

**As Introduced**

**130th General Assembly  
Regular Session  
2013-2014**

**H. B. No. 56**

**Representative Gerberry**

**Cosponsors: Representatives Foley, Strahorn, Stebelton, Mallory, Hagan, R.,  
Cera, Lundy, Rogers, Letson**

—

**A B I L L**

To amend section 5709.73 of the Revised Code to allow 1  
a board of township trustees to reduce the 2  
percentage or term of a property tax exemption 3  
granted to a business under a tax increment 4  
financing agreement if the business fails to 5  
create the number of new jobs the business agreed 6  
to create in the agreement. 7

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

**Section 1.** That section 5709.73 of the Revised Code be 8  
amended to read as follows: 9

**Sec. 5709.73.** (A) As used in this section and section 5709.74 10  
of the Revised Code: 11

(1) "Business day" means a day of the week excluding 12  
Saturday, Sunday, and a legal holiday as defined in section 1.14 13  
of the Revised Code. 14

(2) "Further improvements" or "improvements" means the 15  
increase in the assessed value of real property that would first 16  
appear on the tax list and duplicate of real and public utility 17  
property after the effective date of a resolution adopted under 18

this section were it not for the exemption granted by that 19  
resolution. For purposes of division (B) of this section, 20  
"improvements" do not include any property used or to be used for 21  
residential purposes. For this purpose, "property that is used or 22  
to be used for residential purposes" means property that, as 23  
improved, is used or to be used for purposes that would cause the 24  
tax commissioner to classify the property as residential property 25  
in accordance with rules adopted by the commissioner under section 26  
5713.041 of the Revised Code. 27

(3) "Housing renovation" means a project carried out for 28  
residential purposes. 29

(4) "Incentive district" has the same meaning as in section 30  
5709.40 of the Revised Code, except that a blighted area is in the 31  
unincorporated area of a township. 32

(5) "Project" and "public infrastructure improvement" have 33  
the same meanings as in section 5709.40 of the Revised Code. 34

(B) A board of township trustees may, by unanimous vote, 35  
adopt a resolution that declares to be a public purpose any public 36  
infrastructure improvements made that are necessary for the 37  
development of certain parcels of land located in the 38  
unincorporated area of the township. Except with the approval 39  
under division (D) of this section of the board of education of 40  
each city, local, or exempted village school district within which 41  
the improvements are located, the resolution may exempt from real 42  
property taxation not more than seventy-five per cent of further 43  
improvements to a parcel of land that directly benefits from the 44  
public infrastructure improvements, for a period of not more than 45  
ten years. The resolution shall specify the percentage of the 46  
further improvements to be exempted and the life of the exemption. 47

(C)(1) A board of township trustees may adopt, by unanimous 48  
vote, a resolution creating an incentive district and declaring 49

improvements to parcels within the district to be a public purpose 50  
and, except as provided in division (F) of this section, exempt 51  
from taxation as provided in this section, but no board of 52  
township trustees of a township that has a population that exceeds 53  
twenty-five thousand, as shown by the most recent federal 54  
decennial census, shall adopt a resolution that creates an 55  
incentive district if the sum of the taxable value of real 56  
property in the proposed district for the preceding tax year and 57  
the taxable value of all real property in the township that would 58  
have been taxable in the preceding year were it not for the fact 59  
that the property was in an existing incentive district and 60  
therefore exempt from taxation exceeds twenty-five per cent of the 61  
taxable value of real property in the township for the preceding 62  
tax year. The district shall be located within the unincorporated 63  
area of the township and shall not include any territory that is 64  
included within a district created under division (B) of section 65  
5709.78 of the Revised Code. The resolution shall delineate the 66  
boundary of the district and specifically identify each parcel 67  
within the district. A district may not include any parcel that is 68  
or has been exempted from taxation under division (B) of this 69  
section or that is or has been within another district created 70  
under this division. A resolution may create more than one 71  
district, and more than one resolution may be adopted under 72  
division (C)(1) of this section. 73

