

As Introduced

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

H. B. No. 676

Representative Conditt

—

A BILL

To amend sections 1710.01, 1710.02, 1710.021, 1
1710.03, 1710.04, 1710.05, 1710.06, 1710.061, 2
1710.07, 1710.11, 1710.12, 1710.13, 4582.06, and 3
4582.31; to amend, for the purpose of adopting a 4
new section number as indicated in parentheses, 5
section 1710.061 (1710.40); and to enact sections 6
1710.20, 1710.21, 1710.22, 1710.23, 1710.24, 7
1710.25, 1710.26, 1710.27, 1710.28, 1710.29, 8
1710.30, 1710.31, 1710.32, 1710.33, 1710.34, 9
1710.35, 1710.36, and 1710.37 of the Revised Code 10
to authorize port authorities to create energy 11
special improvement districts for the purpose of 12
developing and implementing plans for special 13
energy improvement projects and to alter the law 14
governing such districts that are governed by a 15
nonprofit corporation. 16

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

Section 1. That sections 1710.01, 1710.02, 1710.021, 1710.03, 17
1710.04, 1710.05, 1710.06, 1710.061, 1710.07, 1710.11, 1710.12, 18
1710.13, 4582.06, and 4582.31 be amended, section 1710.061 19
(1710.40) be amended for the purpose of adopting a new section 20
number as indicated in parentheses, and sections 1710.20, 1710.21, 21

1710.22, 1710.23, 1710.24, 1710.25, 1710.26, 1710.27, 1710.28, 22
1710.29, 1710.30, 1710.31, 1710.32, 1710.33, 1710.34, 1710.35, 23
1710.36, and 1710.37 of the Revised Code be enacted to read as 24
follows: 25

Sec. 1710.01. As used in this chapter: 26

(A) "Special improvement district" means a special 27
improvement district organized under ~~this chapter~~ sections 1710.02 28
to 1710.13 of the Revised Code. 29

(B) "Church" means a fellowship of believers, congregation, 30
society, corporation, convention, or association that is formed 31
primarily or exclusively for religious purposes and that is not 32
formed for the private profit of any person. 33

(C) "Church property" means property that is described as 34
being exempt from taxation under division (A)(2) of section 35
5709.07 of the Revised Code and that the county auditor has 36
entered on the exempt list compiled under section 5713.07 of the 37
Revised Code. 38

(D) "Municipal executive" means the mayor, city manager, or 39
other chief executive officer of the municipal corporation in 40
which a special improvement district is located. 41

(E) "Participating political subdivision" means the municipal 42
corporation or township, or each of the municipal corporations or 43
townships, that has territory within the boundaries of a special 44
improvement district or an energy special improvement district 45
created under this chapter. 46

(F) "Legislative authority of a participating political 47
subdivision" means, with reference to a township, the board of 48
township trustees. 49

(G) "Public improvement" means the planning, design, 50

construction, reconstruction, enlargement, or alteration of any 51
facility or improvement, including the acquisition of land, for 52
which a special assessment may be levied under Chapter 727. of the 53
Revised Code, and includes any special energy improvement project. 54

(H) "Public service" means any service that can be provided 55
by a municipal corporation or any service for which a special 56
assessment may be levied under Chapter 727. of the Revised Code. 57

(I) "Special energy improvement project" means any property, 58
device, structure, or equipment necessary for the acquisition, 59
installation, equipping, and improvement of any real or personal 60
property used for the purpose of creating a solar photovoltaic 61
project, a solar thermal energy project, a geothermal energy 62
project, a waste heat recovery project, a hydroelectric project, a 63
water efficiency project, a combined heat and power (CHP) project, 64
a fuel source conversion project, a cogeneration project, a 65
biodigester project, a customer-generated energy project, or an 66
energy efficiency improvement, whether such real or personal 67
property is publicly or privately owned. 68

(J) "Existing qualified nonprofit corporation" means a 69
nonprofit corporation that existed before the creation of the 70
corresponding special improvement district under this chapter, 71
that is composed of members located within or adjacent to the 72
district, that has established a police department under section 73
1702.80 of the Revised Code, and that is organized for purposes 74
that include acquisition of real property within an area specified 75
by its articles for the subsequent transfer of such property to 76
its members exclusively for charitable, scientific, literary, or 77
educational purposes, or holding and maintaining and leasing such 78
property; planning for and assisting in the development of its 79
members; providing for the relief of the poor and distressed or 80
underprivileged in the area and adjacent areas; combating 81
community deterioration and lessening the burdens of government; 82

providing or assisting others in providing housing for low- or 83
moderate-income persons; and assisting its members by the 84
provision of public safety and security services, parking 85
facilities, transit service, landscaping, and parks. 86

(K) "Energy efficiency improvement" means energy efficiency 87
technologies, products, and activities that reduce or support the 88
reduction of energy consumption, allow for the reduction in 89
demand, or support the production of clean, renewable energy and 90
that are or will be permanently fixed to real property. 91

(L) "Customer-generated energy project" means a wind, 92
biomass, or gasification facility for the production of 93
electricity that meets either of the following requirements: 94

(1) The facility is designed to have a generating capacity of 95
two hundred fifty kilowatts of electricity or less. 96

(2) The facility is: 97

(a) Designed to have a generating capacity of more than two 98
hundred fifty kilowatts of electricity; 99

(b) Operated in parallel with electric transmission and 100
distribution facilities serving the real property at the site of 101
the customer-generated energy project; 102

(c) Intended primarily to offset part or all of the facility 103
owner's requirements for electricity at the site of the 104
customer-generated energy project and is located on the facility 105
owner's real property; and 106

(d) Not producing energy for direct sale by the facility 107
owner to the public. 108

(M) "Reduction in demand" means a change in customer behavior 109
or a change in customer-owned or operated assets that reduces or 110
has the capability to reduce the demand for electricity as a 111
result of price signals or other incentives. 112

(N) "Electric distribution utility" and "mercantile customer" 113
have the same meanings as in section 4928.01 of the Revised Code. 114

(O) "Fuel source conversion project" means a project 115
undertaken by a property owner, rural cooperative, or political 116
subdivision of this state to convert an existing fossil fuel-based 117
technology, product, or system to a more efficient technology, 118
product, or system, including conversion to a natural gas or 119
electricity-based technology, product, or system. 120

(P) "Nonresidential property" means real property that is not 121
classified as either residential or agricultural property for 122
property tax purposes. 123

(Q) "Port authority" means a port authority created under 124
section 4582.02 or section 4582.22 of the Revised Code. 125

Sec. 1710.02. (A) A special improvement district may be 126
created within the boundaries of any one municipal corporation, 127
any one township, or any combination of contiguous municipal 128
corporations and townships for the purpose of developing and 129
implementing plans for public improvements and public services 130
that benefit the district. A district may be created by petition 131
of the owners of real property within the proposed district, or by 132
an existing qualified nonprofit corporation. If the district is 133
created by an existing qualified nonprofit corporation, the 134
purposes for which the district is created may be supplemental to 135
the other purposes for which the corporation is organized. All 136
territory in a special improvement district shall be contiguous+ 137
~~except that the territory in a special improvement district may be~~ 138
~~noncontiguous if at least one special energy improvement project~~ 139
~~is designated for each parcel of real property included within the~~ 140
~~special improvement district. Additional territory may be added to~~ 141
~~a special improvement district created under this chapter for the~~ 142
~~purpose of developing and implementing plans for special energy~~ 143

~~improvement projects if at least one special energy improvement 144
project is designated for each parcel of real property included 145
within such additional territory and the addition of territory is 146
authorized by the initial plan proposed under division (F) of this 147
section or a plan adopted by the board of directors of the special 148
improvement district under section 1710.06 of the Revised Code. 149~~

The district shall be governed by the board of ~~trustees~~ 150
directors of a nonprofit corporation. ~~This and the~~ board shall be 151
known as the board of directors of the special improvement 152
district. No special improvement district shall include any church 153
property, or property of the federal or state government or a 154
county, township, or municipal corporation, unless the church or 155
the county, township, or municipal corporation specifically 156
requests in writing that the property be included within the 157
district, or unless the church is a member of the existing 158
qualified nonprofit corporation creating the district at the time 159
the district is created. More than one district may be created 160
within a participating political subdivision, but no real property 161
may be included within more than one district unless the owner of 162
the property files a written consent with the clerk of the 163
legislative authority, the township fiscal officer, or the village 164
clerk, as appropriate. The area of each district shall be 165
contiguous; ~~except that the area of a special improvement district~~ 166
~~may be noncontiguous if all parcels of real property included~~ 167
~~within such area contain at least one special energy improvement~~ 168
~~thereon.~~ 169

(B) Except as provided in division (C) of this section, a 170
district created under ~~this chapter~~ sections 1710.02 to 1710.13 of 171
the Revised Code is not a political subdivision. A district 172
created under ~~this chapter~~ those sections shall be considered a 173
public agency under section 102.01 and a public authority under 174
section 4115.03 of the Revised Code. Each member of the board of 175

directors of a district, each member's designee or proxy, and each 176
officer and employee of a district shall be considered a public 177
official or employee under section 102.01 of the Revised Code and 178
a public official and public servant under section 2921.42 of the 179
Revised Code. Districts created under ~~this chapter~~ sections 180
1710.02 to 1710.13 of the Revised Code are not subject to sections 181
121.81 to 121.83 of the Revised Code. ~~Districts created under this~~ 182
~~chapter~~ but are subject to sections 121.22 and 121.23 of the 183
Revised Code. 184

(C) Each district created under ~~this chapter~~ sections 1710.02 185
to 1710.13 of the Revised Code shall be considered a political 186
subdivision for purposes of section 4905.34 of the Revised Code. 187

Membership on the board of directors of the district shall 188
not be considered as holding a public office. Directors and their 189
designees shall be entitled to the immunities provided by Chapter 190
1702. and to the same immunity as an employee under division 191
(A)(6) of section 2744.03 of the Revised Code, except that 192
directors and their designees shall not be entitled to the 193
indemnification provided in section 2744.07 of the Revised Code 194
unless the director or designee is an employee or official of a 195
participating political subdivision of the district and is acting 196
within the scope of the director's or designee's employment or 197
official responsibilities. 198

