public body who knowingly violates an 721
injunction issued pursuant to division (I)(1) of this section may 722
be removed from office by an action brought in the court of common 723
pleas for that purpose by the prosecuting attorney or the attorney 724
general. 725

(J)(1) Pursuant to division (C) of section 5901.09 of the 726
Revised Code, a veterans service commission shall hold an 727
executive session for one or more of the following purposes unless 728
an applicant requests a public hearing: 729

(a) Interviewing an applicant for financial assistance under 730

sections 5901.01 to 5901.15 of the Revised Code; 731

(b) Discussing applications, statements, and other documents 732
described in division (B) of section 5901.09 of the Revised Code; 733

(c) Reviewing matters relating to an applicant's request for 734
financial assistance under sections 5901.01 to 5901.15 of the 735
Revised Code. 736

(2) A veterans service commission shall not exclude an 737
applicant for, recipient of, or former recipient of financial 738
assistance under sections 5901.01 to 5901.15 of the Revised Code, 739
and shall not exclude representatives selected by the applicant, 740
recipient, or former recipient, from a meeting that the commission 741
conducts as an executive session that pertains to the applicant's, 742
recipient's, or former recipient's application for financial 743
assistance. 744

(3) A veterans service commission shall vote on the grant or 745
denial of financial assistance under sections 5901.01 to 5901.15 746
of the Revised Code only in an open meeting of the commission. The 747
minutes of the meeting shall indicate the name, address, and 748
occupation of the applicant, whether the assistance was granted or 749
denied, the amount of the assistance if assistance is granted, and 750
the votes for and against the granting of assistance. 751

Sec. 122.01. (A) As used in the Revised Code, the "department 752
of development" means the development services agency and the 753
"director of development" means the director of development 754
services. Whenever the department or director of development is 755
referred to or designated in any statute, rule, contract, grant, 756
or other document, the reference or designation shall be deemed to 757
refer to the development services agency or director of 758
development services, as the case may be. 759

(B) As used in this chapter: 760

~~(A)~~(1) "Community problems" includes, but is not limited to, 761
taxation, fiscal administration, governmental structure and 762
organization, intergovernmental cooperation, education and 763
training, employment needs, community planning and development, 764
air and water pollution, public safety and the administration of 765
justice, housing, mass transportation, community facilities and 766
services, health, welfare, recreation, open space, and the 767
development of human resources. 768

~~(B)~~(2) "Professional personnel" means either of the 769
following: 770

~~(1)~~(a) Personnel who have earned a bachelor's degree from a 771
college or university; 772

~~(2)~~(b) Personnel who serve as or have the working title of 773
director, assistant director, deputy director, assistant deputy 774
director, manager, office chief, assistant office chief, or 775
program director. 776

~~(C)~~(3) "Technical personnel" means any of the following: 777

~~(1)~~(a) Personnel who provide technical assistance according 778
to their job description or in accordance with the Revised Code; 779

~~(2)~~(b) Personnel employed in the director of ~~development's~~ 780
development services office or the legal office, communications 781
office, finance office, legislative affairs office, or human 782
resources office of the ~~department of development~~ services agency; 783

~~(3)~~(c) Personnel employed in the technology division of the 784
~~department~~ agency. 785

Sec. 122.011. (A) The ~~department of development~~ services 786
agency shall develop and promote plans and programs designed to 787
assure that state resources are efficiently used, economic growth 788
is properly balanced, community growth is developed in an orderly 789
manner, and local governments are coordinated with each other and 790

the state, and for such purposes may do all of the following: 791

(1) Serve as a clearinghouse for information, data, and other 792
materials that may be helpful or necessary to persons or local 793
governments, as provided in section ~~122.07~~ 122.073 of the Revised 794
Code; 795

(2) Prepare and activate plans for the retention, 796
development, expansion, and use of the resources and commerce of 797
the state, as provided in section 122.04 of the Revised Code; 798

(3) Assist and cooperate with federal, state, and local 799
governments and agencies of federal, state, and local governments 800
in the coordination of programs to carry out the functions and 801
duties of the ~~department~~ agency; 802

(4) Encourage and foster research and development activities, 803
conduct studies related to the solution of community problems, and 804
develop recommendations for administrative or legislative actions, 805
as provided in section 122.03 of the Revised Code; 806

(5) Serve as the economic and community development planning 807
agency, which shall prepare and recommend plans and programs for 808
the orderly growth and development of this state and which shall 809
provide planning assistance, as provided in section 122.06 of the 810
Revised Code; 811

(6) Cooperate with and provide technical assistance to state 812
departments, political subdivisions, regional and local planning 813
commissions, tourist associations, councils of government, 814
community development groups, community action agencies, and other 815
appropriate organizations for carrying out the functions and 816
duties of the ~~department~~ development services agency or for the 817
solution of community problems; 818

(7) Coordinate the activities of state agencies that have an 819
impact on carrying out the functions and duties of the ~~department~~ 820
development services agency; 821

- (8) Encourage and assist the efforts of and cooperate with 822
local governments to develop mutual and cooperative solutions to 823
their common problems that relate to carrying out the purposes of 824
this section; 825
- (9) Study existing structure, operations, and financing of 826
regional or local government and those state activities that 827
involve significant relations with regional or local governmental 828
units, recommend to the governor and to the general assembly such 829
changes in these provisions and activities as will improve the 830
operations of regional or local government, and conduct other 831
studies of legal provisions that affect problems related to 832
carrying out the purposes of this section; 833
- (10) Create and operate a division of community development 834
to develop and administer programs and activities that are 835
authorized by federal statute or the Revised Code; 836
- (11) Until October 15, 2007, establish fees and charges, in 837
consultation with the director of agriculture, for purchasing 838
loans from financial institutions and providing loan guarantees 839
under the family farm loan program created under sections 901.80 840
to 901.83 of the Revised Code; 841
- (12) Provide loan servicing for the loans purchased and loan 842
guarantees provided under section 901.80 of the Revised Code as 843
that section existed prior to October 15, 2007; 844
- (13) Until October 15, 2007, and upon approval by the 845
controlling board under division (A)(3) of section 901.82 of the 846
Revised Code of the release of money to be used for purchasing a 847
loan or providing a loan guarantee, request the release of that 848
money in accordance with division (B) of section 166.03 of the 849
Revised Code for use for the purposes of the fund created by 850
section 166.031 of the Revised Code. 851
- (14) Allocate that portion of the national recovery zone 852

economic development bond limitation and that portion of the 853
national recovery zone facility bond limitation that has been 854
allocated to the state under section 1400U-1 of the Internal 855
Revenue Code, 26 U.S.C. 1400U-1. If any county or municipal 856
corporation waives any portion of an allocation it receives under 857
division (A)(14) of this section, the ~~department~~ agency may 858
reallocate that amount. Any allocation or reallocation shall be 859
made in accordance with this section and section 1400U-1 of the 860
Internal Revenue Code. 861

(B) The director of development services may request the 862
attorney general to, and the attorney general, in accordance with 863
section 109.02 of the Revised Code, shall bring a civil action in 864
any court of competent jurisdiction. The director may be sued in 865
the director's official capacity, in connection with this chapter, 866
in accordance with Chapter 2743. of the Revised Code. 867

(C) The director ~~of development~~ shall execute a contract 868
pursuant to section 187.04 of the Revised Code with the nonprofit 869
corporation formed under section 187.01 of the Revised Code, and 870
may execute any additional contracts with the corporation 871
providing for the corporation to assist the director or ~~department~~ 872
agency in carrying out any duties of the director or ~~department~~ 873
agency under this chapter, under any other provision of the 874
Revised Code dealing with economic development, or under a 875
contract with the director, subject to section 187.04 of the 876
Revised Code. 877

Sec. 122.07. (A) There is hereby created within the 878
development services agency an office to be known as the office of 879
TourismOhio. The office shall be under the supervision of a 880
director who shall be of equivalent rank of deputy director of the 881
agency and shall serve at the pleasure of the director of 882
development services. 883

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

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

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

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

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(B)(1) The governor shall, within sixty days after the
effective date of this section, appoint to the TourismOhio
advisory board one individual who is a representative of
convention and visitors' bureaus, one individual who is a
representative of the lodging industry, one individual who is a
representative of the restaurant industry, one individual who is a
representative of attractions, one individual who is a
representative of special events and festivals, one individual who
is a representative of agritourism, and three individuals who are
representatives of the tourism industry. Of the initial
appointments, two individuals shall serve a term of one year,

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three individuals shall serve a term of two years, and the 915
remainder shall serve a term of three years. Thereafter, terms of 916
office shall be for three years. Each individual appointed to the 917
board shall be a United States citizen. 918

(2) For purposes of division (B)(1) of this section, an 919
individual is a "representative of the tourism industry" if the 920
individual possesses five years or more executive-level experience 921
in the attractions, lodging, restaurant, transportation, or retail 922
industry or five years or more executive-level experience with a 923
destination marketing organization. 924

(C)(1) Each member of the TourismOhio advisory board shall 925
hold office from the date of the member's appointment until the 926
end of the term for which the member is appointed. Vacancies that 927
occur on the board shall be filled in the manner prescribed for 928
regular appointments to the board. A member appointed to fill a 929
vacancy occurring prior to the expiration of the term for which 930
the member's predecessor was appointed shall hold office for the 931
remainder of that predecessor's term. A member shall continue in 932
office subsequent to the expiration date of the member's term 933
until the member's successor takes office or until sixty days have 934
elapsed, whichever occurs first. Any member appointed to the board 935
is eligible for reappointment. 936

(2) The governor shall designate one member of the board as 937
chairperson. 938

(3) Members appointed to the board may be reimbursed for 939
actual and necessary expenses incurred in connection with their 940
official duties. 941

Sec. ~~122.071~~ 122.072. There is hereby created in the state 942
treasury the ~~travel and tourism cooperative projects~~ fund 943
consisting of ~~all~~ money credited or transferred to it and grants, 944
gifts, and contributions made directly to the director of 945

development for marketing and promotion of travel and tourism 946
within it. Money in the fund shall be used to defray costs 947
incurred by the office of TourismOhio in promoting this state 948
pursuant to division (F) of section 122.04 and section 122.07 of 949
the Revised Code as a travel destination. 950

Sec. ~~122.07~~ 122.073. (A) The ~~department of~~ development 951
services agency may do ~~either~~ any of the following: 952

(1) Disseminate information concerning the industrial, 953
commercial, governmental, educational, cultural, recreational, 954
agricultural, and other advantages and attractions of the state; 955

(2) Provide technical assistance to public and private 956
agencies in the preparation of promotional programs designed to 957
attract business, industry, and tourists to the state; 958

(3) Enter into cooperative or contractual agreements, through 959
the director of development services, with any individual, 960
organization, or business to create, administer, or otherwise be 961
involved with Ohio tourism-related promotional programs. 962
Compensation under such agreements shall be determined by the 963
director and may include deferred compensation. This compensation 964
is payable from the tourism fund created in section 122.072 of the 965
Revised Code. Any excess revenue generated under such a 966
cooperative or contractual agreement shall be remitted to the fund 967
to be reinvested in ongoing tourism marketing initiatives as 968
authorized by law. 969

(B) Records related to tourism market research submitted to 970
or generated by the ~~research~~ office of ~~the division of travel and~~ 971
~~tourism of the department of development~~ TourismOhio, and any 972
information taken for any purpose from such research, are not 973
public records for the purposes of section 149.43 of the Revised 974
Code. The ~~department~~ agency may use, however, such tourism market 975
research in a public report if the director ~~of the department~~ 976

determines that issuing and distributing the report would promote 977
or market the state's travel and tourism industry or otherwise 978
advance the purposes of this section. 979

Sec. 122.17. (A) As used in this section: 980

(1) "Income tax revenue" means the total amount withheld 981
under section 5747.06 of the Revised Code by the taxpayer during 982
the taxable year, or during the calendar year that includes the 983
tax period, from the compensation of each employee employed in the 984
project to the extent the employee's withholdings are not used to 985
determine the credit under section 122.171 of the Revised Code. 986
"Income tax revenue" excludes amounts withheld before the day the 987
taxpayer becomes eligible for the credit. 988

(2) "Baseline income tax revenue" means income tax revenue 989
except that the applicable withholding period is the twelve months 990
immediately preceding the date the tax credit authority approves 991
the taxpayer's application or the date the tax credit authority 992
receives the recommendation described in division (C)(2)(a) of 993
this section, whichever occurs first, multiplied by the sum of one 994
plus an annual pay increase factor to be determined by the tax 995
credit authority. If the taxpayer becomes eligible for the credit 996
after the first day of the taxpayer's taxable year or after the 997
first day of the calendar year that includes the tax period, the 998
taxpayer's baseline income tax revenue for the first such taxable 999
or calendar year of credit eligibility shall be reduced in 1000
proportion to the number of days during the taxable or calendar 1001
year for which the taxpayer was not eligible for the credit. For 1002
subsequent taxable or calendar years, "baseline income tax 1003
revenue" equals the unreduced baseline income tax revenue for the 1004
preceding taxable or calendar year multiplied by the sum of one 1005
plus the pay increase factor. 1006

(3) "Excess income tax revenue" means income tax revenue 1007

minus baseline income tax revenue. 1008

(B) The tax credit authority may make grants under this 1009
section to foster job creation in this state. Such a grant shall 1010
take the form of a refundable credit allowed against the tax 1011
imposed by section 5725.18, 5729.03, 5733.06, or 5747.02 or levied 1012
under Chapter 5751. of the Revised Code. The credit shall be 1013
claimed for the taxable years or tax periods specified in the 1014
taxpayer's agreement with the tax credit authority under division 1015
(D) of this section. With respect to taxes imposed under section 1016
5733.06 or 5747.02 or Chapter 5751. of the Revised Code, the 1017
credit shall be claimed in the order required under section 1018
5733.98, 5747.98, or 5751.98 of the Revised Code. The amount of 1019
the credit available for a taxable year or for a calendar year 1020
that includes a tax period equals the excess income tax revenue 1021
for that year multiplied by the percentage specified in the 1022
agreement with the tax credit authority. Any credit granted under 1023
this section against the tax imposed by section 5733.06 or 5747.02 1024
of the Revised Code, to the extent not fully utilized against such 1025
tax for taxable years ending prior to 2008, shall automatically be 1026
converted without any action taken by the tax credit authority to 1027
a credit against the tax levied under Chapter 5751. of the Revised 1028
Code for tax periods beginning on or after July 1, 2008, provided 1029
that the person to whom the credit was granted is subject to such 1030
tax. The converted credit shall apply to those calendar years in 1031
which the remaining taxable years specified in the agreement end. 1032

(C)(1) A taxpayer or potential taxpayer who proposes a 1033
project to create new jobs in this state may apply to the tax 1034
credit authority to enter into an agreement for a tax credit under 1035
this section. The director of development services shall prescribe 1036
the form of the application. After receipt of an application, the 1037
authority may enter into an agreement with the taxpayer for a 1038
credit under this section if it determines all of the following: 1039

~~(1)(a)~~ The taxpayer's project will increase payroll and 1040
income tax revenue; 1041

~~(2)(b)~~ The taxpayer's project is economically sound and will 1042
benefit the people of this state by increasing opportunities for 1043
employment and strengthening the economy of this state; 1044

~~(3)(c)~~ Receiving the tax credit is a major factor in the 1045
taxpayer's decision to go forward with the project. 1046

(2)(a) A taxpayer that chooses to begin the project prior to 1047
receiving the determination of the authority may, upon submitting 1048
the taxpayer's application to the authority, request that the 1049
chief investment officer of the nonprofit corporation formed under 1050
section 187.01 of the Revised Code and the director review the 1051
taxpayer's application and recommend to the authority that the 1052
taxpayer's application be considered. As soon as possible after 1053
receiving such a request, the chief investment officer and the 1054
director shall review the taxpayer's application and, if they 1055
determine that the application warrants consideration by the 1056
authority, make that recommendation to the authority not later 1057
than six months after the application is received by the 1058
authority. 1059

(b) The authority shall consider any taxpayer's application 1060
for which it receives a recommendation under division (C)(2)(a) of 1061
this section. If the authority determines that the taxpayer does 1062
not meet all of the criteria set forth in division (C)(1) of this 1063
section, the authority and the development services agency shall 1064
proceed in accordance with rules adopted by the director pursuant 1065
to division (I) of this section. 1066

(D) An agreement under this section shall include all of the 1067
following: 1068

(1) A detailed description of the project that is the subject 1069
of the agreement; 1070

(2) The term of the tax credit, which shall not exceed 1071
fifteen years, and the first taxable year, or first calendar year 1072
that includes a tax period, for which the credit may be claimed; 1073

(3) A requirement that the taxpayer shall maintain operations 1074
at the project location for at least the greater of seven years or 1075
the term of the credit plus three years; 1076

(4) The percentage, as determined by the tax credit 1077
authority, of excess income tax revenue that will be allowed as 1078
the amount of the credit for each taxable year or for each 1079
calendar year that includes a tax period; 1080

(5) The pay increase factor to be applied to the taxpayer's 1081
baseline income tax revenue; 1082

(6) A requirement that the taxpayer annually shall report to 1083
the director of development services employment, tax withholding, 1084
investment, and other information the director needs to perform 1085
the director's duties under this section; 1086

(7) A requirement that the director of development services 1087
annually review the information reported under division (D)(6) of 1088
this section and verify compliance with the agreement; if the 1089
taxpayer is in compliance, a requirement that the director issue a 1090
certificate to the taxpayer stating that the information has been 1091
verified and identifying the amount of the credit that may be 1092
claimed for the taxable or calendar year; 1093

(8) A provision providing that the taxpayer may not relocate 1094
a substantial number of employment positions from elsewhere in 1095
this state to the project location unless the director of 1096
development services determines that the legislative authority of 1097
the county, township, or municipal corporation from which the 1098
employment positions would be relocated has been notified by the 1099
taxpayer of the relocation. 1100

For purposes of this section, the movement of an employment 1101

position from one political subdivision to another political 1102
subdivision shall be considered a relocation of an employment 1103
position unless the employment position in the first political 1104
subdivision is replaced. 1105

(E) If a taxpayer fails to meet or comply with any condition 1106
or requirement set forth in a tax credit agreement, the tax credit 1107
authority may amend the agreement to reduce the percentage or term 1108
of the tax credit. The reduction of the percentage or term may 1109
take effect in the current taxable or calendar year. 1110

(F) Projects that consist solely of point-of-final-purchase 1111
retail facilities are not eligible for a tax credit under this 1112
section. If a project consists of both point-of-final-purchase 1113
retail facilities and nonretail facilities, only the portion of 1114
the project consisting of the nonretail facilities is eligible for 1115
a tax credit and only the excess income tax revenue from the 1116
nonretail facilities shall be considered when computing the amount 1117
of the tax credit. If a warehouse facility is part of a 1118
point-of-final-purchase retail facility and supplies only that 1119
facility, the warehouse facility is not eligible for a tax credit. 1120
Catalog distribution centers are not considered 1121
point-of-final-purchase retail facilities for the purposes of this 1122
division, and are eligible for tax credits under this section. 1123

(G) Financial statements and other information submitted to 1124
the ~~department of development~~ services agency or the tax credit 1125
authority by an applicant or recipient of a tax credit under this 1126
section, and any information taken for any purpose from such 1127
statements or information, are not public records subject to 1128
section 149.43 of the Revised Code. However, the chairperson of 1129
the authority may make use of the statements and other information 1130
for purposes of issuing public reports or in connection with court 1131
proceedings concerning tax credit agreements under this section. 1132
Upon the request of the tax commissioner or, if the applicant or 1133

recipient is an insurance company, upon the request of the 1134
superintendent of insurance, the chairperson of the authority 1135
shall provide to the commissioner or superintendent any statement 1136
or information submitted by an applicant or recipient of a tax 1137
credit in connection with the credit. The commissioner or 1138
superintendent shall preserve the confidentiality of the statement 1139
or information. 1140

(H) A taxpayer claiming a credit under this section shall 1141
submit to the tax commissioner or, if the taxpayer is an insurance 1142
company, to the superintendent of insurance, a copy of the 1143
director of ~~development's~~ development services' certificate of 1144
verification under division (D)(7) of this section with the 1145
taxpayer's tax report or return for the taxable year or for the 1146
calendar year that includes the tax period. Failure to submit a 1147
copy of the certificate with the report or return does not 1148
invalidate a claim for a credit if the taxpayer submits a copy of 1149
the certificate to the commissioner or superintendent within sixty 1150
days after the commissioner or superintendent requests it. 1151

(I) The director of development services, after consultation 1152
with the tax commissioner and the superintendent of insurance and 1153
in accordance with Chapter 119. of the Revised Code, shall adopt 1154
rules necessary to implement this section, including rules that 1155
establish a procedure to be followed by the tax credit authority 1156
and the development services agency in the event the authority 1157
considers a taxpayer's application for which it receives a 1158
recommendation under division (C)(2)(a) of this section but does 1159
not approve it. The rules may provide for recipients of tax 1160
credits under this section to be charged fees to cover 1161
administrative costs of the tax credit program. The fees collected 1162
shall be credited to the ~~tax incentive programs operating~~ business 1163
assistance fund created in section 122.174 of the Revised Code. At 1164
the time the director gives public notice under division (A) of 1165

section 119.03 of the Revised Code of the adoption of the rules, 1166
the director shall submit copies of the proposed rules to the 1167
chairpersons of the standing committees on economic development in 1168
the senate and the house of representatives. 1169

(J) For the purposes of this section, a taxpayer may include 1170
a partnership, a corporation that has made an election under 1171
subchapter S of chapter one of subtitle A of the Internal Revenue 1172
Code, or any other business entity through which income flows as a 1173
distributive share to its owners. A partnership, S-corporation, or 1174
other such business entity may elect to pass the credit received 1175
under this section through to the persons to whom the income or 1176
profit of the partnership, S-corporation, or other entity is 1177
distributed. The election shall be made on the annual report 1178
required under division (D)(6) of this section. The election 1179
applies to and is irrevocable for the credit for which the report 1180
is submitted. If the election is made, the credit shall be 1181
apportioned among those persons in the same proportions as those 1182
in which the income or profit is distributed. 1183

(K) If the director of development services determines that a 1184
taxpayer who has received a credit under this section is not 1185
complying with the requirement under division (D)(3) of this 1186
section, the director shall notify the tax credit authority of the 1187
noncompliance. After receiving such a notice, and after giving the 1188
taxpayer an opportunity to explain the noncompliance, the tax 1189
credit authority may require the taxpayer to refund to this state 1190
a portion of the credit in accordance with the following: 1191

(1) If the taxpayer maintained operations at the project 1192
location for a period less than or equal to the term of the 1193
credit, an amount not exceeding one hundred per cent of the sum of 1194
any credits allowed and received under this section; 1195

(2) If the taxpayer maintained operations at the project 1196
location for a period longer than the term of the credit, but less 1197

than the greater of seven years or the term of the credit plus 1198
three years, an amount not exceeding seventy-five per cent of the 1199
sum of any credits allowed and received under this section. 1200

In determining the portion of the tax credit to be refunded 1201
to this state, the tax credit authority shall consider the effect 1202
of market conditions on the taxpayer's project and whether the 1203
taxpayer continues to maintain other operations in this state. 1204
After making the determination, the authority shall certify the 1205
amount to be refunded to the tax commissioner or superintendent of 1206
insurance, as appropriate. If the amount is certified to the 1207
commissioner, the commissioner shall make an assessment for that 1208
amount against the taxpayer under Chapter 5733., 5747., or 5751. 1209
of the Revised Code. If the amount is certified to the 1210
superintendent, the superintendent shall make an assessment for 1211
that amount against the taxpayer under Chapter 5725. or 5729. of 1212
the Revised Code. The time limitations on assessments under those 1213
chapters do not apply to an assessment under this division, but 1214
the commissioner or superintendent, as appropriate, shall make the 1215
assessment within one year after the date the authority certifies 1216
to the commissioner or superintendent the amount to be refunded. 1217

(L) On or before the first day of August each year, the 1218
director of development services shall submit a report to the 1219
governor, the president of the senate, and the speaker of the 1220
house of representatives on the tax credit program under this 1221
section. The report shall include information on the number of 1222
agreements that were entered into under this section during the 1223
preceding calendar year, a description of the project that is the 1224
subject of each such agreement, and an update on the status of 1225
projects under agreements entered into before the preceding 1226
calendar year. 1227

(M) There is hereby created the tax credit authority, which 1228
consists of the director of development services and four other 1229

members appointed as follows: the governor, the president of the
senate, and the speaker of the house of representatives each shall
appoint one member who shall be a specialist in economic
development; the governor also shall appoint a member who is a
specialist in taxation. Of the initial appointees, the members
appointed by the governor shall serve a term of two years; the
members appointed by the president of the senate and the speaker
of the house of representatives shall serve a term of four years.
Thereafter, terms of office shall be for four years. Initial
appointments to the authority shall be made within thirty days
after January 13, 1993. Each member shall serve on the authority
until the end of the term for which the member was appointed.
Vacancies shall be filled in the same manner provided for original
appointments. Any member appointed to fill a vacancy occurring
prior to the expiration of the term for which the member's
predecessor was appointed shall hold office for the remainder of
that term. Members may be reappointed to the authority. Members of
the authority shall receive their necessary and actual expenses
while engaged in the business of the authority. The director of
development services shall serve as chairperson of the authority,
and the members annually shall elect a vice-chairperson from among
themselves. Three members of the authority constitute a quorum to
transact and vote on the business of the authority. The majority
vote of the membership of the authority is necessary to approve
any such business, including the election of the vice-chairperson.

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

(N) For purposes of the credits granted by this section 1263
against the taxes imposed under sections 5725.18 and 5729.03 of 1264
the Revised Code, "taxable year" means the period covered by the 1265
taxpayer's annual statement to the superintendent of insurance. 1266

Sec. 122.171. (A) As used in this section: 1267

(1) "Capital investment project" means a plan of investment 1268
at a project site for the acquisition, construction, renovation, 1269
or repair of buildings, machinery, or equipment, or for 1270
capitalized costs of basic research and new product development 1271
determined in accordance with generally accepted accounting 1272
principles, but does not include any of the following: 1273

(a) Payments made for the acquisition of personal property 1274
through operating leases; 1275

(b) Project costs paid before January 1, 2002; 1276

(c) Payments made to a related member as defined in section 1277
5733.042 of the Revised Code or to a consolidated elected taxpayer 1278
or a combined taxpayer as defined in section 5751.01 of the 1279
Revised Code. 1280

(2) "Eligible business" means a taxpayer and its related 1281
members with Ohio operations satisfying all of the following: 1282

(a) The taxpayer employs at least five hundred full-time 1283
equivalent employees or has an annual payroll of at least 1284
thirty-five million dollars at the time the tax credit authority 1285
grants the tax credit under this section; 1286

(b) The taxpayer makes or causes to be made payments for the 1287
capital investment project of one of the following: 1288

(i) If the taxpayer is engaged at the project site primarily 1289
as a manufacturer, at least fifty million dollars in the aggregate 1290
at the project site during a period of three consecutive calendar 1291
years, including the calendar year that includes a day of the 1292

taxpayer's taxable year or tax period with respect to which the 1293
credit is granted; 1294

(ii) If the taxpayer is engaged at the project site primarily 1295
in significant corporate administrative functions, as defined by 1296
the director of development services by rule, at least twenty 1297
million dollars in the aggregate at the project site during a 1298
period of three consecutive calendar years including the calendar 1299
year that includes a day of the taxpayer's taxable year or tax 1300
period with respect to which the credit is granted; 1301

(iii) If the taxpayer is applying to enter into an agreement 1302
for a tax credit authorized under division (B)(3) of this section, 1303
at least five million dollars in the aggregate at the project site 1304
during a period of three consecutive calendar years, including the 1305
calendar year that includes a day of the taxpayer's taxable year 1306
or tax period with respect to which the credit is granted. 1307

(c) The taxpayer had a capital investment project reviewed 1308
and approved by the tax credit authority as provided in divisions 1309
(C), (D), and (E) of this section. 1310

(3) "Full-time equivalent employees" means the quotient 1311
obtained by dividing the total number of hours for which employees 1312
were compensated for employment in the project by two thousand 1313
eighty. "Full-time equivalent employees" shall exclude hours that 1314
are counted for a credit under section 122.17 of the Revised Code. 1315

(4) "Income tax revenue" means the total amount withheld 1316
under section 5747.06 of the Revised Code by the taxpayer during 1317
the taxable year, or during the calendar year that includes the 1318
tax period, from the compensation of all employees employed in the 1319
project whose hours of compensation are included in calculating 1320
the number of full-time equivalent employees. 1321

(5) "Manufacturer" has the same meaning as in section 1322
5739.011 of the Revised Code. 1323

(6) "Project site" means an integrated complex of facilities 1324
in this state, as specified by the tax credit authority under this 1325
section, within a fifteen-mile radius where a taxpayer is 1326
primarily operating as an eligible business. 1327

(7) "Related member" has the same meaning as in section 1328
5733.042 of the Revised Code as that section existed on the 1329
effective date of its amendment by Am. Sub. H.B. 215 of the 122nd 1330
general assembly, September 29, 1997. 1331

(8) "Taxable year" includes, in the case of a domestic or 1332
foreign insurance company, the calendar year ending on the 1333
thirty-first day of December preceding the day the superintendent 1334
of insurance is required to certify to the treasurer of state 1335
under section 5725.20 or 5729.05 of the Revised Code the amount of 1336
taxes due from insurance companies. 1337

(B) The tax credit authority created under section 122.17 of 1338
the Revised Code may grant tax credits under this section for the 1339
purpose of fostering job retention in this state. Upon application 1340
by an eligible business and upon consideration of the 1341
recommendation of the director of budget and management, tax 1342
commissioner, the superintendent of insurance in the case of an 1343
insurance company, and director of development services under 1344
division (C) of this section, the tax credit authority may grant 1345
the following credits against the tax imposed by section 5725.18, 1346
5729.03, 5733.06, 5747.02, or 5751.02 of the Revised Code: 1347

(1) A nonrefundable credit to an eligible business; 1348

(2) A refundable credit to an eligible business meeting the 1349
following conditions, provided that the director of budget and 1350
management, tax commissioner, superintendent of insurance in the 1351
case of an insurance company, and director of development services 1352
have recommended the granting of the credit to the tax credit 1353
authority before July 1, 2011: 1354

(a) The business retains at least one thousand full-time 1355
equivalent employees at the project site. 1356

(b) The business makes or causes to be made payments for a 1357
capital investment project of at least twenty-five million dollars 1358
in the aggregate at the project site during a period of three 1359
consecutive calendar years, including the calendar year that 1360
includes a day of the business' taxable year or tax period with 1361
respect to which the credit is granted. 1362

(c) In 2010, the business received a written offer of 1363
financial incentives from another state of the United States that 1364
the director determines to be sufficient inducement for the 1365
business to relocate the business' operations from this state to 1366
that state. 1367

(3) A refundable credit to an eligible business with a total 1368
annual payroll of at least twenty million dollars, provided that 1369
the tax credit authority grants the tax credit on or after July 1, 1370
2011, and before January 1, 2014. 1371

The credits authorized in divisions (B)(1), (2), and (3) of 1372
this section may be granted for a period up to fifteen taxable 1373
years or, in the case of the tax levied by section 5751.02 of the 1374
Revised Code, for a period of up to fifteen calendar years. The 1375
credit amount for a taxable year or a calendar year that includes 1376
the tax period for which a credit may be claimed equals the income 1377
tax revenue for that year multiplied by the percentage specified 1378
in the agreement with the tax credit authority. The percentage may 1379
not exceed seventy-five per cent. The credit shall be claimed in 1380
the order required under section 5725.98, 5729.98, 5733.98, 1381
5747.98, or 5751.98 of the Revised Code. In determining the 1382
percentage and term of the credit, the tax credit authority shall 1383
consider both the number of full-time equivalent employees and the 1384
value of the capital investment project. The credit amount may not 1385
be based on the income tax revenue for a calendar year before the 1386

calendar year in which the tax credit authority specifies the tax 1387
credit is to begin, and the credit shall be claimed only for the 1388
taxable years or tax periods specified in the eligible business' 1389
agreement with the tax credit authority. In no event shall the 1390
credit be claimed for a taxable year or tax period terminating 1391
before the date specified in the agreement. Any credit granted 1392
under this section against the tax imposed by section 5733.06 or 1393
5747.02 of the Revised Code, to the extent not fully utilized 1394
against such tax for taxable years ending prior to 2008, shall 1395
automatically be converted without any action taken by the tax 1396
credit authority to a credit against the tax levied under Chapter 1397
5751. of the Revised Code for tax periods beginning on or after 1398
July 1, 2008, provided that the person to whom the credit was 1399
granted is subject to such tax. The converted credit shall apply 1400
to those calendar years in which the remaining taxable years 1401
specified in the agreement end. 1402

If a nonrefundable credit allowed under division (B)(1) of 1403
this section for a taxable year or tax period exceeds the 1404
taxpayer's tax liability for that year or period, the excess may 1405
be carried forward for the three succeeding taxable or calendar 1406
years, but the amount of any excess credit allowed in any taxable 1407
year or tax period shall be deducted from the balance carried 1408
forward to the succeeding year or period. 1409

(C) A taxpayer that proposes a capital investment project to 1410
retain jobs in this state may apply to the tax credit authority to 1411
enter into an agreement for a tax credit under this section. The 1412
director of development services shall prescribe the form of the 1413
application. After receipt of an application, the authority shall 1414
forward copies of the application to the director of budget and 1415
management, the tax commissioner, the superintendent of insurance 1416
in the case of an insurance company, and the director of 1417
development services, each of whom shall review the application to 1418

determine the economic impact the proposed project would have on 1419
the state and the affected political subdivisions and shall submit 1420
a summary of their determinations and recommendations to the 1421
authority. 1422

(D) Upon review and consideration of the determinations and 1423
recommendations described in division (C) of this section, the tax 1424
credit authority may enter into an agreement with the taxpayer for 1425
a credit under this section if the authority determines all of the 1426
following: 1427

(1) The taxpayer's capital investment project will result in 1428
the retention of employment in this state. 1429

(2) The taxpayer is economically sound and has the ability to 1430
complete the proposed capital investment project. 1431

(3) The taxpayer intends to and has the ability to maintain 1432
operations at the project site for at least the greater of (a) the 1433
term of the credit plus three years, or (b) seven years. 1434

(4) Receiving the credit is a major factor in the taxpayer's 1435
decision to begin, continue with, or complete the project. 1436

(5) If the taxpayer is applying to enter into an agreement 1437
for a tax credit authorized under division (B)(3) of this section, 1438
the taxpayer's capital investment project will be located in the 1439
political subdivision in which the taxpayer maintains its 1440
principal place of business. 1441

(E) An agreement under this section shall include all of the 1442
following: 1443

(1) A detailed description of the project that is the subject 1444
of the agreement, including the amount of the investment, the 1445
period over which the investment has been or is being made, the 1446
number of full-time equivalent employees at the project site, and 1447
the anticipated income tax revenue to be generated. 1448

(2) The term of the credit, the percentage of the tax credit, 1449
the maximum annual value of tax credits that may be allowed each 1450
year, and the first year for which the credit may be claimed. 1451

(3) A requirement that the taxpayer maintain operations at 1452
the project site for at least the greater of (a) the term of the 1453
credit plus three years, or (b) seven years. 1454

(4)(a) In the case of a credit granted under division (B)(1) 1455
of this section, a requirement that the taxpayer retain at least 1456
five hundred full-time equivalent employees at the project site 1457
and within this state for the entire term of the credit, or a 1458
requirement that the taxpayer maintain an annual payroll of at 1459
least thirty-five million dollars for the entire term of the 1460
credit; 1461

(b) In the case of a credit granted under division (B)(2) of 1462
this section, a requirement that the taxpayer retain at least one 1463
thousand full-time equivalent employees at the project site and 1464
within this state for the entire term of the credit; 1465

(c) In the case of a credit granted under division (B)(3) of 1466
this section, either of the following: 1467

(i) A requirement that the taxpayer retain at least five 1468
hundred full-time equivalent employees at the project site and 1469
within this state for the entire term of the credit and a 1470
requirement that the taxpayer maintain an annual payroll of at 1471
least twenty million dollars for the entire term of the credit; 1472

(ii) A requirement that the taxpayer maintain an annual 1473
payroll of at least thirty-five million dollars for the entire 1474
term of the credit. 1475

(5) A requirement that the taxpayer annually report to the 1476
director of development services employment, tax withholding, 1477
capital investment, and other information the director needs to 1478
perform the director's duties under this section. 1479

(6) A requirement that the director of development services 1480
annually review the annual reports of the taxpayer to verify the 1481
information reported under division (E)(5) of this section and 1482
compliance with the agreement. Upon verification, the director 1483
shall issue a certificate to the taxpayer stating that the 1484
information has been verified and identifying the amount of the 1485
credit for the taxable year or calendar year that includes the tax 1486
period. In determining the number of full-time equivalent 1487
employees, no position shall be counted that is filled by an 1488
employee who is included in the calculation of a tax credit under 1489
section 122.17 of the Revised Code. 1490

(7) A provision providing that the taxpayer may not relocate 1491
a substantial number of employment positions from elsewhere in 1492
this state to the project site unless the director of development 1493
services determines that the taxpayer notified the legislative 1494
authority of the county, township, or municipal corporation from 1495
which the employment positions would be relocated. 1496

For purposes of this section, the movement of an employment 1497
position from one political subdivision to another political 1498
subdivision shall be considered a relocation of an employment 1499
position unless the movement is confined to the project site. The 1500
transfer of an employment position from one political subdivision 1501
to another political subdivision shall not be considered a 1502
relocation of an employment position if the employment position in 1503
the first political subdivision is replaced by another employment 1504
position. 1505

(8) A waiver by the taxpayer of any limitations periods 1506
relating to assessments or adjustments resulting from the 1507
taxpayer's failure to comply with the agreement. 1508

(F) If a taxpayer fails to meet or comply with any condition 1509
or requirement set forth in a tax credit agreement, the tax credit 1510
authority may amend the agreement to reduce the percentage or term 1511

of the credit. The reduction of the percentage or term may take 1512
effect in the current taxable or calendar year. 1513

(G) Financial statements and other information submitted to 1514
the department of development services or the tax credit authority 1515
by an applicant for or recipient of a tax credit under this 1516
section, and any information taken for any purpose from such 1517
statements or information, are not public records subject to 1518
section 149.43 of the Revised Code. However, the chairperson of 1519
the authority may make use of the statements and other information 1520
for purposes of issuing public reports or in connection with court 1521
proceedings concerning tax credit agreements under this section. 1522
Upon the request of the tax commissioner, or the superintendent of 1523
insurance in the case of an insurance company, the chairperson of 1524
the authority shall provide to the commissioner or superintendent 1525
any statement or other information submitted by an applicant for 1526
or recipient of a tax credit in connection with the credit. The 1527
commissioner or superintendent shall preserve the confidentiality 1528
of the statement or other information. 1529

(H) A taxpayer claiming a tax credit under this section shall 1530
submit to the tax commissioner or, in the case of an insurance 1531
company, to the superintendent of insurance, a copy of the 1532
director of ~~development's~~ development services' certificate of 1533
verification under division (E)(6) of this section with the 1534
taxpayer's tax report or return for the taxable year or for the 1535
calendar year that includes the tax period. Failure to submit a 1536
copy of the certificate with the report or return does not 1537
invalidate a claim for a credit if the taxpayer submits a copy of 1538
the certificate to the commissioner or superintendent within sixty 1539
days after the commissioner or superintendent requests it. 1540

(I) For the purposes of this section, a taxpayer may include 1541
a partnership, a corporation that has made an election under 1542
subchapter S of chapter one of subtitle A of the Internal Revenue 1543

Code, or any other business entity through which income flows as a
distributive share to its owners. A partnership, S-corporation, or
other such business entity may elect to pass the credit received
under this section through to the persons to whom the income or
profit of the partnership, S-corporation, or other entity is
distributed. The election shall be made on the annual report
required under division (E)(5) of this section. The election
applies to and is irrevocable for the credit for which the report
is submitted. If the election is made, the credit shall be
apportioned among those persons in the same proportions as those
in which the income or profit is distributed.

