

129HB153-SC4150X1/AT

Sub. H.B. 153
As Pending in S. Finance
LSC 129 1066-6
SC-4150-1

_____ moved to amend as follows:

In line 530, after "4504.18," insert "4505.181," 1

Between lines 86516 and 86517, insert: 2

"Sec. 4505.181. (A) Notwithstanding ~~divisions (A) (2), (5),~~ 3
~~and (6) of section 4505.18 of the Revised Code, a motor vehicle~~ 4
~~dealer or person acting on behalf of a motor vehicle dealer may~~ 5
~~display, offer for sale, or sell a used motor vehicle and a~~ 6
~~manufactured housing dealer or person acting on behalf of a~~ 7
~~manufactured housing dealer may display, offer for sale, or sell a~~ 8
~~used manufactured home or used mobile home without having first~~ 9
~~obtained a certificate of title for the vehicle in the name of the~~ 10
~~dealer as required by this chapter if the dealer or person acting~~ 11
~~on behalf of the dealer complies with divisions (A) (1) (a) and (2)~~ 12
~~of this section, or divisions (A) (1) (b) and (2) of~~ 13
by complying 14
with this section, as follows:

(1) (a) The dealer or person acting on behalf of the dealer 15
shall possess a bill of sale for each used motor vehicle, used 16
manufactured home, and used mobile home proposed to be displayed, 17
offered for sale, or sold under this section or a properly 18
executed power of attorney or other related documents from the 19
prior owner of the motor vehicle, manufactured home, or mobile 20

home giving the dealer or person acting on behalf of the dealer 21
authority to have a certificate of title to the motor vehicle, 22
manufactured home, or mobile home issued in the name of the 23
dealer, and shall retain copies of all such documents in the 24
dealer's or person's files until such time as a certificate of 25
title in the dealer's name is issued for each such motor vehicle, 26
manufactured home, or mobile home by the clerk of the court of 27
common pleas. Such documents shall be available for inspection by 28
the bureau of motor vehicles and the manufactured homes commission 29
during normal business hours. 30

~~(2) If the dealer has been licensed as a motor vehicle dealer~~ 31
~~or manufactured housing dealer for less than the three year period~~ 32
~~prior to the date on which the dealer or person acting on behalf~~ 33
~~of the dealer displays, offers for sale, or sells the used motor~~ 34
~~vehicle for which the dealer has not obtained a certificate of~~ 35
~~title in the name of the dealer, or if the attorney general has~~ 36
~~paid a retail purchaser of the dealer or a secured party under~~ 37
~~division (C)(D), (E), or (G) of this section within three years~~ 38
~~prior to such date, the dealer ~~posts~~ shall post with the attorney~~ 39
~~general's office in favor of this state a bond of a surety company~~ 40
~~authorized to do business in this state, in an amount of not less~~ 41
~~than twenty-five thousand dollars, to be used solely for the~~ 42
~~purpose of compensating retail purchasers of motor vehicles,~~ 43
~~manufactured homes, or mobile homes who suffer damages due to~~ 44
~~failure of the dealer or person acting on behalf of the dealer to~~ 45
~~comply with this section. Failure to post a bond constitutes a~~ 46
~~deceptive act or practice in connection with a consumer~~ 47
~~transaction and is a violation of section 1345.02 of the Revised~~ 48
~~Code. The dealer's surety shall notify the registrar and attorney~~ 49
~~general when a bond of a motor vehicle dealer is canceled and~~ 50
~~shall notify the manufactured homes commission and the attorney~~ 51
~~general when a bond of a manufactured housing dealer is canceled.~~ 52

Such notification of cancellation shall include the effective date of and reason for cancellation.

~~(b) If the dealer has been licensed as a motor vehicle dealer or manufactured housing dealer for longer than the three year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells the used motor vehicle, used manufactured home, or used mobile home for which the dealer has not obtained a certificate of title in the name of the dealer and the attorney general has not paid a retail purchaser of the dealer under division (C) of this section within three years prior to such date, the dealer pays one hundred fifty dollars to the attorney general for deposit into the title defect recission fund created by section 1345.52 of the Revised Code.~~

~~(2) The dealer or person acting on behalf of the dealer possesses a bill of sale for each motor vehicle, used manufactured home, and used mobile home proposed to be displayed, offered for sale, or sold under this section and a properly executed power of attorney or other related documents from the prior owner of the motor vehicle, manufactured home, or mobile home giving the dealer or person acting on behalf of the dealer authority to have a certificate of title to the motor vehicle, manufactured home, or mobile home issued in the name of the dealer, and retains copies of all such documents in the dealer's or person's files until such time as a certificate of title in the dealer's name is issued for each such motor vehicle, manufactured home, or mobile home by the clerk of the court of common pleas. Such documents shall be available for inspection by the bureau of motor vehicles and the manufactured homes commission during normal business hours.~~

(B) If a retail purchaser purchases a used motor vehicle, used manufactured home, or used mobile home for which the dealer, pursuant to and in accordance with division (A) of this section,

does not have a certificate of title issued in the name of the 84
 dealer at the time of the sale, the retail purchaser has an 85
 unconditional right to demand the dealer rescind the transaction 86
~~and the dealer has an obligation to refund to the retail purchaser~~ 87
~~the full purchase price of the vehicle,~~ if one of the following 88
 applies: 89

(1) The dealer fails, on or before the fortieth day following 90
 the date of the sale, to obtain a title in the name of the retail 91
 purchaser. 92

(2) The title for the vehicle indicates that it is a rebuilt 93
 salvage vehicle, and the fact that it is a rebuilt salvage vehicle 94
 was not disclosed to the retail purchaser in writing prior to the 95
 execution of the purchase agreement. 96

(3) The title for the vehicle indicates that the dealer has 97
 made an inaccurate odometer disclosure to the retail purchaser. 98

(4) The title for the vehicle indicates that it is a 99
 "buyback" vehicle as defined in section 1345.71 of the Revised 100
 Code, and the fact that it is a "buyback" vehicle was not 101
 disclosed to the retail purchaser in the written purchase 102
 agreement. 103

(5) The motor vehicle is a used manufactured home or used 104
 mobile home, as defined by section ~~5739.021~~ 4781.01 of the Revised 105
 Code, that has been repossessed under Chapter 1309. or 1317. of 106
 the Revised Code, but a certificate of title for the repossessed 107
 home has not yet been transferred by the repossessing party to the 108
 dealer on the date the retail purchaser purchases the used 109
 manufactured home or used mobile home from the dealer, and the 110
 dealer fails to obtain a certificate of title on or before the 111
 fortieth day after the dealer obtains the certificate of title for 112
 the home from the repossessing party or the date on which an 113
 occupancy permit for the home is delivered to the purchaser by the 114

appropriate legal authority, whichever occurs later. 115

(C) (1) If any of the circumstances circumstance described in 116
~~divisions~~ division (B) (1) to (4) of this section applies, a retail 117
purchaser or the retail purchaser's representative shall notify 118
provide the dealer and afford the dealer the opportunity to comply 119
with the dealer's obligation to refund the full purchase price 120
notice of the motor vehicle request for rescision. Such 121
notification shall occur not later than sixty days from the date 122
the motor vehicle is titled in the name of the retail purchaser. 123
The dealer shall have the opportunity to comply with the dealer's 124
obligation to refund the full purchase price of the motor vehicle. 125
Reimbursement shall be only in such a manner as to reimburse the 126
retail purchaser any money the retail purchaser actually paid and, 127
in the case of a lender of the retail purchaser, the amount paid 128
by the lender to purchase the contract or finance the sale of the 129
vehicle. If a vehicle was taken in trade as a down payment, the 130
dealer shall return the vehicle to the consumer, unless the dealer 131
remitted payment to a third party to satisfy any security 132
interest. If the dealer remitted payment, the dealer shall 133
reimburse the purchaser the value of the vehicle, as evidenced by 134
the bill of sale. 135

(2) If any of the circumstances described in divisions 136
(B) (2), (3), or (4) of this section apply, a retail purchaser or 137
the retail purchaser's representative shall provide notice to the 138
dealer of a request for rescision. Such notification shall occur 139
not later than one hundred eighty days from the date the vehicle 140
is titled in the name of the retail purchaser. Upon timely 141
notification, the dealer shall have the opportunity to comply with 142
the dealer's obligation to refund the full purchase price of the 143
motor vehicle. Reimbursement shall be only in such a manner as to 144
reimburse the retail purchaser any money the retail purchaser 145
actually paid and, in the case of a lender of the retail 146

purchaser, the amount paid by the lender to purchase the contract 147
or finance the sale of the vehicle. If a vehicle was taken in 148
trade as a down payment, the dealer shall return the vehicle to 149
the consumer, unless the dealer remitted payment to a third party 150
to satisfy any security interest. If the dealer remitted payment, 151
the dealer shall reimburse the purchaser the value of the vehicle, 152
as evidenced by the bill of sale. 153

(3) If any of the circumstances described in division (B)(5) 154
of this section apply, a retail purchaser or the retail 155
purchaser's representative shall notify the dealer and afford the 156
dealer the opportunity to comply with the dealer's obligation to 157
rescind the manufactured home or mobile home transaction. 158

(4) If the retail purchaser does not deliver notice to the 159
dealer within the applicable time period specified in division 160
(C)(1), (2), or (3) of this section, the retail purchaser shall 161
not be entitled to any recovery or have any cause of action under 162
this section. 163

(5) Nothing in this division (C) of this section shall be 164
construed as prohibiting the dealer and the retail purchaser or 165
their representatives from negotiating a compromise resolution 166
that is satisfactory to both parties. 167

~~(C)(D)~~ If a retail purchaser notifies a dealer of one or more 168
of the circumstances listed in division (B) of this section within 169
the applicable time period specified in division (C)(1), (2), or 170
(3) of this section and the dealer fails to refund to comply with 171
the retail purchaser the full purchase price requirements for 172
recision as prescribed in division (C) of the vehicle this section 173
or reach a satisfactory compromise with the retail purchaser 174
within three seven business days of presentation of the retail 175
purchaser's recision claim, the retail purchaser may apply to the 176
attorney general for payment from the fund of the full purchase 177

price to the retail purchaser. 178

~~(D)~~(E) (1) Upon application by a retail purchaser for payment 179
 from the fund, if the attorney general is satisfied that one or 180
 more of the circumstances contained in divisions (B) (1) to ~~(4)~~(5) 181
 of this section exist, and notification has been given within the 182
applicable time period specified in division (C) (1), (2), or (3) 183
of this section, the attorney general shall cause at maximum the 184
 full purchase price of the vehicle, manufactured home, or mobile 185
 home plus the cost of any additional temporary license placards to 186
 be paid to the retail purchaser from the fund after. The attorney 187
general may require delivery of the vehicle, manufactured home, or 188
 mobile home to the attorney general prior to reimbursement from 189
the fund. Reimbursement shall be only in such a manner as to do 190
either of the following: 191

(a) Reimburse the retail purchaser any money the retail 192
purchaser actually paid and, in the case of a lender of the retail 193
purchaser, the amount paid by the lender to purchase the contract 194
or finance the sale of the vehicle; 195

(b) If the retail purchaser wishes to retain the vehicle, the 196
attorney general, in the attorney general's sole discretion, may 197
pay a lienholder of record or other holder of a secured interest 198
in such manner that title can be transferred to the retail 199
purchaser free of encumbrances, other than a security interest 200
granted by the retail purchaser at the time of vehicle purchase. 201

(2) The attorney general, in the attorney general's sole 202
discretion, also may cause the cost of additional temporary 203
license placards to be paid from the fund. The 204

(F) The attorney general may sell or otherwise dispose of any 205
used motor vehicle, manufactured home, or mobile home that is 206
delivered to the attorney general under this section, and may 207
collect the proceeds of any bond posted under division (A) of this 208

section by a dealer who has failed to comply with division ~~(C)~~(D) 209
of this section. The proceeds from all such sales and collections 210
shall be deposited into the title defect recision fund for use as 211
specified in section 1345.52 of the Revised Code. 212

~~(E) Failure by a dealer to comply with division (A) or (B) of 213
this section constitutes a deceptive act or practice in connection 214
with a consumer transaction, and is a violation of section 1345.02 215
of the Revised Code. 216~~

~~(F)~~(G) If a dealer fails to submit payment of a secured 217
interest on a trade-in vehicle as agreed to by the dealer and 218
retail purchaser and none of the circumstances in divisions (B) (1) 219
to (5) apply, the retail purchaser may apply to the attorney 220
general for payment to the secured creditor from the fund. The 221
attorney general shall demand immediate payment from the dealer 222
and if payment has not been made or is not immediately 223
forthcoming, the attorney general may cause an amount equal to 224
that which the dealer agreed to pay to the secured creditor to be 225
paid from the fund, along with any additional interest and late 226
fees resulting from the dealer's failure to pay the secured 227
creditor in a timely manner. 228

(H) The remedy provided in this section to retail purchasers 229
is in addition to any remedies otherwise available to the retail 230
purchaser for the same conduct of the dealer or person acting on 231
behalf of the dealer under federal law or the laws of this state 232
or a political subdivision of this state. 233

~~(G) All motor vehicle dealers licensed under Chapter 4517. of 234
the Revised Code and manufactured housing dealers licensed under 235
Chapter 4781. of the Revised Code shall pay to the attorney 236
general for deposit into (I) If, at any time during any calendar 237
year, the balance in the title defect recision fund the amount 238
described in division (A) (1) (b) of this section beginning with the 239~~

~~calendar year during which this section becomes effective and each~~ 240
~~year subsequent to that year until the balance in the fund is not~~ 241
~~less than three hundred thousand dollars. All such dealers also~~ 242
~~shall pay to, the attorney general for deposit into the fund that~~ 243
~~amount during any year and subsequent years during which the~~ 244
~~balance in the fund is less than three hundred thousand dollars~~ 245
may assess all motor vehicle dealers licensed under Chapter 4517. 246
of the Revised Code and all manufactured housing dealers licensed 247
under Chapter 4781. of the Revised Code one hundred fifty dollars 248
for deposit into the title defect rescision fund until the balance 249
in the fund reaches three hundred thousand dollars. A notice of 250
assessment shall be sent to each dealer at its licensed location. 251

If a motor vehicle dealer or manufactured housing dealer 252
 fails to comply with this division, the attorney general may bring 253
 a civil action in a court of competent jurisdiction to collect the 254
 amount the dealer failed to pay to the attorney general for 255
 deposit into the fund. 256

(J) Nothing in this section shall be construed as providing 257
for payment of attorney fees to the retail purchaser. 258

(K) As used in this section: 259

(1) "Full purchase price" means the contract price, including 260
charges for dealer installed options and accessories, all finance, 261
credit insurance, and service contract charges incurred by the 262
retail purchaser, all sales tax, license and registration fees, 263
and the amount of any negative equity that was not already paid by 264
the dealer to a third party to satisfy a lien, as reflected in the 265
contract. 266

(2) "Retail purchaser" means a person, other than a motor 267
vehicle dealer or a manufactured housing dealer, who in good faith 268
purchases a used motor vehicle for purposes other than resale." 269

In line 131119, after "4504.18," insert "4505.181," 270

In line 179 of the title, after "4504.18," insert "4505.181," 271

The motion was _____ agreed to.

SYNOPSIS

Sale of a Used Motor Vehicle by a Dealer without a	272
Certificate of Title	273
R.C. 4505.181	274
Revises the provisions that govern the sale of motor	275
vehicles, manufactured homes, and mobile homes by motor vehicle	276
and manufactured housing dealers prior to the dealers having title	277
to the vehicles or homes.	278
Modifies the payments motor vehicle and manufactured housing	279
dealers must make to the Title Defect Recision Fund.	280

6 _____ moved to amend as follows:

7 In line 89270, after the first "a" insert "motor vehicle"

8 In line 89272, strike through ", and the" and insert ". In
9 addition to the license fee, the registrar shall collect from
10 each applicant for an initial motor vehicle dealer's license and
11 motor vehicle leasing dealer's license a separate fee in an
12 amount equal to the last assessment required by section 4505.181
13 of the Revised Code for all motor vehicle dealers and motor
14 vehicle leasing dealers. The registrar shall deposit the
15 separate fee into the state treasury to the credit of the title
16 defect rescission fund created in section 1345.52 of the Revised
17 Code. The"

18 In line 89284, after the first "a" insert "motor vehicle"

19 In line 89294, after "a" insert "motor vehicle"

20 In line 89300, after "all" insert "motor vehicle"

21 In line 89307, after "licensed" insert "motor vehicle"

22 In line 89311, strike through "provided in this section"

23 In line 89312, strike through "the original" and insert
24 "renewing a motor vehicle dealer's license and a motor vehicle

25 leasing dealer's license shall be fifty dollars. The fee for
26 renewing a salesperson's license shall be ten dollars. The fee
27 for renewing a motor vehicle auction owner's license shall be
28 one hundred dollars for each location. The fee for renewing a
29 distributor's license shall be one hundred dollars for each
30 distributorship. In all cases the"; after "license" insert
31 "renewal fee"; after "the" insert "renewal"

32 In line 89332, after "a" insert "motor vehicle"

33 In line 89336, after "Each" insert "motor vehicle"

34 The motion was _____ agreed to.

35 SYNOPSIS

36 **Initial Motor Vehicle Dealer and Motor Vehicle Leasing**
37 **Dealer License Fee**

38 **R.C. 4517.10**

39 Requires each applicant for an initial motor vehicle
40 dealer's license or motor vehicle leasing dealer's license to
41 pay a separate fee "equal to the last assessment" required of
42 motor vehicle dealers (\$150) for purposes of the Title Defect
43 Recision Fund and requires the Registrar of Motor Vehicles to
44 deposit the fee into that fund (which is used solely to provide
45 restitution to retail purchasers of motor vehicles who are
46 unable to obtain a certificate of title from a dealer and so
47 suffer damages).