District officers and district members and directors and 199
their designees or proxies shall not be required to file a 200
statement with the Ohio ethics commission under section 102.02 of 201
the Revised Code. All records of the district shall be treated as 202
public records under section 149.43 of the Revised Code, except 203
that records of organizations contracting with a district shall 204
not be considered to be public records under section 149.43 or 205
section 149.431 of the Revised Code solely by reason of any 206
contract with a district. 207

(D) Except as otherwise provided in this section, the 208
nonprofit corporation that governs a district shall be organized 209
in the manner described in Chapter 1702. of the Revised Code. 210
Except in the case of a district created by an existing qualified 211
nonprofit corporation, the corporation's articles of incorporation 212
are required to be approved, as provided in division (E) of this 213
section, by resolution of the legislative authority of each 214
participating political subdivision of the district. A copy of 215
that resolution shall be filed along with the articles of 216
incorporation in the secretary of state's office. 217

In addition to meeting the requirements for articles of 218
incorporation set forth in Chapter 1702. of the Revised Code, the 219
articles of incorporation for the nonprofit corporation governing 220
a district formed under ~~this chapter~~ sections 1710.02 to 1710.13 221
of the Revised Code shall provide all the following: 222

(1) The name for the district, which shall include the name 223
of each participating political subdivision of the district; 224

(2) A description of the territory within the district, which 225
may be all or part of each participating political subdivision. 226
The description shall be specific enough to enable real property 227
owners to determine if their property is located within the 228
district. 229

(3) A description of the procedure by which the articles of 230
incorporation may be amended. The procedure shall include 231
receiving approval of the amendment, by resolution, from the 232
legislative authority of each participating political subdivision 233
and filing the approved amendment and resolution with the 234
secretary of state. 235

(4) The reasons for creating the district, plus an 236
explanation of how the district will be conducive to the public 237
health, safety, peace, convenience, and welfare of the district. 238

(E) The articles of incorporation for a nonprofit corporation 239
governing a district created under ~~this chapter~~ sections 1710.02 240
to 1710.13 of the Revised Code and amendments to them shall be 241
submitted to the municipal executive, if any, and the legislative 242
authority of each municipal corporation or township in which the 243
proposed district is to be located. Except in the case of a 244
district created by an existing qualified nonprofit corporation, 245
the articles or amendments shall be accompanied by a petition 246
signed either by the owners of at least sixty per cent of the 247
front footage of all real property located in the proposed 248
district that abuts upon any street, alley, public road, place, 249
boulevard, parkway, park entrance, easement, or other existing 250
public improvement within the proposed district, excluding church 251
property or property owned by the state, county, township, 252
municipal, or federal government, unless a church, county, 253
township, or municipal corporation has specifically requested in 254
writing that the property be included in the district, or by the 255
owners of at least seventy-five per cent of the area of all real 256
property located within the proposed district, excluding church 257
property or property owned by the state, county, township, 258
municipal, or federal government, unless a church, county, 259
township, or municipal corporation has specifically requested in 260
writing that the property be included in the district. ~~Pursuant to~~ 261
~~Section 20 of Article VIII, Ohio Constitution, the petition~~ 262
~~required under this division may be for the purpose of developing~~ 263
~~and implementing plans for special energy improvement projects,~~ 264
~~and, in such case, is determined to be in furtherance of the~~ 265
~~purposes set forth in Section 20 of Article VIII, Ohio~~ 266
~~Constitution. If a special improvement district is being created~~ 267
~~under this chapter for the purpose of developing and implementing~~ 268
~~plans for special energy improvement projects, the petition~~ 269
~~required under this division shall be signed by one hundred per~~ 270
~~cent of the owners of the area of all real property located within~~ 271

~~the proposed special improvement district, at least one special~~ 272
~~energy improvement project shall be designated for each parcel of~~ 273
~~real property within the special improvement district, and the~~ 274
~~special improvement district may include any number of parcels of~~ 275
~~real property as determined by the legislative authority of each~~ 276
~~participating political subdivision in which the proposed special~~ 277
~~improvement district is to be located. For purposes of determining~~ 278
compliance with these requirements, the area of the district, or 279
the front footage and ownership of property, shall be as shown in 280
the most current records available at the county recorder's office 281
and the county engineer's office sixty days prior to the date on 282
which the petition is filed. 283

Each municipal corporation or township with which the 284
petition is filed has sixty days to approve or disapprove, by 285
resolution, the petition, including the articles of incorporation. 286
In the case of a district created by an existing qualified 287
nonprofit corporation, each municipal corporation or township has 288
sixty days to approve or disapprove the creation of the district 289
after the corporation submits the articles of incorporation or 290
amendments thereto. This ~~chapter~~ section does not prohibit or 291
restrict the rights of municipal corporations under Article XVIII 292
of the Ohio Constitution or the right of the municipal legislative 293
authority to impose reasonable conditions in a resolution of 294
approval. ~~The acquisition, installation, equipping, and~~ 295
~~improvement of a special energy improvement project under this~~ 296
~~chapter shall not supersede any local zoning, environmental, or~~ 297
~~similar law or regulation.~~ 298

(F) Persons proposing creation and operation of the district 299
may propose an initial plan for public services or public 300
improvements that benefit all or any part of the district. Any 301
initial plan shall be submitted as part of the petition proposing 302
creation of the district or, in the case of a district created by 303

an existing qualified nonprofit corporation, shall be submitted 304
with the articles of incorporation or amendments thereto. 305

An initial plan may include provisions for the following: 306

(1) Creation and operation of the district and of the 307
nonprofit corporation to govern the district ~~under this chapter;~~ 308

(2) Hiring employees and professional services; 309

(3) Contracting for insurance; 310

(4) Purchasing or leasing office space and office equipment; 311

(5) Other actions necessary initially to form, operate, or 312
organize the district and the nonprofit corporation to govern the 313
district; 314

(6) A plan for public improvements or public services that 315
benefit all or part of the district, which plan shall comply with 316
the requirements of division (A) of section 1710.06 of the Revised 317
Code and may include, but is not limited to, any of the permissive 318
provisions described in the fourth sentence of that division or 319
listed in divisions (A)(1) to ~~(7)~~(5) of that section; 320

~~(7) If the special improvement district is being created 321
under this chapter for the purpose of developing and implementing 322
plans for special energy improvement projects, provision for the 323
addition of territory to the special improvement district. 324~~

After the initial plan is approved by all municipal 325
corporations and townships to which it is submitted for approval 326
and the district is created, each participating subdivision shall 327
levy a special assessment within its boundaries to pay for the 328
costs of the initial plan. The levy shall be for no more than ten 329
years from the date of the approval of the initial plan; ~~except 330
that if the proceeds of the levy are to be used to pay the costs 331
of a special energy improvement project, the levy of a special 332
assessment shall be for no more than thirty years from the date of 333~~

~~approval of the initial plan. In the event that additional~~ 334
~~territory is added to a special improvement district, the special~~ 335
~~assessment to be levied with respect to such additional territory~~ 336
~~shall commence not earlier than the date such territory is added~~ 337
~~and shall be for no more than thirty years from such date. For~~ 338
purposes of levying an assessment for this initial plan, the 339
services or improvements included in the initial plan shall be 340
deemed a special benefit to property owners within the district. 341

(G) Each nonprofit corporation governing a district under 342
~~this chapter sections 1710.02 to 1710.13 of the Revised Code~~ may 343
do the following: 344

(1) Exercise all powers of nonprofit corporations granted 345
under Chapter 1702. of the Revised Code that do not conflict with 346
~~this chapter sections 1710.02 to 1710.13 of the Revised Code;~~ 347

(2) Develop, adopt, revise, implement, and repeal plans for 348
public improvements and public services for all or any part of the 349
district; 350

(3) Contract with any person, political subdivision as 351
defined in section 2744.01 of the Revised Code, or state agency as 352
defined in section 1.60 of the Revised Code to develop and 353
implement plans for public improvements or public services within 354
the district; 355

(4) Contract and pay for insurance for the district and for 356
directors, officers, agents, contractors, employees, or members of 357
the district for any consequences of the implementation of any 358
plan adopted by the district or any actions of the district. 359

The board of directors of a special improvement district may, 360
acting as agent and on behalf of a participating political 361
subdivision, sell, transfer, lease, or convey any special energy 362
improvement project owned by the participating political 363
subdivision upon a determination by the legislative authority 364

thereof that the project is not required to be owned exclusively 365
by the participating political subdivision for its purposes, for 366
uses determined by the legislative authority thereof as those that 367
will promote the welfare of the people of such participating 368
political subdivision; to improve the quality of life and the 369
general and economic well-being of the people of the participating 370
political subdivision; better ensure the public health, safety, 371
and welfare; protect water and other natural resources; provide 372
for the conservation and preservation of natural and open areas 373
and farmlands, including by making urban areas more desirable or 374
suitable for development and revitalization; control, prevent, 375
minimize, clean up, or mediate certain contamination of or 376
pollution from lands in the state and water contamination or 377
pollution; or provide for safe and natural areas and resources. 378
The legislative authority of each participating political 379
subdivision shall specify the consideration for such sale, 380
transfer, lease, or conveyance and any other terms thereof. Any 381
determinations made by a legislative authority of a participating 382
political subdivision under this division shall be conclusive. 383

~~Any sale, transfer, lease, or conveyance of a special energy 384
improvement project by a participating political subdivision or 385
the board of directors of the special improvement district may be 386
made without advertising, receipt of bids, or other competitive 387
bidding procedures applicable to the participating political 388
subdivision or the special improvement district under Chapter 153- 389
or 735. or section 1710.11 of the Revised Code or other 390
representative provisions of the Revised Code. 391~~

Sec. 1710.021. Any owner of an interest in real property that 392
is located within a proposed or existing special improvement 393
district who enters into a contract to transfer the interest shall 394
give to the transferee of the interest within the specified period 395
of time both of the following: 396

(A) Within five days after entering into the contract, each notice that the owner received under ~~this chapter~~ sections 1710.02 to 1710.13 of the Revised Code within ninety days prior to entering into the contract;

(B) Within five days after its receipt, each notice that the owner receives under ~~this chapter~~ sections 1710.02 to 1710.13 of the Revised Code after entering into the contract until the contract is completely performed or terminated.