(2) Not later than thirty days prior to adopting a resolution 74  
under division (C)(1) of this section, if the township intends to 75  
apply for exemptions from taxation under section 5709.911 of the 76  
Revised Code on behalf of owners of real property located within 77  
the proposed incentive district, the board shall conduct a public 78  
hearing on the proposed resolution. Not later than thirty days 79  
prior to the public hearing, the board shall give notice of the 80  
public hearing and the proposed resolution by first class mail to 81  
every real property owner whose property is located within the 82

boundaries of the proposed incentive district that is the subject 83  
of the proposed resolution. 84

(3)(a) A resolution adopted under division (C)(1) of this 85  
section shall specify the life of the incentive district and the 86  
percentage of the improvements to be exempted, shall designate the 87  
public infrastructure improvements made, to be made, or in the 88  
process of being made, that benefit or serve, or, once made, will 89  
benefit or serve parcels in the district. The resolution also 90  
shall identify one or more specific projects being, or to be, 91  
undertaken in the district that place additional demand on the 92  
public infrastructure improvements designated in the resolution. 93  
The project identified may, but need not be, the project under 94  
division (C)(3)(b) of this section that places real property in 95  
use for commercial or industrial purposes. 96

A resolution adopted under division (C)(1) of this section on 97  
or after March 30, 2006, shall not designate police or fire 98  
equipment as public infrastructure improvements, and no service 99  
payment provided for in section 5709.74 of the Revised Code and 100  
received by the township under the resolution shall be used for 101  
police or fire equipment. 102

(b) A resolution adopted under division (C)(1) of this 103  
section may authorize the use of service payments provided for in 104  
section 5709.74 of the Revised Code for the purpose of housing 105  
renovations within the incentive district, provided that the 106  
resolution also designates public infrastructure improvements that 107  
benefit or serve the district, and that a project within the 108  
district places real property in use for commercial or industrial 109  
purposes. Service payments may be used to finance or support 110  
loans, deferred loans, and grants to persons for the purpose of 111  
housing renovations within the district. The resolution shall 112  
designate the parcels within the district that are eligible for 113  
housing renovations. The resolution shall state separately the 114

amount or the percentages of the expected aggregate service 115  
payments that are designated for each public infrastructure 116  
improvement and for the purpose of housing renovations. 117

(4) Except with the approval of the board of education of 118  
each city, local, or exempted village school district within the 119  
territory of which the incentive district is or will be located, 120  
and subject to division (E) of this section, the life of an 121  
incentive district shall not exceed ten years, and the percentage 122  
of improvements to be exempted shall not exceed seventy-five per 123  
cent. With approval of the board of education, the life of a 124  
district may be not more than thirty years, and the percentage of 125  
improvements to be exempted may be not more than one hundred per 126  
cent. The approval of a board of education shall be obtained in 127  
the manner provided in division (D) of this section. 128

(D) Improvements with respect to a parcel may be exempted 129  
from taxation under division (B) of this section, and improvements 130  
to parcels within an incentive district may be exempted from 131  
taxation under division (C) of this section, for up to ten years 132  
or, with the approval of the board of education of the city, 133  
local, or exempted village school district within which the parcel 134  
or district is located, for up to thirty years. The percentage of 135  
the improvements exempted from taxation may, with such approval, 136  
exceed seventy-five per cent, but shall not exceed one hundred per 137  
cent. Not later than forty-five business days prior to adopting a 138  
resolution under this section declaring improvements to be a 139  
public purpose that is subject to approval by a board of education 140  
under this division, the board of township trustees shall deliver 141  
to the board of education a notice stating its intent to adopt a 142  
resolution making that declaration. The notice regarding 143  
improvements with respect to a parcel under division (B) of this 144  
section shall identify the parcels for which improvements are to 145  
be exempted from taxation, provide an estimate of the true value 146