6 _____ moved to amend as follows:

7 In line 84187, after "liquor" insert "in accordance with
8 rules adopted by the division"

9 The motion was _____ agreed to.

10 SYNOPSIS

11 **Spirituos Liquor Tasting Samples**

12 **R.C. 4301.17**

13 Adds to the bill's provisions that authorize spirituous
14 liquor agency stores to sell tasting samples of spirituous
15 liquor a requirement that the stores do so in accordance with
16 rules adopted by the Division of Liquor Control.

1 129HB153-SC4155X2.docx/ss

2 Sub. H.B. 153
3 As Pending in S. Finance
4 LSC 129 1066-6
5 SC-4155-2

6 _____ moved to amend as follows:

7 In line 69862, reinsert "those counties in this state in
8 which such a program is"

9 In line 69863, reinsert "federally mandated" and delete the
10 balance of the line

11 In line 69864, delete everything before the period

12 In line 69877, strike through "may" and insert "shall"

13 In line 69884, reinsert "at least the same"

14 In line 69885, delete "substantially similar"

15 In line 69897, reinsert "A" and delete the balance of the
16 line

17 Delete line 69898

18 In line 69899, delete "participation, a"; reinsert "vendor
19 selected to operate"

20 In line 69900, reinsert the first "the"; after "program"
21 reinsert the balance of the line

22 Reinsert lines 69901 through 69909 and insert ";"

23 (b) For purposes of expanding the number of testing
24 locations for consumer convenience and increased local business
25 participation, a requirement that the program"

26 In line 69913, delete "(b)" and insert "(c)"; after "that"
27 insert "the contractor supply"

28 In line 69914, after "testing" insert "to all inspection
29 facilities and that tailpipe emissions analyzers"

30 In line 69915, delete "(c)" and insert "(d)"

31 In line 69932, after "(C)" strike through the balance of
32 the line

33 Strike through lines 69933 through 69939

34 In line 69940, strike through "(D)"

35 In line 69949, strike through "(E)" and insert "(D)"

36 In line 69974, strike through "(F)" and insert "(E)"

37 The motion was _____ agreed to.

38 SYNOPSIS

39 **E-Check Changes**

40 **R.C. 3704.14**

41 Removes provisions that specify that the Director of
42 Environmental Protection may only provide for the implementation
43 of the E-Check program in the seven counties in which the
44 program is operating on the effective date of the bill's
45 provisions regarding E-Check, and instead requires program
46 implementation in counties where the program is federally
47 mandated.

48 Eliminates the bill's requirement that the decentralized
49 program achieve substantially similar ozone precursor reductions
50 as achieved under the existing centralized program, and instead
51 restores current law that requires at least the same ozone
52 precursor reductions.

53 Reinserts existing law that requires the E-Check contractor
54 to provide notification of the program's requirements to each
55 owner of a motor vehicle that is required to be inspected under
56 the program.

57 Alters a provision that requires tailpipe emissions
58 analyzers to be BAR-97 certified by requiring the E-Check
59 contractor to supply such tailpipe emissions analyzers to all
60 inspection facilities.

61 Repeals a provision of current law that prohibits the
62 implementation of a motor vehicle inspection and maintenance
63 program in any county in which it is not otherwise authorized or
64 in any county beyond June 30, 2012 (2017 in the bill), without
65 the approval of the General Assembly.

Sub. H.B. 153
As Pending in S. Finance
LSC 129 1066-6
SC-4159

_____ moved to amend as follows:

In line 496, after "3318.41," insert "3318.44," 1

Between lines 64245 and 64246, insert: 2

"Sec. 3318.44. (A) A joint vocational school district board 3
of education may generate the school district's portion of the 4
basic project cost of its project under sections 3318.40 to 5
3318.45 of the Revised Code using any combination of the following 6
means if lawfully employed for the acquisition of classroom 7
facilities: 8

(1) The issuance of securities in accordance with Chapter 9
133. and section 3311.20 of the Revised Code; 10

(2) Local donated contributions as authorized under section 11
3318.084 of the Revised Code; 12

(3) A levy for permanent improvements under section 3311.21 13
or 5705.21 of the Revised Code; 14

(4) Bonds issued pursuant to division (B) of this section. 15

(B) By resolution adopted by a majority of all its members, a 16
school district board, in order to pay all or part of the school 17
district's portion of its basic project cost, or portions or 18
components of classroom facilities that are not included in the 19

school district's basic project cost but that are related to the 20
school district's project, may apply the proceeds of a tax levied 21
under either section 3311.21 of the Revised Code for ten years or 22
section 5705.21 of the Revised Code for ~~general permanent~~ 23
improvements a continuing period of time, if the proceeds of that 24
levy lawfully may be used for general construction, renovation, 25
repair, or maintenance of classroom facilities to pay debt charges 26
on and financing costs related to bonds issued to pay all or part 27
of the school district portion of the basic project cost of the 28
school district's project under sections 3318.40 to 3318.45 of the 29
Revised Code, or portions or components of classroom facilities 30
that are not included in the school district's basic project cost 31
but that are related to the school district's project, or to 32
generate an amount equivalent to all or part of the amount 33
required under section 3318.43 of the Revised Code to be used for 34
maintenance of classroom facilities acquired under the project. 35
Bonds issued under this division shall be Chapter 133. securities, 36
and may be issued as general obligation securities, but the 37
issuance of the bonds shall not be subject to a vote of the 38
electors of the school district as long as the tax proceeds 39
earmarked for payment of the debt charges on the bonds may 40
lawfully be used for that purpose. Such bonds shall not be 41
included in the calculation of net indebtedness under section 42
133.06 of the Revised Code if the resolution authorizing their 43
issuance includes covenants to appropriate annually, from lawfully 44
available proceeds of a property tax levied under either section 45
3311.21 or 5705.21 of the Revised Code, and to continue to levy 46
that tax in amounts necessary to pay the debt charges on and 47
financing costs related to the bonds as they become due. No 48
property tax levied under section 5705.21 of the Revised Code that 49
is pledged, or that the school district has covenanted to levy, 50
collect, and appropriate annually to pay the debt charges on and 51

financing costs related to the bonds under this section may be 52
 repealed while those bonds are outstanding. If such a tax is 53
 reduced by electors of the district or by the board of education 54
 while the bonds are outstanding, the board of education shall 55
 continue to levy and collect the tax under the authority of the 56
 original election authorizing the tax at a rate in each year that 57
 the board reasonably estimates will produce an amount in that year 58
 equal to the debt charges on the bonds in that year. 59

No state moneys shall be released for a project to which this 60
 division applies until the proceeds of any bonds issued under this 61
 division that are dedicated for payment of the school district's 62
 portion of the basic project cost are first deposited into the 63
 school district's project construction fund. 64

(C) A school district board of education may adopt a 65
 resolution proposing that any of the following questions be 66
 combined with a question specified in section 3318.45 of the 67
 Revised Code: 68

(1) A bond issue question under section 133.18 of the Revised 69
 Code; 70

(2) A tax levy question under section 3311.21 of the Revised 71
 Code; 72

(3) A tax levy question under either section 3311.21 or 73
 5705.21 of the Revised Code. 74

Any question described in divisions (C)(1) to (3) of this 75
 section that is combined with a question proposed under section 76
 3318.45 of the Revised Code shall be for the purpose of either 77
 paying for any permanent improvement, as defined in section 133.01 78
 of the Revised Code, or generating operating revenue specifically 79
 for the facilities acquired under the school district's project 80
 under Chapter 3318. of the Revised Code or for both to the extent 81
 such purposes are permitted by the sections of law under which 82

each is proposed.	83
(D) The board of education of a joint vocational school district that receives assistance under this section may enter into an agreement for joint issuance of bonds as provided for in section 3318.085 of the Revised Code."	84 85 86 87
In line 131084, after "3318.41," insert "3318.44,"	88
In line 131 of the title, after "3318.41," insert "3318.44,"	89

The motion was _____ agreed to.

SYNOPSIS

Local Financing Under the Vocational School Facilities Assistance Program	90 91
R.C. 3318.44	92
Permits a joint vocational school district, in the same resolution, to commit the use of existing or new tax levies to finance the annual debt service on securities issued for both its state assisted classroom facilities project and locally-funded initiatives related to that project.	93 94 95 96 97

Sub. H.B. 153
As Pending in S. Finance
LSC 129 1066-6
SC-4160

_____ moved to amend as follows:

In line 484, after "3313.64," insert "3313.642," 1

Between lines 55527 and 55528, insert: 2

"Sec. 3313.642. (A) Except as provided in division (B) of 3
this section and notwithstanding the provisions of sections 4
3313.48 and 3313.64 of the Revised Code, the board of education of 5
a city, exempted village, or local school district shall not be 6
required to furnish, free of charge, to the pupils attending the 7
public schools any materials used in a course of instruction with 8
the exception of the necessary textbooks or electronic textbooks 9
required to be furnished without charge pursuant to section 10
3329.06 of the Revised Code. The board may, however, make 11
provision by appropriations transferred from the general fund of 12
the district or otherwise for furnishing free of charge any 13
materials used in a course of instruction to such pupils as it 14
determines are in serious financial need of such materials. 15

(B) No board of education of a school district shall charge a 16
fee to a pupil who is eligible for a free lunch under the 17
"National School Lunch Act," 60 Stat. 230 (1946), 42 U.S.C. 1751, 18
as amended, and the "Child Nutrition Act of 1966," 80 Stat. 885, 19
42 U.S.C. 1771, as amended, for any materials needed to enable the 20
pupil to participate fully in a course of instruction. The 21

prohibition in this division against charging a fee does not apply 22
to any fee charged for any of the following: 23

(1) Any materials needed to enable a pupil to participate 24
fully in extracurricular activities or in any pupil enrichment 25
program that is not a course of instruction. 26

(2) Any tools, equipment, and materials that are necessary 27
for workforce-readiness training within a career-technical 28
education program that, to the extent the tools, equipment, and 29
materials are not consumed, may be retained by the student upon 30
course completion. 31

(C) Boards of education may adopt rules and regulations 32
prescribing a schedule of fees for materials used in a course of 33
instruction and prescribing a schedule of charges which may be 34
imposed upon pupils for the loss, damage, or destruction of school 35
apparatus, equipment, musical instruments, library material, 36
textbooks, or electronic textbooks required to be furnished 37
without charge, and for damage to school buildings, and may 38
enforce the payment of such fees and charges by withholding the 39
grades and credits of the pupils concerned." 40

In line 131072, after "3313.64," insert "3313.642," 41

In line 115 of the title, after "3313.64," insert "3313.642," 42

The motion was _____ agreed to.

SYNOPSIS

Fees for Career-Technical Education Materials 43

R.C. 3313.642 44

Revises the current law that prohibits school districts from 45

charging certain low-income students fees for course materials by	46
permitting fees for tools, equipment, and materials that are	47
necessary for workforce-readiness training and that may be	48
retained by the student after course completion.	49

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Sub. H.B. 153
As Pending in S. Finance
LSC 129 1066-6
SC-4161

6 _____ moved to amend as follows:

7 In line 635, after "3319.228," insert "3319.229,"

8 Between lines 64884 and 64885, insert:

9 "Sec. 3319.229. The rules adopted under section 3319.22 of
10 the Revised Code shall include requirements for the issuance and
11 renewal of professional career-technical teaching licenses,
12 including, but not limited to, requirements relating to life
13 experience, professional certification, and practical ability.
14 Nothing in sections 3319.22 to 3319.31 of the Revised Code
15 requires, and the state board of education shall not adopt a
16 rule requiring, completion of a degree applicable to the career
17 field, classroom teaching, or an area of licensure for the
18 issuance or renewal of a professional career-technical teaching
19 license."

20 In line 317 of the title, after "3319.228," insert
21 "3319.229,"

22 The motion was _____ agreed to.

23

SYNOPSIS

24 **Professional Career-Technical Teaching Licenses**

25 **R.C. 3319.229**

26 Requires the State Board of Education's rules pertaining to
27 professional career-technical teaching licenses to include
28 requirements relating to life experience, professional
29 certification, and practical ability. Prohibits the State Board
30 from requiring completion of a degree as a condition for the
31 license. This has the effect of nullifying a current State
32 Board rule requiring completion of a degree before the second
33 renewal of the license.

6 _____ moved to amend as follows:

7 In line 117840, delete ", and not leased or" and insert "by
8 the school for primary or secondary educational purposes. The
9 exemption under division (A)(1) of this section does not apply
10 to any portion of the real property not used for primary or
11 secondary educational purposes."

12 Delete line 117841

13 The motion was _____ agreed to.

14 SYNOPSIS

15 **Public Schoolhouse Exemption**

16 **R.C. 5709.07**

17 Replaces the pending bill's proposed amendment of the
18 public schoolhouse property tax exemption and specifically
19 exempts from taxation real property used by a school district,
20 STEM school, community school, educational service center, or
21 nonpublic school for primary or secondary educational purposes.

22 Removes the pending bill's condition that the property not
23 be leased or otherwise used with a view to profit.

24 Specifically excludes from the exemption real property not
25 used by the school for primary or secondary educational
26 purposes.

6 _____ moved to amend as follows:

7 In line 489, after "3314.19," insert "3314.22,"

8 In line 588, after "5753.01," insert "5901.02,"

9 In line 3038, strike through "council" and insert "counsel"

10 In line 4553, delete "5119.85"

11 In line 4559, after "5119.693," insert "5119.85,"

12 In line 4569, delete "5119.85"

13 In line 4570, after "5119.693," insert "5119.85,"

14 In line 4598, delete "5119.85"

15 In line 4604, after "5119.693," insert "5119.85,"

16 In line 4615, delete "5119.85"

17 In line 4621, after "5119.693," insert "5119.85,"

18 In line 4639, delete "5119.85"

19 In line 4645, after "5119.693," insert "5119.85,"

20 Move lines 14232 through 14286 to between lines 13554 and

21 13555

22 In line 50112, delete "(B)" and insert "(C)"

23 In line 56746, after "department" insert "of education"

24 In line 63742, delete "." and insert "387.70"

25 In line 63889, delete "." and insert "387.70"

26 In line 131003, after "154.11," insert "166.02,"

27 In line 131077, after "3314.20," insert "3314.22,"

28 In line 135959, delete "Nonfederal Share of New" and insert

29 "NONFEDERAL SHARE OF NEW"; delete "Beds" and insert "BEDS"

30 In line 135987, after "section" insert "of this act";

31 before "FAMILY" insert a quotation mark

32 In line 135988, after the period insert a quotation mark

33 In line 137043, move the semicolon to after the quotation

34 mark

35 In line 137090, after the period insert a quotation mark

36 In line 139189, delete "Reduction of Medicaid Expenditures"

37 and insert "REDUCTION OF MEDICAID PAYMENT RATES"

38 In line 139376, after the second comma insert "the Council

39 shall"

40 In line 139404, delete "well being" and insert "well-being"

41 In line 140078, after "section" insert "of this act";

42 before "FAMILY" insert a quotation mark

43 In line 140079, after the period insert a quotation mark

44 In line 140801, delete "No board is" and insert "The boards

45 are not"

46 In line 143838, after "section" insert "of this act";

47 before "FAMILY" insert a quotation mark

48 In line 143839, delete ", of this act"; after the period

49 insert a quotation mark

50 In line 143849, delete "**503.20**" and insert "**501.20**"

51 In line 145465, delete "153.57,"
52 Indent line 146005
53 In line 147424, delete everything after the semicolon
54 Delete lines 147425 through 147428
55 In line 147686, delete the comma and insert " :
56 In"
57 In line 147687, delete "in" and close up the paragraph
58 In line 121 of the title, after "3314.19," insert
59 "3314.22,"
60 In line 257 of the title, after "5753.01," insert
61 "5901.02,"
62 In line 299 of the title, after "126.604," insert
63 "126.605,"
64 In line 380 of the title, after "to" insert "amend the
65 versions of sections 5122.01, 5122.31, 5123.19, 5123.191, and
66 5123.60 of the Revised Code that result from Section 101.01 of
67 this act and to"
68 In line 381 of the title, delete "5122.01,"
69 In line 382 of the title, delete "5122.31,"; delete
70 "5123.19, 5123.191,"
71 In line 383 of the title, delete "5123.60,"
72 The motion was _____ agreed to.