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

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

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

In determining the portion of the credit to be refunded to
this state, the authority shall consider the effect of market

conditions on the taxpayer's project and whether the taxpayer 1576
continues to maintain other operations in this state. After making 1577
the determination, the authority shall certify the amount to be 1578
refunded to the tax commissioner or the superintendent of 1579
insurance. If the taxpayer is not an insurance company, the 1580
commissioner shall make an assessment for that amount against the 1581
taxpayer under Chapter 5733., 5747., or 5751. of the Revised Code. 1582
If the taxpayer is an insurance company, the superintendent of 1583
insurance shall make an assessment under section 5725.222 or 1584
5729.102 of the Revised Code. The time limitations on assessments 1585
under those chapters and sections do not apply to an assessment 1586
under this division, but the commissioner or superintendent shall 1587
make the assessment within one year after the date the authority 1588
certifies to the commissioner or superintendent the amount to be 1589
refunded. 1590

(K) The director of development services, after consultation 1591
with the tax commissioner and the superintendent of insurance and 1592
in accordance with Chapter 119. of the Revised Code, shall adopt 1593
rules necessary to implement this section. The rules may provide 1594
for recipients of tax credits under this section to be charged 1595
fees to cover administrative costs of the tax credit program. The 1596
fees collected shall be credited to the ~~tax incentive programs~~ 1597
~~operating~~ business assistance fund created in section 122.174 of 1598
the Revised Code. At the time the director gives public notice 1599
under division (A) of section 119.03 of the Revised Code of the 1600
adoption of the rules, the director shall submit copies of the 1601
proposed rules to the chairpersons of the standing committees on 1602
economic development in the senate and the house of 1603
representatives. 1604

(L) On or before the first day of August of each year, the 1605
director of development services shall submit a report to the 1606
governor, the president of the senate, and the speaker of the 1607

house of representatives on the tax credit program under this 1608
section. The report shall include information on the number of 1609
agreements that were entered into under this section during the 1610
preceding calendar year, a description of the project that is the 1611
subject of each such agreement, and an update on the status of 1612
projects under agreements entered into before the preceding 1613
calendar year. 1614

(M)(1) The aggregate amount of tax credits issued under 1615
division (B)(1) of this section during any calendar year for 1616
capital investment projects reviewed and approved by the tax 1617
credit authority may not exceed the following amounts: 1618

(a) For 2010, thirteen million dollars; 1619

(b) For 2011 through 2023, the amount of the limit for the 1620
preceding calendar year plus thirteen million dollars; 1621

(c) For 2024 and each year thereafter, one hundred 1622
ninety-five million dollars. 1623

(2) The aggregate amount of tax credits authorized under 1624
divisions (B)(2) and (3) of this section and allowed to be claimed 1625
by taxpayers in any calendar year for capital improvement projects 1626
reviewed and approved by the tax credit authority in 2011, 2012, 1627
and 2013 combined shall not exceed twenty-five million dollars. An 1628
amount equal to the aggregate amount of credits first authorized 1629
in calendar year 2011, 2012, and 2013 may be claimed over the 1630
ensuing period up to fifteen years, subject to the terms of 1631
individual tax credit agreements. 1632

The limitations in division (M) of this section do not apply 1633
to credits for capital investment projects approved by the tax 1634
credit authority before July 1, 2009. 1635

Sec. 122.174. There is hereby created in the state treasury 1636
the ~~tax incentive programs operating~~ business assistance fund. 1637

~~Money collected~~ The fund shall consist of any amounts appropriated 1638
to it and money credited to the fund pursuant to division (I) of 1639
section 121.17, division (K) of section 122.171, division (K) of 1640
section 122.175, division (C) of section 3735.672, and division 1641
(C) of section 5709.68 of the Revised Code ~~shall be credited to~~ 1642
~~the fund.~~ The director of development services shall use money in 1643
the fund to pay expenses related to the administration of the ~~tax~~ 1644
~~credit programs authorized by sections 122.17, 122.171, 3735.672,~~ 1645
~~and 5709.68 of the Revised Code~~ business services division of the 1646
development services agency. 1647

Sec. 122.175. (A) As used in this section: 1648

(1) "Capital investment project" means a plan of investment 1649
at a project site for the acquisition, construction, renovation, 1650
expansion, replacement, or repair of a computer data center or of 1651
computer data center equipment, but does not include any of the 1652
following: 1653

(a) Project costs paid before a date determined by the tax 1654
credit authority for each capital investment project; 1655

(b) Payments made to a related member as defined in section 1656
5733.042 of the Revised Code or to a consolidated elected taxpayer 1657
or a combined taxpayer as defined in section 5751.01 of the 1658
Revised Code. 1659

(2) "Computer data center" means a facility used or to be 1660
used primarily to house computer data center equipment used or to 1661
be used in conducting a computer data center business, as 1662
determined by the tax credit authority. 1663

(3) "Computer data center business" means, as may be further 1664
determined by the tax credit authority, a business that provides 1665
electronic information services as defined in division (Y)(1)(c) 1666
of section 5739.01 of the Revised Code. "Computer data center 1667

business" does not include providing electronic publishing as 1668
defined in division (LLL) of that section. 1669

(4) "Computer data center equipment" means tangible personal 1670
property used or to be used for any of the following: 1671

(a) To conduct a computer data center business, including 1672
equipment cooling systems to manage the performance of computer 1673
data center equipment; 1674

(b) To generate, transform, transmit, distribute, or manage 1675
electricity necessary to operate the tangible personal property 1676
used or to be used in conducting a computer data center business; 1677

(c) As building and construction materials sold to 1678
construction contractors for incorporation into a computer data 1679
center. 1680

(5) "Eligible computer data center" means a computer data 1681
center that satisfies all of the following requirements: 1682

(a) The taxpayer will make payments for a capital investment 1683
project of at least one hundred million dollars in the aggregate 1684
at the project site during a period of three consecutive calendar 1685
years; 1686

(b) The taxpayer will pay annual compensation that is subject 1687
to the withholding obligation imposed under section 5747.06 of the 1688
Revised Code of at least five million dollars to employees 1689
employed at the project site for the term of the agreement. 1690

(6) "Person" has the same meaning as in section 5701.01 of 1691
the Revised Code. 1692

(7) "Project site," "related member," and "tax credit 1693
authority" have the same meanings as in sections 122.17 and 1694
122.171 of the Revised Code. 1695

(8) "Taxpayer" means any person subject to the taxes imposed 1696
under Chapters 5739. and 5741. of the Revised Code. 1697

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

(C) A taxpayer that proposes a capital improvement project
for an eligible computer data center in this state may apply to
the tax credit authority to enter into an agreement under this
section for a complete or partial exemption from the taxes imposed
under Chapters 5739. and 5741. of the Revised Code on computer
data center equipment used or to be used at the eligible computer
data center. The director of development services shall prescribe
the form of the application. After receipt of an application, the
authority shall forward copies of the application to the director
of budget and management, the tax commissioner, and the director
of development services, each of whom shall review the application
to determine the economic impact that the proposed eligible
computer data center would have on the state and any affected
political subdivisions and submit to the authority a summary of
their determinations and recommendations.

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

(1) The taxpayer's capital investment project for the
eligible computer data center will increase payroll and the amount
of income taxes to be withheld from employee compensation pursuant

to section 5747.06 of the Revised Code. 1730

(2) The taxpayer is economically sound and has the ability to 1731
complete the proposed capital investment project. 1732

(3) The taxpayer intends to and has the ability to maintain 1733
operations at the project site for the term of the agreement. 1734

(4) Receiving the exemption is a major factor in the 1735
taxpayer's decision to begin, continue with, or complete the 1736
capital investment project. 1737

(E) An agreement entered into under this section shall 1738
include all of the following: 1739

(1) A detailed description of the capital investment project 1740
that is the subject of the agreement, including the amount of the 1741
investment, the period over which the investment has been or is 1742
being made, the annual compensation to be paid by the taxpayer to 1743
its employees at the project site, and the anticipated amount of 1744
income taxes to be withheld from employee compensation pursuant to 1745
section 5747.06 of the Revised Code. 1746

(2) The percentage of the exemption from the taxes imposed 1747
under Chapters 5739. and 5741. of the Revised Code for the 1748
computer data center equipment used or to be used at the eligible 1749
computer data center, the length of time the computer data center 1750
equipment will be exempted, and the first date on which the 1751
exemption applies. 1752

(3) A requirement that the taxpayer maintain the computer 1753
data center as an eligible computer data center during the term of 1754
the agreement and that the taxpayer maintain operations at the 1755
eligible computer data center during that term. 1756

(4) A requirement that during each year of the term of the 1757
agreement the taxpayer pay annual compensation that is subject to 1758
the withholding obligation imposed under section 5747.06 of the 1759

Revised Code of at least five million dollars to its employees at 1760
the eligible computer data center. 1761

(5) A requirement that the taxpayer annually report to the 1762
director of development services employment, tax withholding, 1763
capital investment, and other information required by the director 1764
to perform the director's duties under this section. 1765

(6) A requirement that the director of development services 1766
annually review the annual reports of the taxpayer to verify the 1767
information reported under division (E)(5) of this section and 1768
compliance with the agreement. Upon verification, the director 1769
shall issue a certificate to the taxpayer stating that the 1770
information has been verified and that the taxpayer remains 1771
eligible for the exemption specified in the agreement. 1772

(7) A provision providing that the taxpayer may not relocate 1773
a substantial number of employment positions from elsewhere in 1774
this state to the project site unless the director of development 1775
services determines that the taxpayer notified the legislative 1776
authority of the county, township, or municipal corporation from 1777
which the employment positions would be relocated. For purposes of 1778
this paragraph, the movement of an employment position from one 1779
political subdivision to another political subdivision shall be 1780
considered a relocation of an employment position unless the 1781
movement is confined to the project site. The transfer of an 1782
employment position from one political subdivision to another 1783
political subdivision shall not be considered a relocation of an 1784
employment position if the employment position in the first 1785
political subdivision is replaced by another employment position. 1786

(8) A waiver by the taxpayer of any limitations periods 1787
relating to assessments or adjustments resulting from the 1788
taxpayer's failure to comply with the agreement. 1789

(F) The term of an agreement under this section shall be 1790

determined by the tax credit authority, and the amount of the 1791
exemption shall not exceed one hundred per cent of such taxes that 1792
would otherwise be owed in respect to the exempted computer data 1793
center equipment. 1794

(G) If a taxpayer fails to meet or comply with any condition 1795
or requirement set forth in an agreement under this section, the 1796
tax credit authority may amend the agreement to reduce the 1797
percentage of the exemption or term during which the exemption 1798
applies to the computer data center equipment used or to be used 1799
at an eligible computer data center. The reduction of the 1800
percentage or term may take effect in the current calendar year. 1801

(H) Financial statements and other information submitted to 1802
the department of development services or the tax credit authority 1803
by an applicant for or recipient of an exemption under this 1804
section, and any information taken for any purpose from such 1805
statements or information, are not public records subject to 1806
section 149.43 of the Revised Code. However, the chairperson of 1807
the authority may make use of the statements and other information 1808
for purposes of issuing public reports or in connection with court 1809
proceedings concerning tax exemption agreements under this 1810
section. Upon the request of the tax commissioner, the chairperson 1811
of the authority shall provide to the tax commissioner any 1812
statement or other information submitted by an applicant for or 1813
recipient of an exemption under this section. The tax commissioner 1814
shall preserve the confidentiality of the statement or other 1815
information. 1816

(I) The tax commissioner shall issue a direct payment permit 1817
under section 5739.031 of the Revised Code to a taxpayer that 1818
enters into an agreement under this section. Such direct payment 1819
permit shall authorize the taxpayer to pay any sales and use taxes 1820
due on purchases of computer data center equipment used or to be 1821
used in an eligible computer data center and to pay any sales and 1822

use taxes due on purchases of tangible personal property or 1823
taxable services other than computer data center equipment used or 1824
to be used in an eligible computer data center directly to the tax 1825
commissioner. Each taxpayer shall pay pursuant to such direct 1826
payment permit all sales tax levied on such purchases under 1827
sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised 1828
Code and all use tax levied on such purchases under sections 1829
5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code, 1830
consistent with the terms of the agreement entered into under this 1831
section. 1832

During the term of an agreement under this section the 1833
taxpayer shall submit to the tax commissioner a return that shows 1834
the amount of computer data center equipment purchased for use at 1835
the eligible computer data center, the amount of tangible personal 1836
property and taxable services other than computer data center 1837
equipment purchased for use at the eligible computer data center, 1838
the amount of tax under Chapter 5739. or 5741. of the Revised Code 1839
that would be due in the absence of the agreement under this 1840
section, the exemption percentage for computer data center 1841
equipment specified in the agreement, and the amount of tax due 1842
under Chapter 5739. or 5741. of the Revised Code as a result of 1843
the agreement under this section. The taxpayer shall pay the tax 1844
shown on the return to be due in the manner and at the times as 1845
may be further prescribed by the tax commissioner. The taxpayer 1846
shall include a copy of the director of ~~development's~~ development 1847
services' certificate of verification issued under division (E)(6) 1848
of this section. Failure to submit a copy of the certificate with 1849
the return does not invalidate the claim for exemption if the 1850
taxpayer submits a copy of the certificate to the tax commissioner 1851
within sixty days after the tax commissioner requests it. 1852

(J) If the director of development services determines that a 1853
taxpayer that received an exemption under this section is not 1854

complying with the requirement under division (E)(3) of this 1855
section, the director shall notify the tax credit authority of the 1856
noncompliance. After receiving such a notice, and after giving the 1857
taxpayer an opportunity to explain the noncompliance, the 1858
authority may terminate the agreement and require the taxpayer to 1859
pay to the state all or a portion of the taxes that would have 1860
been owed in regards to the exempt equipment in previous years, 1861
all as determined under rules adopted pursuant to division (K) of 1862
this section. In determining the portion of the taxes that would 1863
have been owed on the previously exempted equipment to be paid to 1864
this state by the taxpayer, the authority shall consider the 1865
effect of market conditions on the taxpayer's eligible computer 1866
data center and whether the taxpayer continues to maintain other 1867
operations in this state. After making the determination, the 1868
authority shall certify to the tax commissioner the amount to be 1869
paid by the taxpayer. The tax commissioner shall make an 1870
assessment for that amount against the taxpayer under Chapter 1871
5739. or 5741. of the Revised Code. The time limitations on 1872
assessments under those chapters do not apply to an assessment 1873
under this division, but the tax commissioner shall make the 1874
assessment within one year after the date the authority certifies 1875
to the tax commissioner the amount to be paid by the taxpayer. 1876

(K) The director of development services, after consultation 1877
with the tax commissioner and in accordance with Chapter 119. of 1878
the Revised Code, shall adopt rules necessary to implement this 1879
section. The rules may provide for recipients of tax exemptions 1880
under this section to be charged fees to cover administrative 1881
costs incurred in the administration of this section. The fees 1882
collected shall be credited to the ~~tax incentive programs~~ 1883
~~operating~~ business assistance fund created in section 122.174 of 1884
the Revised Code. At the time the director gives public notice 1885
under division (A) of section 119.03 of the Revised Code of the 1886
adoption of the rules, the director shall submit copies of the 1887

proposed rules to the chairpersons of the standing committees on 1888
economic development in the senate and the house of 1889
representatives. 1890

(L) On or before the first day of August of each year, the 1891
director of development services shall submit a report to the 1892
governor, the president of the senate, and the speaker of the 1893
house of representatives on the tax exemption authorized under 1894
this section. The report shall include information on the number 1895
of agreements that were entered into under this section during the 1896
preceding calendar year, a description of the eligible computer 1897
data center that is the subject of each such agreement, and an 1898
update on the status of eligible computer data centers under 1899
agreements entered into before the preceding calendar year. 1900

Sec. 122.39. As used in sections 122.39 and 122.41 to 122.62 1901
of the Revised Code: 1902

(A) "Financial institution" means any banking corporation, 1903
trust company, insurance company, savings and loan association, 1904
building and loan association, or corporation, partnership, 1905
federal lending agency, foundation, or other institution engaged 1906
in lending or investing funds for industrial or business purposes. 1907

(B) "Project" means any real or personal property connected 1908
with or being a part of an industrial, distribution, commercial, 1909
or research facility to be acquired, constructed, reconstructed, 1910
enlarged, improved, furnished, or equipped, or any combination 1911
thereof, with aid furnished pursuant to Chapter 122. of the 1912
Revised Code, for industrial, commercial, distribution, and 1913
research development of the state. 1914

(C) "Community improvement corporation" means a corporation 1915
organized under Chapter 1724. of the Revised Code. 1916

(D) "Ohio development corporation" means a corporation 1917

organized under Chapter 1726. of the Revised Code. 1918

(E) "Mortgage" means the lien imposed on a project by a 1919
mortgage on real property, or by financing statements on personal 1920
property, or by a combination of a mortgage and financing 1921
statements when a project consists of both real and personal 1922
property. 1923

(F) "Mortgagor" means the principal user of a project or the 1924
person, corporation, partnership, or association unconditionally 1925
guaranteeing performance by such principal user of its obligations 1926
under the mortgage. 1927

Sec. 122.41. ~~(A) The development financing advisory council~~ 1928
~~and the director of development~~ are services is invested with the 1929
powers and duties provided in Chapter 122. of the Revised Code, in 1930
order to promote the welfare of the people of the state, to 1931
stabilize the economy, to provide employment, to assist in the 1932
development within the state of industrial, commercial, 1933
distribution, and research activities required for the people of 1934
the state, and for their gainful employment, or otherwise to 1935
create or preserve jobs and employment opportunities, or improve 1936
the economic welfare of the people of the state, and also to 1937
assist in the financing of air, water, or thermal pollution 1938
control facilities and solid waste disposal facilities by mortgage 1939
insurance as provided in section 122.451 of the Revised Code. It 1940
is hereby determined that the accomplishment of such purposes is 1941
essential so that the people of the state may maintain their 1942
present high standards in comparison with the people of other 1943
states and so that opportunities for employment and for favorable 1944
markets for the products of the state's natural resources, 1945
agriculture, and manufacturing shall be improved and that it is 1946
necessary for the state to establish the programs authorized 1947
pursuant to Chapter 122. of the Revised Code, ~~to establish the~~ 1948

~~development financing advisory council, and to invest it and the~~ 1949
~~director of development services with the powers and duties~~ 1950
~~provided in Chapter 122. of the Revised Code. The powers granted~~ 1951
~~to the director of development by Chapter 165. of the Revised Code~~ 1952
~~are independent of and in addition and alternate to, and are not~~ 1953
~~limited or restricted by, Chapter 122. of the Revised Code.~~ 1954

~~(B) The development financing advisory council shall:~~ 1955

~~(1) Make recommendations to the director of development as to~~ 1956
~~applications for assistance pursuant to sections 122.39 to 122.62~~ 1957
~~or Chapter 166. of the Revised Code. The council may revise its~~ 1958
~~recommendations to reflect any changes in the proposed assistance~~ 1959
~~made by the director.~~ 1960

~~(2) Advise the director in the administration of sections~~ 1961
~~122.39 to 122.62 and Chapter 166. of the Revised Code;~~ 1962

~~(3) Adopt bylaws to govern the conduct of the council's~~ 1963
~~business.~~ 1964

Sec. 122.42. (A) The director of development services shall 1965
do all of the following: 1966

(1) Receive applications for assistance under sections 122.39 1967
~~and 122.41 to 122.62 of the Revised Code, and, after processing,~~ 1968
~~forward them to the development financing advisory board together~~ 1969
~~with necessary supporting information;~~ 1970

(2) ~~Receive the recommendations of the board and make~~ Make a 1971
final determination whether to approve the application for 1972
assistance; 1973

(3) Transmit determinations to approve assistance to the 1974
controlling board together with any information the controlling 1975
board requires for the board's review and decision as to whether 1976
to approve the assistance; 1977

(4) Issue revenue bonds of the state through the treasurer of 1978

state, as necessary, payable solely from revenues and other 1979
sources as provided in sections 122.39 and 122.41 to 122.62 of the 1980
Revised Code. 1981

(B) The director may do all of the following: 1982

(1) Fix the rate of interest and charges to be made upon or 1983
with respect to moneys loaned by the director and the terms upon 1984
which mortgages and lease rentals may be guaranteed and the rates 1985
of charges to be made for the loans and guarantees and to make 1986
provisions for the operation of the funds established by the 1987
director in accordance with this section and sections 122.54, 1988
122.55, 122.56, and 122.57 of the Revised Code; 1989

(2) Loan moneys from the fund established in accordance with 1990
section 122.54 of the Revised Code pursuant to and in compliance 1991
with sections 122.39 and 122.41 to 122.62 of the Revised Code; 1992

(3) Acquire in the name of the director any property of any 1993
kind or character in accordance with sections 122.39 and 122.41 to 1994
122.62 of the Revised Code, by purchase, purchase at foreclosure, 1995
or exchange on such terms and in such manner as the director 1996
considers proper; 1997

(4) Make and enter into all contracts and agreements 1998
necessary or incidental to the performance of the director's 1999
duties and the exercise of the director's powers under sections 2000
122.39 and 122.41 to 122.62 of the Revised Code; 2001

(5) Maintain, protect, repair, improve, and insure any 2002
property which the director has acquired and dispose of the same 2003
by sale, exchange, or lease for the consideration and on the terms 2004
and in the manner as the director considers proper, but is not 2005
authorized to operate any such property as a business except as 2006
the lessor of the property; 2007

(6)(a) When the cost of any contract for the maintenance, 2008
protection, repair, or improvement of any property held by the 2009

director other than compensation for personal services involves an 2010
expenditure of more than one thousand dollars, the director shall 2011
make a written contract with the lowest responsive and responsible 2012
bidder in accordance with section 9.312 of the Revised Code after 2013
advertisement for not less than two consecutive weeks in a 2014
newspaper of general circulation in the county where such 2015
contract, or some substantial part of it, is to be performed, and 2016
in such other publications as the director determines, which 2017
notice shall state the general character of the work and the 2018
general character of the materials to be furnished, the place 2019
where plans and specifications may be examined, and the time and 2020
place of receiving bids. 2021

(b) Each bid for a contract for the construction, demolition, 2022
alteration, repair, or reconstruction of an improvement shall 2023
contain the full name of every person interested in it and meet 2024
the requirements of section 153.54 of the Revised Code. 2025

(c) Each bid for a contract, except as provided in division 2026
(B)(6)(b) of this section, shall contain the full name of every 2027
person interested in it and shall be accompanied by bond or 2028
certified check on a solvent bank, in such amount as the director 2029
considers sufficient, that if the bid is accepted a contract will 2030
be entered into and the performance of the proposal secured. 2031

(d) The director may reject any and all bids. 2032

(e) A bond with good and sufficient surety, approved by the 2033
director, shall be required of every contractor awarded a contract 2034
except as provided in division (B)(6)(b) of this section, in an 2035
amount equal to at least fifty per cent of the contract price, 2036
conditioned upon faithful performance of the contract. 2037

(7) Employ financial consultants, appraisers, consulting 2038
engineers, superintendents, managers, construction and accounting 2039
experts, attorneys, and other employees and agents as are 2040

necessary in the director's judgment and fix their compensation; 2041

(8) Assist qualified persons in the coordination and 2042
formation of a small business development company, having a 2043
statewide area of operation, conditional upon the company's 2044
agreeing to seek to obtain certification from the federal small 2045
business administration as a certified statewide development 2046
company and participation in the guaranteed loan program 2047
administered by the small business administration pursuant to the 2048
Act of July 2, 1980, 94 Stat. 837, 15 U.S.C.A. 697. During the 2049
initial period of formation of the statewide small business 2050
development company, the director shall provide technical and 2051
financial expertise, legal and managerial assistance, and other 2052
services as are necessary and proper to enable the company to 2053
obtain and maintain federal certification and participation in the 2054
federal guaranteed loan program. The director may charge a fee, in 2055
such amount and on such terms and conditions as the director 2056
determines necessary and proper, for assistance and services 2057
provided pursuant to division (B)(8) of this section. 2058

Persons chosen by the director to receive assistance in the 2059
formation of a statewide small business development company 2060
pursuant to division (B)(8) of this section shall make a special 2061
effort to use their participation in the federal guaranteed loan 2062
program to assist small businesses which are minority business 2063
enterprises as defined in division (E) of section 122.71 of the 2064
Revised Code. The director, with the assistance of the minority 2065
business development division of the department of development, 2066
shall provide technical and financial expertise, legal and 2067
managerial assistance, and other services in such a manner to 2068
enable the development company to provide assistance to small 2069
businesses which are minority business enterprises, and shall make 2070
available to the development company information pertaining to 2071
assistance available to minority business enterprises under 2072

programs established pursuant to sections 122.71 to 122.83, 122.87 2073
to 122.89, 122.92 to 122.94, 123.151, and 125.081 of the Revised 2074
Code. 2075

(9) Receive and accept grants, gifts, and contributions of 2076
money, property, labor, and other things of value to be held, 2077
used, and applied only for the purpose for which such grants, 2078
gifts, and contributions are made, from individuals, private and 2079
public corporations, from the United States or any agency of the 2080
United States, from the state or any agency of the state, and from 2081
any political subdivision of the state, and may agree to repay any 2082
contribution of money or to return any property contributed or the 2083
value of the property at such times, in such amounts, and on such 2084
terms and conditions, excluding the payment of interest, as the 2085
director determines at the time such contribution is made, and may 2086
evidence such obligations by notes, bonds, or other written 2087
instruments; 2088

(10) Establish with the treasurer of state the funds provided 2089
in sections 122.54, 122.55, 122.56, and 122.57 of the Revised 2090
Code, in addition to such funds as the director determines are 2091
necessary or proper; 2092

(11) Do all acts and things necessary or proper to carry out 2093
the powers expressly granted and the duties imposed in sections 2094
122.39 and 122.41 to 122.62 and Chapter 163. of the Revised Code. 2095

(C) All expenses and obligations incurred by the director in 2096
carrying out the director's powers and in exercising the 2097
director's duties under sections 122.39 and 122.41 to 122.62 of 2098
the Revised Code, shall be payable solely from the proceeds of 2099
revenue bonds issued pursuant to those sections, from revenues or 2100
other receipts or income of the director, from grants, gifts, and 2101
contributions, or funds established in accordance with those 2102
sections. Those sections do not authorize the director to incur 2103
indebtedness or to impose liability on the state or any political 2104

subdivision of the state. 2105

(D) Financial statements and financial data submitted to the 2106
director by any corporation, partnership, or person in connection 2107
with a loan application, or any information taken from such 2108
statements or data for any purpose, shall not be open to public 2109
inspection. 2110

Sec. 122.43. The director of development services, with 2111
controlling board approval, may lend funds which are obtained from 2112
the sale of revenue bonds issued by the treasurer of state 2113
pursuant to sections 122.39 and 122.41 to 122.62 of the Revised 2114
Code, from revenues or other receipts or income of the director, 2115
or funds established in accordance with sections 122.39 and 122.41 2116
to 122.62 of the Revised Code, and from grants, gifts, and 2117
contributions subject to any provisions of resolutions authorizing 2118
the revenue bonds or of trust agreements securing such bonds, to 2119
community improvement corporations and Ohio development 2120
corporations and other corporations, partnerships, and persons for 2121
the purpose of procuring or improving real or personal property, 2122
or both, for the establishment, location, or expansion of 2123
industrial, distribution, commercial, or research facilities in 2124
the state, and to community improvement corporations and Ohio 2125
development corporations for the purpose of loaning funds to other 2126
corporations, partnerships, and persons for the purpose of 2127
procuring or improving real or personal property, or both, for the 2128
establishment, location, or expansion of industrial, distribution, 2129
commercial, or research facilities in the state, if the director 2130
finds that: 2131

(A) The project is economically sound and will benefit the 2132
people of the state by increasing opportunities for employment and 2133
strengthening the economy of the state; 2134

(B) The proposed borrower, if other than a community 2135

improvement corporation or an Ohio development corporation, is 2136
unable to finance the proposed project through ordinary financial 2137
channels upon reasonable terms and at comparable interest rates, 2138
or the borrower, if a community improvement corporation or an Ohio 2139
development corporation, should not, in the opinion of the 2140
director, be required to finance the proposed project without a 2141
loan from the director; 2142

(C) The value of the project is, or upon completion thereof 2143
will be, at least equal to the total amount of the money expended 2144
in such procurement or improvement of which amount one or more 2145
financial institutions have loaned or invested not less than forty 2146
per cent; 2147

(D) The amount to be loaned by the director will not exceed 2148
fifty per cent of the total amount expended in the procurement or 2149
improvement of the project; 2150

(E) The amount to be loaned by the director will be 2151
adequately secured by a first or second mortgage upon the project, 2152
and by mortgages, leases, liens, assignments, or pledges on or of 2153
such other property or contracts as the director shall require and 2154
that such mortgage will not be subordinate to any other liens or 2155
mortgages except the liens securing loans or investments made by 2156
financial institutions referred to in division (C) of this 2157
section, and the liens securing loans previously made by any 2158
financial institution in connection with the procurement or 2159
expansion of all or part of a project. 2160

In no event may the ~~director~~ ~~DIRECTOR~~ director lend funds 2161
under the authority of this section for the purpose of procuring 2162
or improving motor vehicles, power driven vehicles, office 2163
equipment, raw materials, small tools, supplies, inventories, or 2164
accounts receivable. 2165

Sec. 122.44. Fees, charges, rates of interest, times of 2166

payment of interest and principal, and other terms, conditions, 2167
and provisions of the loans made by the director of development 2168
services pursuant to sections 122.39 and 122.41 to 122.62 of the 2169
Revised Code shall be such as the director determines to be 2170
appropriate and in furtherance of the purpose for which the loans 2171
are made, but the mortgage lien securing any money loaned by the 2172
director may be subordinate to the mortgage lien securing any 2173
money loaned or invested by a financial institution, but shall be 2174
superior to that securing any money loaned or expended by any 2175
other corporation or person. The funds used in making such loans 2176
shall be disbursed upon order of the director. 2177

Sec. 122.48. Each issue of revenue bonds issued by the 2178
treasurer of state pursuant to sections 122.39 and 122.41 to 2179
122.62 of the Revised Code, shall be dated, shall bear interest at 2180
a rate or rates or at a variable rate, as provided in or 2181
authorized by the proceedings authorizing or providing for the 2182
terms and conditions of the revenue bonds, shall mature at such 2183
time or times, not to exceed forty years from date, as determined 2184
by the director of development services and may be made redeemable 2185
before maturity at the option of the director at such price or 2186
prices and under such terms and conditions as are fixed by the 2187
director prior to the issuance of the bonds. The director shall 2188
determine the form of the bonds, including any interest coupons to 2189
be attached thereto, and the denomination or denominations of the 2190
bonds and the place or places of payment of principal and 2191
interest, which may be at any bank or trust company within or 2192
without the state. 2193

The bonds shall be executed by the signature or facsimile 2194
signature of the treasurer of state, the official seal or a 2195
facsimile thereof of the state shall be affixed thereto and 2196
attested by the treasurer of state or designated treasurer of 2197
state, and any coupons attached thereto shall bear the facsimile 2198

signature of the treasurer of state. In case the person whose 2199
signature, or a facsimile of whose signature, appears on any bonds 2200
or coupons ceases to be such officer before delivery of bonds or 2201
in case such person was not at the date of such bonds or coupons 2202
such officer but at the actual date of execution of such bonds or 2203
coupons was the proper officer, such signature or facsimile shall 2204
nevertheless be valid and sufficient for all purposes the same as 2205
if ~~he~~ the person had remained in office until such delivery. 2206

All revenue bonds issued under sections 122.39 and 122.41 to 2207
122.62 of the Revised Code, shall be negotiable instruments. The 2208
bonds may be issued in coupon or in registered form or both, as 2209
the treasurer determines. Provision may be made for the 2210
registration of any coupon bonds as to the principal alone and 2211
also as to both principal and interest, and for the reconversion 2212
into coupon bonds of any bonds registered as to both principal and 2213
interest. The treasurer of state may sell such bonds in the manner 2214
and for the price ~~he~~ the treasurer of state determines to be for 2215
the best interest of the state. 2216

Prior to the preparation of definitive bonds, the treasurer 2217
of state may, under like restrictions, issue interim receipts or 2218
temporary bonds, with or without coupons, exchangeable for 2219
definitive bonds when such bonds have been executed and are 2220
available for delivery. The treasurer of state may also provide 2221
for the replacement of any bonds which become mutilated or are 2222
destroyed, stolen, or lost. Bonds may be issued under sections 2223
122.39 to 122.62 of the Revised Code, without obtaining the 2224
consent of any department, division, commission, board, bureau, or 2225
agency of the state, and without any other proceeding or the 2226
happening of any other conditions or things than those 2227
proceedings, conditions, or things which are specifically required 2228
by such sections. 2229

Sec. 122.49. The proceeds of each issue of revenue bonds 2230
issued pursuant to sections 122.39 and 122.41 to 122.62 of the 2231
Revised Code shall be used for the making of loans authorized in 2232
sections 122.43 and 122.45 of the Revised Code, for the purchase 2233
and improvement of property authorized in section 122.46 of the 2234
Revised Code, for insuring mortgage payments authorized in section 2235
122.451 of the Revised Code, and for the crediting into and among 2236
the funds established in accordance with sections 122.35, 122.54, 2237
122.55, 122.56, 122.561, and 122.57 of the Revised Code, but 2238
subject to such conditions, limitations, and covenants with the 2239
purchasers and holders of the bonds as shall be provided for in 2240
the bond authorization proceedings and in the trust agreement 2241
securing the same. 2242

Provision shall be made by the director of development 2243
services for the payment of the expenses of the director in 2244
operating the assistance programs authorized under this chapter in 2245
such manner and to such extent as shall be determined by the 2246
director. 2247