Sec. 1710.03. (A) Except as otherwise provided in this division, each owner of real property within a special improvement district other than the state or federal government is a member of the district, and the real property of each member of the district is subject to special assessment under division (C) of section 1710.06 of the Revised Code. A church is not a member of the district unless the church specifically requested in writing that its property be included in the district or unless, in the case of a district created by an existing qualified nonprofit corporation, the church is a member of the corporation at the time the district is created. A county, township, or municipal corporation owning real property in the district is not a member of the district unless such entity specifically requested in writing that its property be included in the district.

The identity and address of the owners shall be determined for any particular action of the nonprofit corporation that governs the district, including notice of meetings of the district, no more than sixty days prior to the date of the action, from the most current records available at the county auditor's office. For purposes of ~~this chapter~~ sections 1710.02 to 1710.13 of the Revised Code, the persons shown on such records as having common or joint ownership interests in a parcel of real property collectively shall constitute the owner of the real property.

(B) A member may file a written statement with the district's secretary at least three days prior to any meeting of the entire membership of the district to appoint a proxy to carry out the member's rights and responsibilities under ~~this chapter~~ sections 1710.02 to 1710.13 of the Revised Code at that meeting.

(C) A member also may appoint a designee to carry out the member's rights and responsibilities under ~~this chapter~~ sections 1710.02 to 1710.13 of the Revised Code by filing a written designation form with the district's secretary. This form shall include the name and address of the member, the name and address of the designee, and the expiration date, if any, of the designation and may authorize the designee to vote at any meeting of the district.

(D) A proxy or designee need not be an elector or resident of any participating political subdivision of the district or a member of the district. The appointment of a proxy or a designee may be changed by filing a new form with the district's secretary. The most current form filed with the secretary is the valid appointment. Service of any notice upon a proxy or designee at the proxy's or designee's address as shown on that form satisfies any requirements for notification of the member.

Sec. 1710.04. (A) A special improvement district created under ~~this chapter~~ sections 1710.02 to 1710.13 of the Revised Code shall be governed by the board of directors of the special improvement district. The board shall consist of at least five directors. The board shall include a person appointed by the legislative authority of each participating political subdivision and the municipal executive of each municipal corporation with territory within the boundaries of the special improvement district. The remainder of the board's members shall be members of the district. Except for the municipal executives and the

appointees of the legislative authorities, and except as otherwise 459
provided in this division, members of the board of directors shall 460
be elected at a meeting of the entire membership of the district. 461
The initial election of directors may occur at the first meeting 462
of the entire membership of the district after its creation. All 463
subsequent elections shall be held at a ~~November~~ an annual meeting 464
of the membership. 465

Each municipal executive may designate one person who is an 466
employee of the municipal corporation involved with its planning 467
or economic development functions to serve in the municipal 468
executive's stead. This designee shall serve at the pleasure of 469
the municipal executive. 470

In the case of a district created by an existing qualified 471
nonprofit corporation, the corporation's board of ~~trustees~~ 472
directors or other governing board, however denominated, shall be 473
the board of directors of the special improvement district for the 474
purposes of ~~this chapter~~ sections 1710.02 to 1710.13 of the 475
Revised Code. The election of directors otherwise required by this 476
division shall not be required, and the requirement that municipal 477
executives and appointees of the legislative authorities be 478
members of the district's board of directors may be satisfied by 479
the membership on the corporation's governing board of 480
representatives of such participating political subdivisions, or 481
may be waived if approved by resolution of the legislative 482
authorities of the participating political subdivisions. 483

(B) A director may file a written statement with the 484
district's secretary at least three days prior to any meeting of 485
the board to have a person act as proxy to carry out the 486
director's rights and responsibilities under ~~this chapter~~ sections 487
1710.02 to 1710.13 of the Revised Code at that meeting. 488

A director may also appoint a designee to carry out the 489
director's rights and responsibilities under ~~this chapter~~ sections 490

1710.02 to 1710.13 of the Revised Code by filing a written 491
designation form with the district's secretary. This form shall 492
include the name and address of the director, the name and address 493
of the designee, and the expiration date, if any, of the 494
designation. 495

A proxy or designee need not be an elector or resident of a 496
participating political subdivision of the district or a member of 497
the district. The appointment of a proxy or designee may be 498
changed by filing a new form with the district's secretary. The 499
most current form filed with the secretary is the valid 500
appointment. Service of any notice upon a proxy or designee at the 501
proxy's or designee's address as shown on that form satisfies any 502
requirements for notification of the director. 503

(C) Notice of the time, date, place, and agenda for any 504
meeting of the board of directors shall be by written notice to 505
each director, transmitted by certified mail, personal service, or 506
electronic device prior to the meeting. If possible, the notice 507
shall be served at least one week prior to the meeting. 508

The board shall act by a majority vote of those present and 509
authorized to vote at any meeting where proper notice has been 510
served. 511

(D) The board shall elect a chairperson, vice-chairperson, 512
secretary, and treasurer of the board. These officers shall serve 513
at the board's pleasure. A director may be elected to more than 514
one office, except that the director elected as treasurer shall 515
not be elected to any other office of the board. 516

By the first day of March of each year, the treasurer shall 517
submit to each member of the district and to the municipal 518
executive, chief fiscal officer, and legislative authority of each 519
municipal corporation with territory within the boundaries of the 520
special improvement district and the board of township trustees of 521

each township with territory within the boundaries of the special 522
improvement district, a report of the district's activities and 523
financial condition for the previous year. 524

(E) Divisions (B), (C), and (D) of this section do not apply 525
to a district created by an existing qualified nonprofit 526
corporation to the extent those divisions are not consistent with 527
the regulations of the corporation, in which case the regulations 528
of the corporation shall govern. 529

Sec. 1710.05. Except as otherwise provided in ~~this chapter~~ 530
sections 1710.02 to 1710.13 of the Revised Code, the articles of 531
incorporation or the code of regulations governing the nonprofit 532
corporation shall provide for the method by which notice for 533
meetings of the membership of the special improvement district is 534
to be given and the method for voting by the membership of the 535
district. 536

Sec. 1710.06. (A) The board of directors of a special 537
improvement district may develop and adopt one or more written 538
plans for public improvements or public services that benefit all 539
or any part of the district. Each plan shall set forth the 540
specific public improvements or public services that are to be 541
provided, identify the area in which they will be provided, and 542
specify the method of assessment to be used. Each plan for public 543
improvements or public services shall indicate the period of time 544
the assessments are to be levied for the improvements and services 545
and, if public services are included in the plan, the period of 546
time the services are to remain in effect. Plans for public 547
improvements may include the planning, design, construction, 548
reconstruction, enlargement, or alteration of any public 549
improvements and the acquisition of land for the improvements. 550
Plans for public improvements or public services may also include, 551
but are not limited to, provisions for the following: 552

(1) Creating and operating the district and the nonprofit corporation under ~~this chapter~~ sections 1710.02 to 1710.13 of the Revised Code, including hiring employees and professional services, contracting for insurance, and purchasing or leasing office space and office equipment and other requirements of the district;

(2) Planning, designing, and implementing a public improvements or public services plan, including hiring architectural, engineering, legal, appraisal, insurance, consulting, energy auditing, and planning services, and, for public services, managing, protecting, and maintaining public and private facilities, including public improvements;

(3) Conducting court proceedings to carry out ~~this chapter~~ sections 1710.02 to 1710.13 of the Revised Code;

(4) Paying damages resulting from the provision of public improvements or public services and implementing the plans;

(5) Paying the costs of issuing, paying interest on, and redeeming or refunding notes and bonds issued for funding public improvements and public services plans;

~~(6) Sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of any special energy improvement project by the special improvement district, between a participating political subdivision and the special improvement district, and between the special improvement district and any owner of real property in the special improvement district on which a special energy improvement project has been acquired, installed, equipped, or improved; and~~

~~(7) Aggregating the renewable energy credits generated by one or more special energy improvement projects within a special~~

~~improvement district, upon the consent of the owners of the 584
credits and for the purpose of negotiating and completing the sale 585
of such credits. 586~~

(B) Once the board of directors of the special improvement 587
district adopts a plan, it shall submit the plan to the 588
legislative authority of each participating political subdivision 589
and the municipal executive of each municipal corporation in which 590
the district is located, if any. The legislative authorities and 591
municipal executives shall review the plan and, within sixty days 592
after receiving it, may submit their comments and recommendations 593
about it to the district. After reviewing these comments and 594
recommendations, the board of directors may amend the plan. It may 595
then submit the plan, amended or otherwise, in the form of a 596
petition to members of the district whose property may be assessed 597
for the plan. Once the petition is signed by those members who own 598
at least sixty per cent of the front footage of property that is 599
to be assessed and that abuts upon a street, alley, public road, 600
place, boulevard, parkway, park entrance, easement, or other 601
public improvement, or those members who own at least seventy-five 602
per cent of the area to be assessed for the improvement or 603
service, the petition may be submitted to each legislative 604
authority for approval. ~~If the special improvement district was 605
created for the purpose of developing and implementing plans for 606
special energy improvement projects, the petition required under 607
this division shall be signed by one hundred per cent of the 608
owners of the area of all real property located within the area to 609
be assessed for the special energy improvement project. 610~~

Each legislative authority shall, by resolution, approve or 611
reject the petition within sixty days after receiving it. If the 612
petition is approved by the legislative authority of each 613
participating political subdivision, the plan contained in the 614
petition shall be effective at the earliest date on which a 615

nonemergency resolution of the legislative authority with the 616
latest effective date may become effective. A plan may not be 617
resubmitted to the legislative authorities and municipal 618
executives more than three times in any twelve-month period. 619

(C) Each participating political subdivision shall levy, by 620
special assessment upon specially benefited property located 621
within the district, the costs of any public improvements or 622
public services plan contained in a petition approved by the 623
participating political subdivisions under this section or 624
division (F) of section 1710.02 of the Revised Code. The levy 625
shall be made in accordance with the procedures set forth in 626
Chapter 727. of the Revised Code, except that: 627

(1) The assessment for each improvements or services plan may 628
be levied by any one or any combination of the methods of 629
assessment listed in section 727.01 of the Revised Code, provided 630
that the assessment is uniformly applied. 631

(2) For the purpose of levying an assessment, the board of 632
directors may combine one or more improvements or services plans 633
or parts of plans and levy a single assessment against specially 634
benefited property. 635

(3) For purposes of special assessments levied by a township 636
pursuant to ~~this chapter~~ sections 1710.02 to 1710.13 of the 637
Revised Code, references in Chapter 727. of the Revised Code to 638
the municipal corporation shall be deemed to refer to the 639
township, and references to the legislative authority of the 640
municipal corporation shall be deemed to refer to the board of 641
township trustees. 642

Church property or property owned by a political subdivision, 643
including any participating political subdivision in which a 644
special improvement district is located, shall be included in and 645
be subject to special assessments made pursuant to a plan adopted 646

under this section or division (F) of section 1710.02 of the Revised Code, if the church or political subdivision has specifically requested in writing that its property be included within the special improvement district and the church or political subdivision is a member of the district or, in the case of a district created by an existing qualified nonprofit corporation, if the church is a member of the corporation.