73

SYNOPSIS

74 **LSC Technical**

75 **RC 102.82, 109.572, 149.351, 3314.016, and 3318.36**

76 **Sections 263.10.40, 263.10.50, 267.30.40, 309.30.35,**
77 **309.30.73, 309.30.80, 309.50.20, 337.30.30, 415.10, 747.30,**
78 **757.40, and 812.40**

79 Corrects technical and engrossing errors

6 _____ moved to amend as follows:

7 In line 521, after "3770.02," insert "3770.03,"

8 In line 18385, delete "seventy-five" and insert "ninety"

9 In line 18971, delete "seventy-five" and insert "ninety"

10 In line 78488, strike through "Subjects covered in"

11 In line 74489, strike through "these rules shall include"

12 In line 78495, after "~~tickets~~" delete the remainder of the
13 line

14 Delete lines 78496 through 78499

15 In line 78500, delete "funding in the state"; strike
16 through the period

17 In line 80573, delete "and" and insert "or"

18 In line 98623, after "revoked" delete the balance of the
19 line

20 Delete line 98624

21 In line 98625, delete "because the owner changed locations"

22 In line 131109, after "3770.02," insert "3770.03,"

23 In line 136192, delete "(1)"

24 In line 136200, delete "(a)" and insert "(1)"

25 In line 136202, delete "(b)" and insert "(2)"
26 In line 136205, delete "(c)" and insert "(3)"
27 In line 136207, delete "(i)" and insert "(a)"
28 In line 136208, delete "(ii)" and insert "(b)"
29 In line 136209, delete "(iii)" and insert "(c)"
30 In line 136210, delete "(iv)" and insert "(d)"
31 In line 136212, delete "(v)" and insert "(e)"
32 In line 136213, delete "(vi)" and insert "(f)"
33 In line 136214, delete "(vii)" and insert "(g)"
34 Delete lines 136216 and 136217
35 In line 147175, delete "2012" and insert "2013"
36 In line 165 of the title, after "3770.02," insert
37 "3770.03,"

38 The motion was _____ agreed to.

39 SYNOPSIS

40 **LSC Corrective**

41 **RC 306.322, 306.55, 3770.03, 4111.14, and 5104.03**

42 **Sections 263.20.90, 337.30.75, 337.30.80, and 757.10**

43 Corrects errors in the bill.

6 _____ moved to amend as follows:

7 In line 646, after "5111.053," insert "5111.054,"

8 In line 11416, after "Code" insert "i

9 (36) Applying to contracts entered into by the department
10 of job and family services under section 5111.054 of the Revised
11 Code"

12 Between lines 100343 and 100344, insert:

13 "Sec. 5111.054. (A) As used in this section:

14 (1) "Federal financial participation" means the federal
15 government's share of expenditures made by an entity in
16 implementing the medicaid program.

17 (2) "OCHSPS" means the private, not-for-profit corporation
18 known as the Ohio children's hospital solutions for patient
19 safety, which was formed for the purpose of improving pediatric
20 patient care in this state, which performs functions that are
21 included within the functions of a peer review committee as
22 defined in section 2305.25 of the Revised Code, and which
23 consists of all of the following members: Akron children's
24 hospital, Cincinnati children's hospital medical center,

25 Cleveland clinic children's hospital, Dayton children's medical
26 center, mercy children's hospital, nationwide children's
27 hospital, rainbow babies & children's hospital, and Toledo
28 children's hospital.

29 (B) If, as authorized by section 5101.10 of the Revised
30 Code, the department of job and family services chooses to
31 contract with a person to perform either or both of the
32 following services, it may contract with any qualified person,
33 including OCHSPS, to perform the service or services on the
34 department's behalf:

35 (1) Review and analyze claims for medical assistance made
36 under this chapter to children in accordance with all state and
37 federal laws governing the confidentiality of patient-
38 identifying information;

39 (2) Perform quality assurance and quality review functions,
40 other than those described in division (B)(1) of this section,
41 related to medical assistance made under this chapter to
42 children.

43 The functions specified in division (B)(2) of this section
44 may include those recommended by the best evidence for advancing
45 child health in Ohio now (BEACON) council.

46 (C) If the department enters into a contract with OCHSPS
47 for OCHSPS to perform either or both of the services described
48 in division (B) of this section, OCHSPS shall, only for purposes

49 of section 5101.11 of the Revised Code, be considered a public
50 entity and the department shall seek federal financial
51 participation for costs incurred by OCHSPS in performing the
52 service or services."

53 In line 329 of the title, after "5111.053," insert
54 "5111.054,"

55 The motion was _____ agreed to.

56 SYNOPSIS

57 **Outsourcing of Pediatric Claims Review and Quality**
58 **Assurance Functions**

59 **R.C. 5111.053 (primary) and 127.16**

60 Permits the Department of Job and Family Services (ODJFS),
61 if it chooses to outsource the performance of pediatric Medicaid
62 claims review and analysis, quality assurance functions
63 associated with pediatric Medicaid claims, or both, to enter
64 into a contract with any qualified person, including the "Ohio
65 Children's Hospital Solutions for Patient Safety" (OCHSPS) to
66 perform the service or services.

67 Defines "OCHSPS" as a private, not-for-profit corporation
68 which (1) was formed for the purpose of improving pediatric
69 patient care in Ohio, (2) performs the functions of a peer
70 review committee, and (3) consists of specified children's
71 hospitals in Ohio.

72 If ODJFS enters into a contract with OCHSPS, specifies that
73 OCHSPS is a "public entity" only for purposes of a provision of
74 law that authorizes a public entity that performs a function on
75 behalf of the Department of Job and Family Services to request
76 the Department to seek federal financial participation for the
77 costs incurred by the entity in performing the service or
78 services covered by the contract.

79 If ODJFS is successful in collecting federal funds as a
80 share of the costs incurred by OCHSPS, requires the funds to be
81 distributed in accordance with law governing distribution of
82 funds to entities that perform functions of programs
83 administered by ODJFS.

Sub. H.B. 153
As Pending in S. Finance
LSC 129 1066-6
SC-4179-1

_____ moved to amend as follows:

In line 401, delete "9.312," 1

In line 618, delete "9.336," 2

In line 622, after "153.504," insert "153.505," 3

In line 623, delete "153.695," 4

In line 634, after "3318.054," insert "3318.111," 5

Delete lines 1590 through 1717 6

Delete lines 1778 through 2054 and insert: 7

"Sec. 9.33. As used in sections 9.33 to ~~9.333~~ 9.335 of the Revised Code: 8
9

(A) "Construction manager" means a person with substantial 10
discretion and authority to plan, coordinate, manage, and direct 11
all phases of a project for the construction, demolition, 12
alteration, repair, or reconstruction of any public building, 13
structure, or other improvement, but does not mean the person who 14
provides the professional design services or who actually performs 15
the construction, demolition, alteration, repair, or 16
reconstruction work on the project. 17

(B) (1) "Construction manager at risk" means a person with 18

substantial discretion and authority to plan, coordinate, manage, direct, and construct all phases of a project for the construction, demolition, alteration, repair, or reconstruction of any public building, structure, or other improvement and who provides the public owner a guaranteed maximum price as determined in section 9.334 of the Revised Code.

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

(a) "Construct" includes performing, or subcontracting for performing, construction, demolition, alteration, repair, or reconstruction;

(b) "Manage" includes approving bidders and awarding subcontracts for furnishing materials regarding, or for performing, construction, demolition, alteration, repair, or reconstruction.

(C) "Construction management contract" means a contract between a public owner and another person obligating the person to provide construction management services.

(D) "Construction management services" or "management services" means the range of services that either a construction manager or a construction manager at risk may provide.

(E) "Qualified" means having the following qualifications:

(1) Competence to perform the required management services as indicated by the technical training, education, and experience of the construction manager's or construction manager at risk's personnel, especially the technical training, education, and experience of the construction manager's or construction manager at risk's employees who would be assigned to perform the services;

(2) Ability in terms of workload and the availability of qualified personnel, equipment, and facilities to perform the required management services competently and expeditiously;

- (3) Past performance as reflected by the evaluations of previous clients with respect to factors such as control of costs, quality of work, and meeting of deadlines;
- (4) Financial responsibility as evidenced by the capability to provide a letter of credit pursuant to Chapter 1305. of the Revised Code, a surety bond, certified check, or cashier's check in an amount equal to the value of the construction management contract, or by other means acceptable to the public owner;
- (5) Other similar factors.
- ~~(C) "Public~~ (F) (1) Except as otherwise provided in division (F) (2) of this section, "public owner" means the state, or any county, township, municipal corporation, school district, or other political subdivision, or any instrumentality or special purpose district of the state or a political subdivision.
- (2) In the context of a contract with a construction manager at risk, "public owner" means a state agency, state institution of higher education, or county.
- (G) "Open book pricing method" means a method in which a construction manager at risk provides the public owner, at the public owner's request, all books, records, documents, and other data in its possession pertaining to the bidding, pricing, or performance of a construction management contract awarded to the construction manager at risk.
- (H) "State agency" means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government, except the Ohio turnpike commission and any special purpose district of the state.
- (I) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

Sec. 9.331. (A) Before entering into a contract to employ a construction manager or construction manager at risk, a public owner shall advertise, in a newspaper of general circulation in the county where the contract is to be performed, notice of its intent to employ a construction manager or construction manager at risk. The notice of intent may also be advertised by electronic means pursuant to rules adopted by the director of administrative services. The notice shall invite interested parties to submit proposals for consideration and shall be published at least thirty days prior to the date for accepting the proposals. The public owner also may advertise the information contained in the notice in appropriate trade journals and otherwise notify persons believed to be interested in employment as a construction manager or construction manager at risk.

(B) The advertisement shall include a general description of the project, a statement of the specific management services required, and a description of the qualifications required for the project.

~~Sec. 9.332. For every construction management contract, the~~
Every public owner planning to contract for construction management services with a construction manager shall evaluate the proposals submitted and may hold discussions with individual construction managers to explore further their proposals, the scope and nature of the services they would provide, and the various technical approaches they may take regarding the project. Following this evaluation, the public owner shall:

(A) Select and rank no fewer than three construction managers that it considers to be the most qualified to provide the required construction management services, except when the public owner determines in writing that fewer than three qualified construction

managers are available in which case it shall select and rank 108
them; 109

(B) Negotiate a contract with the construction manager ranked 110
most qualified to perform the required services at a compensation 111
determined in writing to be fair and reasonable. Contract 112
negotiations shall be directed toward: 113

(1) Ensuring that the construction manager and the public 114
owner have a mutual understanding of the essential requirements 115
involved in providing the required services; 116

(2) Determining that the construction manager will make 117
available the necessary personnel, equipment, and facilities to 118
perform the services within the required time. 119

(C) Upon failure to negotiate a contract with the 120
construction manager ranked most qualified, the public owner shall 121
inform the construction manager in writing of the termination of 122
negotiations and enter into negotiations with the construction 123
manager ranked next most qualified. If negotiations again fail, 124
the same procedure shall be followed with each next most qualified 125
construction manager selected and ranked pursuant to division (A) 126
of this section, in order of ranking, until a contract is 127
negotiated. 128

(D) If the public owner fails to negotiate a contract with 129
any of the construction managers selected pursuant to division (A) 130
of this section, the public owner shall select and rank additional 131
construction managers, based on their qualifications, and 132
negotiations shall continue as with the construction managers 133
selected and ranked initially until a contract is negotiated. 134

Sec. 9.333. (A) No public owner shall enter into a 135
construction management contract with a construction manager 136
unless the construction manager provides a letter of credit 137

pursuant to Chapter 1305. of the Revised Code, a surety bond 138
 pursuant to sections 153.54 and 153.57 of the Revised Code, a 139
 certified check or cashier's check in an amount equal to the value 140
 of the construction management contract for the project, or 141
 provides other reasonable financial assurance of a nature and in 142
 an amount satisfactory to the owner. The public owner may waive 143
 this requirement for good cause. 144

(B) Before construction begins pursuant to a construction 145
 management contract with a construction manager at risk, the 146
 construction manager at risk shall provide a surety bond to the 147
 public owner in accordance with rules adopted by the director of 148
 administrative services under Chapter 119. of the Revised Code. 149

Sec. 9.334. (A) Every public owner planning to contract for 150
 construction management services with a construction manager at 151
 risk shall evaluate the proposals submitted and select not fewer 152
 than three construction managers at risk the public owner 153
 considers to be the most qualified to provide the required 154
 construction management services, except that the public owner 155
 shall select and rank fewer than three when the public owner 156
 determines in writing that fewer than three qualified construction 157
 managers at risk are available. 158

(B) The public owner shall provide each construction manager 159
 at risk selected under division (A) of this section with a 160
 description of the project, including a statement of available 161
 design detail, a description of how the guaranteed maximum price 162
 for the project shall be determined, including the estimated level 163
 of design detail upon which the guaranteed maximum price shall be 164
 based, the form of the construction management contract, and a 165
 request for a pricing proposal. 166

(C) The pricing proposal of each construction manager at risk 167
 shall include at least the following regarding the construction 168

<u>manager at risk:</u>	169
<u>(1) A list of key personnel for the project and a staffing chart:</u>	170 171
<u>(2) A statement of the general conditions and contingency requirements:</u>	172 173
<u>(3) A fee proposal divided into a preconstruction fee, a construction fee, and the portion of the construction fee to be at risk in a guaranteed maximum price.</u>	174 175 176
<u>(D) The public owner shall evaluate the submitted pricing proposals and may hold discussions with individual construction managers at risk to explore their proposals further, including the scope and nature of the proposed services and potential technical approaches.</u>	177 178 179 180 181
<u>(E) After evaluating the pricing proposals, the public owner shall rank the selected construction managers at risk based on its evaluation of the value of each pricing proposal, with such evaluation considering the proposed cost and qualifications.</u>	182 183 184 185
<u>(F) The public owner shall enter into negotiations for a construction management contract with the construction manager at risk whose pricing proposal the public owner determines to be the best value under division (E) of this section. Contract negotiations shall be directed toward:</u>	186 187 188 189 190
<u>(1) Ensuring that the construction manager at risk and the public owner mutually understand the essential requirements involved in providing the required construction management services, including the awarding of subcontracts and their terms, the provisions for the use of contingency funds, and the possible distribution of savings in the final costs of the project;</u>	191 192 193 194 195 196
<u>(2) Ensuring that the construction manager at risk will be able to provide the necessary personnel, equipment, and facilities</u>	197 198

to perform the construction management services within the time 199
required by the construction management contract; 200

(3) Agreeing upon a procedure and schedule for determining a 201
guaranteed maximum price using an open book pricing method that 202
shall represent the total maximum amount to be paid by the public 203
owner to the construction manager at risk for the project and that 204
shall include the costs of all the work, the cost of its general 205
conditions, the contingency, and the fee payable to the 206
construction manager at risk. 207

(G) (1) If the public owner fails to negotiate a construction 208
management contract with the construction manager at risk whose 209
pricing proposal the public owner determines to be the best value 210
under division (E) of this section, the public owner shall inform 211
the construction manager at risk, in writing, of the termination 212
of negotiations. 213

(2) Upon terminating negotiations, the public owner shall 214
enter into negotiations as provided in this section with the 215
construction manager at risk that the public owner ranked next 216
highest under division (E) of this section. If negotiations fail, 217
the public owner shall enter into negotiations as provided in this 218
section with the construction manager at risk the public owner 219
ranked next highest under division (E) of this section. 220

(3) If a public owner fails to negotiate a construction 221
management contract with a construction manager at risk whose 222
pricing proposal the public owner determines to be the best value 223
under division (E) of this section, the public owner may select 224
additional construction managers at risk to provide pricing 225
proposals to the public owner pursuant to this section or may 226
select an alternative delivery method for the project. 227

(H) If the public owner and construction manager at risk fail 228
to agree on a guaranteed maximum price, nothing in this section 229

shall prohibit the public owner from allowing the construction manager at risk to provide the management services that a construction manager is authorized to provide.

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Sec. 9.335. The requirements set forth in sections 9.33 to 9.334 of the Revised Code for the bidding, selection, and award of a construction management contract by a public owner prevail in the event of any conflict with a provision of Chapter 153. of the Revised Code."

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Delete lines 10694 through 10712 and insert:

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"Sec. 126.141. Any request for release of capital appropriations by the director of budget and management or the controlling board for projects, the contracts of which are awarded by the department of administrative services, shall contain a contingency reserve, the amount of which shall be determined by the department of administrative services, for payment of unanticipated project expenses. Any amount deducted from the encumbrance for a contractor's contract as an assessment for liquidated damages shall be added to the encumbrance for the contingency reserve. Contingency reserve funds shall be used to pay costs resulting from unanticipated job conditions, to comply with rulings regarding building and other codes, to pay costs related to errors, omissions, or other deficiencies in contract documents, to pay costs associated with changes in the scope of work, to pay interest due on late payments, and to pay the costs of settlements and judgments related to the project.

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Any funds remaining upon completion of a project may, upon approval of the Controlling Board, be released for the use of the agency or instrumentality to which the appropriation was made for other capital facilities projects."