Sec. 122.50. Revenue bonds issued under sections 122.39 and 2248
122.41 to 122.62, inclusive, of the Revised Code, do not 2249
constitute a debt, or a pledge of the faith and credit, of the 2250
state or of any political subdivision thereof, but such bonds 2251
shall be payable solely from the funds pledged for their payment 2252
as authorized by such sections, or by funds derived from the 2253
issuance of refunding bonds as authorized in section 122.52 of the 2254
Revised Code, which refunding bonds shall be payable solely from 2255
funds pledged for their payment as authorized by such section. All 2256
such revenue bonds shall contain on the face thereof a statement 2257
to the effect that the bonds, as to both principal and interest, 2258
are not an obligation of the state or of any political subdivision 2259
thereof, but are payable solely from revenues pledged for their 2260

payment. 2261

Sec. 122.51. All revenue bonds issued under sections 122.39 2262
and 122.41 to 122.62, inclusive, of the Revised Code, are lawful 2263
investments of banks, building and loan and savings and loan 2264
associations, deposit guarantee associations, trust companies, 2265
trustees, fiduciaries, trustees or other officers having charge of 2266
sinking or bond retirement funds of municipal corporations and 2267
other subdivisions of this state, and of domestic insurance 2268
companies notwithstanding sections 3907.14 and 3925.08 of the 2269
Revised Code, and are acceptable as security for the deposit of 2270
public moneys. 2271

Sec. 122.52. The director of development services may provide 2272
for the issuance of revenue refunding bonds of the state by the 2273
treasurer of state, payable solely from the sinking funds 2274
established in accordance with section 122.51 of the Revised Code 2275
at the times and in the order and manner provided by the director 2276
and in any trust agreement securing such bonds and shall also be 2277
secured by moneys in the other funds established pursuant to 2278
sections 122.39 and 122.41 to 122.62 of the Revised Code to the 2279
extent and on the terms specified by the director, for the purpose 2280
of refunding any revenue bonds then outstanding which have been 2281
issued under sections 122.39 and 122.41 to 122.62 of the Revised 2282
Code, including the payment of any redemption premium thereon and 2283
any interest accrued or to accrue to the date of redemption of 2284
such bonds. The issuance of such bonds, the maturities and other 2285
details thereof, the rights of the holders thereof, and the 2286
rights, duties, and obligations of the director and treasurer of 2287
state in respect to such bonds shall be governed by such sections 2288
insofar as they are applicable. 2289

Sec. 122.53. In the discretion of the treasurer of state, any 2290

bonds issued under sections 122.39 and 122.41 to 122.62 of the 2291
Revised Code, may be secured by a trust agreement between the 2292
treasurer of state and a corporate trustee, which trustee may be 2293
any trust company or bank having the powers of a trust company 2294
within or without the state. 2295

Any such trust agreement may pledge or assign payments of 2296
principal of and interest on loans, charges, fees, and other 2297
revenue to be received by the director of development services, 2298
all rentals received under leases made by the director, and all 2299
proceeds of the sale or other disposition of property held by the 2300
director, and may provide for the holding in trust by the trustee 2301
to the extent provided for in the proceedings authorizing such 2302
bonds, of all such moneys and moneys otherwise payable into the 2303
mortgage guarantee fund created by section 122.56 of the Revised 2304
Code, and all moneys otherwise payable into the mortgage insurance 2305
fund created by section 122.561 of the Revised Code, and of moneys 2306
payable into the sinking fund or funds referred to in section 2307
122.57 of the Revised Code, but shall not convey or mortgage any 2308
of the real or personal property held by the director or any part 2309
thereof. Any such trust agreement, or any proceedings providing 2310
for the issuance of such bonds, may contain such provisions for 2311
protecting and enforcing the rights and remedies of the 2312
bondholders as are reasonable and proper and not in violation of 2313
law, including covenants setting forth the duties of the director 2314
in relation to the acquisition of property, and the construction, 2315
improvement, maintenance, repair, operation, and insurance of 2316
facilities, the making of loans and leases and the terms and 2317
provisions thereof, and the custody, safeguarding, investment, and 2318
application of all moneys, and provisions for the employment of 2319
consulting engineers or other consultants in connection with the 2320
making of loans and leases and the construction or operation of 2321
any facility. Any bank or trust company incorporated under the 2322
laws of this state which may act as trustee or as depository of 2323

the proceeds of bonds or of revenue may furnish such indemnifying 2324
bonds or may pledge such securities as are required by the 2325
treasurer of state. Any such trust agreement may set forth the 2326
rights and remedies of the bondholders and of the trustee, and may 2327
restrict the individual right of action by bondholders as is 2328
customary in trust agreements or trust indentures securing bonds 2329
or debentures of corporations. Such trust agreement may contain 2330
such other provisions as the treasurer of state deems reasonable 2331
and proper for the security of the bondholders. All expenses 2332
incurred by the treasurer of state in carrying out the provisions 2333
of any such trust agreement shall be treated as a part of the cost 2334
of the operation of the assistance programs authorized pursuant to 2335
Chapter 122. of the Revised Code. Any such trust agreement may 2336
provide the method whereby general administrative overhead expense 2337
of the director with respect to those assistance programs shall be 2338
allocated among the funds established pursuant to Chapter 122. of 2339
the Revised Code with respect to the operating expenses of the 2340
director payable out of the income of the assistance programs. 2341

Sec. 122.561. The mortgage insurance fund of the director of 2342
development services is hereby created to consist of all money 2343
allocated by the director from the proceeds of the sale of any 2344
issue of revenue bonds, to the extent and subject to the 2345
conditions provided in the proceedings authorizing such bonds or 2346
in the trust agreements securing such bonds, for the purpose of 2347
insuring mortgage payments pursuant to section 122.451 of the 2348
Revised Code, all grants and contributions made to the director 2349
for such purpose, all moneys deposited or credited to the mortgage 2350
insurance fund pursuant to section 169.05 of the Revised Code, all 2351
other moneys and property designated by the director and by law 2352
for such purpose, all mortgage insurance premiums charged and 2353
collected as provided in this section, and all receipts and 2354
proceeds from the sale, disposal, lease, or rental of real or 2355

personal property which the director may hold as a result of a 2356
default in an insured mortgage. The director shall fix mortgage 2357
insurance premiums for the insurance of mortgage payments pursuant 2358
to section 122.451 of the Revised Code, to be computed as a 2359
percentage of the principal obligation of the mortgage outstanding 2360
at the beginning of each mortgage year. Such insurance premiums 2361
shall not be more than three per cent per annum of the outstanding 2362
principal obligation, and shall be calculated on the basis of all 2363
pertinent available data. Such premiums shall be payable by the 2364
mortgagors or the mortgagees in such manner as is prescribed by 2365
the director. The amount of premium need not be uniform among the 2366
various mortgages insured. The director may provide for the 2367
custody, investment, and use of the unclaimed funds trust fund 2368
created by section 169.05 of the Revised Code and all mortgage 2369
insurance premiums, including the payment therefrom of the 2370
expenses and costs of the director in insuring mortgage payments 2371
pursuant to section 122.451 of the Revised Code. Any financial 2372
statements or financial data submitted to the director, ~~the~~ 2373
~~development financing advisory council,~~ or the controlling board 2374
in connection with any application for the insurance of mortgage 2375
payments, or any information taken from such statements or data, 2376
is not open to public inspection. 2377

Sec. 122.57. All payments of principal of and interest on the 2378
loans made by the director of development services, all rentals 2379
received under leases made by ~~him~~ the director, and all proceeds 2380
of the sale or other disposition of property held by ~~him~~ the 2381
director shall be placed in separate sinking funds to the extent 2382
provided in the proceedings authorizing revenue bonds which are 2383
hereby pledged to and charged with the payment of interest on, 2384
principal of and redemption premium on, the revenue bonds issued 2385
pursuant to sections 122.39 and 122.41 to 122.62 of the Revised 2386
Code to the extent provided in the proceedings authorizing and the 2387

trust agreements securing such bonds. The moneys therein in excess 2388
of the amounts required by the bond proceedings and trust 2389
agreements and all payments not so required to be paid into such 2390
sinking funds shall be retained or placed in such fund or in the 2391
other funds provided for by sections 122.35, 122.54, 122.42, 2392
122.55, 122.56, 122.561, and 122.57 of the Revised Code as the 2393
director shall determine, and shall be available for the uses for 2394
which such funds are established. 2395

Sec. 122.60. As used in sections 122.60 to 122.605 of the 2396
Revised Code: 2397

(A) "Capital access loan" means a loan made by a 2398
participating financial institution to an eligible business that 2399
may be secured by a deposit of money from the fund into the 2400
participating financial institution's program reserve account. 2401

(B) "Department of development" means the ~~department of~~ 2402
development services agency. 2403

(C) "Eligible business" means a for-profit business entity, 2404
or a nonprofit entity, that had total annual sales in its most 2405
recently completed fiscal year of less than ten million dollars 2406
and that has a principal place of for-profit business or nonprofit 2407
entity activity within the state, the operation of which, alone or 2408
in conjunction with other facilities, will create new jobs or 2409
preserve existing jobs and employment opportunities and will 2410
improve the economic welfare of the people of the state. As used 2411
in this division, "new jobs" does not include existing jobs 2412
transferred from another facility within the state, and "existing 2413
jobs" means only existing jobs at facilities within the same 2414
municipal corporation or township in which the project, activity, 2415
or enterprise that is the subject of a capital access loan is 2416
located. 2417

(D) "Financial institution" means any bank, trust company, 2418

savings bank, or savings and loan association that is chartered by 2419
and has a significant presence in the state, or any national bank, 2420
federal savings and loan association, or federal savings bank that 2421
has a significant presence in the state. 2422

(E) "Fund" means the capital access loan program fund. 2423

(F) "Minority business supplier development council" has the 2424
same meaning as in section 122.71 of the Revised Code. 2425

(G) "Participating financial institution" means a financial 2426
institution that has a valid, current participation agreement with 2427
the ~~department~~ development services agency. 2428

~~(G)~~(H) "Participation agreement" means the agreement between 2429
a financial institution and the ~~department~~ agency under which a 2430
financial institution may participate in the program. 2431

~~(H)~~(I) "Passive real estate ownership" means the ownership of 2432
real estate for the sole purpose of deriving income from it by 2433
speculation, trade, or rental. 2434

~~(I)~~(J) "Program" means the capital access loan program 2435
created under section 122.602 of the Revised Code. 2436

~~(J)~~(K) "Program reserve account" means a dedicated account at 2437
each participating financial institution that is the property of 2438
the state and may be used by the participating financial 2439
institution only for the purpose of recovering a claim under 2440
section 122.604 of the Revised Code arising from a default on a 2441
loan made by the participating financial institution under the 2442
program. 2443

Sec. 122.601. There is hereby created in the state treasury 2444
the capital access loan program fund. The fund shall consist of 2445
money deposited into it from the minority business enterprise loan 2446
fund pursuant to section 122.80 of the Revised Code and the 2447
facilities establishment fund pursuant to section 166.03 of the 2448

Revised Code and all money deposited into it pursuant to section 2449
122.602 of the Revised Code. The total amount of money deposited 2450
into the fund from the minority business enterprise loan fund or 2451
the facilities establishment fund shall not exceed three million 2452
dollars during any particular fiscal year of the ~~department~~ 2453
development services agency. 2454

The ~~department~~ agency shall disburse money from the fund only 2455
to pay the operating costs of the program, including the 2456
administrative costs incurred by the ~~department~~ agency in 2457
connection with the program, and only in keeping with the purposes 2458
specified in sections 122.60 to 122.605 of the Revised Code. 2459

Sec. 122.602. (A) There is hereby created in the department 2460
of development the capital access loan program to assist 2461
participating financial institutions in making program loans to 2462
eligible businesses that face barriers in accessing working 2463
capital and obtaining fixed asset financing. In administering the 2464
program, the director of development may do any of the following: 2465

(1) Receive and accept grants, gifts, and contributions of 2466
money, property, labor, and other things of value to be held, 2467
used, and applied only for the purpose for which the grants, 2468
gifts, and contributions are made, from individuals, private and 2469
public corporations, the United States or any agency of the United 2470
States, the state or any agency of the state, or any political 2471
subdivision of the state; 2472

(2) Agree to repay any contribution of money or return any 2473
property contributed or the value of that property at the times, 2474
in the amounts, and on the terms and conditions, excluding the 2475
payment of interest, that the director consents to at the time a 2476
contribution is made; and evidence obligations by notes, bonds, or 2477
other written instruments; 2478

(3) Adopt rules under Chapter 119. of the Revised Code to 2479
carry out the purposes of the program specified in sections 122.60 2480
to 122.605 of the Revised Code; 2481

(4) Engage in all other acts, and enter into contracts and 2482
execute all instruments, necessary or appropriate to carry out the 2483
purposes specified in sections 122.60 to 122.605 of the Revised 2484
Code. 2485

(B) The director shall determine the eligibility of a 2486
financial institution to participate in the program and may set a 2487
limit on the number of financial institutions that may participate 2488
in the program. 2489

(C) To be considered eligible by the director to participate 2490
in the program, a financial institution shall enter into a 2491
participation agreement with the department that sets out the 2492
terms and conditions under which the department will deposit 2493
moneys from the fund into the financial institution's program 2494
reserve account, specifies the criteria for loan qualification 2495
under the program, and contains any additional terms the director 2496
considers necessary. 2497

(D) After receiving the certification required under division 2498
(C) of section 122.603 of the Revised Code, the director may 2499
disburse moneys from the fund to a participating financial 2500
institution for deposit in its program reserve account if the 2501
director determines that the capital access loan involved meets 2502
all of the following criteria: 2503

(1) It will be made to an eligible business. 2504

(2) It will be used by the eligible business for a project, 2505
activity, or enterprise that fosters economic development. 2506

(3) It will not be made in order to enroll in the program 2507
prior debt that is not covered under the program and that is owed 2508
or was previously owed by an eligible business to the financial 2509

institution. 2510

(4) It will not be utilized for a project or development 2511
related to the on-site construction or purchase of residential 2512
housing. 2513

(5) It will not be used to finance passive real estate 2514
ownership. 2515

(6) It conforms to the requirements of divisions (E), (F), 2516
(G), (H), and (I) of this section, and to the rules adopted by the 2517
director under division (A)(3) of this section. 2518

(E) The director shall not approve a deposit amount from the 2519
fund for a capital access loan to an eligible business that 2520
exceeds two hundred fifty thousand dollars for working capital or 2521
five hundred thousand dollars for the purchase of fixed assets. An 2522
eligible business may apply for the maximum deposit amount ~~of~~ for 2523
both working capital and the purchase of fixed assets in the same 2524
capital access loan enrollment. 2525

(F) A financial institution may apply to the director for the 2526
approval of a capital access loan to any business that is owned or 2527
operated by a person that has previously defaulted under any state 2528
financial assistance program. 2529

(G) Eligible businesses that apply for a capital access loan 2530
shall comply with section 9.66 of the Revised Code. 2531

(H) A financial institution may apply to the director for the 2532
approval of a capital access loan that refinances a nonprogram 2533
loan made by another financial institution. 2534

(I) The director shall not approve a capital access loan that 2535
refinances a nonprogram loan made by the same financial 2536
institution, unless the amount of the refinanced loan exceeds the 2537
existing debt, in which case only the amount exceeding the 2538
existing debt is eligible for a loan under the program. 2539

Sec. 122.603. (A)(1) Upon approval by the director of 2540
development services and after entering into a participation 2541
agreement with the ~~department of~~ development services agency, a 2542
participating financial institution making a capital access loan 2543
shall establish a program reserve account. The account shall be an 2544
interest-bearing account and shall contain only moneys deposited 2545
into it under the program and the interest payable on the moneys 2546
in the account. 2547

(2) All interest payable on the moneys in the program reserve 2548
account shall be added to the moneys and held as an additional 2549
loss reserve. The director may require that a portion or all of 2550
the accrued interest so held in the account be released to the 2551
~~department~~ agency. If the director causes a release of accrued 2552
interest, the director shall deposit the released amount into the 2553
capital access loan program fund created in section 122.601 of the 2554
Revised Code. The director shall not require the release of that 2555
accrued interest more than twice in a fiscal year. 2556

(B) When a participating financial institution makes a 2557
capital access loan, it shall require the eligible business to pay 2558
to the participating financial institution a fee in an amount that 2559
is not less than one and one-half per cent, and not more than 2560
three per cent, of the principal amount of the loan. The 2561
participating financial institution shall deposit the fee into its 2562
program reserve account, and it also shall deposit into the 2563
account an amount of its own funds equal to the amount of the fee. 2564
The participating financial institution may recover from the 2565
eligible business all or part of the amount that the participating 2566
financial institution is required to deposit into the account 2567
under this division in any manner agreed to by the participating 2568
financial institution and the eligible business. 2569

(C) For each capital access loan made by a participating 2570

financial institution, the participating financial institution 2571
shall certify to the director, within a period specified by the 2572
director, that the participating financial institution has made 2573
the loan. The certification shall include the amount of the loan, 2574
the amount of the fee received from the eligible business, the 2575
amount of its own funds that the participating financial 2576
institution deposited into its program reserve account to reflect 2577
that fee, and any other information specified by the director. The 2578
certification also shall indicate if the eligible business 2579
receiving the capital access loan is a minority business 2580
enterprise as defined in section 122.71 of the Revised Code or 2581
certified by the minority business supplier development council. 2582

(D)(1)(a) Upon receipt of each of the first three 2583
certifications from a participating financial institution made 2584
under division (C) of this section and subject to section 122.602 2585
of the Revised Code, the director shall disburse to the 2586
participating financial institution from the capital access loan 2587
program fund an amount ~~equal~~ not to exceed fifty per cent of the 2588
principal amount of the particular capital access loan for deposit 2589
into the participating financial institution's program reserve 2590
account. Thereafter, upon receipt of a certification from that 2591
participating financial institution made under division (C) of 2592
this section and subject to section 122.602 of the Revised Code, 2593
the director shall disburse to the participating financial 2594
institution from the capital access loan program fund an amount 2595
equal to ten per cent of the principal amount of the particular 2596
capital access loan for deposit into the participating financial 2597
institution's program reserve account. 2598

(b) Notwithstanding division (D)(1)(a) of this section, and 2599
subject to section 122.602 of the Revised Code, upon receipt of 2600
any certification from a participating financial institution made 2601
under division (C) of this section with respect to a capital 2602

access loan made to an eligible business that is a minority 2603
business enterprise, the director shall disburse to the 2604
participating financial institution from the capital access loan 2605
program fund an amount ~~equal~~ not to exceed eighty per cent of the 2606
principal amount of the particular capital access loan for deposit 2607
into the participating financial institution's program reserve 2608
account. 2609

(2) The disbursement of moneys from the fund to a 2610
participating financial institution does not require approval from 2611
the controlling board. 2612

(E) If the amount in a program reserve account exceeds an 2613
amount equal to thirty-three per cent of a participating financial 2614
institution's outstanding capital access loans, the ~~department~~ 2615
agency may cause the withdrawal of the excess amount and the 2616
deposit of the withdrawn amount into the capital access loan 2617
program fund. 2618

(F)(1) The ~~department~~ agency may cause the withdrawal of the 2619
total amount in a participating financial institution's program 2620
reserve account if any of the following applies: 2621

(a) The financial institution is no longer eligible to 2622
participate in the program. 2623

(b) The participation agreement expires without renewal by 2624
the ~~department~~ agency or the financial institution. 2625

(c) The financial institution has no outstanding capital 2626
access loans. 2627

(d) The financial institution has not made a capital access 2628
loan within the preceding twenty-four months. 2629

(2) If the ~~department~~ agency causes a withdrawal under 2630
division (F)(1) of this section, the ~~department~~ agency shall 2631
deposit the withdrawn amount into the capital access loan program 2632

fund. 2633

Sec. 122.61. The exercise of the powers granted by sections 2634
122.39 and 122.41 to 122.62 of the Revised Code, will be in all 2635
respects for the benefit of the people of the state, for the 2636
increase of their commerce and prosperity, and for the improvement 2637
of conditions of employment, and will constitute the performance 2638
of essential governmental functions; therefore the director of 2639
development services shall not be required to pay any taxes upon 2640
any ~~of~~ property or assets held by ~~him~~ the director, or upon any 2641
property acquired or used by ~~him~~ the director under sections 2642
122.39 and 122.41 to 122.62 of the Revised Code, or upon the 2643
income therefrom, provided, such exemption shall not apply to any 2644
property held by the director while it is in the possession of a 2645
private person, partnership, or corporation and used for private 2646
purposes for profit. The bonds, notes, or other obligations issued 2647
under such sections, their transfer, and the income therefrom, 2648
including any profit made on the sale thereof, shall at all times 2649
be free from taxation within the state. 2650

Sec. 122.62. All moneys received under sections 122.39 and 2651
122.41 to 122.62 of the Revised Code as proceeds from the sale of 2652
bonds are trust funds. All moneys received under those sections 2653
shall be held and applied solely as provided in such sections and 2654
section 166.03 of the Revised Code. All such moneys, except as 2655
otherwise provided in any proceedings authorizing revenue bonds or 2656
in any trust agreement securing such bonds or except when 2657
deposited with the treasurer of state, or except as they may be 2658
invested pursuant to section 122.58 of the Revised Code, shall be 2659
kept in depositories as selected by the director of development 2660
services in the manner provided in sections 135.01 to 135.21 of 2661
the Revised Code, insofar as such sections are applicable, and the 2662
deposits shall be secured as provided in sections 135.01 to 135.21 2663

of the Revised Code. The proceedings authorizing the issuance of
bonds of any issue or the trust agreement securing such bonds
shall provide that any official to whom, or any bank or trust
company to which, such moneys are paid, shall act as trustee of
such moneys and hold and apply them for the purposes of sections
122.39 and 122.41 to 122.62 of the Revised Code, subject to such
rules as such sections and such bond issuance proceedings or trust
agreement provide.

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

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

(B) The director of development services shall:

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

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

~~(3)~~(2) With the approval of the director of administrative

services, establish salary schedules for employees of the various 2694
positions of employment with the division and assign the various 2695
positions to those salary schedules; 2696

~~(4) Furnish and pay for, out of funds appropriated to the 2697
department of development for that purpose, office space and 2698
associated utilities service, for the development financing 2699
advisory council; 2700~~

~~(5)~~(3) Employ and fix the compensation of financial 2701
consultants, appraisers, consulting engineers, superintendents, 2702
managers, construction and accounting experts, attorneys, and 2703
other agents for the assistance programs authorized pursuant to 2704
sections 122.17 and 122.18, sections 122.39 and 122.41 to 122.62, 2705
and Chapter 166. of the Revised Code as are necessary; 2706

~~(6)~~(4) Supervise the administrative operations of the 2707
division; 2708

~~(7)~~(5) On or before the first day of October in each year, 2709
make an annual report of the activities and operations under 2710
assistance programs authorized pursuant to sections 122.39 and 2711
122.41 to 122.62 and Chapter 166. of the Revised Code for the 2712
preceding fiscal year to the governor and the general assembly. 2713
Each such report shall set forth a complete operating and 2714
financial statement covering such activities and operations during 2715
the year in accordance with generally accepted accounting 2716
principles and shall be audited by a certified public accountant. 2717
The director of development services shall transmit a copy of the 2718
audited financial report to the office of budget and management. 2719

Sec. 122.76. (A) The director of development services, with 2720
controlling board approval, may lend funds to minority business 2721
enterprises and to community improvement corporations, Ohio 2722
development corporations, minority contractors business assistance 2723
organizations, and minority business supplier development councils 2724

for the purpose of loaning funds to minority business enterprises 2725
and for the purpose of procuring or improving real or personal 2726
property, or both, for the establishment, location, or expansion 2727
of industrial, distribution, commercial, or research facilities in 2728
the state, and to community development corporations that 2729
predominantly benefit minority business enterprises or are located 2730
in a census tract that has a population that is sixty per cent or 2731
more minority if the director determines, in the director's sole 2732
discretion, that all of the following apply: 2733

(1) The project is economically sound and will benefit the 2734
people of the state by increasing opportunities for employment, by 2735
strengthening the economy of the state, or expanding minority 2736
business enterprises. 2737

(2) The proposed minority business enterprise borrower is 2738
unable to finance the proposed project through ordinary financial 2739
channels at comparable terms. 2740

(3) The value of the project is or, upon completion, will be 2741
at least equal to the total amount of the money expended in the 2742
procurement or improvement of the project. 2743

(4) The amount to be loaned by the director will not exceed 2744
~~sixty~~ seventy-five per cent of the total amount expended in the 2745
procurement or improvement of the project. 2746

(5) The amount to be loaned by the director will be 2747
adequately secured by a first or second mortgage upon the project 2748
or by mortgages, leases, liens, assignments, or pledges on or of 2749
other property or contracts as the director requires, and such 2750
mortgage will not be subordinate to any other liens or mortgages 2751
except the liens securing loans or investments made by financial 2752
institutions referred to in division (A)(3) of this section, and 2753
the liens securing loans previously made by any financial 2754
institution in connection with the procurement or expansion of all 2755

or part of a project. 2756

(B) Any proposed minority business enterprise borrower 2757
submitting an application for assistance under this section shall 2758
not have defaulted on a previous loan from the director, and no 2759
full or limited partner, major shareholder, or holder of an equity 2760
interest of the proposed minority business enterprise borrower 2761
shall have defaulted on a loan from the director. 2762

(C) The proposed minority business enterprise borrower shall 2763
demonstrate to the satisfaction of the director that it is able to 2764
successfully compete in the private sector if it obtains the 2765
necessary financial, technical, or managerial support and that 2766
support is available through the director, the minority business 2767
development office of the department of development, or other 2768
identified and acceptable sources. In determining whether a 2769
minority business enterprise borrower will be able to successfully 2770
compete, the director may give consideration to such factors as 2771
the successful completion of or participation in courses of study, 2772
recognized by the board of regents as providing financial, 2773
technical, or managerial skills related to the operation of the 2774
business, by the economically disadvantaged individual, owner, or 2775
partner, and the prior success of the individual, owner, or 2776
partner in personal, career, or business activities, as well as to 2777
other factors identified by the director. 2778

(D) The director shall not lend funds for the purpose of 2779
procuring or improving motor vehicles or accounts receivable. 2780

Sec. 122.80. There is hereby created in the state treasury 2781
the minority business enterprise loan fund. The fund shall consist 2782
of money deposited into the fund from the facilities establishment 2783
fund pursuant to section 166.03 of the Revised Code and all money 2784
deposited into the fund pursuant to section 122.81 of the Revised 2785
Code. The director of development shall use the fund to pay 2786

operating costs of the minority development financing advisory 2787
board, make loans to minority business enterprises as authorized 2788
in division (A) of section 122.76 of the Revised Code ~~and~~, loan 2789
guarantees to small businesses as authorized in division (A) of 2790
section 122.77 of the Revised Code, and for transfer to the 2791
capital access loan program fund established in section 122.601 of 2792
the Revised Code. 2793

Sec. 122.86. (A) As used in this section and section 5747.81 2794
of the Revised Code: 2795

(1) "Small business enterprise" means a corporation, 2796
pass-through entity, or other person satisfying all of the 2797
following: 2798

(a) At the time of a qualifying investment, the enterprise 2799
meets all of the following requirements: 2800

(i) Has no outstanding tax or other liabilities owed to the 2801
state; 2802

(ii) Is in good standing with the secretary of state, if the 2803
enterprise is required to be registered with the secretary; 2804

(iii) Is current with any court-ordered payments; 2805

(iv) Is not engaged in any illegal activity. 2806

(b) At the time of a qualifying investment, the enterprise's 2807
assets according to generally accepted accounting principles do 2808
not exceed fifty million dollars, or its annual sales do not 2809
exceed ten million dollars~~+~~. When making this determination, the 2810
assets and annual sales of all of the enterprise's related or 2811
affiliated entities shall be included in the calculation. 2812

~~(b)~~(c) The enterprise employs at least fifty full-time 2813
equivalent employees in this state for whom the enterprise is 2814
required to withhold income tax under section 5747.06 of the 2815
Revised Code, or more than one-half the enterprise's total number 2816

of full-time equivalent employees employed anywhere in the United 2817
States are employed in this state and are subject to that 2818
withholding requirement. 2819

~~(e)~~(d) The enterprise, within six months after an eligible 2820
investor's qualifying investment is made, invests in or incurs 2821
cost for one or more of the following in an amount at least equal 2822
to the amount of the qualifying investment: 2823

(i) Tangible personal property, other than motor vehicles 2824
operated on public roads and highways, used in business and 2825
physically located in this state from the time of its acquisition 2826
by the enterprise until the end of the investor's holding period; 2827

(ii) Motor vehicles operated on public roads and highways if, 2828
from the time of acquisition by the enterprise until the end of 2829
the investor's holding period, the motor vehicles are purchased in 2830
this state, registered in this state under Chapter 4503. of the 2831
Revised Code, are used primarily for business purposes, and are 2832
necessary for the operation of the enterprise's business; 2833

(iii) Real property located in this state that is used in 2834
business from the time of its acquisition by the enterprise until 2835
the end of the holding period; 2836

(iv) Intangible personal property, including patents, 2837
copyrights, trademarks, service marks, or licenses used in 2838
business primarily in this state from the time of its acquisition 2839
by the enterprise until the end of the holding period; 2840

(v) Compensation for new employees of the enterprise for whom 2841
the enterprise is required to withhold income tax under section 2842
5747.06 of the Revised Code, not including increased compensation 2843
for owners, officers, or managers of the enterprise. For this 2844
purpose compensation for new employees includes compensation for 2845
newly hired or retained employees. 2846

(2) "Qualifying investment" means an investment of money made 2847

on or after July 1, 2011, to acquire capital stock or other equity 2848
interest in a small business enterprise. "Qualifying investment" 2849
does not include ~~any~~ either of the following: 2850

(a) Any investment of money an eligible investor derives, 2851
directly or indirectly, from a grant or loan from the federal 2852
government or the state or a political subdivision, including the 2853
third frontier program under Chapter 184. of the Revised Code; 2854

(b) Any investment of money which is the basis of a tax 2855
credit granted under any other section of the Revised Code. 2856

(3) "Eligible investor" means an individual, estate, or trust 2857
subject to the tax imposed by section 5747.02 of the Revised Code, 2858
or a pass-through entity in which such an individual, estate, or 2859
trust holds a direct or indirect ownership or other equity 2860
interest. To qualify as an eligible investor, the individual, 2861
estate, trust, or pass-through entity shall not owe any 2862
outstanding tax or other liability to the state at the time of a 2863
qualifying investment. 2864

(4) "Holding period" means: 2865

(a) For qualifying investments made on or after July 1, 2011, 2866
but before July 1, 2013, the two-year period beginning on the day 2867
the investment was made; 2868

(b) For qualifying investments made on or after July 1, 2013, 2869
the five-year period beginning on the day the investment was made. 2870

(5) "Pass-through entity" has the same meaning as in section 2871
5733.04 of the Revised Code. 2872

(B) Any eligible investor that makes a qualifying investment 2873
in a small business enterprise on or after July 1, 2011, may apply 2874
to the director of development services to obtain a small business 2875
investment certificate from the director. Alternatively, a small 2876
business enterprise may apply on behalf of eligible investors to 2877

obtain the certificates for those investors. The director, in 2878
consultation with the tax commissioner, shall prescribe the form 2879
or manner in which an applicant shall apply for the certificate, 2880
devise the form of the certificate, and prescribe any records or 2881
other information an applicant shall furnish with the application 2882
to evidence the qualifying investment. The applicant shall state 2883
the amount of the intended investment. The applicant shall pay an 2884
application fee equal to the greater of one-tenth of one per cent 2885
of the amount of the intended investment or one hundred dollars. 2886

A small business investment certificate entitles the 2887
certificate holder to receive a tax credit under section 5747.81 2888
of the Revised Code if the certificate holder qualifies for the 2889
credit as otherwise provided in this section. If the certificate 2890
holder is a pass-through entity, the certificate entitles the 2891
entity's equity owners to receive their distributive or 2892
proportionate shares of the credit. In any fiscal biennium, an 2893
eligible investor may not apply for small business investment 2894
certificates representing intended investment amounts in excess of 2895
ten million dollars. Such certificates are not transferable. 2896

The director of development ~~shall issue~~ services may reserve 2897
small business investment certificates to qualifying applicants in 2898
the order in which the director receives applications, but may 2899
issue the certificates as the applications are completed. An 2900
application is completed when the director has validated that an 2901
eligible investor has made a qualified investment and the small 2902
business enterprise has made the appropriate reinvestment of the 2903
qualified investment pursuant to the requirements of division 2904
(A)(1)(d) of this section. To qualify for a certificate, an 2905
eligible investor must satisfy both of the following, subject to 2906
the limitation on the amount of qualifying investments for which 2907
certificates may be issued under division (C) of this section: 2908

(1) The eligible investor makes a qualifying investment on or 2909

after July 1, 2011. 2910

(2) The eligible investor pledges not to sell or otherwise 2911
dispose of the qualifying investment before the conclusion of the 2912
applicable holding period. 2913

(C)(1) The amount of any eligible investor's qualifying 2914
investments for which small business investment certificates may 2915
be issued for a fiscal biennium shall not exceed ten million 2916
dollars. 2917

(2) The director of development services shall not issue a 2918
small business investment certificate to an eligible investor 2919
representing an amount of qualifying investment in excess of the 2920
amount of the intended investment indicated on the investor's 2921
application for the certificate. 2922

(3) The director of development services shall not issue 2923
small business investment certificates in a total amount that 2924
would cause the tax credits claimed in any fiscal biennium to 2925
exceed one hundred million dollars. 2926

(4) The director of development services may issue a small 2927
business investment certificate only if both of the following 2928
apply at the time of issuance: 2929

(a) The small business enterprise meets all the requirements 2930
listed in divisions (A)(1)(a)(i) to (iv) of this section; 2931

(b) The eligible investor does not owe any outstanding tax or 2932
other liability to the state. 2933

(D) Before the end of the applicable holding period of a 2934
qualifying investment, each enterprise in which a qualifying 2935
investment was made for which a small business investment 2936
certificate has been issued, upon the request of the director of 2937
development services, shall provide to the director records or 2938
other evidence satisfactory to the director that the enterprise is 2939

a small business enterprise for the purposes of this section. Each 2940
enterprise shall also provide annually to the director records or 2941
evidence regarding the number of jobs created or retained in the 2942
state. No credit may be claimed under this section and section 2943
5747.81 of the Revised Code if the director finds that an 2944
enterprise is not a small business enterprise for the purposes of 2945
this section. The director shall compile and maintain a register 2946
of small business enterprises qualifying under this section and 2947
shall certify the register to the tax commissioner. The director 2948
shall also compile and maintain a record of the number of jobs 2949
created or retained as a result of qualifying investments made 2950
pursuant to this section. 2951

(E) After the conclusion of the applicable holding period for 2952
a qualifying investment, a person to whom a small business 2953
investment certificate has been issued under this section may 2954
claim a credit as provided under section 5747.81 of the Revised 2955
Code. 2956

(F) The director of development services, in consultation 2957
with the tax commissioner, may adopt rules for the administration 2958
of this section, including rules governing the following: 2959

(1) Documents, records, or other information eligible 2960
investors shall provide to the director; 2961

(2) Any information a small business enterprise shall provide 2962
for the purposes of this section and section 5747.81 of the 2963
Revised Code; 2964

(3) Determination of the number of full-time equivalent 2965
employees of a small business enterprise; 2966

(4) Verification of a small business enterprise's investment 2967
in tangible personal property and intangible personal property 2968
under division (A)(1)~~(e)~~(d) of this section, including when such 2969
investments have been made and where the property is used in 2970

business; 2971

(5) Circumstances under which small business enterprises or 2972
eligible investors may be subverting the purposes of this section 2973
and section 5747.81 of the Revised Code. 2974

There is hereby created in the state treasury the InvestOhio 2975
support fund. The fund shall consist of the fees paid under 2976
division (B) of this section and shall be used by the development 2977
services agency to pay the costs of administering the small 2978
business investment certificate program established under this 2979
section. 2980

Sec. 122.942. The director of development services shall, 2981
with respect to each project for which a loan, grant, tax credit, 2982
or other state-funded financial assistance is awarded by the 2983
development services agency, make all of the following information 2984
available to the public within thirty days after the agency enters 2985
into a contract with the recipient: 2986

(A) A summary of the project that includes all of the 2987
following: 2988

(1) A breakdown of the sources of the funds for each aspect 2989
of the project, such as state or federal programs, the operating 2990
company or entity itself, or any private financing, and a complete 2991
description of how each type of funds is to be used; 2992

(2) The total amount of assistance awarded; 2993

(3) A brief description of the project; 2994

(4) The following information regarding the project: 2995

(a) The operating company or entity that is awarded the 2996
assistance; 2997

(b) The products or services provided by the operating 2998
company or entity; 2999