(D) All rights and privileges of property owners who are assessed under Chapter 727. of the Revised Code shall be granted to property owners assessed under ~~this chapter~~ sections 1710.02 to 1710.13 of the Revised Code, including those rights and privileges specified in sections 727.15 to 727.17 and 727.18 to 727.22 of the Revised Code and the right to notice of the resolution of necessity and the filing of the estimated assessment under section 727.13 of the Revised Code. Property owners assessed for public services under ~~this chapter~~ sections 1710.02 to 1710.13 of the Revised Code shall have the same rights and privileges as property owners assessed for public improvements under ~~this chapter~~ sections 1710.02 to 1710.13 of the Revised Code.

Sec. 1710.07. The cost of any public improvements or public services plan of a special improvement district may include, but is not limited to, the following:

(A) The cost of creating and operating the district under ~~this chapter~~ sections 1710.02 to 1710.13 of the Revised Code, including creating and operating a nonprofit organization organized under ~~this chapter~~ sections 1710.02 to 1710.13 of the Revised Code, hiring employees and professional services, contracting for insurance, and purchasing or leasing office space or office equipment;

(B) The cost of planning, designing, and implementing the public improvements or public services plan, including payment of

architectural, engineering, legal, appraisal, insurance, 678
consulting, energy auditing, and planning fees and expenses, and, 679
for public services, the management, protection, and maintenance 680
costs of public or private facilities; 681

(C) Any court costs incurred by the district in implementing 682
the public improvements or public services plan; 683

(D) Any damages resulting from implementing the public 684
improvements or public services plan; 685

(E) The costs of issuing, paying interest on, and redeeming 686
or refunding notes and bonds issued for funding the public 687
improvements or public services plan; ~~and~~ 688

~~(F) The costs associated with the sale, lease, lease with an 689
option to purchase, conveyance of other interests in, or other 690
contracts for the acquisition, construction, maintenance, repair, 691
furnishing, equipping, operation, or improvement of any special 692
energy improvement project by the district, between a 693
participating political subdivision and the special improvement 694
district, or between the special improvement district and any 695
owner of real property in the special improvement district on 696
which a special energy improvement project has been acquired, 697
installed, equipped, or improved. 698~~

Sec. 1710.11. The board of directors of a special improvement 699
district shall adopt written rules prescribing competitive bidding 700
procedures for contracts awarded under ~~this chapter~~ sections 701
1710.02 to 1710.13 of the Revised Code. The procedures may differ 702
from competitive bidding procedures applicable to the 703
participating political subdivisions of the district or those 704
provided in Chapter 735. of the Revised Code. The rules shall 705
provide for advertising for bids and specify the bidding 706
procedures to be followed, and may specify conditions under which 707
competitive bidding is not required and other conditions such as 708

establishing a dollar limit per contract or specifying particular 709
parties to a contract. 710

Sec. 1710.12. Any participating political subdivision of a 711
special improvement district may issue bonds and notes in 712
anticipation of collection of any special assessments authorized 713
by ~~this chapter~~ sections 1710.02 to 1710.13 of the Revised Code. 714
All proceeds of any ~~assessments,~~ such bonds, or notes issued to 715
fund any public improvements or public services plan under ~~this~~ 716
~~chapter~~ sections 1710.02 to 1710.13 of the Revised Code shall 717
first be applied by the political subdivision to payment of those 718
bonds or notes and any interest on them, as required by section 719
133.17 of the Revised Code. Any remaining proceeds shall be turned 720
over to the treasurer of the district and deposited in a district 721
account to be used for the purposes for which the assessment was 722
made or for which the bonds or notes were issued. 723

Sec. 1710.13. This section does not apply to a special 724
improvement district created by an existing qualified nonprofit 725
corporation. 726

The process for dissolving a special improvement district or 727
repealing an improvements or services plan may be initiated by a 728
petition signed by members of the district who own at least twenty 729
per cent of the appraised value of the real property located in 730
the district, excluding church property or real property owned by 731
the federal government, the state, or a county, township, or 732
municipal corporation, unless the church, county, township, or 733
municipal corporation has specifically requested in writing that 734
the property be included in the district, and filed with the 735
municipal executive, if any, and the legislative authorities of 736
all the participating political subdivisions of the district. As 737
used in this section, "appraised value" means the taxable value 738
established by the county auditor for purposes of real estate 739

taxation. 740

No later than forty-five days after such a petition is filed, 741
the members of the district shall meet to consider it. Notice of 742
the meeting shall be given as provided in section 1710.05 of the 743
Revised Code. Upon the affirmative vote of members who 744
collectively own more than fifty per cent of the appraised value 745
of the real property in the district that may be subject to 746
assessment under division (C) of section 1710.06 of the Revised 747
Code, the district shall be dissolved, or the plan shall be 748
repealed, as applicable. 749

No rights or obligations of any person under any contract, or 750
in relation to any bonds, notes, or assessments made under ~~this~~ 751
~~chapter~~ sections 1710.02 to 1710.13 of the Revised Code, shall be 752
affected by the dissolution of the district or the repeal of a 753
plan, except with the consent of that person or by order of a 754
court with jurisdiction over the matter. Upon dissolution of a 755
district, any assets or rights of the district, after payment of 756
all bonds, notes, or other obligations of the district, shall be 757
deposited in a special account in the treasury of each 758
participating political subdivision, prorated among all 759
participating political subdivisions to reflect the percentage of 760
the district's territory within that political subdivision, to be 761
used for the benefit of the territory that made up the district. 762

Once the members have approved the repeal of a plan, all 763
bonds, notes, and other obligations of the district associated 764
with the plan shall be paid. Thereafter, the plan shall be 765
repealed. Upon receipt of proof that all bonds, notes, and other 766
obligations have been paid and that the plan has been repealed, 767
the participating political subdivisions shall terminate any 768
levies imposed to pay for costs of the plan. 769

Sec. 1710.20. For the purpose of developing and implementing 770

plans for special energy improvement projects on nonresidential 771
property, a property owner or owners may create an energy special 772
improvement district. The property owner or owners shall create 773
the district in accordance with sections 1710.20 to 1710.28 of the 774
Revised Code and shall ensure that all of the following apply to 775
the district: 776

(A) The district is governed by a nonprofit corporation 777
organized under Chapter 1702. of the Revised Code acting through 778
its board of directors. 779

(B) The territory comprising the district is within the 780
boundaries of any one municipal corporation, any one township, or 781
any combination of contiguous or noncontiguous municipal 782
corporations or townships. 783

(C) At least one special energy improvement project is 784
designated for each parcel of real property within the district. 785

Sec. 1710.21. In order to create an energy special 786
improvement district under sections 1710.20 to 1710.28 of the 787
Revised Code, the person or persons proposing the creation of the 788
district shall submit to each participating political subdivision 789
all of the following: 790

(A) A written plan for special energy improvement projects 791
created in accordance with section 1710.22 of the Revised Code; 792

(B) The articles of incorporation for the nonprofit 793
corporation that will govern the district that meet the 794
requirements of section 1710.23 of the Revised Code; and 795

(C) A petition for the creation of the district signed by one 796
hundred per cent of the property owners located within the 797
proposed district. 798

For purposes of compliance with division (C) of this section, 799

the person or persons proposing creation of the district shall 800
show the area of the district and the ownership of each parcel of 801
property of the proposed district by reference to records that 802
were available from each county recorder's office not more than 803
sixty days prior to the submission of the petition. A petition 804
submitted under division (C) of this section is in furtherance of 805
the purposes set forth in Section 2o of Article VIII, Ohio 806
Constitution. 807

Sec. 1710.22. (A) The person or persons proposing the 808
creation of an energy special improvement district under sections 809
1710.20 to 1710.28 of the Revised Code shall ensure that the plan 810
required under section 1710.21 of the Revised Code includes both 811
of the following: 812

(1) A description of the proposed special energy improvement 813
project or projects, including the cost of the proposed project or 814
projects and a statement of which property or properties each 815
project will benefit. The person or persons shall designate at 816
least one special energy improvement project for each parcel of 817
real property within the proposed district. 818

(2) The method of assessment to be used and the time period 819
during which the assessment will be levied. 820

(B) The person or persons proposing the creation of an energy 821
special improvement district under sections 1710.20 to 1710.28 of 822
the Revised Code may include in the plan submitted under section 823
1710.21 of the Revised Code provisions for the following: 824

(1) Creating and operating the district and the nonprofit 825
corporation, including hiring employees and professional services, 826
contracting for insurance, and purchasing or leasing office space 827
and office equipment and other requirements of the district; 828

(2) Planning, designing, and implementing a plan, and paying 829

the costs of any action taken in furtherance of the plan, 830
including hiring architectural, engineering, legal, appraisal, 831
insurance, consulting, energy auditing, and planning services; 832

(3) Conducting court proceedings to carry out sections 833
1710.20 to 1710.28 of the Revised Code; 834

(4) Paying damages resulting from the provision of public 835
improvements or public services and implementing a plan; 836

(5) Paying the costs of issuing, paying interest on, and 837
redeeming or refunding notes and bonds issued for the purpose of 838
funding a plan; 839