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Delete lines 14287 through 14354 and insert: 259

"Sec. 153.01. ~~Whenever~~ (A) Subject to division (B) of this 260
section, whenever any building or structure for the use of the 261
state or any institution supported in whole or in part by the 262
state or in or upon the public works of the state that is 263
administered by the director of administrative services or by any 264
other state officer or state agency authorized by law to 265
administer a project, including an educational institution listed 266
in section 3345.50 of the Revised Code, is to be erected or 267
constructed, whenever additions, alterations, or structural or 268
other improvements are to be made, or whenever heating, cooling, 269
or ventilating plants or other equipment is to be installed or 270
material supplied therefor, the ~~aggregate~~ estimated cost of which 271
amounts to fifty thousand dollars or more, each officer, board, or 272
other authority upon which devolves the duty of constructing, 273
erecting, altering, or installing the same, referred to in 274
sections 153.01 to 153.60 of the Revised Code as the owner, shall 275
cause to be made, by an architect or engineer whose contract of 276
employment shall be prepared and approved by the attorney general, 277
the following: 278

~~(A)~~ (1) Full and accurate plans, suitable for the use of 279
mechanics and other builders in the construction, improvement, 280
addition, alteration, or installation; 281

~~(B)~~ (2) Details to scale and full-sized, so drawn and 282
represented as to be easily understood; 283

~~(C)~~ (3) Accurate bills showing the exact quantity of different 284
kinds of material necessary to the construction; 285

~~(D)~~ (4) Definite and complete specifications of the work to be 286
performed, together with directions that will enable a competent 287
mechanic or other builder to carry them out and afford bidders all 288

needful information;	289
(E) (5) A full and accurate estimate of each item of expense	290
and the aggregate cost of those items of expense;	291
(F) (6) A life-cycle cost analysis;	292
(G) (7) Further data as may be required by the department of	293
administrative services.	294
<u>(B) For a state agency, as defined in section 9.33 of the</u>	295
<u>Revised Code, or a state institution of higher education, as</u>	296
<u>defined in section 3345.011 of the Revised Code, the estimated</u>	297
<u>project cost described in division (A) of this section shall be</u>	298
<u>two hundred thousand dollars or more or the amount determined</u>	299
<u>pursuant to section 153.53 of the Revised Code or more.</u>	300
<u>(C) The data described in divisions (A) (1) to (7) of this</u>	301
<u>section shall not be required with respect to any work to be</u>	302
<u>performed pursuant to a construction management contract entered</u>	303
<u>into with a construction manager at risk as described in section</u>	304
<u>9.334 of the Revised Code or pursuant to a contract for</u>	305
<u>design-build services entered into with a design-build firm as</u>	306
<u>described in section 153.693 of the Revised Code.</u>	307
Sec. 153.012. With respect to the award of any contract for	308
the construction, reconstruction, improvement, enlargement,	309
alteration, repair, painting, or decoration of a public	310
improvement, including any highway improvement, made by the state	311
or in whole or in part supported by the state <u>and including any</u>	312
<u>subcontract awarded by a construction manager at risk as defined</u>	313
<u>in section 9.33 of the Revised Code or by a design-build firm as</u>	314
<u>defined in section 153.65 of the Revised Code, except for but</u>	315
<u>excluding</u> a contract for products produced or mined in Ohio or for	316
a contract financed in whole or in part by contributions or loans	317
from any agency of the United States government, preference shall	318

be given to contractors or subcontractors having their ~~principle~~ 319
principal place of business in Ohio over ~~contractors~~ contractors or 320
subcontractors having their ~~principle~~ principal place of business 321
in a state which provides a preference in that state in favor of 322
contractors or subcontractors of that state for the same type of 323
work. Where a preference is provided by another state for 324
contractors or subcontractors of that state, contractors or 325
subcontractors having their ~~principle~~ principal place of business 326
in Ohio are to be granted in Ohio the same preference over them in 327
the same manner and on the same basis and to the same extent as 328
the preference is granted in letting contracts or subcontracts for 329
the same type of work by the other state. If one party to a joint 330
venture is a contractor or subcontractors having its ~~principle~~ 331
principal place of business in Ohio, the joint venture shall be 332
considered as having its ~~principle~~ principal place of business in 333
Ohio." 334

Delete lines 14420 through 15566 and insert: 335

"Sec. 153.03. (A) As used in this section: 336

(1) "Contracting authority" means any state agency or other 337
state instrumentality that is authorized to award a public 338
improvement contract. 339

(2) "Bidder" means a person who submits a bid to a 340
contracting authority to perform work under a public improvement 341
contract. 342

(3) "Contractor" means any person with whom a contracting 343
authority has entered into a public improvement contract to 344
provide labor for a public improvement and includes a construction 345
manager at risk and a design-build firm. 346

(4) "Subcontractor" means any person who undertakes to 347
provide any part of the labor on the site of a public improvement 348

under a contract with any person other than the contracting authority, including all such persons in any tier. 349
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(5) ~~"Construction manager" means a person with substantial discretion and authority to plan, coordinate, manage, and direct all phases of a project for the construction, demolition, alteration, repair, or reconstruction of any public building, structure, or other improvement~~ has the same meaning as in section 9.33 of the Revised Code. 351
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(6) "Construction manager at risk" has the same meaning as in section 9.33 of the Revised Code. 357
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(7) "Design-build firm" has the same meaning as in section 153.65 of the Revised Code. 359
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(8) "Labor" means any activity performed by a person that contributes to the direct installation of a product, component, or system, or that contributes to the direct removal of a product, component, or system. 361
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~~(7)~~(9) "Public improvement contract" means any contract that is financed in whole or in part with money appropriated by the general assembly, or that is financed in any manner by a contracting authority, and that is awarded by a contracting authority for the construction, alteration, or repair of any public building, public highway, or other public improvement. 365
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~~(8)~~(10) "State agency" means every organized body, office, or agency established by the laws of this state for the exercise of any function of state government. 371
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(B) A contracting authority shall not award a public improvement contract to a bidder, and a construction manager at risk or design-build firm shall not award a subcontract, unless the contract or subcontract contains both of the following: 374
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(1) The statements described in division (E) of this section; 378

(2) Terms that require the contractor or subcontractor to be 379
enrolled in and be in good standing in the drug-free workplace 380
program of the bureau of workers' compensation or a comparable 381
program approved by the bureau that requires an employer to do all 382
of the following: 383

(a) Develop, implement, and provide to all employees a 384
written substance use policy that conveys full and fair disclosure 385
of the employer's expectations that no employee be at work with 386
alcohol or drugs in the employee's system, and specifies the 387
consequences for violating the policy. 388

(b) Conduct drug and alcohol tests on employees in accordance 389
with division (B) (2) (c) of this section and under the following 390
conditions: 391

(i) Prior to an individual's employment or during an 392
employee's probationary period for employment, which shall not 393
exceed one hundred twenty days after the probationary period 394
begins; 395

(ii) At random intervals while an employee provides labor or 396
~~en site~~ on-site supervision of labor for a public improvement 397
contract. The employer shall use the neutral selection procedures 398
required by the United States department of transportation to 399
determine which employees to test and when to test those 400
employees. 401

(iii) After an accident at the site where labor is being 402
performed pursuant to a public improvement contract. For purposes 403
of this division, "accident" has the meaning established in rules 404
the administrator of workers' compensation adopts pursuant to 405
Chapters 4121. and 4123. of the Revised Code for the bureau's 406
drug-free workplace program, as those rules exist on ~~the effective~~ 407
~~date of this section~~ March 30, 2007. 408

(iv) When the employer ~~or a~~ construction manager, 409
construction manager at risk, or design-build firm has reasonable 410
suspicion that prior to an accident an employee may be in 411
violation of the employer's written substance use policy. For 412
purposes of this division, "reasonable suspicion" has the meaning 413
established in rules the administrator adopts pursuant to Chapters 414
4121. and 4123. of the Revised Code for the bureau's drug-free 415
workplace program, as those rules exist on ~~the effective date of~~ 416
~~this section~~ March 30, 2007. 417

(v) Prior to an employee returning to a work site to provide 418
labor for a public improvement contract after the employee tested 419
positive for drugs or alcohol, and again after the employee 420
returns to that site to provide labor under that contract, as 421
required by either the employer, ~~the~~ construction manager, 422
construction manager at risk, design-build firm, or conditions in 423
the contract. 424

(c) Use the following types of tests when conducting a test 425
on an employee under the conditions described in division 426
(B) (2) (b) of this section: 427

(i) Drug and alcohol testing that uses the federal testing 428
model that the administrator has incorporated into the bureau's 429
drug-free workplace program; 430

(ii) Testing to determine whether the concentration of 431
alcohol on an employee's breath is equal to or in excess of the 432
level specified in division (A) (1) (d) or (h) of section 4511.19 of 433
the Revised Code, which is obtained through an evidentiary breath 434
test conducted by a breath alcohol technician using breath testing 435
equipment that meets standards established by the United States 436
department of transportation, or, if such technician and equipment 437
are unavailable, a blood test may be used to determine whether the 438
concentration of alcohol in an employee's blood is equal to or in 439

excess of the level specified in division (A) (1) (b) or (f) of 440
section 4511.19 of the Revised Code. 441

(d) Require all employees to receive at least one hour of 442
training that increases awareness of and attempts to deter 443
substance abuse and supplies information about employee assistance 444
to deal with substance abuse problems, and require all supervisors 445
to receive one additional hour of training in skill building to 446
teach a supervisor how to observe and document employee behavior 447
and intervene when reasonable suspicion exists of substance use; 448

(e) Require all supervisors and employees to receive the 449
training described in division (B) (2) (d) of this section before 450
work for a public improvement contract commences or during the 451
term of a public improvement contract; 452

(f) Require that the training described in division (B) (2) (d) 453
of this section be provided using material prepared by an 454
individual who has credentials or experience in substance abuse 455
training; 456

(g) Assist employees by providing, at a minimum, a list of 457
community resources from which an employee may obtain help with 458
substance abuse problems, except that this requirement does not 459
preclude an employer from having a policy that allows an employer 460
to terminate an employee's employment the first time the employee 461
tests positive for drugs or alcohol or if an employee refuses to 462
be tested for drugs, alcohol, or both. 463

(C) Any time the United States department of health and human 464
services changes the federal testing model that the administrator 465
has incorporated into the bureau's drug-free workplace program in 466
a manner that allows additional or new products, protocols, 467
procedures, and standards in the model, the administrator may 468
adopt rules establishing standards to allow employers to use those 469
additional or new products, protocols, procedures, or standards to 470

satisfy the requirements of division (B)(2)(c) of this section, 471
and the bureau may approve an employer's drug-free workplace 472
program that meets the administrator's standards and the other 473
requirements specified in division (B)(2) of this section. 474

(D) A contracting authority shall ensure that money 475
appropriated by the general assembly for the contracting 476
authority's public improvement contract or, in the case of a state 477
institution of higher education, the institution's financing for 478
the public improvement contract, is not expended unless the 479
contractor for that contract is enrolled in and in good standing 480
in a drug-free workplace program described in division (B) of this 481
section. Prior to awarding a contract to a bidder, a contracting 482
authority shall verify that the bidder is enrolled in and in good 483
standing in such a program. 484

(E) A contracting authority shall include all of the 485
following statements in the public improvement contract entered 486
into between the contracting authority and a contractor for the 487
public improvement: 488

(1) "Each contractor shall require all subcontractors with 489
whom the contractor is in contract for the public improvement to 490
be enrolled in and be in good standing in the Bureau of Workers' 491
Compensation's Drug-Free Workplace Program or a comparable program 492
approved by the Bureau that meets the requirements specified in 493
section 153.03 of the Revised Code prior to a subcontractor 494
providing labor at the project site of the public improvement." 495

(2) "Each subcontractor shall require all lower-tier 496
subcontractors with whom the subcontractor is in contract for the 497
public improvement to be enrolled in and be in good standing in 498
the Bureau of Workers' Compensation's Drug-Free Workplace Program 499
or a comparable program approved by the Bureau that meets the 500
requirements specified in section 153.03 of the Revised Code prior 501

to a lower-tier subcontractor providing labor at the project site 502
of the public improvement." 503

(3) "Failure of a contractor to require a subcontractor to be 504
enrolled in and be in good standing in the Bureau of Workers' 505
Compensation's Drug-Free Workplace Program or a comparable program 506
approved by the Bureau that meets the requirements specified in 507
section 153.03 of the Revised Code prior to the time that the 508
subcontractor provides labor at the project site will result in 509
the contractor being found in breach of the contract and that 510
breach shall be used in the responsibility analysis of that 511
contractor or the subcontractor who was not enrolled in a program 512
for future contracts with the state for five years after the date 513
of the breach." 514

(4) "Failure of a subcontractor to require a lower-tier 515
subcontractor to be enrolled in and be in good standing in the 516
Bureau of Workers' Compensation's Drug-Free Workplace Program or a 517
comparable program approved by the Bureau that meets the 518
requirements specified in section 153.03 of the Revised Code prior 519
to the time that the lower-tier subcontractor provides labor at 520
the project site will result in the subcontractor being found in 521
breach of the contract and that breach shall be used in the 522
responsibility analysis of that subcontractor or the lower-tier 523
subcontractor who was not enrolled in a program for future 524
contracts with the state for five years after the date of the 525
breach." 526

(F) In the event a construction manager, construction manager 527
at risk, or design-build firm intends and is authorized to provide 528
labor for a public improvement contract, a contracting authority 529
shall verify, prior to awarding a contract for construction 530
management services or design-build services, that the 531
construction manager, construction manager at risk, or 532

design-build firm was enrolled in and in good standing in a 533
drug-free workplace program described in division (B) of this 534
section prior to entering into the public improvement contract. 535
The contracting authority shall not award a contract for 536
construction manager services ~~to a construction manager or~~ 537
design-build services if the construction manager, construction 538
manager at risk, or design-build firm is not enrolled in or in 539
good standing in such a program. 540

Sec. 153.07. The notice provided for in section 153.06 of the 541
Revised Code shall be published once each week for three 542
consecutive weeks in a newspaper of general circulation, or as 543
provided in section 7.16 of the Revised Code, in the county where 544
the activity for which bids are submitted is to occur and in such 545
other newspapers as ordered by the department of administrative 546
services, the last publication to be at least eight days preceding 547
the day for opening the bids, and in such form and with such 548
phraseology as the department orders. Copies of the plans, 549
details, bills of material, estimates of cost, and specifications 550
shall be open to public inspection at all business hours between 551
the day of the first publication and the day for opening the bids, 552
at the office of the department where the bids are received, and 553
such other place as may be designated in such notice. 554

Sec. 153.08. On the day and at the place named in the notice 555
provided for in section 153.06 of the Revised Code, the owner 556
referred to in section 153.01 of the Revised Code shall open the 557
bids and shall publicly, with the assistance of the architect or 558
engineer, immediately proceed to tabulate the bids upon duplicate 559
sheets. The public bid opening may be broadcast by electronic 560
means pursuant to rules established by the director of 561
administrative services. A bid shall be invalid and not considered 562
unless a bid guaranty meeting the requirements of section 153.54 563

of the Revised Code and in the form approved by the department of 564
 administrative services is filed with such bid ~~and unless such,~~ 565
For a bid that is not filed electronically, the bid and bid 566
guaranty are shall be filed in one sealed envelope. If the bid and 567
bid guaranty are filed electronically, they must be received 568
electronically before the deadline published pursuant to section 569
153.06 of the Revised Code. For all bids filed electronically, the 570
original, unaltered bid guaranty shall be made available to the 571
public owner after the public bid opening. After investigation, 572
 which shall be completed within thirty days, the contract shall be 573
 awarded by such owner to the lowest responsive and responsible 574
 bidder in accordance with section 9.312 of the Revised Code. 575

No contract shall be entered into until the industrial 576
 commission has certified that the person so awarded the contract 577
 has complied with sections 4123.01 to 4123.94 of the Revised Code, 578
 until, if the bidder so awarded the contract is a foreign 579
 corporation, the secretary of state has certified that such 580
 corporation is authorized to do business in this state, until, if 581
 the bidder so awarded the contract is a person nonresident of this 582
 state, such person has filed with the secretary of state a power 583
 of attorney designating the secretary of state as its agent for 584
 the purpose of accepting service of summons in any action brought 585
 under section 153.05 of the Revised Code or under sections 4123.01 586
 to 4123.94 of the Revised Code, and until the contract and bond, 587
 if any, are submitted to the attorney general and the attorney 588
 general's approval certified thereon. 589

No contract shall be entered into unless the bidder possesses 590
 a valid certificate of compliance with affirmative action programs 591
 issued pursuant to section 9.47 of the Revised Code and dated no 592
 earlier than one hundred eighty days prior to the date fixed for 593
 the opening of bids for a particular project. 594

Sec. 153.50. (A) ~~As~~ As used in sections 153.50 to 153.52 of 595
the Revised Code: 596

(1) "Construction manager at risk" and "state agency" have 597
the same meanings as in section 9.33 of the Revised Code. 598

(2) "Design-build firm" has the same meaning as in section 599
153.65 of the Revised Code. 600

(3) "State institution of higher education" has the same 601
meaning as in section 3345.011 of the Revised Code. 602

(B) Except for contracts made with a construction manager at 603
risk or with a design-build firm, an officer, board, or other 604
 authority of the state, a county, township, municipal corporation, 605
 or school district, or of any public institution belonging 606
 thereto, authorized to contract for the erection, repair, 607
 alteration, or rebuilding of a public building, institution, 608
 bridge, culvert, or improvement and required by law to advertise 609
 and receive bids for furnishing of materials and doing the work 610
 necessary for the erection thereof, shall require separate and 611
 distinct bids to be made for furnishing such materials or doing 612
 such work, or both, in their discretion, for each of the following 613
 branches or classes of work to be performed, and all work kindred 614
 thereto, entering into the improvement: 615

(1) Plumbing and gas fitting; 616

(2) Steam and hot-water heating, ventilating apparatus, and 617
 steam-power plant; 618

(3) Electrical equipment. 619

~~(B)~~ A (C) (1) Subject to division (C) (2) of this section, a 620
 public authority is not required to solicit separate bids for a 621
 branch or class of work specified in division ~~(A)~~ (B) of this 622
 section for an improvement if the estimated cost for that branch 623

or class of work is less than five thousand dollars. 624

(2) A public authority that is a state agency, state institution of higher education, or county, or that is a school district using assistance provided under Chapter 3318. of the Revised Code, is not required to solicit separate bids for a branch or class of work specified in division (B) of this section for an improvement if the estimated cost for that branch or class of work is less than twenty thousand dollars or the amount determined pursuant to section 153.53 of the Revised Code. 625 626 627 628 629 630 631 632

Sec. 153.501. (A) When awarding subcontracts for the following services, a construction manager at risk and a design-build firm shall receive separate and distinct bids from approved bidders and award separate subcontracts, consistent with section 153.502 of the Revised Code, for each of the following branches or classes of work to be performed: 633 634 635 636 637 638

(1) Plumbing and gas fitting; 639

(2) Steam and hot-water heating, ventilating apparatus, and steam-power plant; 640 641

(3) Electrical equipment. 642

(B) A subcontract pursuant to this section shall be bid based on complete plans and specifications of the work to be performed, together with directions to enable a competent mechanic or other builder to carry out those directions and any other necessary information. 643 644 645 646 647

(C) All subcontracts awarded pursuant to this section shall be awarded to the lowest responsive approved bidder after a public bid opening, unless no bid is lower than the estimate in the guaranteed maximum price for a branch or class of work to be performed provided by the construction manager at risk or design-build firm. If no bid is lower than the estimate in the 648 649 650 651 652 653

guaranteed maximum price for a branch or class of work, then the construction manager at risk or design-build firm may either revise the scope of work for such branch or class of work and rebid, or, subject to the terms of the contract for the services of a construction manager at risk or design-build firm, utilize a contingency to pay the excess costs without any increase in the guaranteed maximum price.