in money of the improvements, specify the period for which the 147  
improvements would be exempted from taxation and the percentage of 148  
the improvements that would be exempted, and indicate the date on 149  
which the board of township trustees intends to adopt the 150  
resolution. The notice regarding improvements made under division 151  
(C) of this section to parcels within an incentive district shall 152  
delineate the boundaries of the district, specifically identify 153  
each parcel within the district, identify each anticipated 154  
improvement in the district, provide an estimate of the true value 155  
in money of each such improvement, specify the life of the 156  
district and the percentage of improvements that would be 157  
exempted, and indicate the date on which the board of township 158  
trustees intends to adopt the resolution. The board of education, 159  
by resolution adopted by a majority of the board, may approve the 160  
exemption for the period or for the exemption percentage specified 161  
in the notice; may disapprove the exemption for the number of 162  
years in excess of ten, may disapprove the exemption for the 163  
percentage of the improvements to be exempted in excess of 164  
seventy-five per cent, or both; or may approve the exemption on 165  
the condition that the board of township trustees and the board of 166  
education negotiate an agreement providing for compensation to the 167  
school district equal in value to a percentage of the amount of 168  
taxes exempted in the eleventh and subsequent years of the 169  
exemption period or, in the case of exemption percentages in 170  
excess of seventy-five per cent, compensation equal in value to a 171  
percentage of the taxes that would be payable on the portion of 172  
the improvements in excess of seventy-five per cent were that 173  
portion to be subject to taxation, or other mutually agreeable 174  
compensation. 175

The board of education shall certify its resolution to the 176  
board of township trustees not later than fourteen days prior to 177  
the date the board of township trustees intends to adopt the 178  
resolution as indicated in the notice. If the board of education 179

and the board of township trustees negotiate a mutually acceptable 180  
compensation agreement, the resolution may declare the 181  
improvements a public purpose for the number of years specified in 182  
the resolution or, in the case of exemption percentages in excess 183  
of seventy-five per cent, for the exemption percentage specified 184  
in the resolution. In either case, if the board of education and 185  
the board of township trustees fail to negotiate a mutually 186  
acceptable compensation agreement, the resolution may declare the 187  
improvements a public purpose for not more than ten years, and 188  
shall not exempt more than seventy-five per cent of the 189  
improvements from taxation. If the board of education fails to 190  
certify a resolution to the board of township trustees within the 191  
time prescribed by this section, the board of township trustees 192  
thereupon may adopt the resolution and may declare the 193  
improvements a public purpose for up to thirty years or, in the 194  
case of exemption percentages proposed in excess of seventy-five 195  
per cent, for the exemption percentage specified in the 196  
resolution. The board of township trustees may adopt the 197  
resolution at any time after the board of education certifies its 198  
resolution approving the exemption to the board of township 199  
trustees, or, if the board of education approves the exemption on 200  
the condition that a mutually acceptable compensation agreement be 201  
negotiated, at any time after the compensation agreement is agreed 202  
to by the board of education and the board of township trustees. 203  
If a mutually acceptable compensation agreement is negotiated 204  
between the board of township trustees and the board of education, 205  
including agreements for payments in lieu of taxes under section 206  
5709.74 of the Revised Code, the board of township trustees shall 207  
compensate the joint vocational school district within which the 208  
parcel or district is located at the same rate and under the same 209  
terms received by the city, local, or exempted village school 210  
district. 211

If a board of education has adopted a resolution waiving its 212

right to approve exemptions from taxation under this section and 213  
the resolution remains in effect, approval of such exemptions by 214  
the board of education is not required under division (D) of this 215  
section. If a board of education has adopted a resolution allowing 216  
a board of township trustees to deliver the notice required under 217  
division (D) of this section fewer than forty-five business days 218  
prior to adoption of the resolution by the board of township 219  
trustees, the board of township trustees shall deliver the notice 220  
to the board of education not later than the number of days prior 221  
to the adoption as prescribed by the board of education in its 222  
resolution. If a board of education adopts a resolution waiving 223  
its right to approve exemptions or shortening the notification 224  
period, the board of education shall certify a copy of the 225  
resolution to the board of township trustees. If the board of 226  
education rescinds the resolution, it shall certify notice of the 227  
rescission to the board of township trustees. 228