(6) Sale, lease, lease with an option to purchase, conveyance 840
of other interests in, or other contracts for the acquisition, 841
construction, maintenance, repair, furnishing, equipping, 842
operation, or improvement of any special energy improvement 843
project by the energy special improvement district, between a 844
participating political subdivision and the district, and between 845
the district and any owner of real property in the district on 846
which a special energy improvement project has been acquired, 847
installed, equipped, or improved; 848

(7) Aggregating the renewable energy credits generated by one 849
or more special energy improvement projects within an energy 850
special improvement district, upon the consent of the owners of 851
the credits and for the purpose of negotiating and completing the 852
sale of such credits; 853

(8) The addition of territory to the energy special 854
improvement district; 855

(9) Any other actions necessary to form, operate, or organize 856
the energy special improvement district and the nonprofit 857
corporation that will govern the energy special improvement 858
district. 859

Sec. 1710.23. The person or persons proposing the creation of 860
an energy special improvement district under sections 1710.20 to 861
1710.28 of the Revised Code shall ensure that in addition to 862
meeting the requirements for articles of incorporation set forth 863
in Chapter 1702. of the Revised Code, the articles of 864
incorporation submitted under section 1710.21 of the Revised Code 865
for the nonprofit corporation that will govern the energy special 866
improvement district provide all of the following: 867

(A) The name for the district; 868

(B) A description of the territory within the district, which 869
may be all or part of each participating political subdivision; 870

(C) A description of the procedure by which the articles of 871
incorporation may be amended; 872

(D) The reasons for creating the district and an explanation 873
of how the district will be conducive to the public health, 874
safety, peace, convenience, and welfare of the district. 875

Sec. 1710.24. (A) Each participating political subdivision 876
with which the petition, the plan, and the articles of 877
incorporation are filed under section 1710.21 of the Revised Code 878
has sixty days to approve or disapprove, by resolution, the 879
petition, the plan, and the articles of incorporation. A copy of 880
that resolution shall be filed along with the articles of 881
incorporation in the secretary of state's office. The energy 882
special improvement district is created upon the filing of 883
approval by all participating political subdivisions within the 884
proposed energy special improvement district. 885

This division does not prohibit or restrict the rights of 886
municipal corporations under Article XVIII of the Ohio 887
Constitution or the right of the municipal legislative authority 888
to impose reasonable conditions in a resolution of approval. The 889

acquisition, installation, equipping, and improvement of a special 890
energy improvement project under this section does not supersede 891
any local zoning, environmental, or similar law or regulation. 892

(B) If a participating political subdivision approves the 893
petition, the plan, and the articles of incorporation, the 894
participating political subdivision shall levy a special 895
assessment on all real property in the energy special improvement 896
district that is located within its boundaries to pay for the 897
costs of the plan. The participating political subdivision shall 898
levy the special assessment for not more than thirty years from 899
the first day of the year in which the special assessment is 900
imposed. In the event that additional territory is added to the 901
energy special improvement district, a participating political 902
subdivision shall levy the special assessment with respect to such 903
additional territory commencing not earlier than the date such 904
territory is added and for not more than thirty years from the 905
first day of the year in which the special assessment is first 906
imposed. 907

(C) For purposes of levying a special assessment for the 908
plan, the special energy improvement projects included in the plan 909
are deemed a special benefit to property owners within the energy 910
special improvement district. The use of special assessments 911
levied to benefit such property owners does not constitute 912
expenditures made with public funds. The participating political 913
subdivision shall levy the special assessment in accordance with 914
Chapter 727. of the Revised Code except that: 915

(1) The participating political subdivision may levy the 916
assessment for each plan by any one or any combination of the 917
methods of assessment listed in section 727.01 of the Revised 918
Code, provided that the assessment is uniformly applied; 919

(2) For purposes of levying an assessment, the participating 920
political subdivision may combine one or more plans or parts of 921

plans and levy a single assessment against specially benefited 922
property; 923

(3) For purposes of special assessments levied by a township 924
under this section, references in Chapter 727. of the Revised Code 925
to the municipal corporation are deemed to refer to the township, 926
and references to the legislative authority of the municipal 927
corporation are deemed to refer to the board of township trustees. 928

(D) All applicable rights and privileges of a property owner 929
that is assessed under Chapter 727. of the Revised Code are 930
granted to a property owner assessed under this section, including 931
those rights and privileges specified in sections 727.15 to 727.17 932
and 727.18 to 727.22 of the Revised Code and the right to notice 933
of the resolution of necessity and the filing of the estimated 934
assessment under section 727.13 of the Revised Code. Property 935
owners assessed for public services under this section have the 936
same rights and privileges as property owners assessed for public 937
improvements under this section. 938

Sec. 1710.25. (A) Each nonprofit corporation governing an 939
energy special improvement district under sections 1710.20 to 940
1710.28 of the Revised Code may do the following: 941

(1) Exercise all powers of nonprofit corporations granted 942
under Chapter 1702. of the Revised Code that do not conflict with 943
sections 1710.20 to 1710.28 of the Revised Code; 944

(2) Develop, adopt, revise, implement, and repeal plans for 945
all or any part of the district; 946

(3) Contract with any person, political subdivision as 947
defined in section 2744.01 of the Revised Code, or state agency as 948
defined in section 1.60 of the Revised Code to develop and 949
implement plans for special energy improvement projects within the 950
district; 951

(4) Contract and pay for insurance for the district and for directors, officers, agents, contractors, employees, or members of the district for any consequences of the implementation of any plan adopted by the district or any actions of the district; 952
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(5) Act as an agent for and on behalf of a participating political subdivision in order to sell, transfer, lease, or convey any special energy improvement project owned by the political subdivision, provided that the legislative authority of the participating political subdivision determines that the project is not required to be exclusively owned by the political subdivision for its purposes, and provided that the sale is for any of the following purposes: 956
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(a) To promote the welfare of the people of such participating political subdivision; 964
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(b) To improve the quality of life and the general and economic well-being of the people of the participating political subdivision; 966
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(c) To better ensure the public health, safety, and welfare; 969

(d) To protect water and other natural resources; 970

(e) To provide for the conservation and preservation of natural and open areas and farmlands, including by making urban areas more desirable or suitable for development and revitalization; 971
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(f) To control, prevent, minimize, clean up, or mediate certain contamination of or pollution from lands in the state and water contamination or pollution; or 975
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(g) To provide for safe and natural areas and resources. 978

The legislative authority of a participating political subdivision shall specify the consideration for such sale, transfer, lease, or conveyance and any other terms thereof. Any 979
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determinations made by a legislative authority of a participating political subdivision under division (A)(5) of this section are conclusive. 982
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(B) A participating political subdivision or a nonprofit corporation governing an energy special improvement district may make any purchase, sale, transfer, lease, or conveyance of a special energy improvement project without advertising, receipt of bids, or other competitive bidding procedures applicable to the participating political subdivision or the energy special improvement district under Chapter 153. or 735. or section 1710.11 of the Revised Code or other representative provisions of the Revised Code. 985
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(C) Membership on the board of directors of the district is not considered holding a public office. Directors and their designees are entitled to the immunities provided by Chapter 1702. and to the same immunity as an employee under division (A)(6) of section 2744.03 of the Revised Code, except that directors and their designees are not entitled to the indemnification provided in section 2744.07 of the Revised Code unless the director or designee is an employee or official of a participating political subdivision of the district and is acting within the scope of the director's or designee's employment or official responsibilities. 994
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District officers and district members and directors and their designees or proxies are not required to file a statement with the Ohio ethics commission under section 102.02 of the Revised Code. All records of the district are public records under section 149.43 of the Revised Code, except that records of organizations contracting with a district are not public records under section 149.43 or section 149.431 of the Revised Code solely by reason of any contract with a district. 1004
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Sec. 1710.26. (A) Each owner of real property within an 1012

energy special improvement district created under sections 1710.20 1013
to 1710.28 of the Revised Code is a member of the energy special 1014
improvement district. The nonprofit corporation governing the 1015
district shall determine the identity and address of each owner 1016
for any particular action of the nonprofit corporation, including 1017
notice of meetings of the district, not more than sixty days prior 1018
to the date of the action, from the most current records available 1019
at the county auditor's office. For purposes of this section, the 1020
persons shown on such records as having common or joint ownership 1021
interests in a parcel of real property collectively constitute the 1022
owner of the real property. The articles of incorporation or the 1023
code of regulations governing the nonprofit corporation shall 1024
provide for the method by which notice for meetings of the 1025
membership of the energy special improvement district is given and 1026
the method for voting by the membership of the district. 1027

(B) A member may file a written statement with the district's 1028
secretary at least three days prior to any meeting of the entire 1029
membership of the district to appoint a proxy to carry out the 1030
member's rights and responsibilities under sections 1710.20 to 1031
1710.28 of the Revised Code at that meeting. 1032

(C) A member also may appoint a designee to carry out the 1033
member's rights and responsibilities under sections 1710.20 to 1034
1710.28 of the Revised Code by filing a written designation form 1035
with the district's secretary. This form shall include the name 1036
and address of the member, the name and address of the designee, 1037
and the expiration date, if any, of the designation and may 1038
authorize the designee to vote at any meeting of the district. 1039

(D) A proxy or designee need not be an elector or resident of 1040
any participating political subdivision of the district or a 1041
member of the district. A member may change the appointment of a 1042
proxy or a designee by filing a new form with the district's 1043

secretary. The most current form filed with the secretary is the 1044
valid appointment. Service of any notice upon a proxy or designee 1045
at the proxy's or designee's address as shown on that form 1046
satisfies any requirements for notification of the member. 1047

Sec. 1710.27. The board of directors of the nonprofit 1048
corporation that governs an energy special improvement district 1049
created under sections 1710.20 to 1710.28 of the Revised Code may 1050
add additional territory to the district upon approval of a 1051
petition by one hundred per cent of the property owners of the 1052
additional territory and a plan that designates at least one 1053
special energy improvement project for each parcel of real 1054
property and that complies with section 1710.22 of the Revised 1055
Code. 1056

Sec. 1710.28. A nonprofit corporation created for the purpose 1057
of governing an energy special improvement district created under 1058
sections 1710.20 to 1710.28 of the Revised Code may be dissolved 1059
not earlier than one year following the creation of the district 1060
if both of the following apply: 1061