<u>(c) The number of new jobs, at-risk jobs, and retained jobs</u>	3000
<u>anticipated; the hourly wages and hourly benefits of those jobs;</u>	3001
<u>and the dollar amount of assistance per job affected.</u>	3002
<u>(5) The strengths and weaknesses of the project;</u>	3003
<u>(6) The location of the project, the location of the</u>	3004
<u>operating company or entity, and whether relocation is involved;</u>	3005
<u>(7) The Ohio house district and Ohio senate district in which</u>	3006
<u>the project is located;</u>	3007
<u>(8) The payment terms and conditions of the assistance</u>	3008
<u>awarded;</u>	3009
<u>(9) The collateral or security required;</u>	3010
<u>(10) The recommendation of the staff assigned to the project.</u>	3011
<u>(B) A comprehensive report that provides a description of the</u>	3012
<u>operating company or entity; all relevant information regarding</u>	3013
<u>the project; an analysis of the operating company or entity and</u>	3014
<u>the goods or services it provides; the explicit terms of any</u>	3015
<u>collateral or security required; and the reasoning behind the</u>	3016
<u>staffs' recommendation.</u>	3017
<u>(C) Any other relevant information the controlling board may</u>	3018
<u>request, or the director may consider necessary to more fully</u>	3019
<u>describe the details of the assistance or the operating company or</u>	3020
<u>entity, that is provided before the controlling board approves the</u>	3021
<u>assistance.</u>	3022
<u>Nothing in this section shall be construed as requiring the</u>	3023
<u>disclosure of information that is not a public record under</u>	3024
<u>section 149.43 of the Revised Code.</u>	3025
<u>Sec. 122.97. (A) The business development and assistance fund</u>	3026
<u>is hereby created in the state treasury. Investment earnings on</u>	3027
<u>moneys in the fund shall be credited to the fund. The development</u>	3028

services agency shall deposit any money it receives for business 3029
development services and business assistance services to the 3030
credit of the fund, including: 3031

(1) Reimbursements for services provided for business 3032
development and business assistance services; 3033

(2) Contract or grant payments from private entities; 3034

(3) Donations or sponsorship payments from private entities; 3035

(4) Contract or grant payments from public agencies or 3036
political subdivisions. 3037

(B) The agency shall use money in the fund for any agency 3038
operating purposes or programs providing business support or 3039
business assistance, including grants, loans, or administrative 3040
expenses. 3041

Sec. 149.311. (A) As used in this section: 3042

(1) "Historic building" means a building, including its 3043
structural components, that is located in this state and that is 3044
either individually listed on the national register of historic 3045
places under 16 U.S.C. 470a, located in a registered historic 3046
district, and certified by the state historic preservation officer 3047
as being of historic significance to the district, or is 3048
individually listed as a historic landmark designated by a local 3049
government certified under 16 U.S.C. 470a(c). 3050

(2) "Qualified rehabilitation expenditures" means 3051
expenditures paid or incurred during the rehabilitation period, 3052
and before and after that period as determined under 26 U.S.C. 47, 3053
by an owner or qualified lessee of a historic building to 3054
rehabilitate the building. "Qualified rehabilitation expenditures" 3055
includes architectural or engineering fees paid or incurred in 3056
connection with the rehabilitation, and expenses incurred in the 3057

preparation of nomination forms for listing on the national 3058
register of historic places. "Qualified rehabilitation 3059
expenditures" does not include any of the following: 3060

(a) The cost of acquiring, expanding, or enlarging a historic 3061
building; 3062

(b) Expenditures attributable to work done to facilities 3063
related to the building, such as parking lots, sidewalks, and 3064
landscaping; 3065

(c) New building construction costs. 3066

(3) "Owner" of a historic building means a person holding the 3067
fee simple interest in the building. "Owner" does not include the 3068
state or a state agency, or any political subdivision as defined 3069
in section 9.23 of the Revised Code. 3070

(4) "Qualified lessee" means a person subject to a lease 3071
agreement for a historic building and eligible for the federal 3072
rehabilitation tax credit under 26 U.S.C. 47. "Qualified lessee" 3073
does not include the state or a state agency or political 3074
subdivision as defined in section 9.23 of the Revised Code. 3075

(5) "Certificate owner" means the owner or qualified lessee 3076
of a historic building to which a rehabilitation tax credit 3077
certificate was issued under this section. 3078

~~(5)~~(6) "Registered historic district" means a historic 3079
district listed in the national register of historic places under 3080
16 U.S.C. 470a, a historic district designated by a local 3081
government certified under 16 U.S.C. 470a(c), or a local historic 3082
district certified under 36 C.F.R. 67.8 and 67.9. 3083

~~(6)~~(7) "Rehabilitation" means the process of repairing or 3084
altering a historic building or buildings, making possible an 3085
efficient use while preserving those portions and features of the 3086
building and its site and environment that are significant to its 3087

historic, architectural, and cultural values. 3088

~~(7)~~(8) "Rehabilitation period" means one of the following: 3089

(a) If the rehabilitation initially was not planned to be 3090
completed in stages, a period chosen by the owner or qualified 3091
lessee not to exceed twenty-four months during which 3092
rehabilitation occurs; 3093

(b) If the rehabilitation initially was planned to be 3094
completed in stages, a period chosen by the owner or qualified 3095
lessee not to exceed sixty months during which rehabilitation 3096
occurs. Each stage shall be reviewed as a phase of a 3097
rehabilitation as determined under 26 C.F.R. 1.48-12 or a 3098
successor to that section. 3099

~~(8)~~(9) "State historic preservation officer" or "officer" 3100
means the state historic preservation officer appointed by the 3101
governor under 16 U.S.C. 470a. 3102

(B) The owner or qualified lessee of a historic building may 3103
apply to the director of development for a rehabilitation tax 3104
credit certificate for qualified rehabilitation expenditures paid 3105
or incurred by such owner or qualified lessee after April 4, 2007, 3106
for rehabilitation of a historic building. ~~The~~ If the owner of a 3107
historic building enters a pass-through agreement with a qualified 3108
lessee for the purposes of the federal rehabilitation tax credit 3109
under 26 U.S.C. 47, the qualified rehabilitation expenditures paid 3110
or incurred by the owner after April 4, 2007, shall be attributed 3111
to the qualified lessee. 3112

The form and manner of filing such applications shall be 3113
prescribed by rule of the director of development. Each 3114
application shall state the amount of qualified rehabilitation 3115
expenditures the applicant estimates will be paid or incurred. The 3116
director may require applicants to furnish documentation of such 3117
estimates. 3118

The director, after consultation with the tax commissioner 3119
and in accordance with Chapter 119. of the Revised Code, shall 3120
adopt rules that establish all of the following: 3121

(1) Forms and procedures by which applicants may apply for 3122
rehabilitation tax credit certificates; 3123

(2) Criteria for reviewing, evaluating, and approving 3124
applications for certificates within the limitations under 3125
division (D) of this section, criteria for assuring that the 3126
certificates issued encompass a mixture of high and low qualified 3127
rehabilitation expenditures, and criteria for issuing certificates 3128
under division (C)(3)(b) of this section; 3129

(3) Eligibility requirements for obtaining a certificate 3130
under this section; 3131

(4) The form of rehabilitation tax credit certificates; 3132

(5) Reporting requirements and monitoring procedures; 3133

(6) Procedures and criteria for conducting cost-benefit 3134
analyses of historic buildings that are the subjects of 3135
applications filed under this section. The purpose of a 3136
cost-benefit analysis shall be to determine whether rehabilitation 3137
of the historic building will result in a net revenue gain in 3138
state and local taxes once the building is used. 3139

(7) Any other rules necessary to implement and administer 3140
this section. 3141

(C) The director of development shall review the applications 3142
with the assistance of the state historic preservation officer and 3143
determine whether all of the following criteria are met: 3144

(1) That the building that is the subject of the application 3145
is a historic building and the applicant is the owner or qualified 3146
lessee of the building; 3147

(2) That the rehabilitation will satisfy standards prescribed 3148

by the United States secretary of the interior under 16 U.S.C. 3149
470, et seq., as amended, and 36 C.F.R. 67.7 or a successor to 3150
that section; 3151

(3) That receiving a rehabilitation tax credit certificate 3152
under this section is a major factor in: 3153

(a) The applicant's decision to rehabilitate the historic 3154
building; or 3155

(b) To increase the level of investment in such 3156
rehabilitation. 3157

An applicant shall demonstrate to the satisfaction of the 3158
state historic preservation officer and director of development 3159
that the rehabilitation will satisfy the standards described in 3160
division (C)(2) of this section before the applicant begins the 3161
physical rehabilitation of the historic building. 3162

(D)(1) If the director of development determines that an 3163
application meets the criteria in divisions (C)(1), (2), and (3) 3164
of this section, the director shall conduct a cost-benefit 3165
analysis for the historic building that is the subject of the 3166
application to determine whether rehabilitation of the historic 3167
building will result in a net revenue gain in state and local 3168
taxes once the building is used. The director shall consider the 3169
results of the cost-benefit analysis in determining whether to 3170
approve the application. The director shall also consider the 3171
potential economic impact and the regional distributive balance of 3172
the credits throughout the state. The director may approve an 3173
application only after completion of the cost-benefit analysis. 3174

(2) A rehabilitation tax credit certificate shall not be 3175
issued for an amount greater than the estimated amount furnished 3176
by the applicant on the application for such certificate and 3177
approved by the director. The director shall not approve more than 3178
a total of sixty million dollars of rehabilitation tax credits per 3179

fiscal year but the director may reallocate unused tax credits 3180
from a prior fiscal year for new applicants and such reallocated 3181
credits shall not apply toward the dollar limit of this division. 3182

(3) For rehabilitations with a rehabilitation period not 3183
exceeding twenty-four months as provided in division (A)(7)(a) of 3184
this section, a rehabilitation tax credit certificate shall not be 3185
issued before the rehabilitation of the historic building is 3186
completed. 3187

(4) For rehabilitations with a rehabilitation period not 3188
exceeding sixty months as provided in division (A)(7)(b) of this 3189
section, a rehabilitation tax credit certificate shall not be 3190
issued before a stage of rehabilitation is completed. After all 3191
stages of rehabilitation are completed, if the director cannot 3192
determine that the criteria in division (C) of this section are 3193
satisfied for all stages of rehabilitations, the director shall 3194
certify this finding to the tax commissioner, and any 3195
rehabilitation tax credits received by the applicant shall be 3196
repaid by the applicant and may be collected by assessment as 3197
unpaid tax by the commissioner. 3198

(5) The director of development shall require the applicant 3199
to provide a third-party cost certification by a certified public 3200
accountant of the actual costs attributed to the rehabilitation of 3201
the historic building when qualified rehabilitation expenditures 3202
exceed two hundred thousand dollars. 3203

If an applicant whose application is approved for receipt of 3204
a rehabilitation tax credit certificate fails to provide to the 3205
director of development sufficient evidence of reviewable 3206
progress, including a viable financial plan, copies of final 3207
construction drawings, and evidence that the applicant has 3208
obtained all historic approvals within twelve months after the 3209
date the applicant received notification of approval, and if the 3210
applicant fails to provide evidence to the director of development 3211

that the applicant has secured and closed on financing for the 3212
rehabilitation within eighteen months after receiving notification 3213
of approval, the director may rescind the approval of the 3214
application. The director shall notify the applicant if the 3215
approval has been rescinded. Credits that would have been 3216
available to an applicant whose approval was rescinded shall be 3217
available for other qualified applicants. Nothing in this division 3218
prohibits an applicant whose approval has been rescinded from 3219
submitting a new application for a rehabilitation tax credit 3220
certificate. 3221

(E) Issuance of a certificate represents a finding by the 3222
director of development of the matters described in divisions 3223
(C)(1), (2), and (3) of this section only; issuance of a 3224
certificate does not represent a verification or certification by 3225
the director of the amount of qualified rehabilitation 3226
expenditures for which a tax credit may be claimed under section 3227
5725.151, 5725.34, 5729.17, 5733.47, or 5747.76 of the Revised 3228
Code. The amount of qualified rehabilitation expenditures for 3229
which a tax credit may be claimed is subject to inspection and 3230
examination by the tax commissioner or employees of the 3231
commissioner under section 5703.19 of the Revised Code and any 3232
other applicable law. Upon the issuance of a certificate, the 3233
director shall certify to the tax commissioner, in the form and 3234
manner requested by the tax commissioner, the name of the 3235
applicant, the amount of qualified rehabilitation expenditures 3236
shown on the certificate, and any other information required by 3237
the rules adopted under this section. 3238

(F)(1) On or before the first day of April each year, the 3239
director of development and tax commissioner jointly shall submit 3240
to the president of the senate and the speaker of the house of 3241
representatives a report on the tax credit program established 3242
under this section and sections 5725.151, 5725.34, 5729.17, 3243

5733.47, and 5747.76 of the Revised Code. The report shall present 3244
an overview of the program and shall include information on the 3245
number of rehabilitation tax credit certificates issued under this 3246
section during the preceding fiscal year, an update on the status 3247
of each historic building for which an application was approved 3248
under this section, the dollar amount of the tax credits granted 3249
under sections 5725.151, 5725.34, 5729.17, 5733.47, and 5747.76 of 3250
the Revised Code, and any other information the director and 3251
commissioner consider relevant to the topics addressed in the 3252
report. 3253

(2) On or before December 1, 2015, the director of 3254
development and tax commissioner jointly shall submit to the 3255
president of the senate and the speaker of the house of 3256
representatives a comprehensive report that includes the 3257
information required by division (F)(1) of this section and a 3258
detailed analysis of the effectiveness of issuing tax credits for 3259
rehabilitating historic buildings. The report shall be prepared 3260
with the assistance of an economic research organization jointly 3261
chosen by the director and commissioner. 3262

(G) There is hereby created in the state treasury the 3263
historic rehabilitation tax credit operating fund. The director of 3264
development is authorized to charge reasonable application and 3265
other fees in connection with the administration of tax credits 3266
authorized by this section and sections 5725.151, 5725.34, 3267
5729.17, 5733.44, and 5747.76 of the Revised Code. Any such fees 3268
collected shall be credited to the fund and used to pay reasonable 3269
costs incurred by the department of development in administering 3270
this section and sections 5725.151, 5725.34, 5729.17, 5733.44, and 3271
5747.76 of the Revised Code. 3272

The Ohio historic preservation office is authorized to charge 3273
reasonable fees in connection with its review and approval of 3274
applications under this section. Any such fees collected shall be 3275

credited to the fund and used to pay administrative costs incurred 3276
by the Ohio historic preservation office pursuant to this section. 3277

Sec. 149.43. (A) As used in this section: 3278

(1) "Public record" means records kept by any public office, 3279
including, but not limited to, state, county, city, village, 3280
township, and school district units, and records pertaining to the 3281
delivery of educational services by an alternative school in this 3282
state kept by the nonprofit or for-profit entity operating the 3283
alternative school pursuant to section 3313.533 of the Revised 3284
Code. "Public record" does not mean any of the following: 3285

(a) Medical records; 3286

(b) Records pertaining to probation and parole proceedings or 3287
to proceedings related to the imposition of community control 3288
sanctions and post-release control sanctions; 3289

(c) Records pertaining to actions under section 2151.85 and 3290
division (C) of section 2919.121 of the Revised Code and to 3291
appeals of actions arising under those sections; 3292

(d) Records pertaining to adoption proceedings, including the 3293
contents of an adoption file maintained by the department of 3294
health under section 3705.12 of the Revised Code; 3295

(e) Information in a record contained in the putative father 3296
registry established by section 3107.062 of the Revised Code, 3297
regardless of whether the information is held by the department of 3298
job and family services or, pursuant to section 3111.69 of the 3299
Revised Code, the office of child support in the department or a 3300
child support enforcement agency; 3301

(f) Records listed in division (A) of section 3107.42 of the 3302
Revised Code or specified in division (A) of section 3107.52 of 3303
the Revised Code; 3304

(g) Trial preparation records; 3305

(h) Confidential law enforcement investigatory records;	3306
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	3307 3308
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	3309 3310
(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;	3311 3312 3313 3314
(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;	3315 3316 3317 3318
(m) Intellectual property records;	3319
(n) Donor profile records;	3320
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	3321 3322
(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;	3323 3324 3325 3326 3327
(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;	3328 3329 3330 3331 3332
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	3333 3334
(s) Records provided to, statements made by review board	3335

members during meetings of, and all work products of a child 3336
fatality review board acting under sections 307.621 to 307.629 of 3337
the Revised Code, and child fatality review data submitted by the 3338
child fatality review board to the department of health or a 3339
national child death review database, other than the report 3340
prepared pursuant to division (A) of section 307.626 of the 3341
Revised Code; 3342

(t) Records provided to and statements made by the executive 3343
director of a public children services agency or a prosecuting 3344
attorney acting pursuant to section 5153.171 of the Revised Code 3345
other than the information released under that section; 3346

(u) Test materials, examinations, or evaluation tools used in 3347
an examination for licensure as a nursing home administrator that 3348
the board of examiners of nursing home administrators administers 3349
under section 4751.04 of the Revised Code or contracts under that 3350
section with a private or government entity to administer; 3351

(v) Records the release of which is prohibited by state or 3352
federal law; 3353

(w) Proprietary information of or relating to any person that 3354
is submitted to or compiled by the Ohio venture capital authority 3355
created under section 150.01 of the Revised Code; 3356

(x) Information reported and evaluations conducted pursuant 3357
to section 3701.072 of the Revised Code; 3358

(y) Financial statements and data any person submits for any 3359
purpose to the Ohio housing finance agency or the controlling 3360
board in connection with applying for, receiving, or accounting 3361
for financial assistance from the agency, and information that 3362
identifies any individual who benefits directly or indirectly from 3363
financial assistance from the agency; 3364

(z) Records listed in section 5101.29 of the Revised Code; 3365

(aa) Discharges recorded with a county recorder under section 3366
317.24 of the Revised Code, as specified in division (B)(2) of 3367
that section; 3368

(bb) Usage information including names and addresses of 3369
specific residential and commercial customers of a municipally 3370
owned or operated public utility; 3371

(cc) Records described in division (C) of section 187.04 of 3372
the Revised Code that are not designated to be made available to 3373
the public as provided in that division. 3374

(2) "Confidential law enforcement investigatory record" means 3375
any record that pertains to a law enforcement matter of a 3376
criminal, quasi-criminal, civil, or administrative nature, but 3377
only to the extent that the release of the record would create a 3378
high probability of disclosure of any of the following: 3379

(a) The identity of a suspect who has not been charged with 3380
the offense to which the record pertains, or of an information 3381
source or witness to whom confidentiality has been reasonably 3382
promised; 3383

(b) Information provided by an information source or witness 3384
to whom confidentiality has been reasonably promised, which 3385
information would reasonably tend to disclose the source's or 3386
witness's identity; 3387

(c) Specific confidential investigatory techniques or 3388
procedures or specific investigatory work product; 3389

(d) Information that would endanger the life or physical 3390
safety of law enforcement personnel, a crime victim, a witness, or 3391
a confidential information source. 3392

(3) "Medical record" means any document or combination of 3393
documents, except births, deaths, and the fact of admission to or 3394
discharge from a hospital, that pertains to the medical history, 3395

diagnosis, prognosis, or medical condition of a patient and that 3396
is generated and maintained in the process of medical treatment. 3397

(4) "Trial preparation record" means any record that contains 3398
information that is specifically compiled in reasonable 3399
anticipation of, or in defense of, a civil or criminal action or 3400
proceeding, including the independent thought processes and 3401
personal trial preparation of an attorney. 3402

(5) "Intellectual property record" means a record, other than 3403
a financial or administrative record, that is produced or 3404
collected by or for faculty or staff of a state institution of 3405
higher learning in the conduct of or as a result of study or 3406
research on an educational, commercial, scientific, artistic, 3407
technical, or scholarly issue, regardless of whether the study or 3408
research was sponsored by the institution alone or in conjunction 3409
with a governmental body or private concern, and that has not been 3410
publicly released, published, or patented. 3411

(6) "Donor profile record" means all records about donors or 3412
potential donors to a public institution of higher education 3413
except the names and reported addresses of the actual donors and 3414
the date, amount, and conditions of the actual donation. 3415

(7) "Peace officer, parole officer, probation officer, 3416
bailiff, prosecuting attorney, assistant prosecuting attorney, 3417
correctional employee, youth services employee, firefighter, EMT, 3418
or investigator of the bureau of criminal identification and 3419
investigation residential and familial information" means any 3420
information that discloses any of the following about a peace 3421
officer, parole officer, probation officer, bailiff, prosecuting 3422
attorney, assistant prosecuting attorney, correctional employee, 3423
youth services employee, firefighter, EMT, or investigator of the 3424
bureau of criminal identification and investigation: 3425

(a) The address of the actual personal residence of a peace 3426

officer, parole officer, probation officer, bailiff, assistant 3427
prosecuting attorney, correctional employee, youth services 3428
employee, firefighter, EMT, or an investigator of the bureau of 3429
criminal identification and investigation, except for the state or 3430
political subdivision in which the peace officer, parole officer, 3431
probation officer, bailiff, assistant prosecuting attorney, 3432
correctional employee, youth services employee, firefighter, EMT, 3433
or investigator of the bureau of criminal identification and 3434
investigation resides; 3435

(b) Information compiled from referral to or participation in 3436
an employee assistance program; 3437

(c) The social security number, the residential telephone 3438
number, any bank account, debit card, charge card, or credit card 3439
number, or the emergency telephone number of, or any medical 3440
information pertaining to, a peace officer, parole officer, 3441
probation officer, bailiff, prosecuting attorney, assistant 3442
prosecuting attorney, correctional employee, youth services 3443
employee, firefighter, EMT, or investigator of the bureau of 3444
criminal identification and investigation; 3445

(d) The name of any beneficiary of employment benefits, 3446
including, but not limited to, life insurance benefits, provided 3447
to a peace officer, parole officer, probation officer, bailiff, 3448
prosecuting attorney, assistant prosecuting attorney, correctional 3449
employee, youth services employee, firefighter, EMT, or 3450
investigator of the bureau of criminal identification and 3451
investigation by the peace officer's, parole officer's, probation 3452
officer's, bailiff's, prosecuting attorney's, assistant 3453
prosecuting attorney's, correctional employee's, youth services 3454
employee's, firefighter's, EMT's, or investigator of the bureau of 3455
criminal identification and investigation's employer; 3456

(e) The identity and amount of any charitable or employment 3457
benefit deduction made by the peace officer's, parole officer's, 3458

probation officer's, bailiff's, prosecuting attorney's, assistant 3459
prosecuting attorney's, correctional employee's, youth services 3460
employee's, firefighter's, EMT's, or investigator of the bureau of 3461
criminal identification and investigation's employer from the 3462
peace officer's, parole officer's, probation officer's, bailiff's, 3463
prosecuting attorney's, assistant prosecuting attorney's, 3464
correctional employee's, youth services employee's, firefighter's, 3465
EMT's, or investigator of the bureau of criminal identification 3466
and investigation's compensation unless the amount of the 3467
deduction is required by state or federal law; 3468

(f) The name, the residential address, the name of the 3469
employer, the address of the employer, the social security number, 3470
the residential telephone number, any bank account, debit card, 3471
charge card, or credit card number, or the emergency telephone 3472
number of the spouse, a former spouse, or any child of a peace 3473
officer, parole officer, probation officer, bailiff, prosecuting 3474
attorney, assistant prosecuting attorney, correctional employee, 3475
youth services employee, firefighter, EMT, or investigator of the 3476
bureau of criminal identification and investigation; 3477

(g) A photograph of a peace officer who holds a position or 3478
has an assignment that may include undercover or plain clothes 3479
positions or assignments as determined by the peace officer's 3480
appointing authority. 3481

As used in divisions (A)(7) and (B)(9) of this section, 3482
"peace officer" has the same meaning as in section 109.71 of the 3483
Revised Code and also includes the superintendent and troopers of 3484
the state highway patrol; it does not include the sheriff of a 3485
county or a supervisory employee who, in the absence of the 3486
sheriff, is authorized to stand in for, exercise the authority of, 3487
and perform the duties of the sheriff. 3488

As used in divisions (A)(7) and (B)(5) of this section, 3489
"correctional employee" means any employee of the department of 3490

rehabilitation and correction who in the course of performing the 3491
employee's job duties has or has had contact with inmates and 3492
persons under supervision. 3493

As used in divisions (A)(7) and (B)(5) of this section, 3494
"youth services employee" means any employee of the department of 3495
youth services who in the course of performing the employee's job 3496
duties has or has had contact with children committed to the 3497
custody of the department of youth services. 3498

As used in divisions (A)(7) and (B)(9) of this section, 3499
"firefighter" means any regular, paid or volunteer, member of a 3500
lawfully constituted fire department of a municipal corporation, 3501
township, fire district, or village. 3502

As used in divisions (A)(7) and (B)(9) of this section, "EMT" 3503
means EMTs-basic, EMTs-I, and paramedics that provide emergency 3504
medical services for a public emergency medical service 3505
organization. "Emergency medical service organization," 3506
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as in 3507
section 4765.01 of the Revised Code. 3508

As used in divisions (A)(7) and (B)(9) of this section, 3509
"investigator of the bureau of criminal identification and 3510
investigation" has the meaning defined in section 2903.11 of the 3511
Revised Code. 3512

(8) "Information pertaining to the recreational activities of 3513
a person under the age of eighteen" means information that is kept 3514
in the ordinary course of business by a public office, that 3515
pertains to the recreational activities of a person under the age 3516
of eighteen years, and that discloses any of the following: 3517

(a) The address or telephone number of a person under the age 3518
of eighteen or the address or telephone number of that person's 3519
parent, guardian, custodian, or emergency contact person; 3520

(b) The social security number, birth date, or photographic 3521

image of a person under the age of eighteen; 3522

(c) Any medical record, history, or information pertaining to 3523
a person under the age of eighteen; 3524

(d) Any additional information sought or required about a 3525
person under the age of eighteen for the purpose of allowing that 3526
person to participate in any recreational activity conducted or 3527
sponsored by a public office or to use or obtain admission 3528
privileges to any recreational facility owned or operated by a 3529
public office. 3530

(9) "Community control sanction" has the same meaning as in 3531
section 2929.01 of the Revised Code. 3532

(10) "Post-release control sanction" has the same meaning as 3533
in section 2967.01 of the Revised Code. 3534

(11) "Redaction" means obscuring or deleting any information 3535
that is exempt from the duty to permit public inspection or 3536
copying from an item that otherwise meets the definition of a 3537
"record" in section 149.011 of the Revised Code. 3538

(12) "Designee" and "elected official" have the same meanings 3539
as in section 109.43 of the Revised Code. 3540

(B)(1) Upon request and subject to division (B)(8) of this 3541
section, all public records responsive to the request shall be 3542
promptly prepared and made available for inspection to any person 3543
at all reasonable times during regular business hours. Subject to 3544
division (B)(8) of this section, upon request, a public office or 3545
person responsible for public records shall make copies of the 3546
requested public record available at cost and within a reasonable 3547
period of time. If a public record contains information that is 3548
exempt from the duty to permit public inspection or to copy the 3549
public record, the public office or the person responsible for the 3550
public record shall make available all of the information within 3551
the public record that is not exempt. When making that public 3552

record available for public inspection or copying that public 3553
record, the public office or the person responsible for the public 3554
record shall notify the requester of any redaction or make the 3555
redaction plainly visible. A redaction shall be deemed a denial of 3556
a request to inspect or copy the redacted information, except if 3557
federal or state law authorizes or requires a public office to 3558
make the redaction. 3559

(2) To facilitate broader access to public records, a public 3560
office or the person responsible for public records shall organize 3561
and maintain public records in a manner that they can be made 3562
available for inspection or copying in accordance with division 3563
(B) of this section. A public office also shall have available a 3564
copy of its current records retention schedule at a location 3565
readily available to the public. If a requester makes an ambiguous 3566
or overly broad request or has difficulty in making a request for 3567
copies or inspection of public records under this section such 3568
that the public office or the person responsible for the requested 3569
public record cannot reasonably identify what public records are 3570
being requested, the public office or the person responsible for 3571
the requested public record may deny the request but shall provide 3572
the requester with an opportunity to revise the request by 3573
informing the requester of the manner in which records are 3574
maintained by the public office and accessed in the ordinary 3575
course of the public office's or person's duties. 3576

(3) If a request is ultimately denied, in part or in whole, 3577
the public office or the person responsible for the requested 3578
public record shall provide the requester with an explanation, 3579
including legal authority, setting forth why the request was 3580
denied. If the initial request was provided in writing, the 3581
explanation also shall be provided to the requester in writing. 3582
The explanation shall not preclude the public office or the person 3583
responsible for the requested public record from relying upon 3584

additional reasons or legal authority in defending an action 3585
commenced under division (C) of this section. 3586

(4) Unless specifically required or authorized by state or 3587
federal law or in accordance with division (B) of this section, no 3588
public office or person responsible for public records may limit 3589
or condition the availability of public records by requiring 3590
disclosure of the requester's identity or the intended use of the 3591
requested public record. Any requirement that the requester 3592
disclose the requestor's identity or the intended use of the 3593
requested public record constitutes a denial of the request. 3594

(5) A public office or person responsible for public records 3595
may ask a requester to make the request in writing, may ask for 3596
the requester's identity, and may inquire about the intended use 3597
of the information requested, but may do so only after disclosing 3598
to the requester that a written request is not mandatory and that 3599
the requester may decline to reveal the requester's identity or 3600
the intended use and when a written request or disclosure of the 3601
identity or intended use would benefit the requester by enhancing 3602
the ability of the public office or person responsible for public 3603
records to identify, locate, or deliver the public records sought 3604
by the requester. 3605

(6) If any person chooses to obtain a copy of a public record 3606
in accordance with division (B) of this section, the public office 3607
or person responsible for the public record may require that 3608
person to pay in advance the cost involved in providing the copy 3609
of the public record in accordance with the choice made by the 3610
person seeking the copy under this division. The public office or 3611
the person responsible for the public record shall permit that 3612
person to choose to have the public record duplicated upon paper, 3613
upon the same medium upon which the public office or person 3614
responsible for the public record keeps it, or upon any other 3615
medium upon which the public office or person responsible for the 3616

public record determines that it reasonably can be duplicated as 3617
an integral part of the normal operations of the public office or 3618
person responsible for the public record. When the person seeking 3619
the copy makes a choice under this division, the public office or 3620
person responsible for the public record shall provide a copy of 3621
it in accordance with the choice made by the person seeking the 3622
copy. Nothing in this section requires a public office or person 3623
responsible for the public record to allow the person seeking a 3624
copy of the public record to make the copies of the public record. 3625

(7) Upon a request made in accordance with division (B) of 3626
this section and subject to division (B)(6) of this section, a 3627
public office or person responsible for public records shall 3628
transmit a copy of a public record to any person by United States 3629
mail or by any other means of delivery or transmission within a 3630
reasonable period of time after receiving the request for the 3631
copy. The public office or person responsible for the public 3632
record may require the person making the request to pay in advance 3633
the cost of postage if the copy is transmitted by United States 3634
mail or the cost of delivery if the copy is transmitted other than 3635
by United States mail, and to pay in advance the costs incurred 3636
for other supplies used in the mailing, delivery, or transmission. 3637

Any public office may adopt a policy and procedures that it 3638
will follow in transmitting, within a reasonable period of time 3639
after receiving a request, copies of public records by United 3640
States mail or by any other means of delivery or transmission 3641
pursuant to this division. A public office that adopts a policy 3642
and procedures under this division shall comply with them in 3643
performing its duties under this division. 3644

In any policy and procedures adopted under this division, a 3645
public office may limit the number of records requested by a 3646
person that the office will transmit by United States mail to ten 3647
per month, unless the person certifies to the office in writing 3648

that the person does not intend to use or forward the requested 3649
records, or the information contained in them, for commercial 3650
purposes. For purposes of this division, "commercial" shall be 3651
narrowly construed and does not include reporting or gathering 3652
news, reporting or gathering information to assist citizen 3653
oversight or understanding of the operation or activities of 3654
government, or nonprofit educational research. 3655

(8) A public office or person responsible for public records 3656
is not required to permit a person who is incarcerated pursuant to 3657
a criminal conviction or a juvenile adjudication to inspect or to 3658
obtain a copy of any public record concerning a criminal 3659
investigation or prosecution or concerning what would be a 3660
criminal investigation or prosecution if the subject of the 3661
investigation or prosecution were an adult, unless the request to 3662
inspect or to obtain a copy of the record is for the purpose of 3663
acquiring information that is subject to release as a public 3664
record under this section and the judge who imposed the sentence 3665
or made the adjudication with respect to the person, or the 3666
judge's successor in office, finds that the information sought in 3667
the public record is necessary to support what appears to be a 3668
justiciable claim of the person. 3669

(9)(a) Upon written request made and signed by a journalist 3670
on or after December 16, 1999, a public office, or person 3671
responsible for public records, having custody of the records of 3672
the agency employing a specified peace officer, parole officer, 3673
probation officer, bailiff, prosecuting attorney, assistant 3674
prosecuting attorney, correctional employee, youth services 3675
employee, firefighter, EMT, or investigator of the bureau of 3676
criminal identification and investigation shall disclose to the 3677
journalist the address of the actual personal residence of the 3678
peace officer, parole officer, probation officer, bailiff, 3679
prosecuting attorney, assistant prosecuting attorney, correctional 3680

employee, youth services employee, firefighter, EMT, or 3681
investigator of the bureau of criminal identification and 3682
investigation and, if the peace officer's, parole officer's, 3683
probation officer's, bailiff's, prosecuting attorney's, assistant 3684
prosecuting attorney's, correctional employee's, youth services 3685
employee's, firefighter's, EMT's, or investigator of the bureau of 3686
criminal identification and investigation's spouse, former spouse, 3687
or child is employed by a public office, the name and address of 3688
the employer of the peace officer's, parole officer's, probation 3689
officer's, bailiff's, prosecuting attorney's, assistant 3690
prosecuting attorney's, correctional employee's, youth services 3691
employee's, firefighter's, EMT's, or investigator of the bureau of 3692
criminal identification and investigation's spouse, former spouse, 3693
or child. The request shall include the journalist's name and 3694
title and the name and address of the journalist's employer and 3695
shall state that disclosure of the information sought would be in 3696
the public interest. 3697

(b) Division (B)(9)(a) of this section also applies to 3698
journalist requests for customer information maintained by a 3699
municipally owned or operated public utility, other than social 3700
security numbers and any private financial information such as 3701
credit reports, payment methods, credit card numbers, and bank 3702
account information. 3703

(c) As used in division (B)(9) of this section, "journalist" 3704
means a person engaged in, connected with, or employed by any news 3705
medium, including a newspaper, magazine, press association, news 3706
agency, or wire service, a radio or television station, or a 3707
similar medium, for the purpose of gathering, processing, 3708
transmitting, compiling, editing, or disseminating information for 3709
the general public. 3710

(C)(1) If a person allegedly is aggrieved by the failure of a 3711
public office or the person responsible for public records to 3712

promptly prepare a public record and to make it available to the 3713
person for inspection in accordance with division (B) of this 3714
section or by any other failure of a public office or the person 3715
responsible for public records to comply with an obligation in 3716
accordance with division (B) of this section, the person allegedly 3717
aggrieved may commence a mandamus action to obtain a judgment that 3718
orders the public office or the person responsible for the public 3719
record to comply with division (B) of this section, that awards 3720
court costs and reasonable attorney's fees to the person that 3721
instituted the mandamus action, and, if applicable, that includes 3722
an order fixing statutory damages under division (C)(1) of this 3723
section. The mandamus action may be commenced in the court of 3724
common pleas of the county in which division (B) of this section 3725
allegedly was not complied with, in the supreme court pursuant to 3726
its original jurisdiction under Section 2 of Article IV, Ohio 3727
Constitution, or in the court of appeals for the appellate 3728
district in which division (B) of this section allegedly was not 3729
complied with pursuant to its original jurisdiction under Section 3730
3 of Article IV, Ohio Constitution. 3731

If a requestor transmits a written request by hand delivery 3732
or certified mail to inspect or receive copies of any public 3733
record in a manner that fairly describes the public record or 3734
class of public records to the public office or person responsible 3735
for the requested public records, except as otherwise provided in 3736
this section, the requestor shall be entitled to recover the 3737
amount of statutory damages set forth in this division if a court 3738
determines that the public office or the person responsible for 3739
public records failed to comply with an obligation in accordance 3740
with division (B) of this section. 3741

The amount of statutory damages shall be fixed at one hundred 3742
dollars for each business day during which the public office or 3743
person responsible for the requested public records failed to 3744

comply with an obligation in accordance with division (B) of this 3745
section, beginning with the day on which the requester files a 3746
mandamus action to recover statutory damages, up to a maximum of 3747
one thousand dollars. The award of statutory damages shall not be 3748
construed as a penalty, but as compensation for injury arising 3749
from lost use of the requested information. The existence of this 3750
injury shall be conclusively presumed. The award of statutory 3751
damages shall be in addition to all other remedies authorized by 3752
this section. 3753

The court may reduce an award of statutory damages or not 3754
award statutory damages if the court determines both of the 3755
following: 3756

(a) That, based on the ordinary application of statutory law 3757
and case law as it existed at the time of the conduct or 3758
threatened conduct of the public office or person responsible for 3759
the requested public records that allegedly constitutes a failure 3760
to comply with an obligation in accordance with division (B) of 3761
this section and that was the basis of the mandamus action, a 3762
well-informed public office or person responsible for the 3763
requested public records reasonably would believe that the conduct 3764
or threatened conduct of the public office or person responsible 3765
for the requested public records did not constitute a failure to 3766
comply with an obligation in accordance with division (B) of this 3767
section; 3768