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(D) (1) A person entering into a subcontract under this section shall have no contractual remedies against a public authority that enters into the underlying design-build contract with the design-build firm pursuant to section 153.693 of the Revised Code or a public owner that enters into the underlying construction management contract with the construction manager at risk pursuant to section 9.334 of the Revised Code.

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(2) Nothing in division (D) (1) of this section shall be construed as limiting any remedies otherwise available under section 153.56 or 1311.28 of the Revised Code or under the escrow requirements set forth in the subcontract.

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(E) If the construction manager at risk or design-build firm intends and is permitted by the public authority to self-perform a portion of the work described in division (A) of this section, or any other branch or class of work to be performed, then the construction manager at risk or design-build firm shall submit a sealed bid for the portion of the work prior to accepting and opening any bids for the same branch of work.

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(F) If, after a guaranteed maximum price was agreed upon, the construction manager at risk or design-build firm submits a sealed bid pursuant to this section that is no greater than the estimate for that scope of work, and a public bid opening was held pursuant to this section, then, upon verification by the public authority that no bid is lower than the estimate for that scope of work in

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the guaranteed maximum price, the contract shall be awarded to the construction manager at risk or design-build firm for that portion of the work. The construction manager at risk or design-build firm shall not use contingency funds negotiated in their contracts with the public authority to pay for any work that is actually performed by the construction manager at risk or design-build firm.

Sec. 153.502. (A) As used in this section and sections 153.503 and 153.505 of the Revised Code, "subcontract" means a contract for the branches or classes of work described in division (A) of section 153.501 of the Revised Code that is awarded by any of the following:

(1) A construction manager at risk pursuant to a contract under section 9.334 of the Revised Code;

(2) A design-build firm pursuant to a contract under section 153.693 of the Revised Code;

(3) A contractor pursuant to a contract under division (B) (2) of section 153.52 of the Revised Code.

(B) A subcontract may be awarded only to a bidder on the subcontract who meets the following requirements:

(1) The bidder has been certified to bid on subcontracts by the department of administrative services under rules adopted pursuant to section 153.503 of the Revised Code.

(2) With respect to a subcontract to be awarded by a construction manager at risk or design-build firm, the bidder has been approved by a public owner or a public authority under rules adopted pursuant to section 153.503 of the Revised Code to bid on the specific subcontract.

(C) A contract for the work described in division (B) (2) of

section 153.52 of the Revised Code may be awarded only to a bidder on the contract who meets the following requirements: 714
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(1) The bidder has been certified to bid on contracts by the department of administrative services under rules adopted pursuant to section 153.503 of the Revised Code. 716
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(2) The bidder has been approved by a public owner or a public authority under rules adopted pursuant to section 153.503 of the Revised Code to bid on the specific contract. 719
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Sec. 153.503. The department of administrative services, pursuant to Chapter 119. of the Revised Code and not later than June 30, 2011, shall adopt rules that do the following: 722
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(A) (1) Establish the following: 725

(a) A program to certify bidders on contracts for the work described in division (B) (2) of section 153.52 of the Revised Code and on subcontracts. The rules shall include criteria and procedures governing the process of application and certification under the program. 726
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(b) Criteria and procedures for public owners and public authorities to follow in approving bidders on contracts for the work described in division (B) (2) of section 153.52 of the Revised Code and on subcontracts. The rules shall be consistent with the factors provided in division (A) of section 9.312 of the Revised Code and any other applicable laws for determining whether a bidder is the lowest responsible and responsive bidder. 731
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(2) The rules adopted under division (A) (1) of this section shall prohibit the certification or approval, and provide for the decertification and withdrawal of approval, of any bidder against whom there exists a tax lien or workers' compensation delinquency and the lien or delinquency is unresolved. 738
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(3) The rules adopted under division (A)(1)(a) of this section shall require, as a condition to certification of a bidder on a subcontract the price of which is two million dollars or more, that the bidder certify both of the following in writing to the department: 743
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(a) The bidder has made and will continue to make irrevocable contributions toward health care insurance and pension or retirement funds, plans, or programs for all skilled trade personnel to be used on the project pertaining to the subcontract in the branches or classes of work described in division (A) of section 153.501 of the Revised Code. 748
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(b) All skilled trade personnel to be used on the project pertaining to the subcontract in the branches or classes of work described in division (A) of section 153.501 of the Revised Code meet at least one of the following requirements: 754
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(i) They have been trained in a state or federally approved training program. 758
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(ii) They have successfully completed a comparable training program. 760
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(iii) They have a minimum of three years experience. 762

(4) Division (A)(3) of this section shall not apply in those instances where the public owner or public authority determines that at least two bidders meeting that requirement are not readily available. 763
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(B) Establish procedures for the review, in an expedited manner, of any denial of certification or approval to bid on a contract for the work described in division (B)(2) of section 153.52 of the Revised Code or a subcontract. In adopting rules governing review of the denial of approval to bid, the department shall consult with public owners and public authorities. Any 767
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review procedures established pursuant to this section shall 773
supersede sections 119.06 to 119.13 of the Revised Code. The 774
review procedures are not required to be consistent with, but 775
shall be considered equivalent to, adjudicatory proceedings under 776
those sections. The conclusions of a review shall not be 777
overturned or altered in any manner by a court order, except on a 778
finding of fraud or collusion. 779

(C) Prescribe the form for contracts for the work described 780
in division (B)(2) of section 153.52 of the Revised Code and 781
subcontracts. Each form contract and subcontract prescribed by 782
rule shall provide for the creation and other requirements of an 783
escrow account for the payment of amounts required to be paid to 784
subcontractors and sub-subcontractors. 785

Sec. 153.504. On July 1, 2013, or as soon as possible 786
thereafter, the director of administrative services shall choose a 787
person that in the director's judgment would best be able to 788
perform an independent study of the department's certification 789
program established pursuant to rules adopted under section 790
153.503 of the Revised Code and commission that person to perform 791
the study. On completion of the study, the person shall provide it 792
to the director, and the director shall promptly submit it to the 793
governor, the speaker of the house of representatives, and the 794
president of the senate. 795

Sec. 153.505. A county may approve a bidder on a contract for 796
the work described in division (B)(2) of section 153.52 of the 797
Revised Code or a subcontract who has not been certified to bid on 798
such a contract or subcontract by the department of administrative 799
services under rules adopted pursuant to section 153.503 of the 800
Revised Code, unless the reason the bidder was not certified is 801
that there exists a tax lien or workers' compensation delinquency 802

and the lien or delinquency is unresolved or the bidder is not in 803
compliance with any other law applicable to the award of a public 804
improvement contract. 805

Sec. 153.51. (A) When more than one branch or class of work 806
specified in division ~~(A)~~(B) of section 153.50 of the Revised Code 807
is required, no contract for the entire job, or for a greater 808
portion thereof than is embraced in one such branch or class of 809
work shall be awarded, unless the separate bids do not cover all 810
the work and materials required or the bids for the whole or for 811
two or more kinds of work or materials are lower than the separate 812
bids in the aggregate. 813

(B) (1) The public authority referred to in section 153.50 of 814
the Revised Code also may award a single, aggregate contract for 815
the entire project pursuant to division (A) of this section. This 816
award shall be made to the bidder who is the lowest responsive and 817
responsible bidder or the lowest and best bidder, as applicable, 818
as specified in section 153.52 of the Revised Code. 819

(2) The public authority referred to in section 153.50 of the 820
Revised Code may assign all or any portion of its interest in the 821
contract of the lowest responsive and responsible bidder or the 822
lowest and best bidder, as applicable, to another successful 823
bidder as an agreed condition for an award of the contract for the 824
amount of its respective bid. Such assignment may include, but is 825
not limited to, the duty to schedule, coordinate, and administer 826
the contracts. 827

(C) ~~A~~ (1) Subject to division (C) (2) of this section, a 828
public authority referred to in ~~division (A)~~ of section 153.50 of 829
the Revised Code is not required to award separate contracts for a 830
branch or class of work specified in division ~~(A)~~(B) of section 831
153.50 of the Revised Code entering into an improvement if the 832

estimated cost for that branch or class of work is less than five thousand dollars. 833
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(2) A public authority referred to in section 153.50 of the Revised Code that is a state agency, state institution of higher education, or county, or that is a school district using assistance provided under Chapter 3318. of the Revised Code, is not required to award separate contracts for a branch or class of work specified in division (B) of section 153.50 of the Revised Code entering into an improvement if the estimated cost for that branch or class of work is less than twenty thousand dollars or the amount determined pursuant to section 153.53 of the Revised Code. 835
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Sec. 153.52. (A) The contract for doing the work belonging to each separate branch or class of work specified in division ~~(A)~~(B) of section 153.50 of the Revised Code, or for the furnishing of materials therefor, or both, shall be awarded by the public authority referred to in section 153.50 of the Revised Code, in its discretion, to the lowest responsive and responsible separate bidder therefor, in accordance with section 9.312 of the Revised Code in the case of any public authority of the state or any public institution belonging thereto, and to the lowest and best separate bidder in the case of a county, township, or municipal corporation, ~~or school district,~~ or any public institution belonging thereto, and to the lowest responsible bidder in the case of a school district, and shall be made directly with the bidder in the manner and upon the terms, conditions, and limitations as to giving bond or bid guaranties as prescribed by law, unless it is let as a whole, or to bidders for more than one kind of work or materials. ~~Sections~~ 845
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(B) (1) Except as otherwise provided in division (B) (2) of this section, sections 153.50 to 153.51 and division (A) of 862
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section 153.52 of the Revised Code ~~de~~ shall not apply to the 864
erection of buildings and other structures the estimated cost of 865
which ~~cost~~ amounts to less than fifty thousand dollars. 866

(2) If the public authority is a state agency, state 867
institution of higher education, or county, or if it is a school 868
district using assistance provided under Chapter 3318. of the 869
Revised Code, sections 153.50 and 153.51 and division (A) of 870
section 153.52 of the Revised Code shall not apply to the 871
erection, repair, alteration, or rebuilding of buildings or other 872
structures the estimated cost of which amounts to six hundred 873
thousand dollars or less or the amount determined pursuant to 874
section 153.53 of the Revised Code or less. 875

Sec. 153.53. (A) As used in this section "rate of inflation" 876
has the same meaning as in section 107.032 of the Revised Code. 877

(B) Five years after the effective date of this section and 878
every five years thereafter, the director of administrative 879
services shall evaluate the monetary thresholds specified in 880
division (B) of section 153.01, division (C)(2) of section 153.50, 881
division (C)(2) of section 153.51, and division (B)(2) of section 882
153.52 of the Revised Code and adopt rules adjusting the amounts 883
specified in those sections based on the average rate of inflation 884
for each amount during each of the previous five years immediately 885
preceding such adjustment. 886

Sec. 153.54. (A) Each Except with respect to a contract 887
described in section 9.334 or 153.693 of the Revised Code, each 888
person bidding for a contract with the state or any political 889
subdivision, district, institution, or other agency thereof, 890
excluding therefrom the department of transportation, for any 891
public improvement shall file with the bid, a bid guaranty in the 892
form of either: 893

(1) A bond in accordance with division (B) of this section 894
for the full amount of the bid; 895

(2) A certified check, cashier's check, or letter of credit 896
pursuant to Chapter 1305. of the Revised Code, in accordance with 897
division (C) of this section. Any such letter of credit is 898
revocable only at the option of the beneficiary state, political 899
subdivision, district, institution, or agency. The amount of the 900
certified check, cashier's check, or letter of credit shall be 901
equal to ten per cent of the bid. 902

(B) A bid guaranty filed pursuant to division (A)(1) of this 903
section shall be conditioned to: 904

(1) Provide that, if the bid is accepted, the bidder, after 905
the awarding or the recommendation for the award of the contract, 906
whichever the contracting authority designates, will enter into a 907
proper contract in accordance with the bid, plans, details, 908
specifications, and bills of material. If for any reason, other 909
than as authorized by section 9.31 of the Revised Code or division 910
(G) of this section, the bidder fails to enter into the contract, 911
and the contracting authority awards the contract to the next 912
lowest bidder, the bidder and the surety on the bidder's bond are 913
liable to the state, political subdivision, district, institution, 914
or agency for the difference between the bid and that of the next 915
lowest bidder, or for a penal sum not to exceed ten per cent of 916
the amount of the bond, whichever is less. If the state, political 917
subdivision, district, institution, or agency does not award the 918
contract to the next lowest bidder but resubmits the project for 919
bidding, the bidder failing to enter into the contract and the 920
surety on the bidder's bond, except as provided in division (G) of 921
this section, are liable to the state, political subdivision, 922
district, institution, or agency for a penal sum not to exceed ten 923
per cent of the amount of the bid or the costs in connection with 924

the resubmission of printing new contract documents, required 925
 advertising, and printing and mailing notices to prospective 926
 bidders, whichever is less. 927

(2) Indemnify the state, political subdivision, district, 928
 institution, or agency against all damage suffered by failure to 929
 perform the contract according to its provisions and in accordance 930
 with the plans, details, specifications, and bills of material 931
 therefor and to pay all lawful claims of subcontractors, material 932
 suppliers, and laborers for labor performed or material furnished 933
 in carrying forward, performing, or completing the contract; and 934
 agree and assent that this undertaking is for the benefit of any 935
 subcontractor, material supplier, or laborer having a just claim, 936
 as well as for the state, political subdivision, district, 937
 institution, or agency. 938

(C) (1) A bid guaranty filed pursuant to division (A) (2) of 939
 this section shall be conditioned to provide that if the bid is 940
 accepted, the bidder, after the awarding or the recommendation for 941
 the award of the contract, whichever the contracting authority 942
 designates, will enter into a proper contract in accordance with 943
 the bid, plans, details, specifications, and bills of material. If 944
 for any reason, other than as authorized by section 9.31 of the 945
 Revised Code or division (G) of this section, the bidder fails to 946
 enter into the contract, and the contracting authority awards the 947
 contract to the next lowest bidder, the bidder is liable to the 948
 state, political subdivision, district, institution, or agency for 949
 the difference between the bidder's bid and that of the next 950
 lowest bidder, or for a penal sum not to exceed ten per cent of 951
 the amount of the bid, whichever is less. If the state, political 952
 subdivision, district, institution, or agency does not award the 953
 contract to the next lowest bidder but resubmits the project for 954
 bidding, the bidder failing to enter into the contract, except as 955

provided in division (G) of this section, is liable to the state, 956
political subdivision, district, institution, or agency for a 957
penal sum not to exceed ten per cent of the amount of the bid or 958
the costs in connection with the resubmission, of printing new 959
contract documents, required advertising, and printing and mailing 960
notices to prospective bidders, whichever is less. 961

If the bidder enters into the contract, the bidder, at the 962
time the contract is entered to, shall file a bond for the amount 963
of the contract to indemnify the state, political subdivision, 964
district, institution, or agency against all damage suffered by 965
failure to perform the contract according to its provisions and in 966
accordance with the plans, details, specifications, and bills of 967
material therefor and to pay all lawful claims of subcontractors, 968
material suppliers, and laborers for labor performed or material 969
furnished in carrying forward, performing, or completing the 970
contract; and agree and assent that this undertaking is for the 971
benefit of any subcontractor, material supplier, or laborer having 972
a just claim, as well as for the state, political subdivision, 973
district, institution, or agency. 974

(2) A construction manager who enters into a contract 975
pursuant to sections 9.33 to 9.333 of the Revised Code, if 976
required by the public owner at the time the construction manager 977
enters into the contract, shall file a letter of credit pursuant 978
to Chapter 1305. of the Revised Code, bond, certified check, or 979
cashier's check, for the value of the construction management 980
contract to indemnify the state, political subdivision, district, 981
institution, or agency against all damage suffered by the 982
construction manager's failure to perform the contract according 983
to its provisions, and shall agree and assent that this 984
undertaking is for the benefit of the state, political 985
subdivision, district, institution, or agency. A letter of credit 986

provided by the construction manager is revocable only at the 987
option of the beneficiary state, political subdivision, district, 988
institution, or agency. 989