If the board of township trustees is not required by division 229  
(D) of this section to notify the board of education of the board 230  
of township trustees' intent to declare improvements to be a 231  
public purpose, the board of township trustees shall comply with 232  
the notice requirements imposed under section 5709.83 of the 233  
Revised Code before taking formal action to adopt the resolution 234  
making that declaration, unless the board of education has adopted 235  
a resolution under that section waiving its right to receive the 236  
notice. 237

(E)(1) If a proposed resolution under division (C)(1) of this 238  
section exempts improvements with respect to a parcel within an 239  
incentive district for more than ten years, or the percentage of 240  
the improvement exempted from taxation exceeds seventy-five per 241  
cent, not later than forty-five business days prior to adopting 242  
the resolution the board of township trustees shall deliver to the 243  
board of county commissioners of the county within which the 244



incentive district is or will be located a notice that states its intent to adopt a resolution creating an incentive district. The notice shall include a copy of the proposed resolution, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period of time for which the improvements would be exempted from taxation, specify the percentage of the improvements that would be exempted from taxation, and indicate the date on which the board of township trustees intends to adopt the resolution.

(2) The board of county commissioners, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both. If the board of county commissioners objects, the board may negotiate a mutually acceptable compensation agreement with the board of township trustees. In no case shall the compensation provided to the board of county commissioners exceed the property taxes foregone due to the exemption. If the board of county commissioners objects, and the board of county commissioners and board of township trustees fail to negotiate a mutually acceptable compensation agreement, the resolution adopted under division (C)(1) of this section shall provide to the board of county commissioners compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the county or, if the board of county commissioner's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the county, on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of county commissioners shall certify its

resolution to the board of township trustees not later than thirty 278  
days after receipt of the notice. 279

(3) If the board of county commissioners does not object or 280  
fails to certify its resolution objecting to an exemption within 281  
thirty days after receipt of the notice, the board of township 282  
trustees may adopt its resolution, and no compensation shall be 283  
provided to the board of county commissioners. If the board of 284  
county commissioners timely certifies its resolution objecting to 285  
the trustees' resolution, the board of township trustees may adopt 286  
its resolution at any time after a mutually acceptable 287  
compensation agreement is agreed to by the board of county 288  
commissioners and the board of township trustees, or, if no 289  
compensation agreement is negotiated, at any time after the board 290  
of township trustees agrees in the proposed resolution to provide 291  
compensation to the board of county commissioners of fifty per 292  
cent of the taxes that would be payable to the county in the 293  
eleventh and subsequent years of the exemption period or on the 294  
portion of the improvement in excess of seventy-five per cent, 295  
were that portion to be subject to taxation. 296

(F) Service payments in lieu of taxes that are attributable 297  
to any amount by which the effective tax rate of either a renewal 298  
levy with an increase or a replacement levy exceeds the effective 299  
tax rate of the levy renewed or replaced, or that are attributable 300  
to an additional levy, for a levy authorized by the voters for any 301  
of the following purposes on or after January 1, 2006, and which 302  
are provided pursuant to a resolution creating an incentive 303  
district under division (C)(1) of this section that is adopted on 304  
or after January 1, 2006, shall be distributed to the appropriate 305  
taxing authority as required under division (C) of section 5709.74 306  
of the Revised Code in an amount equal to the amount of taxes from 307  
that additional levy or from the increase in the effective tax 308  
rate of such renewal or replacement levy that would have been 309

payable to that taxing authority from the following levies were it 310  
not for the exemption authorized under division (C) of this 311  
section: 312

(1) A tax levied under division (L) of section 5705.19 or 313  
section 5705.191 of the Revised Code for community mental 314  
retardation and developmental disabilities programs and services 315  
pursuant to Chapter 5126. of the Revised Code; 316