(b) That a well-informed public office or person responsible 3769
for the requested public records reasonably would believe that the 3770
conduct or threatened conduct of the public office or person 3771
responsible for the requested public records would serve the 3772
public policy that underlies the authority that is asserted as 3773
permitting that conduct or threatened conduct. 3774

(2)(a) If the court issues a writ of mandamus that orders the 3775
public office or the person responsible for the public record to 3776

comply with division (B) of this section and determines that the 3777
circumstances described in division (C)(1) of this section exist, 3778
the court shall determine and award to the relator all court 3779
costs. 3780

(b) If the court renders a judgment that orders the public 3781
office or the person responsible for the public record to comply 3782
with division (B) of this section, the court may award reasonable 3783
attorney's fees subject to reduction as described in division 3784
(C)(2)(c) of this section. The court shall award reasonable 3785
attorney's fees, subject to reduction as described in division 3786
(C)(2)(c) of this section when either of the following applies: 3787

(i) The public office or the person responsible for the 3788
public records failed to respond affirmatively or negatively to 3789
the public records request in accordance with the time allowed 3790
under division (B) of this section. 3791

(ii) The public office or the person responsible for the 3792
public records promised to permit the relator to inspect or 3793
receive copies of the public records requested within a specified 3794
period of time but failed to fulfill that promise within that 3795
specified period of time. 3796

(c) Court costs and reasonable attorney's fees awarded under 3797
this section shall be construed as remedial and not punitive. 3798
Reasonable attorney's fees shall include reasonable fees incurred 3799
to produce proof of the reasonableness and amount of the fees and 3800
to otherwise litigate entitlement to the fees. The court may 3801
reduce an award of attorney's fees to the relator or not award 3802
attorney's fees to the relator if the court determines both of the 3803
following: 3804

(i) That, based on the ordinary application of statutory law 3805
and case law as it existed at the time of the conduct or 3806
threatened conduct of the public office or person responsible for 3807

the requested public records that allegedly constitutes a failure 3808
to comply with an obligation in accordance with division (B) of 3809
this section and that was the basis of the mandamus action, a 3810
well-informed public office or person responsible for the 3811
requested public records reasonably would believe that the conduct 3812
or threatened conduct of the public office or person responsible 3813
for the requested public records did not constitute a failure to 3814
comply with an obligation in accordance with division (B) of this 3815
section; 3816

(ii) That a well-informed public office or person responsible 3817
for the requested public records reasonably would believe that the 3818
conduct or threatened conduct of the public office or person 3819
responsible for the requested public records as described in 3820
division (C)(2)(c)(i) of this section would serve the public 3821
policy that underlies the authority that is asserted as permitting 3822
that conduct or threatened conduct. 3823

(D) Chapter 1347. of the Revised Code does not limit the 3824
provisions of this section. 3825

(E)(1) To ensure that all employees of public offices are 3826
appropriately educated about a public office's obligations under 3827
division (B) of this section, all elected officials or their 3828
appropriate designees shall attend training approved by the 3829
attorney general as provided in section 109.43 of the Revised 3830
Code. In addition, all public offices shall adopt a public records 3831
policy in compliance with this section for responding to public 3832
records requests. In adopting a public records policy under this 3833
division, a public office may obtain guidance from the model 3834
public records policy developed and provided to the public office 3835
by the attorney general under section 109.43 of the Revised Code. 3836
Except as otherwise provided in this section, the policy may not 3837
limit the number of public records that the public office will 3838
make available to a single person, may not limit the number of 3839

public records that it will make available during a fixed period 3840
of time, and may not establish a fixed period of time before it 3841
will respond to a request for inspection or copying of public 3842
records, unless that period is less than eight hours. 3843

(2) The public office shall distribute the public records 3844
policy adopted by the public office under division (E)(1) of this 3845
section to the employee of the public office who is the records 3846
custodian or records manager or otherwise has custody of the 3847
records of that office. The public office shall require that 3848
employee to acknowledge receipt of the copy of the public records 3849
policy. The public office shall create a poster that describes its 3850
public records policy and shall post the poster in a conspicuous 3851
place in the public office and in all locations where the public 3852
office has branch offices. The public office may post its public 3853
records policy on the internet web site of the public office if 3854
the public office maintains an internet web site. A public office 3855
that has established a manual or handbook of its general policies 3856
and procedures for all employees of the public office shall 3857
include the public records policy of the public office in the 3858
manual or handbook. 3859

(F)(1) The bureau of motor vehicles may adopt rules pursuant 3860
to Chapter 119. of the Revised Code to reasonably limit the number 3861
of bulk commercial special extraction requests made by a person 3862
for the same records or for updated records during a calendar 3863
year. The rules may include provisions for charges to be made for 3864
bulk commercial special extraction requests for the actual cost of 3865
the bureau, plus special extraction costs, plus ten per cent. The 3866
bureau may charge for expenses for redacting information, the 3867
release of which is prohibited by law. 3868

(2) As used in division (F)(1) of this section: 3869

(a) "Actual cost" means the cost of depleted supplies, 3870
records storage media costs, actual mailing and alternative 3871

delivery costs, or other transmitting costs, and any direct 3872
equipment operating and maintenance costs, including actual costs 3873
paid to private contractors for copying services. 3874

(b) "Bulk commercial special extraction request" means a 3875
request for copies of a record for information in a format other 3876
than the format already available, or information that cannot be 3877
extracted without examination of all items in a records series, 3878
class of records, or data base by a person who intends to use or 3879
forward the copies for surveys, marketing, solicitation, or resale 3880
for commercial purposes. "Bulk commercial special extraction 3881
request" does not include a request by a person who gives 3882
assurance to the bureau that the person making the request does 3883
not intend to use or forward the requested copies for surveys, 3884
marketing, solicitation, or resale for commercial purposes. 3885

(c) "Commercial" means profit-seeking production, buying, or 3886
selling of any good, service, or other product. 3887

(d) "Special extraction costs" means the cost of the time 3888
spent by the lowest paid employee competent to perform the task, 3889
the actual amount paid to outside private contractors employed by 3890
the bureau, or the actual cost incurred to create computer 3891
programs to make the special extraction. "Special extraction 3892
costs" include any charges paid to a public agency for computer or 3893
records services. 3894

(3) For purposes of divisions (F)(1) and (2) of this section, 3895
"surveys, marketing, solicitation, or resale for commercial 3896
purposes" shall be narrowly construed and does not include 3897
reporting or gathering news, reporting or gathering information to 3898
assist citizen oversight or understanding of the operation or 3899
activities of government, or nonprofit educational research. 3900

Sec. 164.05. (A) The director of the Ohio public works 3901
commission shall do all of the following: 3902

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

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

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

(c) The amount of the financial assistance, when added to all other financial assistance provided during the fiscal year for projects within the district, does not exceed that district's allocation of money from the state capital improvements fund for that fiscal year;

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

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

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

(3) Retain the services of or employ financial consultants, engineers, accountants, attorneys, and such other employees as the

director determines are necessary to carry out the director's 3934
duties under this chapter and fix the compensation for their 3935
services; 3936

(4) Adopt rules establishing the procedures for making 3937
applications, reviewing, approving, and rejecting projects for 3938
which assistance is authorized under this chapter, and any other 3939
rules needed to implement the provisions of this chapter. Such 3940
rules shall be adopted under Chapter 119. of the Revised Code. 3941

(5) Provide information and other assistance to local 3942
subdivisions and district public works integrating committees in 3943
developing their requests for financial assistance for capital 3944
improvements under this chapter and encourage cooperation and 3945
coordination of requests and the development of multisubdivision 3946
and multidistrict projects in order to maximize the benefits that 3947
may be derived by districts from each year's allocation; 3948

(6) Require local subdivisions, to the extent practicable, to 3949
use Ohio products, materials, services, and labor in connection 3950
with any capital improvement project financed in whole or in part 3951
under this chapter; 3952

(7) Notify the director of budget and management of all 3953
approved projects, and supply all information necessary to track 3954
approved projects through the state accounting system; 3955

(8) Appoint the administrator of the Ohio small government 3956
capital improvements commission; 3957

(9) Do all other acts, enter into contracts, and execute all 3958
instruments necessary or appropriate to carry out this chapter; 3959

(10) Develop a standardized methodology for evaluating 3960
capital improvement needs which will be used by local subdivisions 3961
in preparing the plans required by division (C) of section 164.06 3962
of the Revised Code. The director shall develop this methodology 3963
not later than July 1, 1991. 3964

(11) Establish a program to provide local subdivisions with 3965
technical assistance in preparing project applications. The 3966
program shall be designed to assist local subdivisions that lack 3967
the financial or technical resources to prepare project 3968
applications on their own. 3969

(B) When the director of the Ohio public works commission 3970
decides to conditionally approve or disapprove projects, the 3971
director's decisions and the reasons for which they are made shall 3972
be made in writing. These written decisions shall be conclusive 3973
for the purposes of the validity and enforceability of such 3974
determinations. 3975

(C) Fees, charges, rates of interest, times of payment of 3976
interest and principal, and other terms, conditions, and 3977
provisions of and security for financial assistance provided 3978
pursuant to the provisions of this chapter shall be such as the 3979
director determines to be appropriate. If any payments required by 3980
a loan agreement entered into pursuant to this chapter are not 3981
paid, the funds which would otherwise be apportioned to the local 3982
subdivision from the county undivided local government fund, 3983
pursuant to sections 5747.51 to 5747.53 of the Revised Code, may, 3984
at the direction of the director of the Ohio public works 3985
commission, be reduced by the amount payable. The county treasurer 3986
shall, at the direction of the director, pay the amount of such 3987
reductions to the state capital improvements revolving loan fund. 3988
The director may renegotiate a loan repayment schedule with a 3989
local subdivision whose payments from the county undivided local 3990
government fund could be reduced pursuant to this division, but 3991
such a renegotiation may occur only one time with respect to any 3992
particular loan agreement. 3993

(D) Grants approved for the repair and replacement of 3994
existing infrastructure pursuant to this chapter shall not exceed 3995
ninety per cent of the estimated total cost of the capital 3996

improvement project. Grants approved for new or expanded 3997
infrastructure shall not exceed fifty per cent of the estimated 3998
cost of the new or expansion elements of the capital improvement 3999
project. A local subdivision share of the estimated cost of a 4000
capital improvement may consist of any of the following: 4001

(1) The reasonable value, as determined by the director or 4002
the administrator, of labor, materials, and equipment that will be 4003
contributed by the local subdivision in performing the capital 4004
improvement project; 4005

(2) Moneys received by the local subdivision in any form from 4006
an authority, commission, or agency of the United States for use 4007
in performing the capital improvement project; 4008

(3) Loans made to the local subdivision under this chapter; 4009

(4) Engineering costs incurred by the local subdivision in 4010
performing engineering activities related to the project. 4011

A local subdivision share of the cost of a capital 4012
improvement shall not include any amounts awarded to it from the 4013
local transportation improvement program fund created in section 4014
164.14 of the Revised Code. 4015

(E) The following portion of a district public works 4016
integrating committee's annual allocation share pursuant to 4017
section 164.08 of the Revised Code may be awarded to subdivisions 4018
only in the form of interest-free, low-interest, market rate of 4019
interest, or blended-rate loans: 4020

YEAR IN WHICH	PORTION USED FOR	
MONEYS ARE ALLOCATED	LOANS	
Year 1	0%	4023
Year 2	0%	4024
Year 3	10%	4025
Year 4	12%	4026
Year 5	15%	4027

Year 6	20%	4028
Year 7, 8, 9, and 10	22%	4029

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

YEAR IN WHICH MONEYS ARE ALLOCATED	PORTIONS USED FOR LOCAL DEBT SUPPORT AND CREDIT ENHANCEMENTS	
Year 1	0%	4037
Year 2	0%	4038
Year 3	3%	4039
Year 4	5%	4040
Year 5	5%	4041
Year 6	7%	4042
Year 7	7%	4043
Year 8	8%	4044
Year 9	8%	4045
Year 10	8%	4046

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

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

follows:		4060
	PORTION WHICH MAY	4061
YEAR IN WHICH	BE USED FOR NEW OR	4062
MONEYS ARE ALLOCATED	EXPANSION INFRASTRUCTURE	4063
Year 1	5%	4064
Year 2	5%	4065
Year 3	10%	4066
Year 4	10%	4067
Year 5	10%	4068
Year 6	15%	4069
Year 7	15%	4070
Year 8	20%	4071
Year 9	20%	4072
Year 10 and each year		4073
thereafter	20%	4074

(I) The following portion of a district public works
integrating committee's annual allocation share pursuant to
section 164.08 of the Revised Code shall be awarded to
subdivisions in the form of interest-free, low-interest, market
rate of interest, or blended-rate loans, or local debt support and
credit enhancements:

	PORTION USED FOR LOANS	4081
YEAR IN WHICH	OR LOCAL DEBT SUPPORT	4082
MONEYS ARE ALLOCATED	AND CREDIT ENHANCEMENTS	4083
Year 11 and each year		4084
thereafter	20%	4085

(J) No project shall be approved under this section unless
the project is designed to have a useful life of at least seven
years. In addition, the average useful life of all projects for
which grants or loans are awarded in each district during a
program year shall not be less than twenty years.

Sec. 164.06. (A) Each district public works integrating 4091
committee shall evaluate materials submitted to it by the local 4092
subdivisions located in the district concerning capital 4093
improvements for which assistance is sought from the state capital 4094
improvements fund and shall, pursuant to division (B) of this 4095
section, select the requests for financial assistance that will be 4096
formally submitted by the district to the director of the Ohio 4097
public works commission. In order to provide for the efficient use 4098
of the district's state capital improvements fund allocation each 4099
year, a district committee shall assist its subdivisions in the 4100
preparation and coordination of project plans. 4101

(B) In selecting the requests for assistance for capital 4102
improvement projects which will be submitted to the director, and 4103
in determining the nature, amount, and terms of the assistance 4104
that will be requested, a district public works integrating 4105
committee shall give priority to capital improvement projects for 4106
the repair or replacement of existing infrastructure and which 4107
would be unlikely to be undertaken without assistance under this 4108
chapter, and shall specifically consider all of the following 4109
factors: 4110

(1) The infrastructure repair and replacement needs of the 4111
district; 4112

(2) The age and condition of the system to be repaired or 4113
replaced; 4114

(3) Whether the project would generate revenue in the form of 4115
user fees or assessments; 4116

(4) The importance of the project to the health and safety of 4117
the citizens of the district; 4118

(5) The cost of the project and whether it is consistent with 4119
division (G) of section 164.05 of the Revised Code and the 4120

district's allocation for grants, loans, and local debt support 4121
and credit enhancements for that year; 4122

(6) The effort and ability of the benefited local 4123
subdivisions to assist in financing the project; 4124

(7) The availability of federal or other funds for the 4125
project; 4126

(8) The overall economic health of the particular local 4127
subdivision; 4128

(9) The adequacy of the planning for the project and the 4129
readiness of the applicant to proceed should the project be 4130
approved; 4131

(10) Any other factors relevant to a particular project. 4132

(C) Prior to filing an application with its district public 4133
works integrating committee for assistance in financing a capital 4134
improvement project under this section, a local subdivision shall 4135
conduct a study of its existing capital improvements, the 4136
condition of those improvements, and the projected capital 4137
improvement needs of the subdivision in the ensuing five-year 4138
period. After completing this study, the subdivision shall compile 4139
a report that includes an inventory of its existing capital 4140
improvements, a plan detailing the capital improvement needs of 4141
the subdivision in the ensuing five-year period, and a list of the 4142
subdivision's priorities with respect to addressing those needs. 4143
Each year, the report shall be reviewed and updated by the 4144
subdivision to reflect capital improvement projects undertaken or 4145
completed in the past year and any changes in the subdivision's 4146
plan or priorities. The report and annual updates shall be made 4147
available upon request to the Ohio public works commission, the 4148
Ohio small government capital improvements commission, and the 4149
district public works integrating committee of the district of 4150
which the subdivision is a part. 4151

(D) In addition to reviewing and selecting the projects for 4152
which approval will be sought from the director of the Ohio public 4153
works commission for financial assistance from the state capital 4154
improvements fund, each district public works integrating 4155
committee shall appoint a subcommittee of its members that will 4156
represent the interests of villages and townships and that will 4157
review and select the capital improvement projects which will be 4158
submitted by the subcommittee to the administrator of the Ohio 4159
small government capital improvements commission for consideration 4160
of assistance from the portion of the net proceeds of obligations 4161
issued and sold by the treasurer of state which is allocated 4162
pursuant to division (B)(1) of section 164.08 of the Revised Code. 4163
In reviewing and approving the projects selected by its 4164
subcommittee, the administrator, and the Ohio small government 4165
capital improvements commission shall be guided by the provisions 4166
of division (B) of this section, and shall also take into account 4167
the fact that villages and townships may have different public 4168
infrastructure needs than larger subdivisions. 4169

(E) The district public works integrating committee for each 4170
district that includes at least one county with a population of 4171
less than eighty-five thousand according to the most recent 4172
decennial census shall appoint a subcommittee of its members for 4173
the purposes of the small counties capital improvement program 4174
created under division (F) of section 164.02 of the Revised Code. 4175
The subcommittee shall select and submit to the director the 4176
projects that will be considered for assistance from the money 4177
allocated to the program under division (B)~~(4)~~(3) of section 4178
164.08 of the Revised Code. 4179

Sec. 164.08. (A) Except as provided in sections 151.01 and 4180
151.08 or section 164.09 of the Revised Code, the net proceeds of 4181
obligations issued and sold by the treasurer of state pursuant to 4182
section 164.09 of the Revised Code before September 30, 2000, or 4183

pursuant to sections 151.01 and 151.08 of the Revised Code, for 4184
the purpose of financing or assisting in the financing of the cost 4185
of public infrastructure capital improvement projects of local 4186
subdivisions, as provided for in Section 2k, 2m, or 2p of Article 4187
VIII, Ohio Constitution, and this chapter, shall be paid into the 4188
state capital improvements fund, which is hereby created in the 4189
state treasury. Investment earnings on moneys in the fund shall be 4190
credited to the fund. 4191

(B) Beginning July 1, 2011, each program year the amount of 4192
obligations authorized by the general assembly in accordance with 4193
sections 151.01 and 151.08 or section 164.09 of the Revised Code, 4194
excluding the proceeds of refunding or renewal obligations, shall 4195
be allocated by the director of the Ohio public works commission 4196
as follows: 4197

(1) First, fifteen million dollars of the amount of 4198
obligations authorized shall be allocated to provide financial 4199
assistance to villages and to townships with populations in the 4200
unincorporated areas of the township of less than five thousand 4201
persons, for capital improvements in accordance with section 4202
164.051 and division (D) of section 164.06 of the Revised Code. As 4203
used in division (B)(1) of this section, "capital improvements" 4204
includes resurfacing and improving roads. 4205

(2) Following the allocation required by division (B)(1) of 4206
this section, the director may allocate three million dollars of 4207
the authorized obligations to provide financial assistance to 4208
local subdivisions for capital improvement projects which in the 4209
judgment of the director of the Ohio public works commission are 4210
necessary for the immediate preservation of the health, safety, 4211
and welfare of the citizens of the local subdivision requesting 4212
assistance. 4213

(3) ~~For the second, third, fourth, and fifth years that~~ 4214
~~obligations are authorized and are available for allocation under~~ 4215

~~this chapter, one million dollars shall be allocated to the sewer 4216
and water fund created in section 1525.11 of the Revised Code. 4217
Money from this allocation shall be transferred to that fund when 4218
needed to support specific payments from that fund. 4219~~

(4) For program years twelve and fourteen that obligations 4220
are authorized and available for allocation under this chapter, 4221
two million dollars each program year shall be allocated to the 4222
small county capital improvement program for use in providing 4223
financial assistance under division (F) of section 164.02 of the 4224
Revised Code. 4225

~~(5) After the allocation required by division (B)(3) of this 4226
section is made, the (4) The director shall determine the amount 4227
of the remaining obligations authorized to be issued and sold that 4228
each county would receive if such amounts were allocated on a per 4229
capita basis each year. If a county's per capita share for the 4230
year would be less than three hundred thousand dollars, the 4231
director shall allocate to the district in which that county is 4232
located an amount equal to the difference between three hundred 4233
thousand dollars and the county's per capita share. 4234~~

~~(6)(5) After making the allocation required by division 4235
(B)(5)(4) of this section, the director shall allocate the 4236
remaining amount to each district on a per capita basis. 4237~~

(C)(1) There is hereby created in the state treasury the 4238
state capital improvements revolving loan fund, into which shall 4239
be deposited all repayments of loans made to local subdivisions 4240
for capital improvements pursuant to this chapter. Investment 4241
earnings on moneys in the fund shall be credited to the fund. 4242

(2) There may also be deposited in the state capital 4243
improvements revolving loan fund moneys obtained from federal or 4244
private grants, or from other sources, which are to be used for 4245
any of the purposes authorized by this chapter. Such moneys shall 4246

be allocated each year in accordance with division (B)~~(6)~~(5) of 4247
this section. 4248

(3) Moneys deposited into the state capital improvements 4249
revolving loan fund shall be used to make loans for the purpose of 4250
financing or assisting in the financing of the cost of capital 4251
improvement projects of local subdivisions. 4252

(4) Investment earnings credited to the state capital 4253
improvements revolving loan fund that exceed the amounts required 4254
to meet estimated federal arbitrage rebate requirements shall be 4255
used to pay costs incurred by the public works commission in 4256
administering this section. Investment earnings credited to the 4257
state capital improvements revolving loan fund that exceed the 4258
amounts required to pay for the administrative costs and estimated 4259
rebate requirements shall be allocated to each district on a per 4260
capita basis. 4261

(5) Each program year, loan repayments received and on 4262
deposit in the state capital improvements revolving loan fund 4263
shall be allocated as follows: 4264

(a) Each district public works integrating committee shall be 4265
allocated an amount equal to the sum of all loan repayments made 4266
to the state capital improvements revolving loan fund by local 4267
subdivisions that are part of the district. Moneys not used in a 4268
program year may be used in the next program year in the same 4269
manner and for the same purpose as originally allocated. 4270

(b) Loan repayments made pursuant to projects approved under 4271
division (B)(1) of this section shall be used to make loans in 4272
accordance with section 164.051 and division (D) of section 164.06 4273
of the Revised Code. Allocations for this purpose made pursuant to 4274
division (C)(5) of this section shall be in addition to the 4275
allocation provided in division (B)(1) of this section. 4276

(c) Loan repayments made pursuant to projects approved under 4277

division (B)(2) of this section shall be used to make loans in 4278
accordance with division (B)(2) of this section. Allocations for 4279
this purpose made pursuant to division (C)(5) of this section 4280
shall be in addition to the allocation provided in division (B)(2) 4281
of this section. 4282

(d) Loans made from the state capital improvements revolving 4283
loan fund shall not be limited in their usage by divisions (E), 4284
(F), (G), (H), and (I) of section 164.05 of the Revised Code. 4285

(D) Investment earnings credited to the state capital 4286
improvements fund that exceed the amounts required to meet 4287
estimated federal arbitrage rebate requirements shall be used to 4288
pay costs incurred by the public works commission in administering 4289
sections 164.01 to 164.12 of the Revised Code. 4290

(E) The director of the Ohio public works commission shall 4291
notify the director of budget and management of the amounts 4292
allocated pursuant to this section and such information shall be 4293
entered into the state accounting system. The director of budget 4294
and management shall establish appropriation line items as needed 4295
to track these allocations. 4296

(F) If the amount of a district's allocation in a program 4297
year exceeds the amount of financial assistance approved for the 4298
district by the commission for that year, the remaining portion of 4299
the district's allocation shall be added to the district's 4300
allocation pursuant to division (B) of this section for the next 4301
succeeding year for use in the same manner and for the same 4302
purposes as it was originally allocated, except that any portion 4303
of a district's allocation which was available for use on new or 4304
expanded infrastructure pursuant to division (H) of section 164.05 4305
of the Revised Code shall be available in succeeding years only 4306
for the repair and replacement of existing infrastructure. 4307

(G) When an allocation based on population is made by the 4308

director pursuant to division (B) of this section, the director 4309
shall use the most recent decennial census statistics, and shall 4310
not make any reallocations based upon a change in a district's 4311
population. 4312

Sec. 166.01. As used in this chapter: 4313

(A) "Allowable costs" means all or part of the costs of 4314
project facilities, eligible projects, eligible innovation 4315
projects, eligible research and development projects, eligible 4316
advanced energy projects, or eligible logistics and distribution 4317
projects, including costs of acquiring, constructing, 4318
reconstructing, rehabilitating, renovating, enlarging, improving, 4319
equipping, or furnishing project facilities, eligible projects, 4320
eligible innovation projects, eligible research and development 4321
projects, eligible advanced energy projects, or eligible logistics 4322
and distribution projects, site clearance and preparation, 4323
supplementing and relocating public capital improvements or 4324
utility facilities, designs, plans, specifications, surveys, 4325
studies, and estimates of costs, expenses necessary or incident to 4326
determining the feasibility or practicability of assisting an 4327
eligible project, an eligible innovation project, an eligible 4328
research and development project, an eligible advanced energy 4329
project, or an eligible logistics and distribution project, or 4330
providing project facilities or facilities related to an eligible 4331
project, an eligible innovation project, an eligible research and 4332
development project, an eligible advanced energy project, or an 4333
eligible logistics and distribution project, architectural, 4334
engineering, and legal services fees and expenses, the costs of 4335
conducting any other activities as part of a voluntary action, and 4336
such other expenses as may be necessary or incidental to the 4337
establishment or development of an eligible project, an eligible 4338
innovation project, an eligible research and development project, 4339
an eligible advanced energy project, or an eligible logistics and 4340

distribution project, and reimbursement of moneys advanced or 4341
applied by any governmental agency or other person for allowable 4342
costs. 4343

(B) "Allowable innovation costs" includes allowable costs of 4344
eligible innovation projects and, in addition, includes the costs 4345
of research and development of eligible innovation projects; 4346
obtaining or creating any requisite software or computer hardware 4347
related to an eligible innovation project or the products or 4348
services associated therewith; testing (including, without 4349
limitation, quality control activities necessary for initial 4350
production), perfecting, and marketing of such products and 4351
services; creating and protecting intellectual property related to 4352
an eligible innovation project or any products or services related 4353
thereto, including costs of securing appropriate patent, 4354
trademark, trade secret, trade dress, copyright, or other form of 4355
intellectual property protection for an eligible innovation 4356
project or related products and services; all to the extent that 4357
such expenditures could be capitalized under then-applicable 4358
generally accepted accounting principles; and the reimbursement of 4359
moneys advanced or applied by any governmental agency or other 4360
person for allowable innovation costs. 4361

(C) "Eligible innovation project" includes an eligible 4362
project, including any project facilities associated with an 4363
eligible innovation project and, in addition, includes all 4364
tangible and intangible property related to a new product or 4365
process based on new technology or the creative application of 4366
existing technology, including research and development, product 4367
or process testing, quality control, market research, and related 4368
activities, that is to be acquired, established, expanded, 4369
remodeled, rehabilitated, or modernized for industry, commerce, 4370
distribution, or research, or any combination thereof, the 4371
operation of which, alone or in conjunction with other eligible 4372

projects, eligible innovation projects, or innovation property, 4373
will create new jobs or preserve existing jobs and employment 4374
opportunities and improve the economic welfare of the people of 4375
the state. 4376

(D) "Eligible project" means project facilities to be 4377
acquired, established, expanded, remodeled, rehabilitated, or 4378
modernized for industry, commerce, distribution, or research, or 4379
any combination thereof, the operation of which, alone or in 4380
conjunction with other facilities, will create new jobs or 4381
preserve existing jobs and employment opportunities and improve 4382
the economic welfare of the people of the state. "Eligible 4383
project" includes, without limitation, a voluntary action. For 4384
purposes of this division, "new jobs" does not include existing 4385
jobs transferred from another facility within the state, and 4386
"existing jobs" includes only those existing jobs with work places 4387
within the municipal corporation or unincorporated area of the 4388
county in which the eligible project is located. 4389

"Eligible project" does not include project facilities to be 4390
acquired, established, expanded, remodeled, rehabilitated, or 4391
modernized for industry, commerce, distribution, or research, or 4392
any combination of industry, commerce, distribution, or research, 4393
if the project facilities consist solely of 4394
point-of-final-purchase retail facilities. If the project 4395
facilities consist of both point-of-final-purchase retail 4396
facilities and nonretail facilities, only the portion of the 4397
project facilities consisting of nonretail facilities is an 4398
eligible project. If a warehouse facility is part of a 4399
point-of-final-purchase retail facility and supplies only that 4400
facility, the warehouse facility is not an eligible project. 4401
Catalog distribution facilities are not considered 4402
point-of-final-purchase retail facilities for purposes of this 4403
paragraph, and are eligible projects. 4404

(E) "Eligible research and development project" means an 4405
eligible project, including project facilities, comprising, 4406
within, or related to, a facility or portion of a facility at 4407
which research is undertaken for the purpose of discovering 4408
information that is technological in nature and the application of 4409
which is intended to be useful in the development of a new or 4410
improved product, process, technique, formula, or invention, a new 4411
product or process based on new technology, or the creative 4412
application of existing technology. 4413

(F) "Financial assistance" means inducements under division 4414
(B) of section 166.02 of the Revised Code, loan guarantees under 4415
section 166.06 of the Revised Code, and direct loans under section 4416
166.07 of the Revised Code. 4417

(G) "Governmental action" means any action by a governmental 4418
agency relating to the establishment, development, or operation of 4419
an eligible project, eligible innovation project, eligible 4420
research and development project, eligible advanced energy 4421
project, or eligible logistics and distribution project, and 4422
project facilities that the governmental agency acting has 4423
authority to take or provide for the purpose under law, including, 4424
but not limited to, actions relating to contracts and agreements, 4425
zoning, building, permits, acquisition and disposition of 4426
property, public capital improvements, utility and transportation 4427
service, taxation, employee recruitment and training, and liaison 4428
and coordination with and among governmental agencies. 4429

(H) "Governmental agency" means the state and any state 4430
department, division, commission, institution or authority; a 4431
municipal corporation, county, or township, and any agency 4432
thereof, and any other political subdivision or public corporation 4433
or the United States or any agency thereof; any agency, 4434
commission, or authority established pursuant to an interstate 4435
compact or agreement; and any combination of the above. 4436

(I) "Innovation financial assistance" means inducements under 4437
division (B) of section 166.12 of the Revised Code, innovation 4438
Ohio loan guarantees under section 166.15 of the Revised Code, and 4439
innovation Ohio loans under section 166.16 of the Revised Code. 4440

(J) "Innovation Ohio loan guarantee reserve requirement" 4441
means, at any time, with respect to innovation loan guarantees 4442
made under section 166.15 of the Revised Code, a balance in the 4443
innovation Ohio loan guarantee fund equal to the greater of twenty 4444
per cent of the then-outstanding principal amount of all 4445
outstanding innovation loan guarantees made pursuant to section 4446
166.15 of the Revised Code or fifty per cent of the principal 4447
amount of the largest outstanding guarantee made pursuant to 4448
section 166.15 of the Revised Code. 4449

(K) "Innovation property" includes property and also includes 4450
software, inventory, licenses, contract rights, goodwill, 4451
intellectual property, including without limitation, patents, 4452
patent applications, trademarks and service marks, and trade 4453
secrets, and other tangible and intangible property, and any 4454
rights and interests in or connected to the foregoing. 4455

(L) "Loan guarantee reserve requirement" means, at any time, 4456
with respect to loan guarantees made under section 166.06 of the 4457
Revised Code, a balance in the loan guarantee fund equal to the 4458
greater of twenty per cent of the then-outstanding principal 4459
amount of all outstanding guarantees made pursuant to section 4460
166.06 of the Revised Code or fifty per cent of the principal 4461
amount of the largest outstanding guarantee made pursuant to 4462
section 166.06 of the Revised Code. 4463

(M) "Person" means any individual, firm, partnership, 4464
association, corporation, or governmental agency, and any 4465
combination thereof. 4466

(N) "Project facilities" means buildings, structures, and 4467

other improvements, and equipment and other property, excluding 4468
small tools, supplies, and inventory, and any one, part of, or 4469
combination of the above, comprising all or part of, or serving or 4470
being incidental to, an eligible project, an eligible innovation 4471
project, an eligible research and development project, an eligible 4472
advanced energy project, or an eligible logistics and distribution 4473
project, including, but not limited to, public capital 4474
improvements. 4475

(O) "Property" means real and personal property and interests 4476
therein. 4477

(P) "Public capital improvements" means capital improvements 4478
or facilities that any governmental agency has authority to 4479
acquire, pay the costs of, own, maintain, or operate, or to 4480
contract with other persons to have the same done, including, but 4481
not limited to, highways, roads, streets, water and sewer 4482
facilities, railroad and other transportation facilities, and air 4483
and water pollution control and solid waste disposal facilities. 4484
For purposes of this division, "air pollution control facilities" 4485
includes, without limitation, solar, geothermal, biofuel, biomass, 4486
wind, hydro, wave, and other advanced energy projects as defined 4487
in section 3706.25 of the Revised Code. 4488

(Q) "Research and development financial assistance" means 4489
inducements under section 166.17 of the Revised Code, research and 4490
development loans under section 166.21 of the Revised Code, and 4491
research and development tax credits under sections 5733.352 and 4492
5747.331 of the Revised Code. 4493

(R) "Targeted innovation industry sectors" means industry 4494
sectors involving the production or use of advanced materials, 4495
instruments, controls and electronics, power and propulsion, 4496
biosciences, and information technology, or such other sectors as 4497
may be designated by the director of development services. 4498

(S) "Voluntary action" means a voluntary action, as defined 4499
in section 3746.01 of the Revised Code, that is conducted under 4500
the voluntary action program established in Chapter 3746. of the 4501
Revised Code. 4502

(T) "Project financing obligations" means obligations issued 4503
pursuant to section 166.08 of the Revised Code other than 4504
obligations for which the bond proceedings provide that bond 4505
service charges shall be paid from receipts of the state 4506
representing gross profit on the sale of spirituous liquor as 4507
referred to in division (B)(4) of section 4310.10 of the Revised 4508
Code. 4509

(U) "Regional economic development entity" means an entity 4510
that is under contract with the director ~~of development~~ to 4511
administer a loan program under this chapter in a particular area 4512
of this state. 4513

(V) "Advanced energy research and development fund" means the 4514
advanced energy research and development fund created in section 4515
3706.27 of the Revised Code. 4516

(W) "Advanced energy research and development taxable fund" 4517
means the advanced energy research and development taxable fund 4518
created in section 3706.27 of the Revised Code. 4519

(X) "Eligible advanced energy project" means an eligible 4520
project that is an "advanced energy project" as defined in section 4521
3706.25 of the Revised Code. 4522

(Y) "Eligible logistics and distribution project" means an 4523
eligible project, including project facilities, to be acquired, 4524
established, expanded, remodeled, rehabilitated, or modernized for 4525
transportation logistics and distribution infrastructure purposes. 4526
As used in this division, "transportation logistics and 4527
distribution infrastructure purposes" means promoting, providing 4528
for, and enabling improvements to the ground, air, and water 4529

transportation infrastructure comprising the transportation system 4530
in this state, including, without limitation, highways, streets, 4531
roads, bridges, railroads carrying freight, and air and water 4532
ports and port facilities, and all related supporting facilities. 4533

(Z) "Department of development" means the development 4534
services agency and "director of development" means the director 4535
of development services. 4536

Sec. 166.04. (A) Prior to entering into each agreement to 4537
provide assistance under sections 166.02, 166.06, and 166.07 of 4538
the Revised Code, the director of development services shall 4539
determine whether the assistance will conform to the requirements 4540
of sections 166.01 to 166.11 of the Revised Code. Such 4541
determination, and the facts upon which it is based, shall be set 4542
forth, where required, by the director in submissions made to the 4543
controlling board ~~for purposes of section 166.03 and, unless~~ 4544
~~provision of the assistance has been recommended to the director~~ 4545
~~by a regional economic development entity, to the development~~ 4546
~~financing advisory council under section 166.05~~ when the director 4547
seeks a release of moneys under section 166.02 of the Revised 4548
Code. An agreement to provide assistance under sections 166.02, 4549
166.06, and 166.07 of the Revised Code shall set forth such 4550
determination, which shall be conclusive for purposes of the 4551
validity and enforceability of such agreement and any loan 4552
guarantees, loans, or other agreements entered into pursuant to 4553
such agreement to provide assistance. 4554

(B) Whenever a person applies for financial assistance under 4555
sections 166.02, 166.06, and 166.07 of the Revised Code and the 4556
project for which assistance is requested is to relocate 4557
facilities that are currently being operated by the person and 4558
that are located in another county, municipal corporation, or 4559
township, the director shall provide written notification to the 4560

appropriate local governmental bodies and state officials. The 4561
notification shall contain the following information: 4562

(1) The name of the person applying for financial assistance; 4563

(2) The county, and the municipal corporation or township, in 4564
which the project for which assistance is requested is located; 4565
and 4566

(3) The county, and the municipal corporation or township, in 4567
which the facility to be replaced is located. 4568