(A) The petition of property owners or the plan submitted 1062
under section 1710.21 of the Revised Code authorized dissolution; 1063

(B) Sufficient provisions have been made to levy and collect 1064
special assessments to pay the costs of existing special energy 1065
improvement projects pursuant to a written agreement with a 1066
participating political subdivision. 1067

Upon dissolution of a nonprofit corporation that governs an 1068
energy special improvement district, the property owners shall 1069
succeed to all rights and responsibilities of the nonprofit 1070
corporation. 1071

Sec. 1710.29. On and after the effective date of this 1072

section, any energy special improvement district that, prior to 1073
the effective date of this section, was created under sections 1074
1710.01 to 1710.13 of the Revised Code for the purpose of 1075
developing and implementing plans for special energy improvement 1076
projects shall continue and shall be treated as though it was 1077
created under sections 1710.20 to 1710.28 of the Revised Code. 1078
Such a district shall hereafter be governed by the requirements of 1079
sections 1710.20 to 1710.28 of the Revised Code. 1080

Sec. 1710.30. For the purpose of developing and implementing 1081
plans for special energy improvement projects on nonresidential 1082
property, a port authority may create an energy special 1083
improvement district. The port authority shall create the district 1084
in accordance with sections 1710.30 to 1710.37 of the Revised Code 1085
and shall ensure that all of the following apply to the district: 1086

(A) The district is governed either by the board of directors 1087
of the port authority or a nonprofit corporation organized under 1088
Chapter 1702. of the Revised Code acting through its board of 1089
directors. 1090

(B) The territory comprising the district is within the 1091
jurisdiction of the port authority, but may include territory 1092
within the boundaries of any one municipal corporation, any one 1093
township, or any combination of contiguous or noncontiguous 1094
municipal corporations or townships. 1095

(C) At least one special energy improvement project is 1096
designated for each parcel of real property within the district. 1097

Sec. 1710.31. In order to create an energy special 1098
improvement district under sections 1710.30 to 1710.37 of the 1099
Revised Code, the person or persons proposing the creation of the 1100
district shall submit to the board of directors of a port 1101
authority that has jurisdiction over the territory in which the 1102

proposed energy special improvement district is to be located both 1103
of the following: 1104

(A) A written plan for special energy improvement projects 1105
created in accordance with section 1710.32 of the Revised Code; 1106

(B) A petition for the creation of the district signed by one 1107
hundred per cent of the property owners within the proposed 1108
district. 1109

For purposes of compliance with division (B) of this section, 1110
the person or persons proposing creation of the district shall 1111
show the area of the district and the ownership of each parcel of 1112
property of the proposed district by reference to records that 1113
were available from each county recorder's office not more than 1114
sixty days prior to the submission of the petition. A petition 1115
submitted under division (B) of this section is in furtherance of 1116
the purposes set forth in Section 2o of Article VIII, Ohio 1117
Constitution. 1118

Sec. 1710.32. (A) The person or persons proposing the 1119
creation of an energy special improvement district under sections 1120
1710.30 to 1710.37 of the Revised Code shall ensure that the plan 1121
required under section 1710.31 of the Revised Code includes both 1122
of the following: 1123

(1) A description of the proposed special energy improvement 1124
project or projects, including the cost of the proposed project or 1125
projects and a statement of which property or properties each 1126
project will benefit. The person or persons shall designate at 1127
least one special energy improvement project for each parcel of 1128
real property within the proposed district. 1129

(2) The method of assessment to be used and the time period 1130
during which the assessment will be levied. 1131

(B) The person or persons proposing the creation of an energy 1132

special improvement district under sections 1710.30 to 1710.37 of 1133
the Revised Code may include in the plan submitted under section 1134
1710.31 of the Revised Code provisions for the following: 1135

(1) Creating and operating the district and the nonprofit 1136
corporation, including hiring employees and professional services, 1137
contracting for insurance, and purchasing or leasing office space 1138
and office equipment and other requirements of the district; 1139

(2) Planning, designing, and implementing a plan, and paying 1140
the cost of any action taken in furtherance of the plan, including 1141
hiring architectural, engineering, legal, appraisal, insurance, 1142
consulting, energy auditing, and planning services; 1143

(3) Conducting court proceedings to carry out sections 1144
1710.30 to 1710.37 of the Revised Code; 1145

(4) Paying damages resulting from the provision of public 1146
improvements or public services and implementing a plan; 1147

(5) Paying the costs of issuing, paying interest on, and 1148
redeeming or refunding notes and bonds issued for the purpose of 1149
funding a plan; 1150

(6) Sale, lease, lease with an option to purchase, conveyance 1151
of other interests in, or other contracts for the acquisition, 1152
construction, maintenance, repair, furnishing, equipping, 1153
operation, or improvement of any special energy improvement 1154
project by the energy special improvement district, between a 1155
participating political subdivision and the district, and between 1156
the district and any owner of real property in the district on 1157
which a special energy improvement project has been acquired, 1158
installed, equipped, or improved; 1159

(7) Aggregating the renewable energy credits generated by one 1160
or more special energy improvement projects within a district, 1161
upon the consent of the owners of the credits and for the purpose 1162
of negotiating and completing the sale of such credits; 1163

(8) The addition of territory to the energy special improvement district; 1164
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(9) Any other actions necessary to form, operate, or organize the energy special improvement district and, if applicable, the nonprofit corporation that will govern the energy special improvement district. 1166
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Sec. 1710.33. (A)(1) The board of directors of a port authority with which a petition and plan are filed under section 1710.31 of the Revised Code may approve or disapprove of the plan and petition. If the board approves of the petition and plan, the board shall create an energy special improvement district. The board of directors of the port authority also shall determine whether the board will govern the district or whether the board will create a nonprofit corporation to govern the district. 1170
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(2) If the board of directors of the port authority will govern the energy special improvement district, the board shall prepare bylaws for the energy special improvement district that include all of the following: 1178
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(a) The name of the district; 1182

(b) A description of the territory within the district, which may include all or part of a municipal corporation or township within the jurisdiction of the port authority; 1183
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(c) Procedures and requirements governing meetings on special energy improvement projects, including procedures governing the provision of notice regarding such meetings; 1186
1187
1188

(d) A provision governing the addition of territory to the district; 1189
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(e) Provisions for the operation of the district, hiring employees and professional services, contracting for insurance, purchasing and leasing office space and office equipment, and 1191
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other actions necessary to form, operate, or organize the 1194
district. 1195

(B) If the board of directors of the port authority creates a 1196
nonprofit corporation for the purpose of governing the energy 1197
special improvement district, the board shall prepare articles of 1198
incorporation for the nonprofit corporation. The board shall 1199
ensure that in addition to meeting the requirements for articles 1200
of incorporation set forth in Chapter 1702. of the Revised Code, 1201
the articles of incorporation provide all of the following: 1202

(1) The name for the district; 1203

(2) A description of the territory within the district, which 1204
may be all or part of each participating political subdivision; 1205

(3) A description of the procedure by which the articles of 1206
incorporation may be amended; 1207

(4) The reasons for creating the district and an explanation 1208
of how the district will be conducive to the public health, 1209
safety, peace, convenience, and welfare of the district. 1210

(C) The board of directors of the port authority shall 1211
provide notice to the property owners that submitted the petition 1212
and plan under section 1710.31 of the Revised Code and any 1213
participating political subdivision that is located within the 1214
energy special improvement district of the approval of the 1215
petition and the plan and the creation of an energy special 1216
improvement district. Along with the notice, the board shall 1217
provide the approved petition, the approved plan, and either the 1218
bylaws or the bylaws and the articles of incorporation, as 1219
applicable, that will dictate the governance of the district. The 1220
board shall include with the notice to the participating political 1221
subdivisions a statement of the responsibilities each 1222
participating political subdivision will assume if the political 1223
subdivision approves the petition and the plan. 1224

Sec. 1710.34. (A) Each participating political subdivision 1225
that receives notice of the creation of an energy special 1226
improvement district under section 1710.34 of the Revised Code has 1227
sixty days to approve or disapprove, by resolution, the petition 1228
by the property owners, the plan for special energy improvement 1229
projects, and either the bylaws or the bylaws and the articles of 1230
incorporation, as applicable, that dictate the governance of the 1231
district. A copy of that resolution shall be filed in the 1232
secretary of state's office. 1233

This division does not prohibit or restrict the rights of 1234
municipal corporations under Article XVIII of the Ohio 1235
Constitution or the right of the municipal legislative authority 1236
to impose reasonable conditions in a resolution of approval. The 1237
acquisition, installation, equipping, and improvement of a special 1238
energy improvement project under this section shall not supersede 1239
any local zoning, environmental, or similar law or regulation. 1240

(B) If a participating political subdivision approves the 1241
petition, the plan, and either the bylaws or the bylaws and the 1242
articles of incorporation, as applicable, the participating 1243
political subdivision shall levy a special assessment on all real 1244
property in the energy special improvement district that is 1245
located within its boundaries to pay for the costs of the plan. 1246
The participating political subdivision shall levy the special 1247
assessment for not more than thirty years from the first day of 1248
the year in which the special assessment is first imposed. In the 1249
event that additional territory is added to the energy special 1250
improvement district, a participating political subdivision shall 1251
levy the special assessment with respect to such additional 1252
territory commencing not earlier than the date such territory is 1253
added and for not more than thirty years from the first day of the 1254
year in which the special assessment is first imposed. 1255

(C) For purposes of levying a special assessment for the 1256
plan, the special energy improvement projects included in the plan 1257
are deemed a special benefit to property owners within the energy 1258
special improvement district. The use of special assessments 1259
levied to benefit such property owners does not constitute 1260
expenditures made with public funds. The participating political 1261
subdivision shall levy the special assessment in accordance with 1262
Chapter 727. of the Revised Code except that: 1263

(1) The participating political subdivision may levy the 1264
assessment for each plan by any one or any combination of the 1265
methods of assessment listed in section 727.01 of the Revised 1266
Code, provided that the assessment is uniformly applied; 1267

(2) For purposes of levying an assessment, the participating 1268
political subdivision may combine one or more plans or parts of 1269
plans and levy a single assessment against specially benefited 1270
property; 1271