(2) A tax levied under division (Y) of section 5705.19 of the 317  
Revised Code for providing or maintaining senior citizens services 318  
or facilities; 319

(3) A tax levied under section 5705.22 of the Revised Code 320  
for county hospitals; 321

(4) A tax levied by a joint-county district or by a county 322  
under section 5705.19, 5705.191, or 5705.221 of the Revised Code 323  
for alcohol, drug addiction, and mental health services or 324  
families; 325

(5) A tax levied under section 5705.23 of the Revised Code 326  
for library purposes; 327

(6) A tax levied under section 5705.24 of the Revised Code 328  
for the support of children services and the placement and care of 329  
children; 330

(7) A tax levied under division (Z) of section 5705.19 of the 331  
Revised Code for the provision and maintenance of zoological park 332  
services and facilities under section 307.76 of the Revised Code; 333

(8) A tax levied under section 511.27 or division (H) of 334  
section 5705.19 of the Revised Code for the support of township 335  
park districts; 336

(9) A tax levied under division (A), (F), or (H) of section 337  
5705.19 of the Revised Code for parks and recreational purposes of 338  
a joint recreation district organized pursuant to division (B) of 339

section 755.14 of the Revised Code; 340

(10) A tax levied under section 1545.20 or 1545.21 of the 341  
Revised Code for park district purposes; 342

(11) A tax levied under section 5705.191 of the Revised Code 343  
for the purpose of making appropriations for public assistance; 344  
human or social services; public relief; public welfare; public 345  
health and hospitalization; and support of general hospitals; 346

(12) A tax levied under section 3709.29 of the Revised Code 347  
for a general health district program. 348

(G) An exemption from taxation granted under this section 349  
commences with the tax year specified in the resolution so long as 350  
the year specified in the resolution commences after the effective 351  
date of the resolution. If the resolution specifies a year 352  
commencing before the effective date of the resolution or 353  
specifies no year whatsoever, the exemption commences with the tax 354  
year in which an exempted improvement first appears on the tax 355  
list and duplicate of real and public utility property and that 356  
commences after the effective date of the resolution. Except as 357  
otherwise provided in this division, the exemption ends on the 358  
date specified in the resolution as the date the improvement 359  
ceases to be a public purpose or the incentive district expires, 360  
or ends on the date on which the public infrastructure 361  
improvements and housing renovations are paid in full from the 362  
township public improvement tax increment equivalent fund 363  
established under section 5709.75 of the Revised Code, whichever 364  
occurs first. The exemption of an improvement with respect to a 365  
parcel or within an incentive district may end on a later date, as 366  
specified in the resolution, if the board of township trustees and 367  
the board of education of the city, local, or exempted village 368  
school district within which the parcel or district is located 369  
have entered into a compensation agreement under section 5709.82 370  
of the Revised Code with respect to the improvement and the board 371

of education has approved the term of the exemption under division 372  
(D) of this section, but in no case shall the improvement be 373  
exempted from taxation for more than thirty years. The board of 374  
township trustees may, by majority vote, adopt a resolution 375  
permitting the township to enter into such agreements as the board 376  
finds necessary or appropriate to provide for the construction or 377  
undertaking of public infrastructure improvements and housing 378  
renovations. Any exemption shall be claimed and allowed in the 379  
same or a similar manner as in the case of other real property 380  
exemptions. If an exemption status changes during a tax year, the 381  
procedure for the apportionment of the taxes for that year is the 382  
same as in the case of other changes in tax exemption status 383  
during the year. 384

(H) The board of township trustees may issue the notes of the 385  
township to finance all costs pertaining to the construction or 386  
undertaking of public infrastructure improvements and housing 387  
renovations made pursuant to this section. The notes shall be 388  
signed by the board and attested by the signature of the township 389  
fiscal officer, shall bear interest not to exceed the rate 390  
provided in section 9.95 of the Revised Code, and are not subject 391  
to Chapter 133. of the Revised Code. The resolution authorizing 392  
the issuance of the notes shall pledge the funds of the township 393  
public improvement tax increment equivalent fund established 394  
pursuant to section 5709.75 of the Revised Code to pay the 395  
interest on and principal of the notes. The notes, which may 396  
contain a clause permitting prepayment at the option of the board, 397  
shall be offered for sale on the open market or given to the 398  
vendor or contractor if no sale is made. 399