(D) Where the state, political subdivision, district, 990
institution, or agency accepts a bid but the bidder fails or 991
refuses to enter into a proper contract in accordance with the 992
bid, plans, details, specifications, and bills of material within 993
ten days after the awarding of the contract, the bidder and the 994
surety on any bond, except as provided in division (G) of this 995
section, are liable for the amount of the difference between the 996
bidder's bid and that of the next lowest bidder, but not in excess 997
of the liability specified in division (B)(1) or (C) of this 998
section. Where the state, political subdivision, district, 999
institution, or agency then awards the bid to such next lowest 1000
bidder and such next lowest bidder also fails or refuses to enter 1001
into a proper contract in accordance with the bid, plans, details, 1002
specifications, and bills of material within ten days after the 1003
awarding of the contract, the liability of such next lowest 1004
bidder, except as provided in division (G) of this section, is the 1005
amount of the difference between the bids of such next lowest 1006
bidder and the third lowest bidder, but not in excess of the 1007
liability specified in division (B)(1) or (C) of this section. 1008
Liability on account of an award to any lowest bidder beyond the 1009
third lowest bidder shall be determined in like manner. 1010

(E) Notwithstanding division (C) of this section, where the 1011
state, political subdivision, district, institution, or agency 1012
resubmits the project for bidding, each bidder whose bid was 1013
accepted but who failed or refused to enter into a proper 1014
contract, except as provided in division (G) of this section, is 1015
liable for an equal share of a penal sum in connection with the 1016
resubmission, of printing new contract documents, required 1017

advertising, and printing and mailing notices to prospective 1018
 bidders, but no bidder's liability shall exceed the amount of the 1019
 bidder's bid guaranty. 1020

(F) All bid guaranties filed pursuant to this section shall 1021
 be payable to the state, political subdivision, district, 1022
 institution, or agency, be for the benefit of the state, political 1023
 subdivision, district, institution, or agency or any person having 1024
 a right of action thereon, and be deposited with, and held by, the 1025
 board, officer, or agent contracting on behalf of the state, 1026
 political subdivision, district, institution, or agency. All bonds 1027
 filed pursuant to this section shall be issued by a surety company 1028
 authorized to do business in this state as surety approved by the 1029
 board, officer, or agent awarding the contract on behalf of the 1030
 state, political subdivision, district, institution, or agency. 1031

(G) A bidder for a contract with the state or any political 1032
 subdivision, district, institution, or other agency thereof, 1033
 excluding therefrom the Ohio department of transportation, for a 1034
 public improvement costing less than one-half million dollars may 1035
 withdraw the bid from consideration if the bidder's bid for some 1036
 other contract with the state or any political subdivision, 1037
 district, institution, or other agency thereof, excluding 1038
 therefrom the department of transportation, for the public 1039
 improvement costing less than one-half million dollars has already 1040
 been accepted, if the bidder certifies in good faith that the 1041
 total amount of all the bidder's current contracts is less than 1042
 one-half million dollars, and if the surety certifies in good 1043
 faith that the bidder is unable to perform the subsequent contract 1044
 because to do so would exceed the bidder's bonding capacity. If a 1045
 bid is withdrawn under authority of this division, the contracting 1046
 authority may award the contract to the next lowest bidder or 1047
 reject all bids and resubmit the project for bidding, and neither 1048

the bidder nor the surety on the bidder's bond are liable for the
 difference between the bidder's bid and that of the next lowest
 bidder, for a penal sum, or for the costs of printing new contract
 documents, required advertising, and printing and mailing notices
 to prospective bidders.

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(H) Bid guaranties filed pursuant to division (A) of this
 section shall be returned to all unsuccessful bidders immediately
 after the contract is executed. The bid guaranty filed pursuant to
 division (A) (2) of this section shall be returned to the
 successful bidder upon filing of the bond required in division (C)
 of this section.

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(I) For the purposes of this section, "next lowest bidder"
 means, in the case of a political subdivision that has adopted the
 model Ohio and United States preference requirements promulgated
 pursuant to division (E) of section 125.11 of the Revised Code,
 the next lowest bidder that qualifies under those preference
 requirements.

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(J) For the purposes of this section and sections 153.56,
 153.57, and 153.571 of the Revised Code, "public improvement,"
 "subcontractor," "material supplier," "laborer," and "materials"
 have the same meanings as in section 1311.25 of the Revised Code.

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Sec. 153.55. (A) As used in this section, "public improvement
 project" means any construction, reconstruction, improvement,
 enlargement, alteration, demolition, engineering, or repair of a
 building, highway, drainage system, water system, road, street,
 alley, sewer, ditch, sewage disposal plant, water works, bridge,
 culvert, or any other structure or work of any nature by a public
 authority or public owner.

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(B) For purposes of calculating the amount of a project to
 determine whether it is subject to sections 153.01, 153.50,

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153.51, and 153.52 of the Revised Code, no officer, board, or 1079
other authority of the state, a county, township, municipal 1080
corporation, school district, or other political subdivision, or 1081
any public institution belonging thereto, shall subdivide a public 1082
improvement project into component parts or separate projects in 1083
order to avoid the thresholds of those sections, unless the 1084
component parts or separate projects thus created are conceptually 1085
separate and unrelated to each other, or encompass independent or 1086
unrelated needs. 1087

(C) In calculating the project amounts for purposes of the 1088
thresholds in sections 153.01, 153.50, 153.51, and 153.52 of the 1089
Revised Code, the following expenses shall be included as costs of 1090
the project: 1091

(1) Professional fees and expenses for services associated 1092
with the preparation of plans; 1093

(2) Permit costs, testing costs, and other fees associated 1094
with the work; 1095

(3) Project construction costs; 1096

(4) A contingency reserve fund. 1097

Sec. 153.56. (A) Any person to whom any money is due for 1098
labor or work performed or materials furnished in a public 1099
improvement as provided in section 153.54 of the Revised Code, at 1100
any time after performing the labor or work or furnishing the 1101
materials, but not later than ninety days after the completion of 1102
the contract by the principal contractor or design-build firm and 1103
the acceptance of the public improvement for which the bond was 1104
provided by the duly authorized board or officer, shall furnish 1105
the sureties on the bond, a statement of the amount due to the 1106
person. 1107

(B) A suit shall not be brought against sureties on the bond 1108
 until after sixty days after the furnishing of the statement 1109
 described in division (A) of this section. If the indebtedness is 1110
 not paid in full at the expiration of that sixty days, and if the 1111
 person complies with division (C) of this section, the person may 1112
 bring an action in the person's own name upon the bond, as 1113
 provided in sections 2307.06 and 2307.07 of the Revised Code, that 1114
 action to be commenced, notwithstanding section 2305.12 of the 1115
 Revised Code, not later than one year from the date of acceptance 1116
 of the public improvement for which the bond was provided. 1117

(C) To exercise rights under this section, a subcontractor or 1118
 materials supplier supplying labor or materials that cost more 1119
 than thirty thousand dollars, who is not in direct privity of 1120
 contract with the principal contractor or design-build firm for 1121
 the public improvement, shall serve a notice of furnishing upon 1122
 the principal contractor or design-build firm in the form provided 1123
 in section 1311.261 of the Revised Code. 1124

(D) A subcontractor or materials supplier who serves a notice 1125
 of furnishing under division (C) of this section as required to 1126
 exercise rights under this section has the right of recovery only 1127
 as to amounts owed for labor and work performed and materials 1128
 furnished during and after the twenty-one days immediately 1129
 preceding service of the notice of furnishing. 1130

(E) For purposes of this section, ~~"principal:~~ 1131

(1) "Design-build firm" has the same meaning as in section 1132
153.65 of the Revised Code. 1133

(2) "Principal contractor" has the same meaning as in section 1134
1311.25 of the Revised Code, and may include a "construction 1135
manager" and a "construction manager at risk" as defined in 1136
section 9.33 of the Revised Code. 1137

Sec. 153.581. As used in sections 153.581 and 153.591 of the Revised Code: 1138
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(A) "Public works contract" means any contract awarded by a contracting authority for the construction, engineering, alteration, or repair of any public building, public highway, or other public work. 1140
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(B) "Contracting authority" means the state, any township, county, municipal corporation, school board, or other governmental entity empowered to award a public works contract, and any construction manager at risk as defined in section 9.33 of the Revised Code or design-build firm as defined in section 153.65 of the Revised Code awarding a subcontract. 1144
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(C) "Contractor" means any person, partnership, corporation, or association that has been awarded a public works contract. 1150
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Sec. 153.65. As used in sections 153.65 to ~~153.71~~ 153.73 of the Revised Code: 1152
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(A) ~~"Public~~ (1) Except as otherwise provided in division (A)(2) of this section, "public authority" means the state, a county, township, municipal corporation, school district, or other political subdivision, or any public agency, authority, board, commission, instrumentality, or special district of the state or a county, township, municipal corporation, school district, or other political subdivision. 1154
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(2) In the context of a contract for design-build services, "public authority" means a state agency, state institution of higher education, or county. 1161
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(B) "Professional design firm" means any person legally engaged in rendering professional design services. 1164
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(C) "Professional design services" means services within the 1166
 scope of practice of an architect or landscape architect 1167
 registered under Chapter 4703. of the Revised Code or a 1168
 professional engineer or surveyor registered under Chapter 4733. 1169
 of the Revised Code. 1170

(D) "Qualifications" means all of the following: 1171

(1) ~~Competence of the~~ (a) For a professional design firm, 1172
competence to perform the required professional design services as 1173
 indicated by the technical training, education, and experience of 1174
 the firm's personnel, especially the technical training, 1175
 education, and experience of the employees within the firm who 1176
 would be assigned to perform the services; 1177

(b) For a design-build firm, competence to perform the 1178
required design-build services as indicated by the technical 1179
training, education, and experience of the design-build firm's 1180
personnel and key consultants, especially the technical training, 1181
education, and experience of the employees and consultants of the 1182
design-build firm who would be assigned to perform the services, 1183
including the proposed architect of record. 1184

(2) Ability of the firm in terms of its workload and the 1185
 availability of qualified personnel, equipment, and facilities to 1186
 perform the required professional design services or design-build 1187
services competently and expeditiously; 1188

(3) Past performance of the firm as reflected by the 1189
 evaluations of previous clients with respect to such factors as 1190
 control of costs, quality of work, and meeting of deadlines; 1191

(4) Any other relevant factors as determined by the public 1192
 authority; 1193

(5) With respect to a design-build firm, compliance with 1194
sections 4703.182, 4703.332, and 4733.16 of the Revised Code, 1195

including the use of a licensed professional for all design services. 1196
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(E) "Design-build firm" means a person capable of providing design-build services. 1198
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(F) "Design-build services" means services that form an integrated delivery system for which a person is responsible to a public authority for both the design and construction, demolition, alteration, repair, or reconstruction of a public improvement. 1200
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(G) "Architect of record" means the architect that serves as the final signatory on the plans and specifications for the design-build project. 1204
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(H) "Criteria architect or engineer" means the architect or engineer retained by a public authority to prepare conceptual plans and specifications, to assist the public authority in connection with the establishment of the design criteria for a design-build project, and, if requested by the public authority, to serve as the representative of the public authority and provide, during the design-build project, other design and construction administration services on behalf of the public authority, including but not limited to, confirming that the design prepared by the design-build firm reflects the original design intent established in the design criteria package. 1207
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(I) "Open book pricing method" means a method in which a design-build firm provides the public authority, at the public authority's request, all books, records, documents, and other data in its possession pertaining to the bidding, pricing, or performance of a contract for design-build services awarded to the design-build firm. 1218
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(J) "State agency" means every organized body, office, or agency established by the laws of the state for the exercise of 1224
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<u>any function of state government, except the Ohio turnpike</u>	1226
<u>commission and any special purpose district of the state.</u>	1227
<u>(K) "State institution of higher education" has the same</u>	1228
<u>meaning as in section 3345.011 of the Revised Code.</u>	1229
Sec. 153.66. (A) Each public authority planning to contract	1230
for professional design services <u>or design-build services</u> shall	1231
encourage professional design firms <u>and design-build firms</u> to	1232
submit a statement of qualifications and update the statements at	1233
regular intervals.	1234
<u>(B) Notwithstanding any contrary requirements in sections</u>	1235
<u>153.65 to 153.70 of the Revised Code, for every design-build</u>	1236
<u>contract, each public authority planning to contract for</u>	1237
<u>design-build services shall evaluate the statements of</u>	1238
<u>qualifications submitted by design-build firms for the project,</u>	1239
<u>including the qualifications of the design-build firm's proposed</u>	1240
<u>architect of record, in consultation with the criteria architect</u>	1241
<u>or engineer before selecting a design-build firm pursuant to</u>	1242
<u>section 153.693 of the Revised Code.</u>	1243
Sec. 153.67. Each public authority planning to contract for	1244
professional design services <u>or design-build services</u> shall	1245
publicly announce all contracts available from it for such	1246
services. The announcements shall:	1247
(A) Be made in a uniform and consistent manner and shall be	1248
made sufficiently in advance of the time that responses must be	1249
received from qualified professional design firms <u>or design-build</u>	1250
<u>firms</u> for the firms to have an adequate opportunity to submit a	1251
statement of interest in the project;	1252
(B) Include a general description of the project, a statement	1253
of the specific professional design services <u>or design-build</u>	1254

services required, and a description of the qualifications 1255
required for the project; 1256

(C) Indicate how qualified professional design firms or 1257
design-build firms may submit statements of qualifications in 1258
order to be considered for a contract to design or design-build 1259
the project; 1260

(D) Be sent to ~~either of~~ the following: 1261

(1) ~~Each professional design firm that has a current~~ 1262
~~statement of qualifications on file with the public authority and~~ 1263
~~is qualified to perform the required professional design services~~ 1264
Design-build firms, including contractors or other entities that 1265
seek to perform the work as a design-build firm; 1266

(2) Architect, landscape architect, engineer, and surveyor 1267
~~trade~~ associations, the news media, and any publications or other 1268
public media that the public authority considers appropriate. 1269

Sec. 153.69. For every professional design services contract, 1270
each public authority planning to contract for professional design 1271
services shall evaluate the statements of qualifications ~~of~~ 1272
~~professional design firms currently on file, together with those~~ 1273
~~that are~~ submitted by ~~other~~ professional design firms specifically 1274
regarding the project, and may hold discussions with individual 1275
firms to explore further the firms' statements of qualifications, 1276
the scope and nature of the services the firms would provide, and 1277
the various technical approaches the firms may take toward the 1278
project. Following this evaluation, the public authority shall: 1279

(A) Select and rank no fewer than three firms which it 1281
considers to be the most qualified to provide the required 1282
professional design services, except when the public authority 1283
determines in writing that fewer than three qualified firms are 1284

available in which case the public authority shall select and rank those firms;

(B) Negotiate a contract with the firm ranked most qualified to perform the required services at a compensation determined in writing to be fair and reasonable to the public authority. Contract negotiations shall be directed toward:

(1) Ensuring that the professional design firm and the agency have a mutual understanding of the essential requirements involved in providing the required services;

(2) Determining that the firm will make available the necessary personnel, equipment, and facilities to perform the services within the required time;

(3) Agreeing upon compensation which is fair and reasonable, taking into account the estimated value, scope, complexity, and nature of the services.

(C) If a contract is negotiated with the firm ranked to perform the required services most qualified, the public authority shall, if applicable under section 127.16 of the Revised Code, request approval of the board to make expenditures under the contract.

(D) Upon failure to negotiate a contract with the firm ranked most qualified, the public authority shall inform the firm in writing of the termination of negotiations and enter into negotiations with the firm ranked next most qualified. If negotiations again fail, the same procedure shall be followed with each next most qualified firm selected and ranked pursuant to division (A) of this section, in order of ranking, until a contract is negotiated.

(E) Should the public authority fail to negotiate a contract with any of the firms selected pursuant to division (A) of this

section, the public authority shall select and rank additional
firms, based on their qualifications, and negotiations shall
continue as with the firms selected and ranked initially until a
contract is negotiated.

Sec. 153.692. For every design-build contract, the public
authority planning to contract for design-build services shall
first obtain the services of a criteria architect or engineer by
doing either of the following:

(A) Contracting for the services consistent with sections
153.65 to 153.70 of the Revised Code;

(B) Obtaining the services through an architect or engineer
who is an employee of the public authority and notifying the
department of administrative services before the services are
performed.