~~The director shall provide the written notification to the 4569
appropriate local governmental bodies and state officials so that 4570
they receive the notification at least five days before the 4571
development financing advisory council meeting at which the 4572
council considers the request for financial assistance pursuant to 4573
section 166.05 of the Revised Code. 4574~~

(C) As used in division (B) of this section: 4575

(1) "Appropriate local governmental bodies" means: 4576

(a) The boards of county commissioners or legislative 4577
authorities of the county in which the project for which 4578
assistance is requested is located and of the county in which the 4579
facility to be replaced is located; 4580

(b) The legislative authority of the municipal corporation or 4581
the board of township trustees of the township in which the 4582
project for which assistance is requested is located; and 4583

(c) The legislative authority of the municipal corporation or 4584
the board of township trustees of the township in which the 4585
facility to be replaced is located. 4586

(2) "State officials" means: 4587

(a) The state representative and state senator in whose 4588
districts the project for which assistance is requested is 4589
located; 4590

(b) The state representative and state senator in whose 4591
districts the facility to be replaced is located. 4592

Sec. 166.05. (A) In determining the projects to be assisted 4593
and the nature, amount, and terms of assistance to be provided for 4594
an eligible project under sections 166.02, 166.06, and 166.07 of 4595
the Revised Code: 4596

(1) ~~Except as otherwise provided in division (A)(3) of this~~ 4597
~~section, the~~ The director of development services shall take into 4598
consideration all of the following: 4599

(a) The number of jobs to be created or preserved, directly 4600
or indirectly; 4601

(b) Payrolls, and the taxes generated, at both state and 4602
local levels, by the eligible project and by the employment 4603
created or preserved by the eligible project; 4604

(c) The size, nature, and cost of the eligible project, 4605
including the prospect of the project for providing long-term jobs 4606
in enterprises consistent with the changing economics of the state 4607
and the nation; 4608

(d) The needs, and degree of needs, of the area in which the 4609
eligible project is to be located; 4610

(e) The needs of any private sector enterprise to be 4611
assisted; 4612

(f) The competitive effect of the assistance on other 4613
enterprises providing jobs for people of the state; 4614

(g) The amount and kind of assistance, if any, to be provided 4615
to the private sector enterprise by other governmental agencies 4616
through tax exemption or abatement, financing assistance with 4617
industrial development bonds, and otherwise, with respect to the 4618
eligible project; 4619

(h) The impact of the eligible project and its operations on 4620
local government services, including school services, and on 4621
public facilities; 4622

(i) The effect of the assistance on the loss of or damage to 4623
or destruction of prime farmland, or the removal from agricultural 4624
production of prime farmland. As used in this section, "prime 4625
farmland" means agricultural land that meets the criteria for this 4626
classification as defined by the United States soil conservation 4627
service. 4628

(j) The length of time the operator of the project has been 4629
operating facilities within the state. 4630

(2) The benefits to the local area, including taxes, jobs, 4631
and reduced unemployment and reduced welfare costs, among others, 4632
may be accorded value in the leasing or sales of project 4633
facilities and in loan and guarantee arrangements. 4634

(B) Prior to granting final approval of the assistance to be 4635
provided, the director shall determine that the benefits to be 4636
derived by the state and local area from the establishment or 4637
development, and operation, of the eligible project will exceed 4638
the cost of providing such assistance and, ~~except as provided in~~ 4639
~~division (C)(2) of this section,~~ shall submit to the development 4640
~~financing advisory council and to the~~ controlling board a copy of 4641
that determination including the basis for the determination. 4642

~~(C)(1) Except as provided in division (C)(2) of this section,~~ 4643
~~prior to the submission provided for in division (B) of this~~ 4644
~~section to the controlling board, the director shall submit to the~~ 4645
~~development financing advisory council data pertinent to the~~ 4646
~~considerations set forth in division (A) of this section, the~~ 4647
~~terms of the proposed assistance, and such other relevant~~ 4648
~~information as the development financing advisory council may~~ 4649
~~request.~~ 4650

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

~~(D) The development financing advisory council, on the basis of such data, 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 as the director may submit to the council. The recommendations, as amended, of the council as to the appropriateness of the proposed assistance shall be submitted to the controlling board.~~

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

Sec. 166.11. (A) The aggregate ~~principal~~ amount of debt service payable in any calendar year on project financing obligations that may be issued under section 166.08 of the Revised Code is three hundred, exclusive of make-whole call redemptions or other optional prepayments, shall not exceed fifty million dollars, plus the principal amount of such project financing

~~obligations retired by payments.~~ The aggregate principal amount of 4682
obligations, exclusive of project financing obligations, that may 4683
be issued under section 166.08 of the Revised Code is six hundred 4684
thirty million dollars, plus the principal amount of any such 4685
obligations retired by payment, the amounts held or obligations 4686
pledged for the payment of the principal amount of any such 4687
obligations outstanding, amounts in special funds held as reserves 4688
to meet bond service charges, and amounts of obligations issued to 4689
provide moneys required to meet payments from the loan guarantee 4690
fund created in section 166.06 of the Revised Code and the 4691
innovation Ohio loan guarantee fund created in section 166.15 of 4692
the Revised Code. Of that six hundred thirty million dollars, not 4693
more than eighty-four million principal amount of obligations may 4694
be issued for eligible advanced energy projects and not more than 4695
one hundred million principal amount of obligations may be issued 4696
for eligible logistics and distribution projects. The terms of the 4697
obligations issued under section 166.08 of the Revised Code, other 4698
than obligations issued to meet guarantees that cannot be 4699
satisfied from amounts then held in the loan guarantee fund or the 4700
innovation Ohio loan guarantee fund, shall be such that the 4701
aggregate amount of moneys used from profit from the sale of 4702
spirituous liquor, and not from other sources, in any fiscal year 4703
shall not exceed sixty-three million dollars. For purposes of the 4704
preceding sentence, "other sources" include the annual investment 4705
income on special funds to the extent it will be available for 4706
payment of any bond service charges in lieu of use of profit from 4707
the sale of spirituous liquor, and shall be estimated on the basis 4708
of the expected funding of those special funds and assumed 4709
investment earnings thereon at a rate equal to the weighted 4710
average yield on investments of those special funds determined as 4711
of any date within sixty days immediately preceding the date of 4712
issuance of the bonds in respect of which the determination is 4713
being made. Amounts received in any fiscal year under section 6341 4714

of the Internal Revenue Code, 26 U.S.C. 6341, shall not be 4715
included when determining the sixty-three million dollar limit. 4716
The determinations required by this division shall be made by the 4717
treasurer of state at the time of issuance of an issue of 4718
obligations and shall be conclusive for purposes of such issue of 4719
obligations from and after their issuance and delivery. 4720

(B) The aggregate amount of the guaranteed portion of the 4721
unpaid principal of loans guaranteed under sections 166.06 and 4722
166.15 of the Revised Code and the unpaid principal of loans made 4723
under sections 166.07, 166.16, and 166.21 of the Revised Code may 4724
not at any time exceed eight hundred million dollars. Of that 4725
eight hundred million dollars, the aggregate amount of the 4726
guaranteed portion of the unpaid principal of loans guaranteed 4727
under sections 166.06 and 166.15 of the Revised Code shall not at 4728
any time exceed two hundred million dollars. However, the 4729
limitations established under this division do not apply to loans 4730
made with proceeds from the issuance and sale of project financing 4731
obligations. 4732

Sec. 166.13. (A) Prior to entering into each agreement to 4733
provide innovation financial assistance under sections 166.12, 4734
166.15, and 166.16 of the Revised Code, the director of 4735
development services shall determine whether the assistance will 4736
conform to the requirements of sections 166.12 to 166.16 of the 4737
Revised Code. Such determination, and the facts upon which it is 4738
based, shall be set forth by the director in submissions made to 4739
the controlling board ~~for purposes of section 166.16 of the~~ 4740
~~Revised Code and to the development financing advisory council~~ 4741
~~under section 166.14~~ when the director seeks a release of moneys 4742
under section 166.12 of the Revised Code. An agreement to provide 4743
assistance under sections 166.12, 166.15, and 166.16 of the 4744
Revised Code shall set forth the determination, which shall be 4745
conclusive for purposes of the validity and enforceability of the 4746

agreement and any innovation loan guarantees, innovation loans, or 4747
other agreements entered into pursuant to the agreement to provide 4748
innovation financial assistance. 4749

(B) Whenever a person applies for innovation financial 4750
assistance under sections 166.12, 166.15, and 166.16 of the 4751
Revised Code and the eligible innovation project for which 4752
innovation financial assistance is requested is to relocate an 4753
eligible innovation project that is currently being operated by 4754
the person and that is located in another county, municipal 4755
corporation, or township, the director shall provide written 4756
notification to the appropriate local governmental bodies and 4757
state officials. The notification shall contain the following 4758
information: 4759

(1) The name of the person applying for innovation financial 4760
assistance; 4761

(2) The county, and the municipal corporation or township, in 4762
which the eligible innovation project for which innovation 4763
financial assistance is requested is located; and 4764

(3) The county, and the municipal corporation or township, in 4765
which the eligible innovation project to be replaced is located. 4766

~~The director shall provide the written notification to the 4767
appropriate local governmental bodies and state officials so that 4768
they receive the notification at least five days before the 4769
development financing advisory council meeting at which the 4770
council considers the request for innovation financial assistance 4771
pursuant to sections 166.12, 166.15, and 166.16 of the Revised 4772
Code. 4773~~

(C) As used in division (B) of this section: 4774

(1) "Appropriate local governmental bodies" means: 4775

(a) The boards of county commissioners or legislative 4776

authorities of the county in which the project for which 4777
innovation financial assistance is requested is located and of the 4778
county in which the eligible innovation project to be replaced is 4779
located; 4780

(b) The legislative authority of the municipal corporation or 4781
the board of township trustees of the township in which the 4782
eligible innovation project for which innovation financial 4783
assistance is requested is located; and 4784

(c) The legislative authority of the municipal corporation or 4785
the board of township trustees of the township in which the 4786
eligible innovation project to be replaced is located. 4787

(2) "State officials" means: 4788

(a) The state representative and state senator in whose 4789
districts the project for which innovation financial assistance is 4790
requested is located; 4791

(b) The state representative and state senator in whose 4792
districts the innovation project to be replaced is located. 4793

Sec. 166.14. (A) In determining the eligible innovation 4794
projects to be assisted and the nature, amount, and terms of 4795
innovation financial assistance to be provided for an eligible 4796
innovation project under sections 166.12 to 166.16 of the Revised 4797
Code: 4798

(1) The director of development services shall take into 4799
consideration all of the following: 4800

(a) The number of jobs to be created or preserved by the 4801
eligible innovation project, directly or indirectly; 4802

(b) Payrolls, and the taxes generated, at both state and 4803
local levels, by or in connection with the eligible innovation 4804
project and by the employment created or preserved by or in 4805
connection with the eligible innovation project; 4806

(c) The size, nature, and cost of the eligible innovation 4807
project, including the prospect of the eligible innovation project 4808
for providing long-term jobs in enterprises consistent with the 4809
changing economics of the state and the nation; 4810

(d) The needs of any private sector enterprise to be 4811
assisted; 4812

(e) The amount and kind of assistance, if any, to be provided 4813
to the private sector enterprise by other governmental agencies 4814
through tax exemption or abatement, financing assistance with 4815
industrial development bonds, and otherwise, with respect to the 4816
eligible innovation project or with respect to any providers of 4817
innovation property to be included as part of the eligible 4818
innovation project; 4819

(f) The likelihood of the successful implementation of the 4820
proposed eligible innovation project; 4821

(g) Whether the eligible innovation project involves the use 4822
of technology in a targeted innovation industry sector. 4823

(2) The benefits to the local area, including taxes, jobs, 4824
and reduced unemployment and reduced welfare costs, among others, 4825
may be accorded value in the leasing or sales of innovation 4826
project facilities and in loan and guarantee arrangements. 4827

(3) In making determinations under division (A)(1) of this 4828
section, the director may consider the effect of an eligible 4829
innovation project upon any entity engaged to provide innovation 4830
property to be acquired, leased, or licensed in connection with 4831
such assistance. 4832

~~(B) The director shall submit to the development financing 4833
advisory council data pertinent to the considerations set forth in 4834
division (A) of this section, the terms of the proposed innovation 4835
financial assistance, and such other relevant information as the 4836
council may request. 4837~~

~~(C) The development financing advisory council, on the basis
of such data, shall make recommendations as to the appropriateness
of the innovation financial assistance to be provided. The
recommendations may be revised to reflect any changes in the
proposed innovation financial assistance as the director may
submit to the council. The recommendations, as amended, of the
council as to the appropriateness of the proposed innovation
financial assistance shall be submitted to the controlling board.~~

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

Sec. 166.18. (A) Prior to entering into each agreement to
provide research and development financial assistance, the
director of development services shall determine whether the
assistance will conform to the requirements of sections 166.17 to
166.21, 5733.352, and 5747.331 of the Revised Code. Such
determination, and the facts upon which it is based, shall be set
forth by the director in submissions made to the controlling board
~~for purposes of section 166.17 of the Revised Code and to the
development financing advisory council under section 166.19 when
the director seeks a release of moneys under section 166.17 of the~~
Revised Code. An agreement to provide research and development

financial assistance under section 166.17 or 166.21 of the Revised 4870
Code shall set forth the determination, which shall be conclusive 4871
for purposes of the validity and enforceability of the agreement, 4872
and any loans or other agreements entered into pursuant to the 4873
agreement, to provide research and development financial 4874
assistance. 4875

(B) Whenever a person applies for research and development 4876
financial assistance, and the eligible research and development 4877
project for which that assistance is requested is to relocate an 4878
eligible research and development project that is currently being 4879
operated by the person and that is located in another county, 4880
municipal corporation, or township within the state, the director 4881
shall provide written notification to the appropriate local 4882
governmental bodies and state officials. The notification shall 4883
state all of the following: 4884

(1) The name of the person applying for research and 4885
development financial assistance; 4886

(2) The county, and the municipal corporation or township, in 4887
which the project for which research and development financial 4888
assistance is requested will be located; 4889

(3) The county, and the municipal corporation or township, in 4890
which the eligible research and development project is located at 4891
the time such financial assistance is requested. 4892

~~The director shall provide the written notification to the 4893
appropriate local governmental bodies and state officials so that 4894
they receive the notification at least five days before the 4895
development financing advisory council meeting at which the 4896
council considers the request for research and development 4897
financial assistance. 4898~~

(C) As used in division (B) of this section: 4899

(1) "Appropriate local governmental bodies" means all of the 4900

following: 4901

(a) The board of county commissioners of or legislative 4902
authorities of special districts in the county in which the 4903
eligible research and development project for which research and 4904
development financial assistance is requested is located and of 4905
the county in which the project will be located; 4906

(b) The legislative authority of the municipal corporation or 4907
the board of township trustees of the township in which the 4908
eligible research and development project for which research and 4909
development financial assistance is requested is located and of 4910
the municipal corporation or township in which the project will be 4911
located. 4912

(2) "State officials" means both of the following: 4913

(a) The state representative and state senator in whose 4914
district the eligible research and development project for which 4915
research and development financial assistance is requested is 4916
located; 4917

(b) The state representative and state senator in whose 4918
district the eligible research and development project will be 4919
located. 4920

Sec. 166.19. (A)(1) In determining the eligible research and 4921
development projects to be assisted and the nature, amount, and 4922
terms of the research and development financial assistance to be 4923
provided, the director of development services shall consider all 4924
of the following: 4925

(a) The number of jobs to be created or preserved, directly 4926
or indirectly, by or in connection with the eligible research and 4927
development project; 4928

(b) Payrolls, and the taxes generated at both state and local 4929
levels, by the eligible research and development project and by 4930

the employment created or preserved by or in connection with the 4931
project; 4932

(c) The size, nature, and cost of the eligible research and 4933
development project; 4934

(d) The likelihood that the eligible research and development 4935
project will create long-term jobs in enterprises consistent with 4936
the changing economy of the state and nation; 4937

(e) The needs of any private sector enterprise to be 4938
assisted, taking into consideration the amount and kind of 4939
assistance, if any, to be provided to the private sector 4940
enterprise by other governmental agencies through tax exemption or 4941
abatement, financing assistance with industrial development bonds, 4942
and otherwise, with respect to the eligible research and 4943
development project or with respect to any providers of research 4944
and development property to be included as part of the project; 4945

(f) The likelihood that the eligible research and development 4946
project will be successfully implemented. 4947

(2) The director may consider the benefits to the local area, 4948
including taxes, jobs, and reduced unemployment and reduced 4949
welfare costs, in the leasing or sale of eligible research and 4950
development project facilities and in loan arrangements. 4951

(3) The director may consider the effect of an eligible 4952
research and development project upon any entity engaged to 4953
provide research and development property to be acquired, leased, 4954
or licensed in connection with research and development financial 4955
assistance. 4956

~~(B) The director shall submit to the development financing 4957
advisory council data pertinent to the considerations set forth in 4958
division (A) of this section, the terms of the proposed research 4959
and development assistance, and such other relevant information as 4960
the council may request. 4961~~

~~(C) The development financing advisory council, on the basis
of the data submitted under division (B) of this section, shall
make recommendations as to the appropriateness of the research and
development financial assistance to be provided. The
recommendations may be revised to reflect any changes in the
proposed research and development financial assistance that the
director may submit to the council. The recommendations of the
council as to the appropriateness of the proposed research and
development financial assistance shall be submitted to the
controlling board.~~

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

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

(B) In determining the eligible logistics and distribution
projects to be assisted and the nature, amount, and terms of

assistance to be provided for an eligible logistics and 4993
distribution project, the director shall consult with appropriate 4994
governmental agencies, including the department of transportation 4995
and the Ohio rail development commission. 4996

~~(C)(1) The director shall submit to the development financing 4997
advisory council the terms of the proposed assistance to be 4998
provided for an eligible logistics and distribution project and 4999
such other relevant information as the council may request. 5000~~

~~(2) The council, on the basis of such information, shall make 5001
recommendations as to the appropriateness of the assistance to be 5002
provided. The recommendations may be revised to reflect any 5003
changes in the proposed assistance the director may submit to the 5004
council. 5005~~

~~(3) The director shall submit the terms of the proposed 5006
assistance to be provided, along with the recommendations, as 5007
amended, of the council as to the appropriateness of the proposed 5008
assistance, to the controlling board. 5009~~

~~(D)~~ Any loan made pursuant to this section shall be evidenced 5010
by a loan agreement, which shall contain such terms as the 5011
director determines necessary or appropriate, including 5012
performance measures and reporting requirements. The director may 5013
take actions necessary or appropriate to collect or otherwise deal 5014
with any loan made under this section, including requiring a loan 5015
recipient to repay the amount of the loan plus interest at a rate 5016
of three per cent above the federal short term interest rate or 5017
any other rate determined by the director. 5018

Sec. 166.30. (A) The Ohio air quality development authority, 5019
with the approval of the controlling board and subject to sections 5020
3706.25 to 3706.30 of the Revised Code, may provide grants from 5021
money in the advanced energy research and development fund and may 5022
lend money in the advanced energy research and development taxable 5023

fund to persons for the purposes of paying allowable costs of 5024
eligible advanced energy projects. 5025

(B) In determining the eligible advanced energy projects to 5026
be assisted and the nature, amount, and terms of assistance to be 5027
provided for an eligible advanced energy project, the authority 5028
shall consult with appropriate governmental agencies. 5029

~~(C)(1) The authority shall submit to the development 5030
financing advisory council the terms of the proposed assistance to 5031
be provided for an eligible advanced energy project and such other 5032
relevant information as the council may request. 5033~~

~~(2) The council, on the basis of such information, shall make 5034
recommendations as to the appropriateness of the assistance to be 5035
provided. The recommendations may be revised to reflect any 5036
changes in the proposed assistance the authority may submit to the 5037
council. 5038~~

~~(3) The authority shall submit the terms of the proposed 5039
assistance to be provided, along with the recommendations, as 5040
amended, of the council as to the appropriateness of the proposed 5041
assistance, to the controlling board. 5042~~

~~(D)~~ Any grant or loan made pursuant to this section shall be 5043
evidenced by an agreement, which shall contain such terms as the 5044
authority determines necessary or appropriate, including 5045
performance measures and reporting requirements. The authority may 5046
take actions necessary or appropriate to collect or otherwise deal 5047
with any assistance provided under this section, including 5048
requiring a loan or grant recipient to repay the amount of the 5049
loan or grant plus interest at a rate of three per cent above the 5050
federal short term interest rate or any other rate determined by 5051
the authority. 5052

Sec. 174.01. As used in this chapter: 5053

- (A) "Financial assistance" means grants, loans, loan
guarantees, an equity position in a project, or loan subsidies. 5054
5055
- (B) "Grant" means funding the ~~department of~~ development 5056
services agency or the Ohio housing finance agency provides for 5057
which the ~~department or the~~ relevant agency does not require 5058
repayment. 5059
- (C) "Housing" means housing for owner-occupancy and 5060
multifamily rental housing. 5061
- (D) "Housing for owner-occupancy" means housing that is 5062
intended for occupancy by an owner as a principal residence. 5063
"Housing for owner-occupancy" may be any type of structure and may 5064
be owned in any type of ownership. 5065
- (E) "Housing trust fund" means the low- and moderate-income 5066
housing trust fund created and administered pursuant to Chapter 5067
174. of the Revised Code. 5068
- (F) "Lending institution" means any financial institution 5069
qualified to conduct business in this state, a subsidiary 5070
corporation that is wholly owned by a financial institution 5071
qualified to conduct business in this state, and a mortgage lender 5072
whose regular business is originating, servicing, or brokering 5073
real estate loans and who is qualified to do business in this 5074
state. 5075
- (G) "Loan" means any extension of credit or other form of 5076
financing or indebtedness directly or indirectly to a borrower 5077
with the expectation that it will be repaid in accordance with the 5078
terms of the underlying loan agreement or other pertinent 5079
document. "Loan" includes financing extended to lending 5080
institutions and indebtedness purchased from lending institutions. 5081
- (H) "Loan guarantee" means any agreement in favor of a 5082
lending institution or other lender in which the credit and 5083
resources of the housing trust fund are pledged to secure the 5084

payment or collection of financing extended to a borrower for the 5085
acquisition, construction, improvement, rehabilitation or 5086
preservation of housing, or to refinance any financing previously 5087
extended for those purposes by any lender. 5088

(I) "Loan subsidy" means any deposit of funds into a lending 5089
institution with the authorization or direction that the income or 5090
revenues the deposit earns, or could have earned at competitive 5091
rates, be applied directly or indirectly to the benefit of housing 5092
assistance or financial assistance. 5093

(J) "Low_ and moderate_income persons" means individuals and 5094
families who qualify as low- and moderate-income persons pursuant 5095
to guidelines the ~~department of~~ development services agency 5096
establishes. 5097

(K) "Multifamily rental housing" means multiple unit housing 5098
intended for rental occupancy. 5099

(L) "Nonprofit organization" means a nonprofit organization 5100
in good standing and qualified to conduct business in this state 5101
including any corporation whose members are members of a 5102
metropolitan housing authority. 5103

(M) "Department of development" means the development 5104
services agency and "director of development" means the director 5105
of development services. 5106

Sec. 184.01. (A) There is hereby created the third frontier 5107
commission in the ~~department of~~ development services agency. The 5108
purpose of the commission is to coordinate and administer science 5109
and technology programs to promote the welfare of the people of 5110
the state and to maximize the economic growth of the state through 5111
expansion of both of the following: 5112

(1) The state's high technology research and development 5113
capabilities; 5114

(2) The state's product and process innovation and 5115
commercialization. 5116

(B)(1) The commission shall consist of ~~nine~~ eleven members: 5117
the director of development services, the chancellor of the Ohio 5118
board of regents, the governor's science and technology advisor, 5119
the chief investment officer of the nonprofit corporation formed 5120
under section 187.01 of the Revised Code, and ~~six~~ seven persons 5121
appointed by the governor with the advice and consent of the 5122
senate. 5123

(2) Of the ~~six~~ seven persons appointed by the governor, one 5124
shall represent the central region, which is composed of the 5125
counties of Delaware, Fairfield, Fayette, Franklin, Hocking, Knox, 5126
Licking, Logan, Madison, Marion, Morrow, Perry, Pickaway, Ross, 5127
and Union; one shall represent the west central region, which is 5128
composed of the counties of Champaign, Clark, Darke, Greene, 5129
Miami, Montgomery, Preble, and Shelby; one shall represent the 5130
northeast region, which is composed of the counties of Ashland, 5131
Ashtabula, Carroll, Crawford, Columbiana, Cuyahoga, Erie, Geauga, 5132
Holmes, Huron, Lake, Lorain, Mahoning, Medina, Portage, Richland, 5133
Stark, Summit, Trumbull, Tuscarawas, and Wayne; one shall 5134
represent the northwest region, which is composed of the counties 5135
of Allen, Auglaize, Defiance, Fulton, Hancock, Hardin, Henry, 5136
Lucas, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van 5137
Wert, Williams, Wood, and Wyandot; one shall represent the 5138
southeast region, which shall represent the counties of Adams, 5139
Athens, Belmont, Coshocton, Gallia, Guernsey, Harrison, Jackson, 5140
Jefferson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, 5141
Pike, Scioto, Vinton, and Washington; ~~and~~ one shall represent the 5142
southwest region, which is composed of the counties of Butler, 5143
Brown, Clermont, Clinton, Hamilton, Highland, and Warren; and one 5144
shall represent the public at large. Of the initial appointments, 5145
two shall be for one year, two shall be for two years, and two 5146

shall be for three years as assigned by the governor. Thereafter, 5147
appointments shall be for three-year terms. Members may be 5148
reappointed and vacancies shall be filled in the same manner as 5149
appointments. A person must have a background in business or 5150
research in order to be eligible for appointment to the 5151
commission. 5152

(3) The governor shall select a chairperson from among the 5153
members, who shall serve in that role at the pleasure of the 5154
governor. Sections 101.82 to 101.87 of the Revised Code do not 5155
apply to the commission. 5156

(C) The commission shall meet at least once during each 5157
quarter of the calendar year or at the call of the chairperson. A 5158
majority of all members of the commission constitutes a quorum, 5159
and no action shall be taken without the concurrence of a majority 5160
of the members. 5161

(D) The commission shall administer any money that may be 5162
appropriated to it by the general assembly. The commission may use 5163
such money for research and commercialization and for any other 5164
purposes that may be designated by the commission. 5165

(E) The ~~department of development~~ services agency shall 5166
provide office space and facilities for the commission. 5167
Administrative costs associated with the operation of the 5168
commission or with any program or activity administered by the 5169
commission shall be paid from amounts appropriated to the 5170
commission or to the ~~department of development~~ agency for such 5171
purposes. 5172

(F) The attorney general shall serve as the legal 5173
representative for the commission and may appoint other counsel as 5174
necessary for that purpose in accordance with section 109.07 of 5175
the Revised Code. 5176

(G) Members of the commission shall serve without 5177

compensation, but shall receive their reasonable and necessary 5178
expenses incurred in the conduct of commission business. 5179

(H) Members of the commission shall file financial disclosure 5180
statements described in division (B) of section 102.02 of the 5181
Revised Code. 5182

Sec. 184.011. As used in this chapter, "department of 5183
development" means the development services agency and "director 5184
of development" means the director of development services. 5185

Sec. 187.01. As used in this chapter, "JobsOhio" means the 5186
nonprofit corporation formed under this section, and includes any 5187
subsidiary of that corporation. In any section of law that refers 5188
to the nonprofit corporation formed under this section, reference 5189
to the corporation includes reference to any such subsidiary 5190
unless otherwise specified or clearly appearing from the context. 5191

The governor is hereby authorized to form a nonprofit 5192
corporation, to be named "JobsOhio," with the purposes of 5193
promoting economic development, job creation, job retention, job 5194
training, and the recruitment of business to this state. Except as 5195
otherwise provided in this chapter, the corporation shall be 5196
organized and operated in accordance with Chapter 1702. of the 5197
Revised Code. The governor shall sign and file articles of 5198
incorporation for the corporation with the secretary of state. The 5199
legal existence of the corporation shall begin upon the filing of 5200
the articles. 5201

In addition to meeting the requirements for articles of 5202
incorporation in Chapter 1702. of the Revised Code, the articles 5203
of incorporation for the nonprofit corporation shall set forth the 5204
following: 5205

(A) The designation of the name of the corporation as 5206
JobsOhio; 5207

(B) The creation of a board of directors consisting of nine 5208
directors, to be appointed by the governor, who satisfy the 5209
qualifications prescribed by section 187.02 of the Revised Code; 5210

(C) A requirement that the governor make initial appointments 5211
to the board within sixty days after the filing of the articles of 5212
incorporation. Of the initial appointments made to the board, two 5213
shall be for a term ending one year after the date the articles 5214
were filed, two shall be for a term ending two years after the 5215
date the articles were filed, and five shall be for a term ending 5216
four years after the date the articles were filed. The articles 5217
shall state that, following the initial appointments, the governor 5218
shall appoint directors to terms of office of four years, with 5219
each term of office ending on the same day of the same month as 5220
did the term that it succeeds. If any director dies, resigns, or 5221
the director's status changes such that any of the requirements of 5222
division (C) of section 187.02 of the Revised Code are no longer 5223
met, that director's seat on the board shall become immediately 5224
vacant. The governor shall forthwith fill the vacancy by 5225
appointment for the remainder of the term of office of the vacated 5226
seat. 5227

(D) A requirement that the governor appoint one director to 5228
be chairperson of the board and procedures for electing directors 5229
to serve as officers of the corporation and members of an 5230
executive committee; 5231

(E) A provision for the appointment of a chief investment 5232
officer of the corporation by the recommendation of the board and 5233
approval of the governor. The chief investment officer shall serve 5234
at the pleasure of the board and shall have the power to execute 5235
contracts, spend corporation funds, and hire employees on behalf 5236
of the corporation. If the position of chief investment officer 5237
becomes vacant for any reason, the vacancy shall be filled in the 5238
same manner as provided in this division. 5239

(F) Provisions requiring the board to do all of the	5240
following:	5241
(1) Adopt one or more resolutions providing for compensation	5242
of the chief investment officer;	5243
(2) Approve an employee compensation plan recommended by the	5244
chief investment officer;	5245
(3) Approve a contract with the director of development	5246
<u>services</u> for the corporation to assist the director and the	5247
department of development <u>services agency</u> with providing services	5248
or otherwise carrying out the functions or duties of the	5249
department <u>agency</u> , including the operation and management of	5250
programs, offices, divisions, or boards, as may be determined by	5251
the director of development <u>services</u> in consultation with the	5252
governor;	5253
(4) Approve all major contracts for services recommended by	5254
the chief investment officer;	5255
(5) Establish an annual strategic plan and standards of	5256
measure to be used in evaluating the corporation's success in	5257
executing the plan;	5258
(6) Establish a conflicts of interest policy that, at a	5259
minimum, complies with section 187.06 of the Revised Code;	5260
(7) Hold a minimum of four board of directors meetings per	5261
year at which a quorum of the board is physically present, and	5262
such other meetings, at which directors' physical presence is not	5263
required, as may be necessary. Meetings at which a quorum of the	5264
board is required to be physically present are subject to	5265
divisions (C), (D), and (E) of section 187.03 of the Revised Code.	5266
(8) Establish a records retention policy and present the	5267
policy, and any subsequent changes to the policy, at a meeting of	5268
the board of directors at which a quorum of the board is required	5269

to be physically present pursuant to division (F)(7) of this 5270
section; 5271

(9) Adopt standards of conduct for the directors. 5272

(G) A statement that directors shall not receive any 5273
compensation from the corporation, except that directors may be 5274
reimbursed for actual and necessary expenses incurred in 5275
connection with services performed for the corporation; 5276

(H) A provision authorizing the board to amend provisions of 5277
the corporation's articles of incorporation or regulations, except 5278
provisions required by this chapter; 5279

(I) Procedures by which the corporation would be dissolved 5280
and by which all corporation rights and assets would be 5281
distributed to the state or to another corporation organized under 5282
this chapter. These procedures shall incorporate any separate 5283
procedures subsequently set forth in this chapter for the 5284
dissolution of the corporation. The articles shall state that no 5285
dissolution shall take effect until the corporation has made 5286
adequate provision for the payment of any outstanding bonds, 5287
notes, or other obligations. 5288

(J) A provision establishing an audit committee to be 5289
comprised of directors. The articles shall require that the audit 5290
committee hire an independent certified public accountant to 5291
perform a financial audit of the corporation at least once every 5292
year. 5293

(K) A provision authorizing a majority of the disinterested 5294
directors to remove a director for misconduct, as that term may be 5295
defined in the articles or regulations of the corporation. The 5296
removal of a director under this division creates a vacancy on the 5297
board that the governor shall fill by appointment for the 5298
remainder of the term of office of the vacated seat. 5299

Sec. 187.03. (A) JobsOhio may perform such functions as 5300
permitted and shall perform such duties as prescribed by law and 5301
as set forth in any contract entered into under section 187.04 of 5302
the Revised Code, but shall not be considered a state or public 5303
department, agency, office, body, institution, or instrumentality 5304
for purposes of section 1.60 or Chapter 102., 121., 125., or 149. 5305
of the Revised Code. JobsOhio and its board of directors are not 5306
subject to the following sections of Chapter 1702. of the Revised 5307
Code: sections 1702.03, 1702.08, 1702.09, 1702.21, 1702.24, 5308
1702.26, 1702.27, 1702.28, 1702.29, 1702.301, 1702.33, 1702.34, 5309
1702.37, 1702.38, 1702.40 to 1702.52, 1702.521, 1702.54, 1702.57, 5310
1702.58, 1702.59, 1702.60, 1702.80, and 1702.99. Nothing in this 5311
division shall be construed to impair the powers and duties of the 5312
Ohio ethics commission described in section 102.06 of the Revised 5313
Code to investigate and enforce section 102.02 of the Revised Code 5314
with regard to individuals required to file statements under 5315
division (B)(2) of this section. 5316

(B)(1) Directors and employees of JobsOhio are not employees 5317
or officials of the state and, except as provided in division 5318
(B)(2) of this section, are not subject to Chapter 102., 124., 5319
145., or 4117. of the Revised Code. 5320

(2) The chief investment officer, any other officer or 5321
employee with significant administrative, supervisory, 5322
contracting, or investment authority, and any director of JobsOhio 5323
shall file, with the Ohio ethics commission, a financial 5324
disclosure statement pursuant to section 102.02 of the Revised 5325
Code that includes, in place of the information required by 5326
divisions (A)(2), (7), (8), and (9) of that section, the 5327
information required by divisions (A) and (B) of section 102.022 5328
of the Revised Code. The governor shall comply with all applicable 5329
requirements of section 102.02 of the Revised Code. 5330

(3) Actual or in-kind expenditures for the travel, meals, or 5331
lodging of the governor or of any public official or employee 5332
designated by the governor for the purpose of this division shall 5333
not be considered a violation of section 102.03 of the Revised 5334
Code if the expenditures are made by the corporation, or on behalf 5335
of the corporation by any person, in connection with the 5336
governor's performance of official duties related to JobsOhio. The 5337
governor may designate any person, including a person who is a 5338
public official or employee as defined in section 102.01 of the 5339
Revised Code, for the purpose of this division if such 5340
expenditures are made on behalf of the person in connection with 5341
the governor's performance of official duties related to JobsOhio. 5342
A public official or employee so designated by the governor shall 5343
comply with all applicable requirements of section 102.02 of the 5344
Revised Code. 5345

At the times and frequency agreed to under division (B)(2)(b) 5346
of section 187.04 of the Revised Code, beginning in 2012, the 5347
corporation shall file with the ~~department of~~ development services 5348
agency a written report of all such expenditures paid or incurred 5349
during the preceding calendar year. The report shall state the 5350
dollar value and purpose of each expenditure, the date of each 5351
expenditure, the name of the person that paid or incurred each 5352
expenditure, and the location, if any, where services or benefits 5353
of an expenditure were received, provided that any such 5354
information that may disclose proprietary information as defined 5355
in division (C) of this section shall not be included in the 5356
report. 5357

(4) The prohibition applicable to former public officials or 5358
employees in division (A)(1) of section 102.03 of the Revised Code 5359
does not apply to any person appointed to be a director or hired 5360
as an employee of JobsOhio. 5361

(5) Notwithstanding division (A)(2) of section 145.01 of the 5362

Revised Code, any person who is a former state employee shall no 5363
longer be considered a public employee for purposes of Chapter 5364
145. of the Revised Code upon commencement of employment with 5365
JobsOhio. 5366

(6) Any director, officer, or employee of JobsOhio may 5367
request an advisory opinion from the Ohio ethics commission with 5368
regard to questions concerning the provisions of sections 102.02 5369
and 102.022 of the Revised Code to which the person is subject. 5370

(C) Meetings of the board of directors at which a quorum of 5371
the board is required to be physically present pursuant to 5372
division (F) of section 187.01 of the Revised Code shall be open 5373
to the public except, by a majority vote of the directors present 5374
at the meeting, such a meeting may be closed to the public only 5375
for one or more of the following purposes: 5376