(I) The township, not later than fifteen days after the 400  
adoption of a resolution under this section, shall submit to the 401  
director of development a copy of the resolution. On or before the 402  
thirty-first day of March of each year, the township shall submit 403

a status report to the director of development. The report shall 404  
indicate, in the manner prescribed by the director, the progress 405  
of the project during each year that the exemption remains in 406  
effect, including a summary of the receipts from service payments 407  
in lieu of taxes; expenditures of money from the fund created 408  
under section 5709.75 of the Revised Code; a description of the 409  
public infrastructure improvements and housing renovations 410  
financed with the expenditures; and a quantitative summary of 411  
changes in private investment resulting from each project. 412

(J) Nothing in this section shall be construed to prohibit a 413  
board of township trustees from declaring to be a public purpose 414  
improvements with respect to more than one parcel. 415

If a parcel is located in a new community district in which 416  
the new community authority imposes a community development charge 417  
on the basis of rentals received from leases of real property as 418  
described in division (L)(2) of section 349.01 of the Revised 419  
Code, the parcel may not be exempted from taxation under this 420  
section. 421

(K) A board of township trustees that adopted a resolution 422  
under this section prior to July 21, 1994, may amend that 423  
resolution to include any additional public infrastructure 424  
improvement. A board of township trustees that seeks by the 425  
amendment to utilize money from its township public improvement 426  
tax increment equivalent fund for land acquisition in aid of 427  
industry, commerce, distribution, or research, demolition on 428  
private property, or stormwater and flood remediation projects may 429  
do so provided that the board currently is a party to a 430  
hold-harmless agreement with the board of education of the city, 431  
local, or exempted village school district within the territory of 432  
which are located the parcels that are subject to an exemption. 433  
For the purposes of this division, a "hold-harmless agreement" 434  
means an agreement under which the board of township trustees 435

agrees to compensate the school district for one hundred per cent 436  
of the tax revenue that the school district would have received 437  
from further improvements to parcels designated in the resolution 438  
were it not for the exemption granted by the resolution. 439

(L) Before adopting a resolution to exempt improvements to 440  
real property under division (B) or (C) of this section, a board 441  
of township trustees may enter into an agreement with any person 442  
that owns or operates a place of business that is or will be 443  
located on the real property under which the person agrees to hire 444  
a specified number of new employees at that place of business as a 445  
condition for approval of the exemption. Such an agreement may 446  
include a provision that allows the board, after adoption of the 447  
resolution that specifies the percentage of the improvements to be 448  
exempted and the number of years of the exemption, to adopt one or 449  
more subsequent resolutions that reduce the percentage of such 450  
improvements to be exempted or the term of the exemption if the 451  
person fails to hire the number of new employees specified in the 452  
agreement. An agreement that includes such a provision may include 453  
additional provisions that detail the circumstances under which 454  
the board may act to reduce the percentage of improvements to be 455  
exempted or the term of an exemption. 456

**Section 2.** That existing section 5709.73 of the Revised Code 457  
is hereby repealed. 458

**Section 3.** Section 5709.73 of the Revised Code is presented 459  
in this act as a composite of the section as amended by both Am. 460  
Sub. H.B. 508 and Am. Sub. H.B. 509 of the 129th General Assembly. 461  
The General Assembly, applying the principle stated in division 462  
(B) of section 1.52 of the Revised Code that amendments are to be 463  
harmonized if reasonably capable of simultaneous operation, finds 464  
that the composite is the resulting version of the section in 465  
effect prior to the effective date of the section as presented in 466

this act.

467