Sec. 153.693. (A) For every design-build contract, the public
authority planning to contract for design-build services, in
consultation with the criteria architect or engineer, shall
evaluate the statements of qualifications submitted by
design-build firms specifically regarding the project, including
the design-build firm's proposed architect of record. Following
this evaluation, the public authority shall:

(1) Select and rank not fewer than three firms which it
considers to be the most qualified to provide the required
design-build services, except that the public authority shall
select and rank fewer than three firms when the public authority
determines in writing that fewer than three qualified firms are
available;

(2) Provide each selected design-build firm with all of the
following:

<u>(a) A description of the project and project delivery;</u>	1344
<u>(b) The design criteria produced by the criteria architect or engineer under section 153.692 of the Revised Code;</u>	1345 1346
<u>(c) A preliminary project schedule;</u>	1347
<u>(d) A description of any preconstruction services;</u>	1348
<u>(e) A description of the proposed design services;</u>	1349
<u>(f) A description of a guaranteed maximum price, including the estimated level of design on which such guaranteed maximum price is based;</u>	1350 1351 1352
<u>(g) The form of the design-build services contract;</u>	1353
<u>(h) A request for a fee proposal that shall be divided into a design services fee and a preconstruction and design-build services fee;</u>	1354 1355 1356
<u>(i) A request for a pricing proposal that shall include at least all of the following:</u>	1357 1358
<u>(i) A list of key personnel and consultants for the project and the design-build firm's staffing chart;</u>	1359 1360
<u>(ii) Design concepts adhering to the design criteria produced by the criteria architect or engineer under section 153.692 of the Revised Code;</u>	1361 1362 1363
<u>(iii) The design-build firm's statement of general conditions and estimated contingency requirements;</u>	1364 1365
<u>(iv) A preliminary project schedule;</u>	1366
<u>(v) The design-build firm's fee proposal requested under division (A)(2)(h) of this section.</u>	1367 1368
<u>(3) Evaluate the pricing proposal submitted by each selected firm and may hold discussions with each firm to further investigate its pricing proposal, including the scope and nature</u>	1369 1370 1371

<u>of the firm's proposed services and potential technical</u>	1372
<u>approaches;</u>	1373
<u>(4) Rank the selected firms based on the public authority's</u>	1374
<u>evaluation of the value of each firm's pricing proposal, with such</u>	1375
<u>evaluation considering each firm's proposed costs and</u>	1376
<u>qualifications;</u>	1377
<u>(5) Enter into contract negotiations for design-build</u>	1378
<u>services with the design-build firm whose pricing proposal the</u>	1379
<u>public authority determines to be the best value under this</u>	1380
<u>section. Contract negotiations shall be directed toward:</u>	1381
<u>(a) Ensuring that the design-build firm and the public</u>	1382
<u>authority mutually understand the essential requirements involved</u>	1383
<u>in providing the required design-build services, including the</u>	1384
<u>awarding of subcontracts under section 153.501 of the Revised</u>	1385
<u>Code, the provisions for the use of contingency funds, and the</u>	1386
<u>terms of the contract, including terms related to the possible</u>	1387
<u>distribution of savings in the final costs of the project;</u>	1388
<u>(b) Ensuring that the design-build firm shall be able to</u>	1389
<u>provide the necessary personnel, equipment, and facilities to</u>	1390
<u>perform the design-build services within the time required by the</u>	1391
<u>design-build construction contract;</u>	1392
<u>(c) Agreeing upon a procedure and schedule for determining a</u>	1393
<u>guaranteed maximum price using an open book pricing method that</u>	1394
<u>shall represent the total maximum amount to be paid by the public</u>	1395
<u>authority to the design-build firm for the project and that shall</u>	1396
<u>include the costs of all work, the cost of its general conditions,</u>	1397
<u>the contingency, and the fee payable to the design-build firm.</u>	1398
<u>(B) If the public authority fails to negotiate a contract</u>	1399
<u>with the design-build firm whose pricing proposal the public</u>	1400
<u>authority determines to be the best value as determined under this</u>	1401

<u>section, the public authority shall do the following:</u>	1402
<u>(1) Inform the design-build firm in writing of the</u>	1403
<u>termination of negotiations;</u>	1404
<u>(2) Negotiate a contract with a design-build firm ranked next</u>	1405
<u>highest under this section following the negotiation procedure</u>	1406
<u>described in this section;</u>	1407
<u>(3) If negotiations fail with the design-build firm under</u>	1408
<u>division (B)(2) of this section, negotiate a contract with the</u>	1409
<u>design-build firm ranked next highest under this section following</u>	1410
<u>the negotiation procedure described in this section and continue</u>	1411
<u>negotiating with the design-build firms selected under this</u>	1412
<u>section in the order of their ranking until a contract is</u>	1413
<u>negotiated.</u>	1414
<u>(C) If the public authority fails to negotiate a contract</u>	1415
<u>with a design-build firm whose pricing proposal the public</u>	1416
<u>authority determines to be the best value as determined under this</u>	1417
<u>section, it may select additional design-build firms to provide</u>	1418
<u>pricing proposals to the public authority pursuant to this section</u>	1419
<u>or may select an alternative delivery method for the project.</u>	1420
<u>(D) The public authority may provide a stipend for pricing</u>	1421
<u>proposals received from design-build firms.</u>	1422
<u>Sec. 153.694. If a professional design firm selected as the</u>	1423
<u>criteria architect or engineer creates the preliminary criteria</u>	1424
<u>and design criteria for a project and provides professional design</u>	1425
<u>services to a public authority to assist that public authority in</u>	1426
<u>evaluating the design-build requirements provided to the public</u>	1427
<u>authority by a design-build firm pursuant to section 153.692 of</u>	1428
<u>the Revised Code, that professional design firm shall not provide</u>	1429
<u>any design-build services pursuant to a design-build construction</u>	1430
<u>contract under section 153.693 of the Revised Code.</u>	1431

Sec. 153.70. (A) Except for any person providing professional design services of a research or training nature, any person rendering professional design services to a public authority or to a design-build firm, including a criteria architect or engineer and person performing architect of record services, shall have and maintain, or be covered by, during the period the services are rendered, a professional liability insurance policy or policies with a company or companies that are authorized to do business in this state and that afford professional liability coverage for the professional design services rendered. The insurance shall be in amount considered sufficient by the public authority. At the public authority's discretion, the design-build firm shall carry contractor's professional liability insurance and any other insurance the public authority deems appropriate.

(B) The requirement for professional liability insurance set forth in division (A) of this section may be waived by the public authority for good cause, or the public authority may allow the person providing the professional design services to provide other assurances of financial responsibility.

(C) Before construction begins pursuant to a contract for design-build services with a design-build firm, the design-build firm shall provide a surety bond to the public authority in accordance with rules adopted by the director of administrative services under Chapter 119. of the Revised Code.

Sec. 153.71. Any public authority planning to contract for professional design services or design-build services may adopt, amend, or rescind rules, in accordance with Chapter 119. of the Revised Code, to implement sections 153.66 to 153.70 of the Revised Code. Sections 153.66 to 153.70 do not apply to any of the

following: 1462

(A) Any project with an estimated professional design fee of 1463
less than twenty-five thousand dollars; 1464

(B) Any project determined in writing by the public authority 1465
head to be an emergency requiring immediate action including, but 1466
not limited to, any projects requiring multiple contracts let as 1467
part of a program requiring a large number of professional design 1468
firms of the same type; 1469

(C) Any public authority that is not empowered by law to 1470
contract for professional design services. 1471

Sec. 153.72. A design-build firm contracted for design-build 1472
services by a public authority may do any of the following: 1473

(A) Perform design, construction, demolition, alteration, 1474
repair, or reconstruction work pursuant to such contract; 1475

(B) Approve bidders and award subcontracts pursuant to 1476
section 153.501 of the Revised Code; 1477

(C) Perform professional design services when contracted by a 1478
public authority for design-build services even if the 1479
design-build firm is not a professional design firm." 1480

In line 53869, delete "(3)" and insert "(4)" 1481

Between lines 63539 and 63540, insert: 1482

"Sec. 3318.111. For a contract for the construction of a 1483
project using assistance provided under this chapter, a school 1484
district board, with the approval of the Ohio school facilities 1485
commission, may enter into a contract with a construction manager 1486
at risk pursuant to section 9.334 of the Revised Code or a 1487
design-build firm pursuant to section 153.693 of the Revised Code, 1488
or a contract for the work described in division (B)(2) of section 1489

153.52 of the Revised Code, provided that any such contract 1490
entered into by the school district adheres to all applicable 1491
requirements imposed on such a contract pursuant to sections 9.33 1492
to 9.335 and Chapter 153. of the Revised Code." 1493

In line 68296, delete "9.336" and insert "9.335" 1494

In line 68440, delete everything after the comma 1495

Delete line 68441 1496

In line 68442, delete everything before "the" 1497

In line 68549, delete everything after the comma 1498

Delete line 68550 1499

In line 68551, delete everything before "the" 1500

In line 114711, delete "9.336" and insert "9.335" 1501

In line 130241, reinsert "(D)"; delete "(E)" 1502

In line 130988, delete "9.312," 1503

In line 145448, delete everything after "701.10." and insert 1504
"(A) Prior to the implementation of the rules under section 1505
153.503 of the Revised Code, a public owner or public authority 1506
contracting for services with a construction manager at risk or a 1507
design-build firm shall require the construction manager at risk 1508
or design-build firm to advertise the work scopes listed in 1509
division (A) of section 153.501 of the Revised Code and announce 1510
procedures for bidders seeking approval on subcontracts awarded 1511
under section 153.501 of the Revised Code. 1512

(B) Prior to the implementation of those rules, a subcontract 1513
awarded under section 153.501 of the Revised Code shall be to the 1514
lowest responsive bidder. 1515

(C) With respect to a general contract awarded for 1516
six-hundred thousand dollars or less, prior to the implementation 1517

of those rules, a bidder for any contract awarded under division 1518
(B) (2) of section 153.52 of the Revised Code shall do both of the 1519
following: 1520

(1) Solicit at least two bids for applicable subcontracts 1521
listed in division (B) of section 153.50 of the Revised Code; 1522

(2) List the selected bidder for each of the applicable 1523
subcontracts listed in division (B) of section 153.50 of the 1524
Revised Code. 1525

(D) Prior to the implementation of the rules under section 1526
153.503 of the Revised Code, a contract for the work described in 1527
division (B) (2) of section 153.52 of the Revised Code shall be 1528
awarded as follows: 1529

(1) To the lowest responsive and responsible bidder in the 1530
public authority's discretion in accordance with section 9.312 of 1531
the Revised Code when the public authority is a state agency or 1532
state institution of higher education; 1533

(2) To the lowest and best separate bidder in the public 1534
authority's discretion when the public authority is a county; 1535

(3) To the lowest responsible bidder in the case of a school 1536
district. 1537

(E) Prior to the implementation of the rules under section 1538
153.503 of the Revised Code, a contract for the work described in 1539
division (B) (2) of section 153.52 of the Revised Code shall be 1540
made directly with the bidder in the manner and upon the terms, 1541
conditions, and applicable limitations related to providing bonds 1542
or bid guaranties otherwise prescribed by law." 1543

Delete lines 145449 through 145454 1544

In line 145461, delete "The" and insert "Except as provided 1545
in division (C) of this section, the"; delete "9.312," 1546

In line 145462, delete "9.336," 1547

In line 145464, after "153.504," insert "153.505," 1548

In line 145465, delete "153.57," 1549

In line 145466, delete "153.695,"; after "3313.46," insert 1550
 "3318.111," 1551

Between lines 145472 and 145473, insert: 1552

"(C) The provisions of the sections listed in division (B) of 1553
 this section that are amended or enacted by this act that apply 1554
 the provisions of section 7.16 of the Revised Code, as enacted by 1555
 this act, are not subject to the delayed application provisions of 1556
 that division." 1557

In line 2 of the title, delete "9.312," 1558

In line 294 of the title, delete "9.336," 1559

In line 300 of the title, after "153.504," insert "153.505," 1560

In line 301 of the title, delete "153.695," 1561

In line 316 of the title, after "3318.054," insert 1562
 "3318.111," 1563

The motion was _____ agreed to.

SYNOPSIS

Construction Reform 1564

R.C. 9.33, 9.331, 9.332, 9.333, 9.334, 9.335, 123.011, 1565
 126.141, 153.01, 153.012, 153.03, 153.07, 153.08, 153.50, 153.501, 1566
 153.502, 153.503, 153.504, 153.505, 153.51, 153.52, 153.53, 1567
 153.54, 153.55, 153.56, 153.581, 153.65, 153.66, 153.67, 153.69, 1568
 153.692, 153.693, 153.694, 153.70, 153.71, 153.72, 153.73, 153.80, 1569

3313.46, 3318.111, 3353.04, 3354.16, 3357.16, 4113.61, 5540.03,	1570
and 6115.20; R.C. 9.312, 9.336, and 153.695 (removed from the	1571
bill); Sections 701.10 and 701.13	1572
Makes revisions to the bill's construction reforms, including	1573
with respect to the following:	1574
(1) Restricts the use of the bill's alternative construction	1575
delivery methods (that is, CMARs and D/B firms) to state agencies	1576
(other than the Ohio Turnpike Commission and any special purpose	1577
district of the state), state institutions of higher education,	1578
counties, and school districts utilizing assistance provided by	1579
the School Facilities Commission (hereinafter referred to as	1580
"public entities");	1581
(2) Does not require that these public entities be certified	1582
by the State Architect in order to use the alternative	1583
construction delivery methods;	1584
(3) For these public entities, increases the minimum project	1585
cost threshold for the required use of multiple-prime contracting	1586
from \$50,000 to \$600,000 and the minimum cost threshold for a	1587
single MEP branch or class for work from \$5,000 to \$20,000;	1588
(4) For these public entities, permits the use of a general	1589
contractor as the sole prime contractor if the cost of the project	1590
is \$600,000 or less;	1591
(5) For these public entities (other than counties or school	1592
districts), increases the project cost threshold that requires the	1593
use of competitive bidding from \$50,000 to \$200,000;	1594
(6) Requires CMARs and D/B firms to receive separate bids and	1595
award separate subcontracts for MEPs;	1596
(7) Does not authorize the use of design-assist;	1597
(8) Removes the changes made by the bill with respect to	1598

factors that may be considered when determining the lowest
responsible and responsive bidder.

1599

1600

Sub. H.B. 153
As Pending in S. Finance
LSC 129 1066-6
SC-4181-2

_____ moved to amend as follows:

- In line 525, after "4115.04," insert "4115.05,"; after "4115.101," insert "4115.13," 1
2
- In line 11109, after "(F)" delete the balance of the line 3
- In line 11110, delete "project." 4
- In line 81193, delete "three million five hundred"; strike through "thousand dollars adjusted" 5
6
- Strike through line 81194 7
- In line 81195, strike through "4115.034 of the Revised Code" and insert "the following amounts" 8
9
- In line 81197, strike through the semicolon and insert ":", 10
- (a) One hundred twenty-five thousand dollars, beginning on the effective date of this amendment and continuing for one year thereafter; 11
12
13
- (b) Two hundred thousand dollars, beginning when the time period described in division (B)(1)(a) of this section expires and continuing for one year thereafter; 14
15
16
- (c) Two hundred fifty thousand dollars, beginning when the time period described in division (B)(1)(b) of this section 17
18

<u>expires.</u> "	19
In line 81202, delete " <u>three million five hundred</u> "; strike through "thousand dollars"	20 21
In line 81203, strike through "adjusted biennially by the"; delete " <u>director</u> "; strike through "pursuant to"	22 23
In line 81204, strike through "section 4115.034 of the Revised Code" and insert " <u>the following amounts</u> "	24 25
In line 81206, delete ";" and insert ":	26
<u>(a) Thirty-eight thousand dollars, beginning on the effective date of this amendment and continuing for one year thereafter;</u>	27 28
<u>(b) Sixty thousand dollars, beginning when the time period described in division (B)(2)(a) of this section expires and continuing for one year thereafter;</u>	29 30 31
<u>(c) Seventy-five thousand dollars, beginning when the time period described in division (B)(2)(b) of this section expires."</u>	32 33
In line 81246, delete everything after the period	34
Delete lines 81247 through 81250	35
In line 81284, after "particular" insert " <u>contract for construction of a</u> "	36 37
In line 81287, strike through "a" and insert " <u>the</u> "; strike through "for construction of the public"	38 39
In line 81288, strike through "improvement"	40
In line 81290, strike through "mentioned" and insert " <u>described</u> "	41 42
In line 81292, strike through "mentioned" and insert " <u>described</u> "	43 44
In line 81298, strike through "mentioned" and insert	45

"described" 46

In line 81314, reinsert "divisions"; delete "division"; after 47
"~~(1)~~" insert "(3)"; reinsert "and"; after "~~(2)~~" insert "(4)" 48

In line 81384, delete everything after "(6)" 49

Delete lines 81385 and 81386 50

In line 81387, delete "(7)" 51

In line 81389, after "Code" insert ";" 52

(7) Any portion of a public improvement undertaken and 53
completed solely with labor donated by the individuals performing 54
the labor, by a labor organization and its members, or by a 55
contractor or subcontractor that donates all labor and materials 56
for that portion of the public improvement project" 57

Between lines 81392 and 81393, insert: 58

"Sec. 4115.05. The prevailing rate of wages to be paid for a 59
legal day's work, as prescribed in section 4115.04 of the Revised 60
Code, to laborers, workers, or mechanics upon public works shall 61
not be less at any time during the life of a contract for the 62
public work than the prevailing rate of wages then payable in the 63
same trade or occupation in the locality where such public work is 64
being performed, under collective bargaining agreements or 65
understandings, between employers and bona fide organizations of 66
labor in force at the date the contract for the public work, 67
relating to the trade or occupation, was made, and collective 68
bargaining agreements or understandings successor thereto. 69

Serving laborers, helpers, assistants and apprentices shall 70
not be classified as common labor and shall be paid not less at 71
any time during the life of a contract for the public work than 72
the prevailing rate of wages then payable for such labor in the 73
locality where the public work is being performed, under or as a 74

result of collective bargaining agreements or understandings 75
between employers and bona fide organizations of labor in force at 76
the date the contract for the public work, requiring the 77
employment of serving laborers, helpers, assistants, or 78
apprentices, was made, and collective bargaining agreements or 79
understandings successor thereto. 80

Apprentices will be permitted to work only under a bona fide 81
apprenticeship program if such program exists and is registered 82
with the Ohio apprenticeship council. 83

The allowable ratio of apprentices to skilled workers 84
permitted to work shall not be greater than the ratio allowed the 85
contractor or subcontractor in the collective bargaining agreement 86
or understanding referred to in this section under which the work 87
is being performed. A contractor, subcontractor, or public 88
authority that exceeds the permissible ratio of apprentices to 89
skilled workers by two or fewer apprentices for not more than two 90
days in any thirty-day period shall not be found in violation of 91
this provision with regard to that excess number of apprentices. 92

For purposes of establishing the prevailing rate of wages, a 93
labor organization that is a party to a collective bargaining 94
agreement, contract, or understanding, including any successor 95
agreement, contract, or understanding, that establishes wages for 96
a trade or occupation typically employed on public improvements 97
shall file with the director of commerce all relevant portions of 98
any such agreement, contract, or understanding to which the labor 99
organization is a party. The filing shall occur within ninety days 100
after the agreement, contract, or understanding is executed, 101
except that the relevant portion of any agreement, contract, or 102
understanding to which a labor organization is a party on the 103
effective date of this amendment shall be filed within ninety days 104
after the effective date of this amendment. The labor organization 105

shall certify under penalty of law that the portion of the 106
agreement, contract, or understanding filed under this section 107
contains, in full, all provisions of the agreement, contract, or 108
understanding concerning wages paid to persons and the apprentice 109
to skilled worker ratio under the agreement, contract, or 110
understanding. 111

In the event there is no such collective bargaining agreement 112
or understanding in the immediate locality, then the prevailing 113
rates of wages in the nearest locality in which such collective 114
bargaining agreements or understandings are in effect shall be the 115
prevailing rate of wages, in such locality, for the various 116
occupations covered by sections 4115.03 to 4115.16 of the Revised 117
Code. 118

The prevailing rate of wages to be paid for a legal day's 119
work, to laborers, workers, or mechanics, upon any material to be 120
used in or in connection with a public work, shall be not less 121
than the prevailing rate of wages payable for a day's work in the 122
same trade or occupation in the locality within the state where 123
such public work is being performed and where the material in its 124
final or completed form is to be situated, erected, or used. 125

Every contract for a public work shall contain a provision 126
that each laborer, worker, or mechanic, employed by such 127
contractor, subcontractor, or other person about or upon such 128
public work, shall be paid the prevailing rate of wages provided 129
in this section. 130

No contractor or subcontractor under a contract for a public 131
work shall sublet any of the work covered by such contract unless 132
specifically authorized to do so by the contract. 133

Where contracts are not awarded or construction undertaken 134
within ninety days from the date of the establishment of the 135
prevailing rate of wages, there shall be a redetermination of the 136

prevailing rate of wages before the contract is awarded. ~~Upon receipt from the director of commerce of a notice of a change in prevailing wage rates,~~ a public authority shall, within seven working days after ~~receipt thereof~~ receiving from the director a notice of a change in the prevailing wage rate, notify all affected contractors and subcontractors with whom the public authority has contracts for a public improvement of the changes and require the contractors to make the necessary adjustments in the prevailing wage rates.