(1) To consider business strategy of the corporation; 5377

(2) To consider proprietary information belonging to 5378
potential applicants or potential recipients of business 5379
recruitment, retention, or creation incentives. For the purposes 5380
of this division, "proprietary information" means marketing plans, 5381
specific business strategy, production techniques and trade 5382
secrets, financial projections, or personal financial statements 5383
of applicants or members of the applicants' immediate family, 5384
including, but not limited to, tax records or other similar 5385
information not open to the public inspection. 5386

(3) To consider legal matters, including litigation, in which 5387
the corporation is or may be involved; 5388

(4) To consider personnel matters related to an individual 5389
employee of the corporation. 5390

(D) The board of directors shall establish a reasonable 5391
method whereby any person may obtain the time and place of all 5392
public meetings described in division (C) of this section. The 5393

method shall provide that any person, upon request and payment of 5394
a reasonable fee, may obtain reasonable advance notification of 5395
all such meetings. 5396

(E) The board of directors shall promptly prepare, file, and 5397
maintain minutes of all public meetings described in division (C) 5398
of this section. 5399

(F) Not later than March 1, 2012, and the first day of March 5400
of each year thereafter, the chief investment officer of JobsOhio 5401
shall prepare and submit a report of the corporation's activities 5402
for the preceding year to the governor, the speaker and minority 5403
leader of the house of representatives, and the president and 5404
minority leader of the senate. The annual report shall include the 5405
following: 5406

(1) An analysis of the state's economy; 5407

(2) A description of the structure, operation, and financial 5408
status of the corporation; 5409

(3) A description of the corporation's strategy to improve 5410
the state economy and the standards of measure used to evaluate 5411
its progress; 5412

(4) An evaluation of the performance of current strategies 5413
and major initiatives; 5414

(5) An analysis of any statutory or administrative barriers 5415
to successful economic development, business recruitment, and job 5416
growth in the state identified by JobsOhio during the preceding 5417
year. 5418

Sec. 187.04. (A) The director of development services, as 5419
soon as practical after ~~the effective date of this section~~ 5420
February 18, 2011, shall execute a contract with JobsOhio for the 5421
corporation to assist the director and the ~~department of~~ 5422
development services agency with providing services or otherwise 5423

carrying out the functions or duties of the ~~department~~ agency, 5424
including the operation and management of programs, offices, 5425
divisions, or boards, as may be determined by the director in 5426
consultation with the governor. The approval or disapproval of 5427
awards involving public money shall remain functions of the 5428
~~department~~ agency. All contracts for grants, loans, and tax 5429
incentives involving public money shall be between the ~~department~~ 5430
agency and the recipient and shall be enforced by the ~~department~~ 5431
agency. JobsOhio may not execute contracts obligating the 5432
~~department~~ agency for loans, grants, tax credits, or incentive 5433
awards recommended by JobsOhio to the ~~department~~ agency. Prior to 5434
execution, all contracts between the director and JobsOhio entered 5435
into under this section that obligate the agency to pay JobsOhio 5436
for services rendered are subject to controlling board approval. 5437

5438

The term of a an initial contract entered into under this 5439
section shall not extend beyond June 30, 2013. Thereafter, the 5440
director and JobsOhio may renew the contract for subsequent fiscal 5441
biennia, but at no time shall a particular contract be effective 5442
for longer than a fiscal biennium of the general assembly, but may 5443
be renewed or amended by the parties. 5444

JobsOhio's provision of services to the agency as described 5445
in this section shall be pursuant to a contract entered into under 5446
this section. If at any time the director determines that the 5447
contract with JobsOhio may not be renewed for the subsequent 5448
fiscal biennium, the director shall notify JobsOhio of the 5449
director's decision not later than one hundred twenty days prior 5450
to the end of the current fiscal biennium. If the director does 5451
not provide such written notice to JobsOhio prior to one hundred 5452
days before the end of the current fiscal biennium, the contract 5453
shall be renewed upon such terms as the parties may agree, subject 5454

to the requirements of this section. 5455

(B) A contract entered into under this section shall include 5456
all of the following: 5457

(1) Terms assigning to the corporation the duties of advising 5458
and assisting the director ~~of development~~ in the director's 5459
evaluation of the ~~department~~ agency and the formulation of 5460
recommendations under section 187.05 of the Revised Code; 5461

(2) Terms designating records created or received by JobsOhio 5462
that shall be made available to the public under the same 5463
conditions as are public records under section 149.43 of the 5464
Revised Code. Documents designated to be made available to the 5465
public pursuant to the contract shall be kept on file with the 5466
~~department of development~~ agency. 5467

Among records to be designated under this division shall be 5468
the following: 5469

(a) The corporation's federal income tax returns; 5470

(b) The report of expenditures described in division (B)(3) 5471
of section 187.03 of the Revised Code. The records shall be filed 5472
with the ~~department~~ agency at such times and frequency as agreed 5473
to by the corporation and the ~~department~~ agency, which shall not 5474
be less frequently than quarterly. 5475

(c) The annual total compensation paid to each officer and 5476
employee of the corporation; 5477

(d) A copy of the audit report for each financial audit of 5478
the corporation performed by an independent certified public 5479
accountant pursuant to division (J) of section 187.01 of the 5480
Revised Code. 5481

(e) Records of any fully executed incentive proposals, to be 5482
filed annually; 5483

(f) Records pertaining to the monitoring of commitments made 5484

by incentive recipients, to be filed annually; 5485

(g) A copy of the minutes of all public meetings described in 5486
division (C) of section 187.03 of the Revised Code not otherwise 5487
closed to the public. 5488

(3) The following statement acknowledging that JobsOhio is 5489
not acting as an agent of the state: 5490

"JobsOhio shall have no power or authority to bind the state 5491
or to assume or create an obligation or responsibility, expressed 5492
or implied, on behalf of the state or in its name, nor shall 5493
JobsOhio represent to any person that it has any such power or 5494
authority, except as expressly provided in this contract." 5495

(C) (1) Records created ~~or received~~ by JobsOhio are not 5496
public records for the purposes of ~~section 149.43~~ Chapter 149. of 5497
the Revised Code, regardless of who may have custody of the 5498
records, unless the record is designated to be available to the 5499
public by the contract under division (B)(2) of this section. 5500

(2) Records received by JobsOhio from any person or entity 5501
that is not subject to section 149.43 of the Revised Code are not 5502
public records for purposes of Chapter 149. of the Revised Code, 5503
regardless of who may have custody of the records, unless the 5504
record is designated to be available to the public by the contract 5505
under division (B)(2) of this section. 5506

(3) Records received by JobsOhio from a public office as 5507
defined in section 149.011 of the Revised Code that are not public 5508
records under section 149.43 of the Revised Code when in the 5509
custody of the public office are not public records for the 5510
purposes of section 149.43 of the Revised Code regardless of who 5511
has custody of the records. 5512

(D) Any contract executed under authority of this section 5513
shall not negate, impair, or otherwise adversely affect the 5514
obligation of this state to pay debt charges on securities 5515

executed by the director ~~of development~~ or issued by the treasurer 5516
of state, Ohio public facilities commission, or any other issuing 5517
authority under Chapter 122., 151., 165., or 166. of the Revised 5518
Code to fund economic development programs of the state, or to 5519
abide by any pledge or covenant relating to the payment of those 5520
debt charges made in any related proceedings. As used in this 5521
division, "debt charges," "proceedings," and "securities" have the 5522
same meanings as in section 133.01 of the Revised Code. 5523

(E) Nothing in this section, other than the requirement of 5524
controlling board approval, shall prohibit the ~~department~~ agency 5525
from contracting with JobsOhio to perform any of the following 5526
functions: 5527

(1) Promoting and advocating for the state; 5528

(2) Making recommendations to the ~~department~~ agency; 5529

(3) Performing research for the ~~department~~ agency; 5530

(4) Establishing and managing programs or offices on behalf 5531
of the ~~department~~ agency, by contract; 5532

(5) Negotiating on behalf of the state. 5533

(F) Nothing in this section, other than the requirement of 5534
controlling board approval, shall prohibit the ~~department~~ agency 5535
from compensating JobsOhio from funds currently appropriated to 5536
the ~~department~~ agency to perform the functions described in 5537
division (E) of this section. 5538

Sec. 187.05. The director of development services, as soon as 5539
practical after ~~the effective date of this section~~ February 18, 5540
2011, shall, in consultation with the governor, evaluate all 5541
powers, functions, and duties of the ~~department~~ development 5542
services agency. Within six months after ~~that effective date~~ 5543
February 18, 2011, the director shall submit a report to the 5544
general assembly recommending statutory changes necessary to 5545

improve the functioning and efficiency of the ~~department~~ agency 5546
and to transfer specified powers, functions, and duties of the 5547
~~department~~ agency to other existing agencies of the state or to 5548
JobsOhio, or eliminate specified powers, functions, or duties. The 5549
recommendations shall be submitted in writing to the speaker and 5550
minority leader of the house of representatives and the president 5551
and minority leader of the senate. 5552

After submitting the report, the director, in consultation 5553
with the governor, shall continue to evaluate the ~~department~~ 5554
agency and make additional recommendations on such matters to the 5555
general assembly. 5556

Sec. 187.061. (A) Each officer and employee of JobsOhio shall 5557
do all of the following: 5558

(1) Sign an ethical conduct statement prescribed by the board 5559
of directors of JobsOhio; 5560

(2) Complete an annual course or program of study on ethics. 5561
The course or program of study shall be reviewed and approved by 5562
the board of directors. 5563

(3) Comply with the gift policy prescribed by the board of 5564
directors. 5565

(B) Prior to the renewal of the contract between the director 5566
of development services and JobsOhio as described in section 5567
187.04 of the Revised Code, the board of directors shall submit to 5568
the controlling board a comprehensive review of the ethics 5569
policies and procedures that have been adopted by JobsOhio. 5570

Sec. 929.03. (A)(1) No public entity with authority to levy 5571
special assessments on real property shall collect an assessment 5572
for purposes of sewer, water, or electrical service on real 5573
property that is within an agricultural district as described in 5574

division (A)(2) of this section without the permission of the 5575
owner, except that any assessment may be collected on a lot 5576
surrounding a dwelling or other structure not used in agricultural 5577
production that does not exceed one acre or the minimum area 5578
required by local zoning or subdivision rules, whichever is the 5579
greater area. 5580

(2) For purposes of division (A)(1) of this section, an 5581
agricultural district is such a district that is established: 5582

(a) In the case of counties, prior to the adoption of a 5583
resolution of necessity by a board of county commissioners, 5584
pursuant to section 6103.05 or 6117.06 of the Revised Code; 5585

(b) In the case of municipal corporations, prior to whichever 5586
of the following occurs first: 5587

(i) The adoption of the resolution of necessity by the 5588
municipal legislative authority, pursuant to section 727.12 or 5589
729.02 of the Revised Code; 5590

(ii) The service of notice on all or some of the owners to be 5591
assessed pursuant to section 729.06 of the Revised Code; 5592

(iii) The adoption of the resolution or ordinance by the 5593
municipal legislative authority declaring the necessity for the 5594
improvement, the costs of which are to be assessed under 5595
procedures authorized by a municipal charter adopted pursuant to 5596
Section 7 of Article XVIII, Ohio Constitution, or, if no such 5597
ordinance or resolution is required under the charter, the service 5598
of the first notice on all or some of the owners of lands to be 5599
assessed, or the adoption of the first ordinance or resolution by 5600
the municipal legislative authority pertaining to the assessment 5601
proceedings under the charter. 5602

(c) In the case of a regional water and sewer district 5603
established pursuant to Chapter 6119. of the Revised Code, prior 5604
to the adoption of a resolution of necessity by the board of 5605

trustees of the district under section 6119.25 of the Revised Code. 5606
5607

(B) For each special assessment levied by a public entity on real property within an agricultural district for purposes of sewer, water, or electrical service, the county auditor shall make and maintain a list showing: 5608
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5611

(1) The name of the owner of each lot, tract, or parcel of land that is exempt from the collection of the special assessment under this section; 5612
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5614

(2) A description of the exempt land; 5615

(3) The purpose of the special assessment; 5616

(4) The amount of the uncollected assessment on the exempt land. 5617
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In the case of a county project constructed under Chapter 6103. or 6117. of the Revised Code, the county auditor may use a list provided for in those chapters in lieu of the list required by division (B) of this section. The auditor shall also record in the water works record required by section 6103.16 of the Revised Code or the sewer improvement record required by section 6117.33 of the Revised Code those assessments not collected under this section. The recording of the assessments does not permit the collection of the assessments until such time as exempt lands are withdrawn from agricultural districts or converted to nonagricultural use. 5619
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(C) If at any time any of the owner's exempt land, other than a lot sold or transferred to a son, daughter, brother, sister, mother, or father for the purpose of constructing a dwelling in which the relative will reside for at least three years, is withdrawn from an agricultural district or if the owner of the exempt land uses on that land the service for which the special assessment was assessed, the public entity may collect the entire 5630
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uncollected assessment, except as otherwise provided in this 5637
division, in addition to an amount equal to the rate of interest 5638
that any bonds or notes issued for the project for which the 5639
assessment was made did bear for the number of years the land was 5640
exempted, not to exceed twenty-five or the number of years for 5641
which the bonds or notes were issued, whichever is the lesser 5642
number. The owner shall notify the county auditor of any 5643
withdrawal from a district or use of the service within ninety 5644
days following the withdrawal or use of the service. The charge 5645
shall constitute a lien of the public entity upon the land and 5646
shall continue until discharged. All liens shall be recorded in 5647
the appropriate county recorder's office. Moneys collected as a 5648
result of the charge shall be deposited in the appropriate fund of 5649
the public entity that levied the special assessment. 5650

If the owner of exempt land sells or transfers a lot to ~~his~~ 5651
the owner's son, daughter, brother, sister, mother, or father for 5652
the purpose of constructing a dwelling in which the relative will 5653
reside for at least three years, and if the owner or the buyer of 5654
the lot uses the service for which the special assessment was 5655
assessed only to provide service to that lot, the owner of the lot 5656
shall pay only that portion of the uncollected assessment and 5657
interest that applies to the lot. 5658

If at any time any part of an owner's exempt land is 5659
appropriated, the owner shall pay only that portion of the 5660
uncollected assessment and interest that applies to the 5661
appropriated parcel of land. 5662

In lieu of immediate payment of the uncollected assessment 5663
and interest, the board of county commissioners, legislative 5664
authority of a municipal corporation, or other governing board of 5665
any other public entity may, upon the request of the owner, 5666
establish an extended repayment schedule for the owner. If the 5667
board, legislative authority, or other governing board establishes 5668

such a schedule, it shall notify the county auditor of the 5669
schedule. 5670

~~(D) A board of county commissioners, legislative authority of 5671
a municipal corporation, or other governing board of any other 5672
public entity may apply to the water and sewer commission, created 5673
by division (C) of section 1525.11 of the Revised Code, for an 5674
advance of moneys from the water and sewer fund, created by 5675
division (A) of section 1525.11 of the Revised Code, in an amount 5676
equal to that portion of the costs of a water or sewer improvement 5677
authorized by law that is to be financed by assessments whose 5678
collection is prohibited under division (A) of this section. The 5679
application for such an advance of moneys shall be made in the 5680
manner prescribed by rules of the commission. Upon collection of 5681
any assessment whose collection was prohibited under division (A) 5682
of this section, the board of county commissioners, legislative 5683
authority, or other governing board shall repay the commission the 5684
amount of any moneys advanced by it in regard to the assessments. 5685~~

Sec. 1551.01. As used in this chapter: 5686

(A) "Governmental agency" means the United States government 5687
or any department, agency, or instrumentality thereof; any 5688
department, agency, or instrumentality of a state government; any 5689
municipal corporation, county, township, board of education, or 5690
other political subdivision or any other body corporate and 5691
politic of a state; or any agency, commission, or authority 5692
established under an interstate compact or agreement. 5693

(B) "Energy resource development facility" means any energy 5694
resource development, research, or conservation facility, 5695
including pilot as well as demonstration facilities, and including 5696
undivided or other interests therein, acquired or to be acquired, 5697
or constructed or to be constructed under this chapter or Chapter 5698
6121. or 6123. of the Revised Code, or acquired or to be acquired, 5699

or constructed or to be constructed by a governmental agency or 5700
person with all or a part of the cost thereof being paid from a 5701
loan or grant under such chapters, including all buildings and 5702
facilities that the director of development services determines 5703
necessary for the operation of the facility, together with all 5704
property, rights, easements, and interests that may be required 5705
for the operation of the facility, which facilities may include: 5706

(1) Any building, testing facility, testing device, or 5707
support facilities which would provide experimental, 5708
demonstration, or testing capabilities or services not otherwise 5709
available in this state and which are necessary for the 5710
accomplishment of the purposes of this chapter; 5711

(2) Any method, process, structure, or equipment that is used 5712
to store coal, oil, natural gas, fuel for nuclear reactors, or any 5713
other form of energy; 5714

(3) Any method, process, structure, or equipment that is used 5715
to recover or convert coal, oil, natural gas, steam, or other form 5716
of energy from property located within the state for the purpose 5717
of supplying energy for utilization; 5718

(4) Any method, process, structure, or equipment that is 5719
designed to result in more efficient recovery, conversion, or 5720
utilization of energy resources within the state, including any 5721
scrap tire recovery facility for which a registration certificate 5722
or permit has been issued under section 3734.78 of the Revised 5723
Code; 5724

(5) Any improvement that is designed to improve the thermal 5725
efficiency of a building or structure or reduce the fuel or power 5726
needed to heat, cool, light, ventilate, or provide hot water in a 5727
building or structure; 5728

(6) Any improvement designed to enable the substitution of 5729
coal or alternate fuel, other than natural gas, for natural gas or 5730

a petroleum fuel, or the conversion of coal to other fuels; 5731

(7) Any improvement designed to enable the combustion of high 5732
sulfur coal in compliance with air or water pollution control or 5733
solid waste disposal laws, including, but not limited to, any 5734
facility for processing coal to remove sulfur before combustion of 5735
the coal, for fluidized bed combustion, or for removal of the 5736
sulfur before the products of combustion are emitted or 5737
discharged. 5738

(C) "Cost" as applied to an energy resource development 5739
facility means the cost of acquisition and construction, the cost 5740
of acquisition of all land, rights-of-way, property rights, 5741
easements, franchise rights, and interests required for such 5742
acquisition and construction, the cost of demolishing or removing 5743
any buildings or structures on land so acquired, including the 5744
cost of acquiring any lands to which such buildings or structures 5745
may be moved, the cost of acquiring or constructing and equipping 5746
a principal office and sub-offices of the department of 5747
development, the cost of diverting highways, interchange of 5748
highways, access roads to private property, including the cost of 5749
land or easements for such access roads, the cost of public 5750
utility and common carrier relocation or duplication, the cost of 5751
all machinery, furnishings, and equipment, financing charges, 5752
interest prior to and during construction and for no more than 5753
eighteen months after completion of construction, engineering, 5754
expenses of research and development with respect to the facility, 5755
legal expenses, plans, specifications, surveys, studies, estimates 5756
of cost and revenues, working capital, other expenses necessary or 5757
incident to determining the feasibility or practicability of 5758
acquiring or constructing such facility, administrative expense, 5759
and such other expense as may be necessary or incident to the 5760
acquisition or construction of the facility, the financing of such 5761
acquisition or construction, including the amount authorized in 5762

the resolution of the Ohio water development authority providing 5763
for the issuance of energy resource development revenue bonds to 5764
be paid into any special funds from the proceeds of such bonds, 5765
and the financing of the placing of such facility in operation. 5766
Any obligation, cost, or expense incurred after August 26, 1975, 5767
by any governmental agency or person for surveys, borings, 5768
preparation of plans and specifications, and other engineering 5769
services, or any other cost described above, in connection with 5770
the acquisition or construction of a facility may be regarded as a 5771
part of the cost of such facility and may be reimbursed out of the 5772
proceeds of energy resource development revenue bonds. 5773

(D) "Revenues" means all rentals and other charges received 5774
by the Ohio water development authority for the use or services of 5775
any energy resource development facility, any contract, gift, or 5776
grant received with respect to any energy resource development 5777
facility, and moneys received with respect to the lease, sublease, 5778
sale, including installment sale or conditional sale, or other 5779
disposition of an energy resource development facility, moneys 5780
received in repayment of and for interest on any loans made by the 5781
authority to a person or governmental agency, whether from the 5782
United States or any department, administration, or agency 5783
thereof, or otherwise, proceeds of energy resource development 5784
revenue bonds to the extent that the use thereof for payment of 5785
principal of, premium, if any, or interest on the bonds is 5786
authorized by the authority, proceeds from any insurance, 5787
condemnation, or guaranty pertaining to a facility or property 5788
mortgaged to secure bonds or pertaining to the financing of a 5789
facility, and income and profit from the investment of the 5790
proceeds of energy resource development revenue bonds or of any 5791
revenues. 5792

(E) "Construction," unless the context indicates a different 5793
meaning or intent, includes construction, reconstruction, 5794

enlargement, improvement, or providing furnishings or equipment. 5795

(F) "Energy resource development revenue bonds," unless the 5796
context indicates a different meaning or intent, includes energy 5797
resource development revenue bonds, energy resource development 5798
revenue notes, and energy resource development revenue refunding 5799
bonds. 5800

(G) "Energy" means work or heat that is, or can be, produced 5801
from any fuel or source whatsoever. 5802

(H) "Energy audit" means any process by which energy usage or 5803
costs of heating, cooling, lighting, and climate control in a 5804
building or structure are determined. 5805

(I) "Energy conservation" means preservation of energy 5806
resources by efficient utilization, and reduction of waste. 5807

(J) "Energy conservation measure" means any modification of a 5808
building, structure, machine, appliance, vehicle, improvement, or 5809
process in order to improve its efficiency of energy use or energy 5810
costs. 5811

(K) "Fuel" means petroleum, crude oil, petroleum product, 5812
coal, natural gas, synthetic natural or artificial gas, nuclear, 5813
or other substance used primarily for its energy content. 5814

(L) "Net energy analysis" means the determination of the 5815
amount of energy remaining after all energy outputs have been 5816
subtracted from the energy inputs of a given system. 5817

(M) "Department of development" means the development 5818
services agency and "director of development" means the director 5819
of development services. 5820

Sec. 3735.01. As used in this chapter, "department of 5821
development" means the development services agency and "director 5822
of development" means the director of development services. 5823

Sec. 3735.672. (A) On or before the thirty-first day of March 5824
each year, a legislative authority that has entered into an 5825
agreement with a party under section 3735.671 of the Revised Code 5826
shall submit to the director of development services and the board 5827
of education of each school district of which a municipal 5828
corporation or township to which such an agreement applies is a 5829
part a report on all such agreements in effect during the 5830
preceding calendar year. The report shall include the following 5831
information: 5832

(1) The designation, assigned by the director of development 5833
services, of each community reinvestment area within the municipal 5834
corporation or county, and the total population of each area 5835
according to the most recent data available; 5836

(2) The number of agreements and the number of full-time 5837
employees subject to those agreements within each area, each 5838
according to the most recent data available and identified and 5839
categorized by the appropriate standard industrial code, and the 5840
rate of unemployment in the municipal corporation or county in 5841
which the area is located for each year since the area was 5842
certified; 5843

(3) The number of agreements approved and executed during the 5844
calendar year for which the report is submitted, the total number 5845
of agreements in effect on the thirty-first day of December of the 5846
preceding calendar year, the number of agreements that expired 5847
during the calendar year for which the report is submitted, and 5848
the number of agreements scheduled to expire during the calendar 5849
year in which the report is submitted. For each agreement that 5850
expired during the calendar year for which the report is 5851
submitted, the legislative authority shall include the amount of 5852
taxes exempted under the agreement. 5853

(4) The number of agreements receiving compliance reviews by 5854

the tax incentive review council in the municipal corporation or 5855
county during the calendar year for which the report is submitted, 5856
including all of the following information: 5857

(a) The number of agreements the terms of which the party has 5858
complied with, indicating separately for each such agreement the 5859
value of the real property exempted pursuant to the agreement and 5860
a comparison of the stipulated and actual schedules for hiring new 5861
employees, for retaining existing employees, and for the amount of 5862
payroll of the party attributable to these employees; 5863

(b) The number of agreements the terms of which a party has 5864
failed to comply with, indicating separately for each such 5865
agreement the value of the real and personal property exempted 5866
pursuant to the agreement and a comparison of the stipulated and 5867
actual schedules for hiring new employees, for retaining existing 5868
employees, and for the amount of payroll of the enterprise 5869
attributable to these employees; 5870

(c) The number of agreements about which the tax incentive 5871
review council made recommendations to the legislative authority, 5872
and the number of such recommendations that have not been 5873
followed; 5874

(d) The number of agreements rescinded during the calendar 5875
year for which the report is submitted. 5876

(5) The number of parties subject to agreements that expanded 5877
within each area, including the number of new employees hired and 5878
existing employees retained by that party, and the number of new 5879
parties subject to agreements that established within each area, 5880
including the number of new employees hired by each party; 5881

(6) For each agreement in effect during any part of the 5882
preceding year, the number of employees employed by the party at 5883
the property that is the subject of the agreement immediately 5884
prior to formal approval of the agreement, the number of employees 5885

employed by the party at that property on the thirty-first day of 5886
December of the preceding year, the payroll of the party for the 5887
preceding year, the amount of taxes paid on real property that was 5888
exempted under the agreement, and the amount of such taxes that 5889
were not paid because of the exemption. 5890

(B) Upon the failure of a municipal corporation or county to 5891
comply with division (A) of this section: 5892

(1) Beginning on the first day of April of the calendar year 5893
in which the municipal corporation or county fails to comply with 5894
that division, the municipal corporation or county shall not enter 5895
into any agreements under section 3735.671 of the Revised Code 5896
until the municipal corporation or county has complied with 5897
division (A) of this section. 5898

(2) On the first day of each ensuing calendar month until the 5899
municipal corporation or county complies with that division, the 5900
director of development services shall either order the proper 5901
county auditor to deduct from the next succeeding payment of taxes 5902
to the municipal corporation or county under section 321.31, 5903
321.32, 321.33, or 321.34 of the Revised Code an amount equal to 5904
five hundred dollars for each calendar month the municipal 5905
corporation or county fails to comply with that division, or order 5906
the county auditor to deduct such an amount from the next 5907
succeeding payment to the municipal corporation or county from the 5908
undivided local government fund under section 5747.51 of the 5909
Revised Code. At the time such a payment is made, the county 5910
auditor shall comply with the director's order by issuing a 5911
warrant, drawn on the fund from which such money would have been 5912
paid, to the director of development services, who shall deposit 5913
the warrant into the state community reinvestment area program 5914
administration fund created in division (C) of this section. 5915

(C) The director, by rule, shall establish the state's 5916
application fee for applications submitted to a municipal 5917

corporation or county to enter into an agreement under section 5918
3735.671 of the Revised Code. In establishing the amount of the 5919
fee, the director shall consider the state's cost of administering 5920
the community reinvestment area program, including the cost of 5921
reviewing the reports required under division (A) of this section. 5922
The director may change the amount of the fee at such times and in 5923
such increments as the director considers necessary. Any municipal 5924
corporation or county that receives an application shall collect 5925
the application fee and remit the fee for deposit in the state 5926
treasury to the credit of the ~~tax incentive programs operating~~ 5927
business assistance fund created in section 122.174 of the Revised 5928
Code. 5929

Sec. 3746.35. (A) Not later than September 1, 1996, and not 5930
later than the first day of September of each subsequent year, the 5931
director of environmental protection shall prepare and submit to 5932
the chairpersons of the respective standing committees of the 5933
senate and house of representatives primarily responsible for 5934
considering environmental and taxation matters a report regarding 5935
the voluntary action program established under this chapter and 5936
rules adopted under it and the tax abatements granted pursuant to 5937
sections 5709.87 and 5709.88 of the Revised Code for properties 5938
where voluntary actions were conducted. Each annual report shall 5939
include, without limitation, all of the following: 5940

(1) Both of the following for each property for which a 5941
covenant not to sue was issued under section 3746.12 of the 5942
Revised Code during the preceding calendar year: 5943

(a) The address of the property and name of the person who 5944
undertook the voluntary action at the property; 5945

(b) Whether the applicable standards governing the voluntary 5946
action were the interim standards established in section 3746.07 5947
of the Revised Code or the generic numerical clean-up standards 5948

established in rules adopted under division (B)(1) of section 5949
3746.04 of the Revised Code, were established through the 5950
performance of a risk assessment pursuant to rules adopted under 5951
division (B)(2) of section 3746.04 of the Revised Code, or were 5952
set forth in a variance issued under section 3746.09 of the 5953
Revised Code. 5954

(2) All of the following for each property for which a 5955
variance was issued under section 3746.09 of the Revised Code 5956
during the preceding calendar year: 5957

(a) The address of the property and the name of the person to 5958
whom the variance was issued; 5959

(b) A summary of the alternative standards and terms and 5960
conditions of the variance and brief description of the 5961
improvement in environmental conditions at the property that is 5962
anticipated to result from compliance with the alternative 5963
standards and terms and conditions set forth in the variance; 5964

(c) A brief description of the economic benefits to the 5965
person to whom the variance was issued and the community in which 5966
the property is located that are anticipated to result from the 5967
undertaking of the voluntary action in compliance with the 5968
alternative standards and terms and conditions set forth in the 5969
variance. 5970

(3) The number of audits performed under section 3746.17 of 5971
the Revised Code during the preceding calendar year and, in 5972
connection with each of them, at least the following information: 5973

(a) The address of the property in connection with which the 5974
audit was performed and the name of the person who undertook the 5975
voluntary action at the property; 5976

(b) An indication as to whether the audit was a random audit 5977
or was conducted in accordance with the priorities established in 5978
rules adopted under divisions (A)(9)(a) to (f) of section 3746.04 5979

of the Revised Code and, if the audit was conducted in accordance 5980
with those priorities, an indication as to which of them resulted 5981
in the selection of the voluntary action for an audit; 5982

(c) A brief summary of the findings of the audit and any 5983
action taken by the environmental protection agency as a result of 5984
those findings. 5985

(4) The number of covenants not to sue revoked during the 5986
preceding calendar year through the operation of divisions 5987
(A)(2)(c) and (B) of section 3746.12, division (B)(2) of section 5988
3746.18, and division (B) of section 3746.19 of the Revised Code 5989
and for each property for which a covenant was revoked, at least 5990
both of the following: 5991

(a) The address of the property affected by the revocation 5992
and name of the person who undertook the voluntary action at the 5993
property; 5994

(b) The reason for the revocation. 5995

(5) The amount of money credited to the voluntary action 5996
administration fund created in section 3746.16 of the Revised Code 5997
during the preceding fiscal year from the fees established in 5998
divisions (D) and (H) of section 3746.07 and division (C) of 5999
section 3746.13 of the Revised Code and from civil penalties 6000
imposed under section 3746.22 of the Revised Code. The report 6001
shall indicate the amount of money that arose from each of the 6002
fees and from the civil penalties. The report also shall include 6003
the amount of money expended from the fund during the preceding 6004
fiscal year by program category, including, without limitation, 6005
the amount expended for conducting audits under section 3746.17 of 6006
the Revised Code during the preceding fiscal year. 6007

(6) For each property that is receiving a tax abatement under 6008
section 5709.87 of the Revised Code for the preceding tax year, 6009
the amount of the valuation exempted from real property taxation 6010

for that tax year under that section. In order to comply with 6011
division (A)(6) of this section, the director shall include in the 6012
annual report the report required ~~to be provided to the director~~ 6013
~~by the director of development~~ under division (B)(2) of this 6014
section. ~~The sole responsibility of the director of environmental~~ 6015
~~protection regarding the report provided to the director under~~ 6016
~~that division is to include it in the annual report prepared under~~ 6017
~~division (A) of this section.~~ 6018

(7) For each property that is receiving a tax abatement 6019
pursuant to an agreement with a municipal corporation or county 6020
entered into under section 5709.88 of the Revised Code, the amount 6021
of the valuation exempted from real or personal property taxation. 6022
In order to comply with division (A)(7) of this section, the 6023
director shall include in the annual report the report required ~~to~~ 6024
~~be provided to the director by the director of development~~ under 6025
division (C) of this section. ~~The sole responsibility of the~~ 6026
~~director of environmental protection regarding the report provided~~ 6027
~~to the director under that division is to include it in the annual~~ 6028
~~report prepared under division (A) of this section.~~ 6029

(B)(1) Not later than March 31, 1996, the county auditor of 6030
each county in which is located any property that is receiving a 6031
tax abatement under section 5709.87 of the Revised Code shall 6032
report to the director of ~~development~~ environmental protection for 6033
each such property both of the following as applicable to tax year 6034
1995: 6035

(a) The address of the property and the name of the owner as 6036
stated in the records of the county auditor of the county in which 6037
the property is located; 6038

(b) The amount of the valuation of the property that was 6039
exempted from real property taxation under that section. 6040

Not later than the thirty-first day of March of each 6041

subsequent year, each such county auditor shall report the 6042
information described in those divisions to the director of 6043
~~development~~ environmental protection for each property within the 6044
county that is receiving a tax abatement under that section for 6045
the preceding tax year. 6046

(2) Not later than July 1, 1996, and not later than the first 6047
day of July of each subsequent year, the director of ~~development~~ 6048
environmental protection shall compile the information provided to 6049
the director under division (B)(1) of this section applicable to 6050
the preceding tax year into a report covering all of the counties 6051
in the state in which are located properties receiving a tax 6052
abatement under section 5709.87 of the Revised Code for the 6053
preceding tax year ~~and shall forward the report to the director of~~ 6054
~~environmental protection. The sole responsibility of the director~~ 6055
~~of development in preparing the report is to compile the~~ 6056
~~information submitted to the director by the county auditors under~~ 6057
~~division (B)(1) of this section.~~ 6058

(C) Not later than July 1, 1996, and not later than the first 6059
day of July of each subsequent year, the director of ~~development~~ 6060
environmental protection shall compile the information provided to 6061
the director by municipal corporations and counties under division 6062
(A) of section 5709.882 of the Revised Code applicable to the 6063
preceding calendar year into a report covering, by county, all of 6064
the municipal corporations and counties in this state in which are 6065
located properties receiving a tax abatement pursuant to an 6066
agreement entered into under section 5709.88 of the Revised Code 6067
~~and shall forward the report to the director of environmental~~ 6068
~~protection. The sole responsibility of the director of development~~ 6069
~~in preparing the report is to compile the information submitted to~~ 6070
~~him by municipal corporations and counties under division (A) of~~ 6071
~~section 5709.882 of the Revised Code.~~ 6072

Sec. 5117.22. All petroleum violation escrow funds received 6073
by this state from the federal government shall be deposited in 6074
the state treasury to the credit of the energy oil overcharge 6075
fund, which is hereby created. The fund shall be used by the 6076
~~department of development~~ services agency for energy conservation 6077
and assistance programs approved by the United States department 6078
of energy. All investment earnings of the fund shall be credited 6079
to the fund. 6080

Sec. 5701.15. As used in Title LVII of the Revised Code, 6081
"department of development" means the development services agency 6082
and "director of development" means the director of development 6083
services. 6084

Sec. 5709.68. (A) On or before the thirty-first day of March 6085
each year, a municipal corporation or county that has entered into 6086
an agreement with an enterprise under section 5709.62, 5709.63, or 6087
5709.632 of the Revised Code shall submit to the director of 6088
development services and the board of education of each school 6089
district of which a municipal corporation or township to which 6090
such an agreement applies is a part a report on all of those 6091
agreements in effect during the preceding calendar year. The 6092
report shall include all of the following information: 6093

(1) The designation, assigned by the director of development 6094
services, of each urban jobs and enterprise zone within the 6095
municipal corporation or county, the date each zone was certified, 6096
the name of each municipal corporation or township within each 6097
zone, and the total population of each zone according to the most 6098
recent data available; 6099

(2) The number of enterprises that are subject to those 6100
agreements and the number of full-time employees subject to those 6101
agreements within each zone, each according to the most recent 6102

data available and identified and categorized by the appropriate 6103
standard industrial code, and the rate of unemployment in the 6104
municipal corporation or county in which the zone is located for 6105
each year since each zone was certified; 6106

(3) The number of agreements approved and executed during the 6107
calendar year for which the report is submitted, the total number 6108
of agreements in effect on the thirty-first day of December of the 6109
preceding calendar year, the number of agreements that expired 6110
during the calendar year for which the report is submitted, and 6111
the number of agreements scheduled to expire during the calendar 6112
year in which the report is submitted. For each agreement that 6113
expired during the calendar year for which the report is 6114
submitted, the municipal corporation or county shall include the 6115
amount of taxes exempted and the estimated dollar value of any 6116
other incentives provided under the agreement. 6117

(4) The number of agreements receiving compliance reviews by 6118
the tax incentive review council in the municipal corporation or 6119
county during the calendar year for which the report is submitted, 6120
including all of the following information: 6121

(a) The number of agreements the terms of which an enterprise 6122
has complied with, indicating separately for each agreement the 6123
value of the real and personal property exempted pursuant to the 6124
agreement and a comparison of the stipulated and actual schedules 6125
for hiring new employees, for retaining existing employees, for 6126
the amount of payroll of the enterprise attributable to these 6127
employees, and for investing in establishing, expanding, 6128
renovating, or occupying a facility; 6129