(3) For purposes of special assessments levied by a township 1272
under this section, references in Chapter 727. of the Revised Code 1273
to the municipal corporation are deemed to refer to the township, 1274
and references to the legislative authority of the municipal 1275
corporation are deemed to refer to the board of township trustees. 1276

(D) All applicable rights and privileges of a property owner 1277
that is assessed under Chapter 727. of the Revised Code are 1278
granted to a property owner assessed under this section, including 1279
those rights and privileges specified in sections 727.15 to 727.17 1280
and 727.18 to 727.22 of the Revised Code and the right to notice 1281
of the resolution of necessity and the filing of the estimated 1282
assessment under section 727.13 of the Revised Code. Property 1283
owners assessed for public services under this section have the 1284
same rights and privileges as property owners assessed for public 1285
improvements under this section. 1286

<u>Sec. 1710.35. (A) Each nonprofit corporation or port</u>	1287
<u>authority governing an energy special improvement district under</u>	1288
<u>sections 1710.30 to 1710.37 of the Revised Code may do the</u>	1289
<u>following:</u>	1290
<u>(1) Develop, adopt, revise, implement, and repeal plans for</u>	1291
<u>all or any part of the district;</u>	1292
<u>(2) Contract with any person, political subdivision as</u>	1293
<u>defined in section 2744.01 of the Revised Code, or state agency as</u>	1294
<u>defined in section 1.60 of the Revised Code to develop and</u>	1295
<u>implement plans for special energy improvement projects within the</u>	1296
<u>district;</u>	1297
<u>(3) Contract and pay for insurance for the district and for</u>	1298
<u>directors, officers, agents, contractors, employees, or members of</u>	1299
<u>the district for any consequences of the implementation of any</u>	1300
<u>plan adopted by the district or any actions of the district;</u>	1301
<u>(4) Act as an agent for and on behalf of a participating</u>	1302
<u>political subdivision in order to sell, transfer, lease, or convey</u>	1303
<u>any special energy improvement project owned by the political</u>	1304
<u>subdivision, provided that the legislative authority of the</u>	1305
<u>participating political subdivision determines that the project is</u>	1306
<u>not required to be exclusively owned by the political subdivision</u>	1307
<u>for its purposes, and provided that the sale is for any of the</u>	1308
<u>following purposes:</u>	1309
<u>(a) To promote the welfare of the people of such</u>	1310
<u>participating political subdivision;</u>	1311
<u>(b) To improve the quality of life and the general and</u>	1312
<u>economic well-being of the people of the participating political</u>	1313
<u>subdivision;</u>	1314
<u>(c) To better ensure the public health, safety, and welfare;</u>	1315
<u>(d) To protect water and other natural resources;</u>	1316

(e) To provide for the conservation and preservation of natural and open areas and farmlands, including by making urban areas more desirable or suitable for development and revitalization; 1317
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(f) To control, prevent, minimize, clean up, or mediate certain contamination of or pollution from lands in the state and water contamination or pollution; or 1321
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(g) To provide for safe and natural areas and resources. 1324

The legislative authority of a participating political subdivision shall specify the consideration for such sale, transfer, lease, or conveyance and any other terms thereof. Any determinations made by a legislative authority of a participating political subdivision under division (A)(4) of this section are conclusive. 1325
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(B) In addition to the actions authorized under division (A) of this section, a nonprofit corporation governing an energy special improvement district under sections 1710.30 to 1710.37 of the Revised Code may exercise all powers of nonprofit corporations granted under Chapter 1702. of the Revised Code, and a port authority governing an energy special improvement district under sections 1710.30 to 1710.37 of the Revised Code may exercise all applicable powers of port authorities granted under Chapter 4582. of the Revised Code that do not conflict with sections 1710.30 to 1710.37 of the Revised Code. 1331
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(C) A participating political subdivision, or a nonprofit corporation or port authority governing an energy special improvement district, may make any purchase, sale, transfer, lease, or conveyance of a special energy improvement project without advertising, receipt of bids, or other competitive bidding procedures applicable to the participating political subdivision or the energy special improvement district under Chapter 153. or 1341
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735. or section 1710.11 of the Revised Code or other 1348
representative provisions of the Revised Code. 1349

(D) Membership on the board of directors of the district is 1350
not considered holding a public office. Directors and their 1351
designees are entitled to the immunities provided by Chapter 1702. 1352
and to the same immunity as an employee under division (A)(6) of 1353
section 2744.03 of the Revised Code, except that directors and 1354
their designees are not entitled to the indemnification provided 1355
in section 2744.07 of the Revised Code unless the director or 1356
designee is an employee or official of a participating political 1357
subdivision of the district and is acting within the scope of the 1358
director's or designee's employment or official responsibilities. 1359

District officers and district members and directors and 1360
their designees or proxies are not required to file a statement 1361
with the Ohio ethics commission under section 102.02 of the 1362
Revised Code. All records of the district are public records under 1363
section 149.43 of the Revised Code, except that records of 1364
organizations contracting with a district are not public records 1365
under section 149.43 or section 149.431 of the Revised Code solely 1366
by reason of any contract with a district. 1367

Sec. 1710.36. (A) Each owner of real property within an 1368
energy special improvement district created under sections 1710.30 1369
to 1710.37 of the Revised Code is a member of the energy special 1370
improvement district. The port authority or nonprofit corporation 1371
governing the district shall determine the identity and address of 1372
each owner for any particular action of the port authority or 1373
nonprofit corporation, including notice of meetings of the 1374
district, not more than sixty days prior to the date of the 1375
action, from the most current records available at the county 1376
auditor's office. For purposes of this section, the persons shown 1377
on such records as having common or joint ownership interests in a 1378

parcel of real property collectively constitute the owner of the 1379
real property. The articles of incorporation or the code of 1380
regulations governing the nonprofit corporation, or the bylaws of 1381
the energy special improvement district, shall provide for the 1382
method by which notice for meetings of the membership of the 1383
district is to be given and the method for voting by the 1384
membership of the district. 1385

(B) A member may file a written statement with the district's 1386
secretary at least three days prior to any meeting of the entire 1387
membership of the district to appoint a proxy to carry out the 1388
member's rights and responsibilities under sections 1710.30 to 1389
1710.37 of the Revised Code at that meeting. 1390

(C) A member also may appoint a designee to carry out the 1391
member's rights and responsibilities under sections 1710.30 to 1392
1710.37 of the Revised Code by filing a written designation form 1393
with the district's secretary. This form shall include the name 1394
and address of the member, the name and address of the designee, 1395
and the expiration date, if any, of the designation and may 1396
authorize the designee to vote at any meeting of the district. 1397

(D) A proxy or designee need not be an elector or resident of 1398
any participating political subdivision of the district or a 1399
member of the district. A member may change the appointment of a 1400
proxy or a designee by filing a new form with the district's 1401
secretary. The most current form filed with the secretary is the 1402
valid appointment. Service of any notice upon a proxy or designee 1403
at the proxy's or designee's address as shown on that form 1404
satisfies any requirements for notification of the member. 1405

Sec. 1710.37. The board of directors of the port authority or 1406
the nonprofit corporation that governs an energy special 1407
improvement district created under sections 1710.30 to 3710.37 of 1408

the Revised Code may add additional territory to the district upon 1409
approval of a petition by one hundred per cent of the property 1410
owners of the additional territory and a plan that designates at 1411
least one special energy improvement project for each parcel of 1412
real property and that complies with section 1710.32 of the 1413
Revised Code. 1414

Sec. ~~1710.061~~ 1710.40. (A) Except as provided in division (B) 1415
of this section, an electric distribution utility may count toward 1416
its compliance with the energy efficiency and peak demand 1417
reduction requirements of section 4928.66 of the Revised Code any 1418
efficiency savings or reduction in demand produced by a special 1419
energy improvement project located in its certified territory. 1420

(B) A mercantile customer that realizes energy efficiency 1421
savings or reduction in demand produced by a special energy 1422
improvement project that it owns may elect to commit the savings 1423
or reduction to the electric distribution utility in exchange for 1424
an exemption from an energy efficiency cost recovery mechanism 1425
permitted under section 4928.66 of the Revised Code, approved by 1426
the public utilities commission. 1427

(C) The board of directors of ~~a~~ an energy special improvement 1428
district shall submit a quarterly report to the electric 1429
distribution utility that includes, but is not limited to, both of 1430
the following: 1431

(1) The total number and a description of each new and 1432
ongoing special energy improvement project located within the 1433
energy special improvement district that produces energy 1434
efficiency savings or reduction in demand; 1435

(2) Any additional information that the electric distribution 1436
utility needs in order to obtain credit under section 4928.66 of 1437
the Revised Code for energy efficiency savings or reduction in 1438

demand from such projects. 1439

Sec. 4582.06. (A) A port authority created in accordance with 1440
section 4582.02 of the Revised Code may: 1441

(1) Acquire, construct, furnish, equip, maintain, repair, 1442
sell, exchange, lease to or from, lease with an option to 1443
purchase, convey other interests in, or operate real or personal 1444
property, or any combination thereof, related to, useful for, or 1445
in furtherance of any authorized purpose, and make charges for the 1446
use of any port authority facility, which shall be not less than 1447
the charges established for the same services furnished by a 1448
public utility or common carrier in the jurisdiction of the 1449
particular port authority; 1450

(2) Straigten, deepen, and improve any canal, channel, 1451
river, stream, or other water course or way that may be necessary 1452
or proper in the development of the facilities of the port 1453
authority; 1454

(3) Issue bonds or notes for the acquisition, construction, 1455
furnishing, or equipping of any real or personal property, or any 1456
combination thereof, related to, useful for, or in furtherance of 1457
any authorized purpose, in compliance with Chapter 133. of the 1458
Revised Code, except that the bonds or notes only may be issued 1459
pursuant to a vote of the electors residing within the territory 1460
of the port authority. The net indebtedness incurred by a port 1461
authority shall never exceed two per cent of the total value of 1462
all property within the territory comprising the authority as 1463
listed and assessed for taxation. 1464