If, upon receipt of the relevant portions of a collective bargaining agreement, contract, or understanding, the director determines that the prevailing wage rate has changed in the locality in which an ongoing project is being constructed, any change in that rate shall take effect two weeks after the director receives the relevant portions of the agreement, contract, or understanding showing that the prevailing wage rate has changed.

If the director determines that a contractor or subcontractor has violated sections 4115.03 to 4115.16 of the Revised Code because the public authority has not notified the contractor or subcontractor as required by this section, the public authority is liable for any back wages, fines, damages, court costs, and attorney's fees associated with the enforcement of said sections by the director for the period of time running until the public authority gives the required notice to the contractor or subcontractor.

On the occasion of the first pay date under a contract, the contractor or subcontractor shall furnish each employee not covered by a collective bargaining agreement or understanding between employers and bona fide organizations of labor with individual written notification of the job classification to which the employee is assigned, the prevailing wage determined to be

applicable to that classification, separated into the hourly rate
of pay and the fringe payments, and the identity of the prevailing
wage coordinator appointed by the public authority. The contractor
or subcontractor shall furnish the same notification to each
affected employee every time the job classification of the
employee is changed."

In line 81399, after "Code" insert ", as appropriate"

Between lines 81475 and 81476, insert:

"(G) No contractor or subcontractor shall be responsible for
the payment of the penalties provided in division (A) of this
section resulting from a violation of sections 4115.03 to 4115.16
of the Revised Code by its subcontractor, provided that the
contractor or subcontractor has made a good faith effort to ensure
that its subcontractor complied with the requirements of sections
4115.03 to 4115.16 of the Revised Code."

Between lines 81491 and 81492, insert:

"Sec. 4115.13. (A) Upon the director's own motion or within
five days of the filing of a properly completed complaint under
section 4115.10 or 4115.16 of the Revised Code, the director of
commerce, or a representative designated by the director, shall
investigate any alleged violation of sections 4115.03 to 4115.16
of the Revised Code.

(B) At the conclusion of the investigation, the director or a
designated representative shall make a ~~recommendation~~
determination as to whether the alleged violation was committed.
If the director or designated representative ~~recommends~~ determines
that the alleged violation was an intentional violation, the
director or designated representative shall give written notice by
certified mail of that ~~recommendation~~ determination to the
contractor, subcontractor, or officer of the contractor or

subcontractor which also shall state that the contractor, 198
subcontractor, or officer of the contractor or subcontractor may 199
file with the director an appeal of the ~~recommendation~~ 200
determination within thirty days after the date the notice was 201
received. If the contractor, subcontractor, or officer of the 202
contractor or subcontractor timely appeals the ~~recommendation~~ 203
determination, within sixty days of the filing of the appeal, the 204
director or designated representative shall schedule the appeal 205
for a hearing. If the contractor, subcontractor, or officer of the 206
contractor or subcontractor fails to timely appeal the 207
~~recommendation~~ determination, the director or designated 208
representative shall adopt the ~~recommendation~~ determination as a 209
finding of fact for purposes of division (D) of this section. The 210
director or designated representative, in the performance of any 211
duty or execution of any power prescribed by sections 4115.03 to 212
4115.16 of the Revised Code, may hold hearings, and such hearings 213
shall be held within the county in which the violation of sections 214
4115.03 to 4115.16 of the Revised Code is alleged to have been 215
committed, or in Franklin county, whichever county the person 216
alleged to have committed the violation chooses. For the purpose 217
of the hearing, the director may designate a hearing examiner who 218
shall, after notice to all interested parties, conduct a hearing 219
and make findings of fact and recommendations to the director. The 220
director shall make a decision, which shall be sent to the 221
affected parties. The director or designated representative may 222
make decisions, based upon findings of fact, as are found 223
necessary to enforce sections 4115.03 to 4115.16 of the Revised 224
Code. 225

(C) If any underpayment by a contractor or subcontractor was 226
the result of a misinterpretation of the statute, or an erroneous 227
preparation of the payroll documents, the director or designated 228
representative may make a decision ordering the employer to make 229

restitution to the employees, or on their behalf, the plans, 230
 funds, or programs for any type of fringe benefits described in 231
 the applicable wage determination. In accordance with the finding 232
 of the director that any underpayment was the result of a 233
 misinterpretation of the statute, or an erroneous preparation of 234
 the payroll documents, employers who make restitution are not 235
 subject to any further proceedings pursuant to sections 4115.03 to 236
 4115.16 of the Revised Code. 237

If a contractor's or subcontractor's underpayment to an 238
 employee is less than one thousand dollars, the contractor or 239
 subcontractor is not subject to any further proceedings under 240
 sections 4115.03 to 4115.16 of the Revised Code for that 241
 underpayment if the contractor or subcontractor makes full 242
 restitution to the affected employee. 243

(D) If the director or designated representative makes a 244
 decision, based upon findings of fact, that a contractor, 245
 subcontractor, or officer of a contractor or subcontractor has 246
 intentionally violated sections 4115.03 to 4115.16 of the Revised 247
 Code, the contractor, subcontractor, or officer of a contractor or 248
 subcontractor is prohibited from contracting directly or 249
 indirectly with any public authority for the construction of a 250
 public improvement or from performing any work on the same as 251
 provided in section 4115.133 of the Revised Code. A contractor, 252
 subcontractor, or officer of a contractor or subcontractor may 253
 appeal the decision, within sixty days after the decision, to the 254
 court of common pleas of the county in which the first hearing 255
 involving the violation was heard. If the contractor, 256
 subcontractor, or officer of a contractor or subcontractor does 257
 not timely appeal the ~~recommendation~~ determination of the director 258
 or designated representative under division (B) of this section, 259
 the contractor, subcontractor, or officer of a contractor or 260

subcontractor may appeal the findings of fact, within sixty days 261
 after the ~~recommendations~~ determinations are adopted as findings 262
 of fact, to the court of common pleas within the county in which 263
 the violation of sections 4115.03 to 4115.16 of the Revised Code 264
 is alleged to have been committed or in Franklin county, whichever 265
 county the person alleged to have committed the violation chooses. 266

(E) No appeal to the court from the decision of the director 267
 may be had by the contractor or subcontractor unless the 268
 contractor or subcontractor files a bond with the court in the 269
 amount of the restitution, conditioned upon payment should the 270
 decision of the director be upheld. 271

(F) No statement of a contractor, subcontractor, or officer 272
 of a contractor or subcontractor and no determination, 273
recommendation, or finding of fact issued under this section is 274
 admissible as evidence in a criminal action brought under this 275
 chapter against the contractor, subcontractor, or officer of a 276
 contractor or subcontractor. 277

(G) In determining whether a contractor, subcontractor, or 278
 officer of a contractor or subcontractor intentionally violated 279
 sections 4115.03 to 4115.16 of the Revised Code, the director may 280
 consider as evidence either of the following: 281

(1) The fact that the director, prior to the commission of 282
 the violation under consideration, issued notification to the 283
 contractor, subcontractor, or officer of a contractor or 284
 subcontractor of the same or a similar violation, provided that 285
 the commission of the same or a similar violation of sections 286
 4115.03 to 4115.16 of the Revised Code at a subsequent time does 287
 not create a presumption that the subsequent violation was 288
 intentional; 289

(2) The fact that, prior to the commission of the violation, 290
 the contractor, subcontractor, or officer of a contractor or 291

subcontractor used reasonable efforts to ascertain the correct 292
 interpretation of sections 4115.03 to 4115.16 of the Revised Code 293
 from the director or 4115.04 or 4115.131 of the Revised Code, 294
 provided that a violation is presumed not to be intentional where 295
 a contractor, subcontractor, or officer of a contractor or 296
 subcontractor complies with a decision the director or designated 297
 representative issues pursuant to a request made under section 298
 4115.131 of the Revised Code. 299

(H) As used in this section, "intentional violation" means a 300
 willful, knowing, or deliberate failure to comply with any 301
 provision of sections 4115.03 to 4115.16 of the Revised Code, and 302
 includes, but is not limited to, the following actions when 303
 conducted in the manner described in this division: 304

(1) An intentional failure to submit reports as required 305
 under division (C) of section 4115.071 of the Revised Code or 306
 knowingly submitting false or erroneous reports; 307

(2) An intentional misclassification of employees for the 308
 purpose of reducing wages; 309

(3) An intentional misclassification of employees as 310
 independent contractors or as apprentices; 311

(4) An intentional failure to pay the prevailing wage; 312

(5) An intentional failure to comply with the allowable ratio 313
 of apprentices to skilled workers as required under section 314
 4115.05 of the Revised Code and by rules adopted by the director 315
 pursuant to section 4115.12 of the Revised Code; 316

(6) Intentionally allowing an officer of a contractor or 317
 subcontractor who is known to be prohibited from contracting 318
 directly or indirectly with a public authority for the 319
 construction of a public improvement or from performing any work 320
 on the same pursuant to section 4115.133 of the Revised Code to 321

perform work on a public improvement." 322

In line 81493, after "a" insert "specific" 323

In line 81494, after "Code" insert "by a specific contractor
or subcontractor" 324
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In line 81494, after the period insert "The complaint shall
be in writing on a form furnished by the director and shall
include sufficient evidence to justify the complaint." 326
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In line 81495, after "a" insert "properly completed" 329

In line 81496, after the period insert "The director shall
not investigate any complaint filed under this section that fails
to allege a specific violation or that lacks sufficient evidence
to justify the complaint." 330
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In line 81500, after "If" insert "Except as otherwise
provided in this section, the director or the designated
representative shall conclude the investigation conducted under
section 4115.13 of the Revised Code and make a determination not
later than one hundred twenty days after the complaint is filed.
The director or the designated representative may take additional
time, of up to ninety days, to conclude the investigation and make
a determination if the parties to the complaint are given notice
of the extension before the initial one-hundred-twenty-day period
expires. The director or the designated representative may take
more time than that which is provided in this section to conclude
the investigation and make a determination if the director, or the
designated representative, and all parties to the complaint agree
to a different time frame." 334
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If"; reinsert the balance of the line 348

In line 81501, reinsert "complaint within"; after "filing" 349
insert "the time provided under this section"; reinsert the 350
balance of the line 351

Reinsert lines 81502 through 81521	352	
In line 81522, reinsert "(C)"	353	
In line 81523, reinsert "or action pursuant to"; delete " <u>under</u> "	354 355	
In line 81525, reinsert "The rules generally"	356	
Reinsert lines 81526 through 81538	357	
In line 131113, after "4115.04," insert "4115.05,"; after "4115.101," insert "4115.13,"	358 359	
In line 147677, after "4115.10" delete the balance of the line	360 361	
Delete lines 147677a and 147677b and insert:	362	
All amendments except as described in the right-hand column	The amendment in division (A) striking "penalty enforcement" and inserting " <u>labor operating</u> " and striking ", which is hereby created in the state treasury"	363
In line 171 of the title, after "4115.04," insert "4115.05,"; after "4115.101," insert "4115.13,"	364 365	

The motion was _____ agreed to.

SYNOPSIS

Prevailing Wage Threshold	366
R.C. 4115.03; conforming changes in R.C. 4115.034 and 4115.10	367
Lowers the substitute bill's statutory monetary threshold for determining when the Prevailing Wage Law applies to new construction on public improvements other than roads, sewers,	368 369 370

ditches, and other related works, from \$3.5 million to \$125,000 371
 for the first year after the effective date of the amendment; 372
 \$200,000 for the second year; and \$250,000 thereafter, with no 373
 biennial adjustments (as is required for the threshold under 374
 current law). 375

Lowers the substitute bill's statutory monetary threshold for 376
 determining when the Prevailing Wage Law applies to reconstruction 377
 on public improvements other than roads, sewers, ditches, and 378
 other related works, from \$3.5 million to \$38,000 for the first 379
 year after the effective date of the amendment; \$60,000 for the 380
 second year; and \$75,000 thereafter, with no biennial adjustments 381
 (as is required for the threshold under current law). 382

Projects Subject to the Prevailing Wage Law 383

R.C. 126.602, 4115.03, and 4115.04 384

Removes from the substitute bill language expressly excluding 385
 from the Prevailing Wage Law an improvement that is neither 386
 constructed by a public authority nor constructed for the benefit 387
 of a public authority, even when the improvement uses or receives 388
 financing, grants, or in-kind support from a public authority. 389

Removes an exception in the bill to the Prevailing Wage Law 390
 for a public improvement undertaken by, or under contract for, a 391
 state institution of higher education. 392

Removes an exception in the bill to the Prevailing Wage Law 393
 for certain highway services projects. 394

Exempts from the Prevailing Wage Law any portion of a public 395
 improvement that is undertaken and completed solely with donated 396
 labor. 397

**Interested Party Complaints Alleging a Violation of the 398
 Prevailing Wage Law 399**

R.C. 4115.03 and 4115.16; conforming change in R.C. 4115.13	400
Makes the following changes to the prevailing wage complaint procedure for interested parties:	401
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(1) Changes the definition of "interested party" so that contractors, subcontractors, labor organizations, and trade associations are interested parties only with respect to the particular public improvement contract with which they, or their members, are involved.	403
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(2) Requires all interested party complaints to allege a specific complaint, in writing, on a form furnished by the Director and to include sufficient evidence to justify the complaint;	408
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(3) Prohibits the Director of Commerce from investigating an interested party complaint that does not satisfy those requirements;	412
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(4) Restores the interested party's right to file a complaint in court regarding an alleged violation of the Prevailing Wage Law if the Director does not make a timely ruling on the merits of the complaint;	415
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(5) Increases the time in which the Director or the designated representative must conclude the investigation and make the necessary recommendation, from 60 days to 120 days, with up to a 90-day extension if the parties are given proper notice and a longer extension if agreed to by the parties; specifies that the Director make a determination, rather than a recommendation, concerning alleged violations of the Law.	419
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Apprentice to Skilled Worker Ratios under the Prevailing Wage Law	426
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R.C. 4115.05	428

Allows contractors, subcontractors, and public authorities to exceed the permissible ratio of apprentices to skilled workers by two or fewer apprentices for no more than two days in any 30-day period.

Prevailing Wage Rate

R.C. 4115.05

Requires labor organizations to file with the Director, for purposes of determining the prevailing wage rate, the relevant portions of any applicable collective bargaining agreement, contract, or understanding within 90 days after executing the agreement or within 90 days after the amendment's effective date if the agreement is in effect on the effective date of the amendment.

Requires those labor organizations also to certify under penalty of law that the portion of the agreement, contract, or understanding filed contains, in full, all provisions of the agreement, contract, or understanding concerning wages paid to persons and apprentice to skilled worker ratios under the agreement, contract, or understanding.

Specifies that any change in the prevailing wage rate on an ongoing project takes effect two weeks after the Director receives the relevant portion of any agreement, contract, or understanding showing that the prevailing wage rate has changed.

Liability for Failure to Comply with the Prevailing Wage Law

R.C. 4115.10 and 4115.13

Provides that no contractor or subcontractor shall be responsible for paying the penalties under the Prevailing Wage Law for its subcontractor's violation of the Law, if the contractor or subcontractor made a good faith effort to ensure that its subcontractor's compliance with the Law.

Exempts from further liability any contractor or	459
subcontractor whose underpayment to an employee is less than	460
\$1,000 if the contractor or subcontractor makes full restitution	461
to the affected employee.	462