(b) The number of agreements the terms of which an enterprise 6130
has failed to comply with, indicating separately for each 6131
agreement the value of the real and personal property exempted 6132
pursuant to the agreement and a comparison of the stipulated and 6133
actual schedules for hiring new employees, for retaining existing 6134

employees, for the amount of payroll of the enterprise 6135
attributable to these employees, and for investing in 6136
establishing, expanding, renovating, or occupying a facility; 6137

(c) The number of agreements about which the tax incentive 6138
review council made recommendations to the legislative authority 6139
of the municipal corporation or county, and the number of those 6140
recommendations that have not been followed; 6141

(d) The number of agreements rescinded during the calendar 6142
year for which the report is submitted. 6143

(5) The number of enterprises that are subject to agreements 6144
that expanded within each zone, including the number of new 6145
employees hired and existing employees retained by each 6146
enterprise, and the number of new enterprises that are subject to 6147
agreements and that established within each zone, including the 6148
number of new employees hired by each enterprise; 6149

(6)(a) The number of enterprises that are subject to 6150
agreements and that closed or reduced employment at any place of 6151
business within the state for the primary purpose of establishing, 6152
expanding, renovating, or occupying a facility, indicating 6153
separately for each enterprise the political subdivision in which 6154
the enterprise closed or reduced employment at a place of business 6155
and the number of full-time employees transferred and retained by 6156
each such place of business; 6157

(b) The number of enterprises that are subject to agreements 6158
and that closed or reduced employment at any place of business 6159
outside the state for the primary purpose of establishing, 6160
expanding, renovating, or occupying a facility. 6161

(7) For each agreement in effect during any part of the 6162
preceding year, the number of employees employed by the enterprise 6163
at the project site immediately prior to formal approval of the 6164
agreement, the number of employees employed by the enterprise at 6165

the project site on the thirty-first day of December of the 6166
preceding year, the payroll of the enterprise for the preceding 6167
year, the amount of taxes paid on tangible personal property 6168
situated at the project site and the amount of those taxes that 6169
were not paid because of the exemption granted under the 6170
agreement, and the amount of taxes paid on real property 6171
constituting the project site and the amount of those taxes that 6172
were not paid because of the exemption granted under the 6173
agreement. If an agreement was entered into under section 5709.632 6174
of the Revised Code with an enterprise described in division 6175
(B)(2) of that section, the report shall include the number of 6176
employee positions at all of the enterprise's locations in this 6177
state. If an agreement is conditioned on a waiver issued under 6178
division (B) of section 5709.633 of the Revised Code on the basis 6179
of the circumstance described in division (B)(3)(a) or (b) of that 6180
section, the report shall include the number of employees at the 6181
facilities referred to in division (B)(3)(a)(i) or (b)(i) of that 6182
section, respectively. 6183

(B) Upon the failure of a municipal corporation or county to 6184
comply with division (A) of this section: 6185

(1) Beginning on the first day of April of the calendar year 6186
in which the municipal corporation or county fails to comply with 6187
that division, the municipal corporation or county shall not enter 6188
into any agreements with an enterprise under section 5709.62, 6189
5709.63, or 5709.632 of the Revised Code until the municipal 6190
corporation or county has complied with division (A) of this 6191
section. 6192

(2) On the first day of each ensuing calendar month until the 6193
municipal corporation or county complies with division (A) of this 6194
section, the director of development services shall either order 6195
the proper county auditor to deduct from the next succeeding 6196
payment of taxes to the municipal corporation or county under 6197

section 321.31, 321.32, 321.33, or 321.34 of the Revised Code an 6198
amount equal to one thousand dollars for each calendar month the 6199
municipal corporation or county fails to comply with that 6200
division, or order the county auditor to deduct that amount from 6201
the next succeeding payment to the municipal corporation or county 6202
from the undivided local government fund under section 5747.51 of 6203
the Revised Code. At the time such a payment is made, the county 6204
auditor shall comply with the director's order by issuing a 6205
warrant, drawn on the fund from which the money would have been 6206
paid, to the director of development services, who shall deposit 6207
the warrant into the state enterprise zone program administration 6208
fund created in division (C) of this section. 6209

(C) The director, by rule, shall establish the state's 6210
application fee for applications submitted to a municipal 6211
corporation or county to enter into an agreement under section 6212
5709.62, 5709.63, or 5709.632 of the Revised Code. In establishing 6213
the amount of the fee, the director shall consider the state's 6214
cost of administering the enterprise zone program, including the 6215
cost of reviewing the reports required under division (A) of this 6216
section. The director may change the amount of the fee at the 6217
times and in the increments the director considers necessary. Any 6218
municipal corporation or county that receives an application shall 6219
collect the application fee and remit the fee for deposit in the 6220
state treasury to the credit of the ~~tax incentive programs~~ 6221
~~operating~~ business assistance fund created in section 122.174 of 6222
the Revised Code. 6223

(D) On or before the thirtieth day of June each year, the 6224
director of development services shall certify to the tax 6225
commissioner the information described under division (A)(7) of 6226
this section, derived from the reports submitted to the director 6227
under this section. 6228

On the basis of the information certified under this 6229

division, the tax commissioner annually shall submit a report to 6230
the governor, the speaker of the house of representatives, the 6231
president of the senate, and the chairpersons of the ways and 6232
means committees of the respective houses of the general assembly, 6233
indicating for each enterprise zone the amount of state and local 6234
taxes that were not required to be paid because of exemptions 6235
granted under agreements entered into under section 5709.62, 6236
5709.63, or 5709.632 of the Revised Code and the amount of 6237
additional taxes paid from the payroll of new employees. 6238

Sec. 5709.882. (A) On or before the thirty-first day of March 6239
each year, a municipal corporation or county that has entered into 6240
an agreement with an enterprise under section 5709.88 of the 6241
Revised Code shall submit to the ~~director~~ directors of development 6242
services and environmental protection and the board of education 6243
of each school district of which a municipal corporation or county 6244
to which such an agreement applies is a part a report on all such 6245
agreements in effect during the preceding calendar year. The 6246
report shall include all of the following information: 6247

(1) The number of enterprises that are subject to such 6248
agreements and the number of full-time employees subject to those 6249
agreements in the county or municipal corporation; 6250

(2) The number of agreements approved and executed during the 6251
calendar year for which the report is submitted, the total number 6252
of agreements in effect on the thirty-first day of December of the 6253
preceding calendar year, the number of agreements that expired 6254
during the calendar year for which the report is submitted, and 6255
the number of agreements scheduled to expire during the calendar 6256
year in which the report is submitted. For each agreement that 6257
expired during the calendar year for which the report is 6258
submitted, the municipal corporation or county shall include the 6259
amount of taxes exempted and the estimated dollar value of any 6260

other incentives provided under the agreement. 6261

(3) The number of agreements receiving compliance reviews by 6262
the tax incentive review council in the municipal corporation or 6263
county under section 5709.883 of the Revised Code during the 6264
calendar year for which the report is submitted, including all of 6265
the following information: 6266

(a) The number of agreements the terms of which an enterprise 6267
has complied with, indicating separately for each such agreement 6268
the value of the real and personal property exempted pursuant to 6269
the agreement and a comparison of the stipulated and actual 6270
schedules for hiring new employees, for retaining existing 6271
employees, for the amount of payroll of the enterprise 6272
attributable to these employees, and for remediating and investing 6273
in establishing, expanding, renovating, or occupying a facility; 6274

(b) The number of agreements the terms of which an enterprise 6275
has failed to comply with, indicating separately for each such 6276
agreement the value of the real and personal property exempted 6277
pursuant to the agreement and a comparison of the stipulated and 6278
actual schedules for hiring new employees, for retaining existing 6279
employees, for the amount of payroll of the enterprise 6280
attributable to these employees, and for remediating and investing 6281
in establishing, expanding, renovating, or occupying a facility; 6282

(c) The number of agreements about which the tax incentive 6283
review council made recommendations to the legislative authority 6284
of the municipal corporation or county, and the number of such 6285
recommendations that have not been followed; 6286

(d) The number of agreements rescinded during the calendar 6287
year for which the report is submitted. 6288

(4) The number of enterprises that are subject to agreements 6289
and the number of new employees hired and existing employees 6290
retained by each such enterprise; 6291

(5)(a) The number of enterprises that are subject to 6292
agreements and that closed or reduced employment at any place of 6293
business within the state for the primary purpose of remediating 6294
and establishing, expanding, renovating, or occupying a facility, 6295
indicating separately for each such enterprise the political 6296
subdivision in which the enterprise closed or reduced employment 6297
at a place of business and the number of full-time employees 6298
transferred and retained by each such place of business; 6299

(b) The number of enterprises that are subject to agreements 6300
and that closed or reduced employment at any place of business 6301
outside the state for the primary purpose of remediating and 6302
establishing, expanding, renovating, or occupying a facility. 6303

(B) Upon the failure of a municipal corporation or county to 6304
comply with division (A) of this section, both of the following 6305
apply: 6306

(1) Beginning on the first day of April of the calendar year 6307
in which the municipal corporation or county fails to comply with 6308
that division, the municipal corporation or county shall not enter 6309
into any agreements with an enterprise under section 5709.88 of 6310
the Revised Code until the municipal corporation or county has 6311
complied with division (A) of this section; 6312

(2) On the first day of each ensuing calendar month until the 6313
municipal corporation or county complies with that division, the 6314
director of development services shall either order the proper 6315
county auditor to deduct from the next succeeding payment of taxes 6316
to the municipal corporation or county under section 321.31, 6317
321.32, 321.33, or 321.34 of the Revised Code an amount equal to 6318
five hundred dollars for each calendar month the municipal 6319
corporation or county fails to comply with that division, or order 6320
the county auditor to deduct such an amount from the next 6321
succeeding payment to the municipal corporation or county from the 6322
undivided local government fund under section 5747.51 of the 6323

Revised Code. At the time such a payment is made, the county 6324
auditor shall comply with the director's order by issuing a 6325
warrant, drawn on the fund from which such money would have been 6326
paid, to the director of development services, who shall deposit 6327
the warrant into the contaminated sites development program 6328
administration fund created in division (C) of this section. 6329

(C) The director, by rule, shall establish the state's 6330
application fee for applications submitted to a municipal 6331
corporation or county to enter into an agreement under section 6332
5709.88 of the Revised Code. In establishing the amount of the 6333
fee, the director shall consider the state's cost of administering 6334
this section and section 5709.88 of the Revised Code. The director 6335
may change the amount of the fee at such times and in such 6336
increments as ~~he~~ the director considers necessary. Any municipal 6337
corporation or county that receives an application shall collect 6338
the application fee and remit the fee for deposit in the state 6339
treasury to the credit of the contaminated sites development 6340
program administration fund, which is hereby created. Money 6341
credited to the fund shall be used by the ~~department of~~ 6342
development services agency to pay the costs of administering this 6343
section and section 5709.88 of the Revised Code. 6344

Sec. 6103.052. (A) ~~A board of county commissioners may apply~~ 6345
~~to the water and sewer commission, created by division (C) of~~ 6346
~~section 1525.11 of the Revised Code, for an advance of moneys from~~ 6347
~~the water and sewer fund, created by division (A) of section~~ 6348
~~1525.11 of the Revised Code, in an amount equal to that portion of~~ 6349
~~the costs of an improvement authorized under sections 6103.02 to~~ 6350
~~6103.30 of the Revised Code which is to be financed by assessments~~ 6351
~~whose collection is deferred pursuant to division (B) of this~~ 6352
~~section. The application for such an advance of moneys shall be~~ 6353
~~made in the manner prescribed by rules of the commission.~~ 6354

(B) At any time prior to the expiration of the five-day 6355
period provided by section 6103.05 of the Revised Code for the 6356
filing of written objections, any owner of property which is 6357
classified on the general tax list of the county auditor as 6358
agricultural land and has been assessed for the extension of a 6359
main water line over or along such property under sections 6103.02 6360
to 6103.30 of the Revised Code may file with the board of county 6361
commissioners a request in writing for deferment of the collection 6362
of ~~his~~ the owner's assessment if the main water line ~~serves a~~ 6363
~~purpose set forth in section 1525.13 of the Revised Code for which~~ 6364
~~the water and sewer fund may be used~~ provides water facilities to 6365
aid in the establishment of new industrial plants, the expansion 6366
of existing industrial plants, or such other industrial 6367
development, or provides water facilities to aid in the 6368
establishment of commercial and residential developments. Such 6369
request shall identify the property in connection with which the 6370
request for deferment is made, shall describe its present use and 6371
present classification on the general tax list of the county 6372
auditor, shall state its estimated market value, showing 6373
separately the value of the land and the value of the buildings 6374
thereon, shall state the reasons, if any, why a portion of the 6375
benefit of the improvement will not be realized until the use of 6376
the land is changed, and shall state the amount to be deferred. 6377
The board shall promptly consider such request and may order the 6378
deferment of the collection of that portion of the assessment 6379
representing a benefit from the improvement that will not be 6380
realized until the use of the land is changed. The board may, upon 6381
request of an owner whose property has been assessed for the 6382
extension of a main water line over or along such property under 6383
sections 6103.02 to 6103.31 of the Revised Code, defer all or any 6384
part of the assessment on property which is classified on the 6385
general tax list of the county auditor as agricultural land, by 6386
attributing the amount of such assessment or part thereof as 6387

tap-in charges, if the main water line ~~serves a purpose set forth~~ 6388
~~in section 1525.13 of the Revised Code for which the water and~~ 6389
~~sewer fund may be used. A deferment under this section may be~~ 6390
~~conditioned upon the approval of the advance of moneys applied for~~ 6391
~~pursuant to division (A) of this section, and a maximum length of~~ 6392
~~the deferment may be fixed to coincide with the maximum time~~ 6393
~~within which the advance must be repaid. The decision on the~~ 6394
~~request for deferment of collection of assessments shall be made~~ 6395
~~pursuant to standards established by rules of the commission~~ 6396
provides water facilities to aid in the establishment of new 6397
industrial plants, the expansion of existing industrial plants, or 6398
such other industrial development, or provides water facilities to 6399
aid in the establishment of commercial and residential 6400
developments. Upon determination and approval of final 6401
assessments, the board of county commissioners shall certify all 6402
deferred assessments and a fee equal to ~~any fee paid by the board~~ 6403
~~to the commission pursuant to division (C) of section 1525.12 of~~ 6404
~~the Revised Code attributable to the~~ two per cent of the amount of 6405
the deferred assessments to the county auditor. For purposes of 6406
this section, "assessment," "deferred assessment," or "assessment 6407
deferred under this section" mean the fee and the deferred 6408
assessment certified to the county auditor. The county auditor 6409
shall record an assessment deferred under this section in the 6410
water works record. Such record shall be kept until such time as 6411
the assessments are paid in full or certified for collection in 6412
installments as provided in this section. During the time when the 6413
assessment is deferred there shall be a lien on the property 6414
assessed, which lien shall arise at the time of recordation by the 6415
county auditor and shall be in force until the assessments are 6416
paid in full or certified for collection in installments. 6417

~~(C)~~(B) The board of county commissioners shall defer the 6418
collection of an assessment, except the amount of such assessment 6419
or part thereof attributable as tap-in charges, which has been 6420

deferred pursuant to division ~~(B)~~(A) of this section on or before 6421
January 1, 1987, beyond the expiration of the maximum time for the 6422
original deferment if the property owner requests in writing, no 6423
later than six months prior to the expiration of the original 6424
deferment, that the assessment be further deferred and as long as 6425
the property owner's land could qualify for placement in an 6426
agricultural district pursuant to section 929.02 of the Revised 6427
Code. 6428

The board shall regularly review the use and ownership of the 6429
property for which the collection of assessments has been deferred 6430
pursuant to this division, and upon finding that the land could no 6431
longer qualify for placement in an agricultural district pursuant 6432
to section 929.02 of the Revised Code, the board shall immediately 6433
collect, without interest, the full amount of the assessment 6434
~~deferred and repay the commission the amount of any moneys~~ 6435
~~advanced by it in regard to such assessment. The board shall pay~~ 6436
~~all such amounts to the commission in one annual payment or longer~~ 6437
~~period as approved by the commission. The board shall pay, from~~ 6438
~~the general funds of the county, interest annually at the interest~~ 6439
~~rate per annum equal to that rate of interest published as the~~ 6440
~~20 bond index rate in "The Bond Buyer" minus four per cent per~~ 6441
~~annum or at five per cent per annum, whichever is greater, for any~~ 6442
~~moneys not repaid to the commission pursuant to this division~~ 6443
~~within one year of the date of the disqualification of the~~ 6444
~~property for the continual deferment which requires such~~ 6445
~~repayment. The interest rate for any moneys not repaid to the~~ 6446
~~commission shall be calculated one year from the date of the~~ 6447
~~disqualification of the property for the continual deferment which~~ 6448
~~requires such repayment, and annually thereafter.~~ 6449

~~(D)~~(C) The board of county commissioners shall send a notice 6450
by regular or certified mail to all owners of property on which 6451
assessments have been deferred pursuant to division ~~(B)~~(A) of this 6452

section, which lists the expiration of the deferment, not later 6453
than two hundred ten days prior to the expiration of the deferment 6454
of those assessments. 6455

~~(E)~~(D) The board shall collect the assessments, without 6456
interest, which have been deferred pursuant to division ~~(B)~~(A) of 6457
this section upon expiration of the maximum time for which 6458
deferments were made ~~and repay the commission the amount of any~~ 6459
~~moneys advanced by it in regard to such assessments;~~ provided, 6460
that for a property owner who requests in writing, no later than 6461
six months prior to the expiration of the deferment period, that 6462
payment of ~~his~~ the owner's deferred assessments be in 6463
installments, the board of county commissioners upon expiration of 6464
the deferment period may by resolution further certify for 6465
collection pursuant to section 6103.16 of the Revised Code, such 6466
deferred assessments in installments over not more than twenty 6467
years, as determined by the board, together with interest thereon 6468
each year on the unpaid balance at the same rate borne by bonds of 6469
the county which shall be issued in anticipation thereof as 6470
provided in Chapter 133. of the Revised Code, ~~and the proceeds of~~ 6471
~~the bond issue used to repay such deferred assessments to the~~ 6472
~~commission.~~ 6473

Assessments which have been deferred by attribution as tap-in 6474
charges under division ~~(B)~~(A) of this section shall be collected 6475
as deferred assessments at that time. ~~As the board collects tap-in~~ 6476
~~charges which are deferred assessments under division (B) of this~~ 6477
~~section, it shall repay the commission the amount thereof which~~ 6478
~~was advanced by it in regard to such assessments.~~ An owner of 6479
property for which assessments have been deferred under division 6480
~~(B)~~(A) of this section, in requesting a tap-in may, subject to the 6481
approval of the board, designate a part of an entire assessed 6482
tract as the part which the tap-in is to serve, and the board 6483
shall collect the deferred assessment on that tract in the 6484

proportion that the part bears to the entire tract, on a front 6485
foot or other basis approved by the commission, but if in the 6486
judgment of the board the tap-in is reasonably intended to serve 6487
the entire tract or substantially all of the tract, it shall 6488
collect the deferred assessment for the entire tract. 6489

Prior to the expiration of the maximum time of deferment, the 6490
board shall regularly review the use of the property for which the 6491
collection of assessments has been deferred and upon finding, 6492
~~pursuant to the rules of the commission,~~ that the use of the land 6493
has changed from the use at the time of the deferment so that the 6494
benefit of the improvement can then be realized, the board shall 6495
immediately collect the full amount of the assessment for the 6496
portion of the property for which the use has so changed, without 6497
interest, ~~and repay the commission the amount of any moneys~~ 6498
~~advanced by it in regard to such assessment. The board shall pay~~ 6499
~~all such amounts to the commission in one annual payment or longer~~ 6500
~~period as approved by the commission. The board of county~~ 6501
~~commissioners shall pay, from the general funds of the county,~~ 6502
~~interest annually at the interest rate per annum equal to that~~ 6503
~~rate of interest published as the 20 bond index rate in "The Bond~~ 6504
~~Buyer" minus four per cent per annum or at five per cent per~~ 6505
~~annum, whichever is greater, for any moneys not repaid to the~~ 6506
~~commission pursuant to this division within one year of the date~~ 6507
~~of the change in the use of property requiring such repayment, or~~ 6508
~~of the date upon which payment of a tap-in charge is required by~~ 6509
~~law to be made, whichever date is applicable. The interest rate~~ 6510
~~for any moneys not repaid to the commission shall be calculated~~ 6511
~~one year from the date of the change in the use of property~~ 6512
~~requiring such repayment or from the date upon which payment of a~~ 6513
~~tap-in charge is required by law to be made, whichever date is~~ 6514
~~applicable, and annually thereafter.~~ 6515

Sec. 6117.062. (A) ~~A board of county commissioners may apply~~ 6516

~~to the water and sewer commission, created by division (C) of~~ 6517
~~section 1525.11 of the Revised Code, for an advance of moneys from~~ 6518
~~the water and sewer fund, created by division (A) of section~~ 6519
~~1525.11 of the Revised Code, in an amount equal to that portion of~~ 6520
~~the costs of an improvement authorized under sections 6117.01 to~~ 6521
~~6117.45 of the Revised Code which is to be financed by assessments~~ 6522
~~whose collection is deferred pursuant to division (B) of this~~ 6523
~~section. The application for such an advance of moneys shall be~~ 6524
~~made in the manner prescribed by rules of the commission.~~ 6525

(B) At any time prior to the expiration of the five-day 6526
period provided by section 6117.06 of the Revised Code for the 6527
filing of written objections, any owner of property which is 6528
classified on the general tax list of the county auditor as 6529
agricultural land and has been assessed for the extension of a 6530
trunk sewer line over or along such property under sections 6531
6117.01 to 6117.45 of the Revised Code may file with the board of 6532
county commissioners a request in writing for deferment of the 6533
collection of ~~his~~ the assessment if the trunk sewer line ~~serves a~~ 6534
~~purpose, as set forth in section 1525.13 of the Revised Code, for~~ 6535
~~which the fund may be used~~ provides sewer facilities to aid in the 6536
establishment of new industrial plants, the expansion of existing 6537
industrial plants, or such other industrial development, or 6538
provides sewer facilities to aid in the establishment of 6539
commercial and residential developments. Such request shall 6540
identify the property in connection with which the request for 6541
deferment is made, shall describe its present use and present 6542
classification on the general tax list of the county auditor, 6543
shall state its estimated market value, showing separately the 6544
value of the land and the value of the buildings thereon, shall 6545
state the reasons, if any, why a portion of the benefit of the 6546
improvement will not be realized until the use of the land is 6547
changed, and shall state the amount to be deferred. The board 6548
shall promptly consider such request and may order the deferment 6549

of the collection of that portion of the assessment representing a 6550
benefit from the improvement which will not be realized until the 6551
use of the land is changed. The board may, upon request of an 6552
owner whose property has been assessed for the extension of a 6553
trunk sewer line over or along such property under sections 6554
6117.01 to 6117.45 of the Revised Code, defer all or any part of 6555
the assessment on property which is classified on the general tax 6556
list as agricultural land, by attributing the amount of such 6557
assessment or part thereof as tap-in charges, if the trunk sewer 6558
line ~~serves a purpose set forth in section 1525.13 of the Revised~~ 6559
~~Code for which the fund may be used. A deferment under this~~ 6560
~~section may be conditioned upon the approval of the advance of~~ 6561
~~moneys applied for pursuant to division (A) of this section, and a~~ 6562
~~maximum length of the deferment may be fixed to coincide with the~~ 6563
~~maximum time within which the advance must be repaid. The decision~~ 6564
~~on the request for deferment of collection of assessments shall be~~ 6565
~~made pursuant to standards established by rules of the commission~~ 6566
provides sewer facilities to aid in the establishment of new 6567
industrial plants, the expansion of existing industrial plants, or 6568
such other industrial development, or provides sewer facilities to 6569
aid in the establishment of commercial and residential 6570
developments. Upon determination and approval of final 6571
assessments, the board of county commissioners shall certify all 6572
deferred assessments and a fee equal to ~~any fee paid by the board~~ 6573
~~to the commission pursuant to division (C) of section 1525.12 of~~ 6574
~~the Revised Code attributable to the deferred payments~~ two per 6575
cent of the amount of the deferred assessments to the county 6576
auditor. For purposes of this section, "assessment," "deferred 6577
assessment," or "assessment deferred under this section" mean the 6578
fee and the deferred assessment certified to the county auditor. 6579
The county auditor shall record an assessment deferred under this 6580
section in the sewer improvement record. Such record shall be kept 6581
until such time as the assessments are paid in full or certified 6582

for collection in installments as provided in this section. During 6583
the time when the assessment is deferred there shall be a lien on 6584
the property assessed, which lien shall arise at the time of 6585
recordation by the county auditor and which shall be in force 6586
until the assessments are paid in full or certified for collection 6587
in installments. 6588

~~(C)~~(B) The board of county commissioners shall defer the 6589
collection of an assessment, except the amount of such assessment 6590
or part thereof attributable as tap-in charges, which has been 6591
deferred pursuant to division ~~(B)~~(A) of this section on or before 6592
January 1, 1987, beyond the expiration of the maximum time for the 6593
original deferment if the property owner requests in writing, no 6594
later than six months prior to the expiration of the original 6595
deferment, that the assessment be further deferred and as long as 6596
the property owner's land could qualify for placement in an 6597
agricultural district pursuant to section 929.02 of the Revised 6598
Code. 6599

The board shall regularly review the use and ownership of the 6600
property for which the collection of assessments has been deferred 6601
pursuant to this division, and upon finding that the land could no 6602
longer qualify for placement in an agricultural district pursuant 6603
to section 929.02 of the Revised Code, the board shall immediately 6604
collect, without interest, the full amount of the assessment 6605
~~deferred and repay the commission the amount of any moneys~~ 6606
~~advanced by it in regard to such assessment. The board shall pay~~ 6607
~~all such amounts to the commission in one annual payment or longer~~ 6608
~~period as approved by the commission. The board shall pay, from~~ 6609
~~the general funds of the county, interest annually at the interest~~ 6610
~~rate per annum equal to that rate of interest published as the~~ 6611
~~20 bond index rate in "The Bond Buyer" minus four per cent per~~ 6612
~~annum or at five per cent per annum, whichever rate is greater,~~ 6613
~~for any moneys not repaid to the commission pursuant to this~~ 6614

~~division within one year of the date of the disqualification of~~ 6615
~~the property for the continual deferment which requires such~~ 6616
~~repayment. The interest rate for any moneys not repaid to the~~ 6617
~~commission shall be calculated one year from the date of the~~ 6618
~~disqualification of the property for the continual deferment which~~ 6619
~~requires such repayment, and annually thereafter.~~ 6620

~~(D)~~(C) The board of county commissioners shall send a notice 6621
by regular or certified mail to all owners of property on which 6622
assessments have been deferred pursuant to division ~~(B)~~(A) of this 6623
section, which lists the expiration of the deferment, not later 6624
than two hundred ten days prior to the expiration of the deferment 6625
of those assessments. 6626

~~(E)~~(D) The board shall collect assessments, without interest, 6627
which have been deferred pursuant to division ~~(B)~~(A) of this 6628
section upon expiration of the maximum time for which deferments 6629
were made ~~and repay the commission the amount of any moneys~~ 6630
~~advanced by it in regard to such assessments;~~ provided that for a 6631
property owner who requests in writing, no later than six months 6632
prior to the expiration of the deferment period, that payment of 6633
~~his~~ the deferred assessments be in installments, the board of 6634
county commissioners upon expiration of the deferment period may 6635
by resolution further certify for collection pursuant to section 6636
6117.33 of the Revised Code, such deferred assessments in 6637
installments over not more than twenty years, as determined by the 6638
board, together with interest thereon each year on the unpaid 6639
balance at the same rate borne by bonds of the county which shall 6640
be issued in anticipation thereof as provided in Chapter 133. of 6641
the Revised Code, ~~and the proceeds of the bond issue used to repay~~ 6642
~~such deferred assessments to the commission.~~ Prior to the 6643
expiration of the maximum time of deferment, the board shall 6644
regularly review the use of the property for which the collection 6645
of assessments has been deferred and upon finding, ~~pursuant to the~~ 6646

~~rules of the commission, that the use of the land has changed from 6647~~
~~the use at the time of the deferment so that the benefit of the 6648~~
~~improvement can then be realized, the board shall immediately 6649~~
~~collect the full amount of the assessment for the portion of the 6650~~
~~property for which the use has so changed, without interest, and 6651~~
~~repay the commission the amount of any moneys advanced by it in 6652~~
~~regard to such assessment. The board shall pay all such amounts to 6653~~
~~the commission in one annual payment or longer period as approved 6654~~
~~by the commission. The board shall pay, from the general funds of 6655~~
~~the county, interest annually at the interest rate per annum equal 6656~~
~~to that rate of interest published as the 20 bond index rate in 6657~~
~~"The Bond Buyer" minus four per cent per annum or at five per cent 6658~~
~~per annum, whichever is greater, for any moneys not repaid to the 6659~~
~~commission pursuant to this division within one year of the date 6660~~
~~of the change in the use of property requiring such repayment, or 6661~~
~~of the date upon which payment of a tap in charge is required by 6662~~
~~law to be made, whichever date is applicable. The interest rate 6663~~
~~for any moneys not repaid to the commission shall be calculated 6664~~
~~one year from the date of the change in the use of property 6665~~
~~requiring such repayment or from the date upon which payment of a 6666~~
~~tap in charge is required by law to be made, whichever date is 6667~~
~~applicable, and annually thereafter. 6668~~

Section 2. That existing sections 9.981, 102.03, 121.02, 6669
121.03, 121.22, 122.01, 122.011, 122.07, 122.071, 122.17, 122.171, 6670
122.174, 122.175, 122.39, 122.41, 122.42, 122.43, 122.44, 122.48, 6671
122.49, 122.50, 122.51, 122.52, 122.53, 122.561, 122.57, 122.60, 6672
122.601, 122.602, 122.603, 122.61, 122.62, 122.64, 122.76, 122.80, 6673
122.86, 149.311, 149.43, 164.05, 164.06, 164.08, 166.01, 166.04, 6674
166.05, 166.11, 166.13, 166.14, 166.18, 166.19, 166.25, 166.30, 6675
174.01, 184.01, 187.01, 187.03, 187.04, 187.05, 929.03, 1551.01, 6676
3735.672, 3746.35, 5117.22, 5709.68, 5709.882, 6103.052, and 6677
6117.062 and sections 122.40, 1525.11, 1525.12, 1525.13, and 6678

6111.034 of the Revised Code are hereby repealed. 6679

Section 3. In enacting this act, it is the intent of the 6680
General Assembly that changing the name of the "Department of 6681
Development" to the Development Services Agency and the name of 6682
the "Director of Development" to the Director of Development 6683
Services does not do either of the following: 6684

(A) Make substantive changes in statutory law; 6685

(B) Cause unnecessary expense. The letterhead, forms, printed 6686
materials, and signage displaying the former name of the 6687
Department may be used until they are replaced. 6688

Section 4. Upon the effective date of this act, all 6689
references to the Department of Development or Director of 6690
Development in other uncodedified sections of law in Am. Sub. H.B. 6691
153 of the 129th General Assembly and Am. Sub. H.B. 114 of the 6692
129th General Assembly, shall be deemed to refer to the 6693
Development Services Agency or the Director of Development 6694
Services, respectively. 6695

Section 5. (A) There is hereby established a five-year pilot 6696
program to test a new funding mechanism for the state's travel and 6697
tourism marketing. The funding mechanism shall begin operation in 6698
fiscal year 2014 and be calculated as follows: 6699

(1)(a) Not later than the twentieth day of October of each 6700
year, starting in 2013 and ending in 2017, the Tax Commissioner 6701
shall calculate the growth in fiscal year sales tax revenue from 6702
certain defined categories that are related to tourism and certify 6703
that amount to the Director of Budget and Management. 6704

(b) Not later than the twentieth day of October of each year, 6705
starting in 2013 and ending in 2017, the Commissioner shall 6706

calculate and certify to the Director the difference, if greater 6707
than zero, between the revenue collected from the tax imposed 6708
under section 5739.02 of the Revised Code during the twelve-month 6709
period ending on the last day of the preceding June and the 6710
revenue collected during the same twelve-month period one year 6711
earlier, for all vendors classified under the industry codes 6712
identified in division (A)(2) of this section. On or before the 6713
last day of October of each year, starting in 2013 and ending in 6714
2017, the Director of Budget and Management shall transfer from 6715
the General Revenue Fund to the Tourism Fund created in section 6716
122.072 of the Revised Code the amount certified by the 6717
Commissioner under this division, except that the transfer shall 6718
not exceed ten million dollars for any fiscal year. 6719

(c) Each fiscal year, beginning in fiscal year 2015, the Tax 6720
Commissioner shall adjust the ten million annual dollar limit on 6721
transfers to the Tourism Fund. The adjustment shall be made by 6722
adding to the annual limit the product of multiplying the limit 6723
for the preceding fiscal year by the sum of one plus the 6724
percentage increase in the Consumer Price Index for all urban 6725
consumers for the Midwest region, as determined by the United 6726
States Bureau of Labor Statistics, for the twelve-month period 6727
corresponding to the preceding fiscal year. The result shall be 6728
rounded to the nearest one thousand dollars. The calculation of 6729
the percentage increase in the Consumer Price Index shall be done 6730
by taking the average index value over the twelve months of the 6731
last completed fiscal year and comparing that to the average index 6732
value over the twelve months of the immediately preceding fiscal 6733
year. 6734

(2) The following industries included in the industrial 6735
classification system used by the Tax Commissioner shall be used 6736
in the computations under division (A)(1) of this section: air 6737
transportation; water transportation; interurban and rural bus 6738

transportation; taxi service; limousine service; other transit and 6739
ground passenger transportation; scenic and sightseeing 6740
transportation; support activities for air transportation; 6741
automotive equipment rental and leasing; travel arrangement and 6742
reservation services; performing arts companies; spectator sports; 6743
independent artists, writers, and performers; museums, historical 6744
sites, and similar institutions; amusement parks and arcades; 6745
gambling industries; hotels and motels; casino hotels; 6746
bed-and-breakfast inns; other travel accommodations; recreational 6747
vehicle parks and recreational camps; full-service restaurants; 6748
limited-service eating places; drinking places (alcoholic 6749
beverages). 6750

(B) The pilot program shall terminate when the last transfer 6751
of funds made in accordance with division (A)(1)(b) of this 6752
section occurs in fiscal year 2018, specifically in October 2017. 6753
At that time, the Director of Development Services, the Director 6754
of Budget and Management, and the Tax Commissioner shall jointly 6755
review the pilot program and make recommendations to the Governor 6756
and the General Assembly on whether to make the funding mechanism 6757
permanent and, if so, whether any changes should be made to it. If 6758
the recommendation is to make the funding mechanism permanent, the 6759
Director of Development Services, the Director of Budget and 6760
Management, and the Tax Commissioner shall also study and make 6761
recommendations to the Governor and the General Assembly as to 6762
whether the Office of TourismOhio and its functions should be 6763
removed from the Development Services Agency and established as a 6764
private nonprofit corporation or a subsidiary corporation of 6765
JobsOhio. 6766

Section 6. (A) As used in this section, "federal act" means 6767
the "Small Business Liability Relief and Brownfields 6768
Revitalization Act," 115 Stat. 2356 (2002), 42 U.S.C. 9601 and 6769
9604. 6770

(B) There is hereby created in the state treasury the 6771
Brownfields Revolving Loan Fund. The Fund shall consist of all 6772
moneys received by the state from the United States Department of 6773
Environmental Protection under the federal act. The Fund shall be 6774
used to make grants and loans by the Director of Development 6775
Services. 6776

(C) The Director shall administer moneys received into the 6777
Fund and comply with all requirements imposed by the federal act 6778
in its application for, and administration of, the funds as grants 6779
and loans. 6780

(D) The Director shall establish a schedule of fees and 6781
charges payable by grant and loan recipients to the Director for 6782
the administration of this section. 6783

Section 7. The amendment by this act adding division (C)(2) 6784
to section 122.17 of the Revised Code does not apply to projects 6785
that are completed before the effective date of this section. 6786

Section 8. Section 122.42 of the Revised Code is presented in 6787
this act as a composite of the section as amended by both Am. Sub. 6788
H.B. 117 and Am. Sub. H.B. 356 of the 121st General Assembly. The 6789
General Assembly, applying the principle stated in division (B) of 6790
section 1.52 of the Revised Code that amendments are to be 6791
harmonized if reasonably capable of simultaneous operation, finds 6792
that the composite is the resulting version of the section in 6793
effect prior to the effective date of the section as presented in 6794
this act. 6795

Section 9. Section 149.43 of the Revised Code is presented in 6796
this act as a composite of the section as amended by both Sub. 6797
H.B. 64 and Am. Sub. H.B. 153 of the 129th General Assembly. The 6798
General Assembly, applying the principle stated in division (B) of 6799
section 1.52 of the Revised Code that amendments are to be 6800

harmonized if reasonably capable of simultaneous operation, finds	6801
that the composite is the resulting version of the section in	6802
effect prior to the effective date of the section as presented in	6803
this act.	6804