(4) By resolution of its board of directors, issue revenue 1465
bonds beyond the limit of bonded indebtedness provided by law, for 1466
the acquisition, construction, furnishing, or equipping of any 1467
real or personal property, or any combination thereof, related to, 1468
useful for, or in furtherance of any authorized purpose, including 1469

all costs in connection with or incidental thereto. 1470

The revenue bonds of the port authority shall be secured only 1471
by a pledge of and a lien on the revenues of the port authority 1472
derived from those loan payments, rentals, fees, charges, or other 1473
revenues that are designated in the resolution, including, but not 1474
limited to, any property to be acquired, constructed, furnished, 1475
or equipped with the proceeds of the bond issue, after provision 1476
only for the reasonable cost of operating, maintaining, and 1477
repairing the property of the port authority so designated. The 1478
bonds may further be secured by the covenant of the port authority 1479
to maintain rates or charges that will produce revenues sufficient 1480
to meet the costs of operating, maintaining, and repairing such 1481
property and to meet the interest and principal requirements of 1482
the bonds and to establish and maintain reserves for the foregoing 1483
purposes. The board of directors, by resolution, may provide for 1484
the issuance of additional revenue bonds from time to time, to be 1485
secured equally and ratably, without preference, priority, or 1486
distinction, with outstanding revenue bonds, but subject to the 1487
terms and limitations of any trust agreement described in this 1488
section, and of any resolution authorizing bonds then outstanding. 1489
The board of directors, by resolution, may designate additional 1490
property of the port authority, the revenues of which shall be 1491
pledged and be subject to a lien for the payment of the debt 1492
charges on revenue bonds theretofore authorized by resolution of 1493
the board of directors, to the same extent as the revenues above 1494
described. 1495

In the discretion of the board of directors, the revenue 1496
bonds of the port authority may be secured by a trust agreement 1497
between the board of directors on behalf of the port authority and 1498
a corporate trustee, that may be any trust company or bank having 1499
powers of a trust company, within or without the state. 1500

The trust agreement may provide for the pledge or assignment 1501

of the revenues to be received, but shall not pledge the general 1502
credit and taxing power of the port authority. A trust agreement 1503
securing revenue bonds issued to acquire, construct, furnish, or 1504
equip real property, plants, factories, offices, and other 1505
structures and facilities for authorized purposes consistent with 1506
Section 13 or 16 of Article VIII, Ohio Constitution, may mortgage 1507
the real or personal property, or a combination thereof, to be 1508
acquired, constructed, furnished, or equipped from the proceeds of 1509
such revenue bonds, as further security for the bonds. The trust 1510
agreement or the resolution providing for the issuance of revenue 1511
bonds may set forth the rights and remedies of the bondholders and 1512
trustee, and may contain other provisions for protecting and 1513
enforcing their rights and remedies that are determined in the 1514
discretion of the board of directors to be reasonable and proper. 1515
The agreement or resolution may provide for the custody, 1516
investment, and disbursement of all moneys derived from the sale 1517
of such bonds, or from the revenues of the port authority, other 1518
than those moneys received from taxes levied pursuant to section 1519
4582.14 of the Revised Code, and may provide for the deposit of 1520
such funds without regard to section 4582.15 of the Revised Code. 1521

All bonds issued under authority of this chapter, regardless 1522
of form or terms and regardless of any other law to the contrary, 1523
shall have all qualities and incidents of negotiable instruments, 1524
subject to provisions for registration, and may be issued in 1525
coupon, fully registered, or other form, or any combination 1526
thereof, as the board of directors determines. Provision may be 1527
made for the registration of any coupon bonds as to principal 1528
alone or as to both principal and interest, and for the conversion 1529
into coupon bonds of any fully registered bonds or bonds 1530
registered as to both principal and interest. 1531

The revenue bonds shall bear interest at such rate or rates, 1532
shall bear such date or dates, and shall mature within forty-five 1533

years following the date of issuance and in such amount, at such 1534
time or times, and in such number of installments, as may be 1535
provided in or pursuant to the resolution authorizing their 1536
issuance. The final maturity of any original issue of revenue 1537
bonds shall not be later than forty-five years from their date of 1538
issue. Such resolution also shall provide for the execution of the 1539
bonds, which may be by facsimile signatures unless prohibited by 1540
the resolution, and the manner of sale of the bonds. The 1541
resolution shall provide for, or provide for the determination of, 1542
any other terms and conditions relative to the issuance, sale, and 1543
retirement of the bonds that the board of directors in its 1544
discretion determines to be reasonable and proper. 1545

Whenever a port authority considers it expedient, it may 1546
issue renewal notes and refund any bonds, whether the bonds to be 1547
refunded have or have not matured. The final maturity of any 1548
notes, including any renewal notes, shall not be later than five 1549
years from the date of issue of the original issue of notes. The 1550
final maturity of any refunding bonds shall not be later than the 1551
later of forty-five years from the date of issue of the original 1552
issue of bonds. The refunding bonds shall be sold and the proceeds 1553
applied to the purchase, redemption, or payment of the bonds to be 1554
refunded and the costs of issuance of the refunding bonds. The 1555
bonds and notes issued under this chapter, their transfer, and the 1556
income therefrom, shall at all times be free from taxation within 1557
the state. 1558

(5) Do any of the following, in regard to any interests in 1559
any real or personal property, or any combination thereof, 1560
including, without limitation, machinery, equipment, plants, 1561
factories, offices, and other structures and facilities related 1562
to, useful for, or in furtherance of any authorized purpose, for 1563
such consideration and in such manner, consistent with Article 1564
VIII, Ohio Constitution, as the board in its sole discretion may 1565

determine:	1566
(a) Loan moneys to any person or governmental entity for the acquisition, construction, furnishing, and equipping of the property;	1567 1568 1569
(b) Acquire, construct, maintain, repair, furnish, and equip the property;	1570 1571
(c) Sell to, exchange with, lease, convey other interests in, or lease with an option to purchase the same or any lesser interest in the property to the same or any other person or governmental entity;	1572 1573 1574 1575
(d) Guarantee the obligations of any person or governmental entity.	1576 1577
A port authority may accept and hold as consideration for the conveyance of property or any interest therein such property or interests therein as the board in its discretion may determine, notwithstanding any restrictions that apply to the investment of funds by a port authority.	1578 1579 1580 1581 1582
(6) Construct, maintain, repair, furnish, equip, sell, exchange, lease, or lease with an option to purchase, any property that it is authorized to acquire. A port authority that is subject to this section also may operate any property in connection with transportation, recreational, governmental operations, or cultural activities.	1583 1584 1585 1586 1587 1588
(a) Any purchase, exchange, sale, lease, lease with an option to purchase, conveyance of other interests in, or other contract with a person or governmental entity that pertains to the acquisition, construction, maintenance, repair, furnishing, equipping, or operation of any real or personal property, or any combination thereof, related to, useful for, or in furtherance of an activity contemplated by Section 13 or 16 of Article VIII, Ohio Constitution, shall be made in such manner and subject to such	1589 1590 1591 1592 1593 1594 1595 1596

terms and conditions as may be determined by the board of 1597
directors in its discretion. 1598

(b) Division (A)(6)(a) of this section applies to all 1599
contracts that are subject to the division, notwithstanding any 1600
other provision of law that might otherwise apply, including, 1601
without limitation, any requirement of notice, any requirement of 1602
competitive bidding or selection, or any requirement for the 1603
provision of security. 1604

(c) Divisions (A)(6)(a) and (b) of this section do not apply 1605
to either of the following: 1606

(i) Any contract secured by or to be paid from moneys raised 1607
by taxation or the proceeds of obligations secured by a pledge of 1608
moneys raised by taxation; 1609

(ii) Any contract secured exclusively by or to be paid 1610
exclusively from the general revenues of the port authority. For 1611
the purposes of this section, any revenues derived by the port 1612
authority under a lease or other agreement that, by its terms, 1613
contemplates the use of amounts payable under the agreement either 1614
to pay the costs of the improvement that is the subject of the 1615
contract or to secure obligations of the port authority issued to 1616
finance costs of such improvement, are excluded from general 1617
revenues. 1618

(7) Apply to the proper authorities of the United States 1619
pursuant to appropriate law for the right to establish, operate, 1620
and maintain foreign trade zones and to establish, operate, and 1621
maintain foreign trade zones; and to acquire land or property 1622
therefor, in a manner consistent with section 4582.17 of the 1623
Revised Code; 1624

(8) Exercise the right of eminent domain to appropriate any 1625
land, rights, rights-of-way, franchises, easements, or other 1626
property, necessary or proper for any authorized purpose, pursuant 1627

to the procedure provided in sections 163.01 to 163.22 of the Revised Code, if funds equal to the appraised value of the property to be acquired as a result of such proceedings are available for that purpose, except that nothing contained in sections 4582.01 to 4582.20 of the Revised Code shall authorize a port authority to take or disturb property or facilities belonging to any agency or political subdivision of this state, public utility, or common carrier, which property or facilities are necessary and convenient in the operation of the agency or political subdivision, public utility, or common carrier, unless provision is made for the restoration, relocation, or duplication of the property or facilities, or upon the election of the agency or political subdivision, public utility, or common carrier, for the payment of compensation, if any, at the sole cost of the port authority, provided that:

(a) If any restoration or duplication proposed to be made pursuant to this section involves a relocation of such property or facilities, the new facilities and location shall be of at least comparable utilitarian value and effectiveness, and the relocation shall not impair the ability of the public utility or common carrier to compete in its original area of operation.

(b) If any restoration or duplication made pursuant to this section involves a relocation of such property or facilities, the port authority shall acquire no interest or right in or to the appropriated property or facilities, except as provided in division (A)(11) of this section, until the relocated property or facilities are available for use and until marketable title thereto has been transferred to the public utility or common carrier.

(c) Provisions for restoration or duplication shall be described in detail in the resolution for appropriation passed by the port authority.

(9) Enjoy and possess the same rights, privileges, and powers 1660
granted municipal corporations under sections 721.04 to 721.11 of 1661
the Revised Code; 1662

(10) Maintain such funds as it considers necessary; 1663

(11) Direct its agents or employees, when properly identified 1664
in writing, and after at least five days' written notice, to enter 1665
upon lands within the confines of its jurisdiction in order to 1666
make surveys and examinations preliminary to location and 1667
construction of works for the purposes of the port authority, 1668
without liability of the port authority or its agents or employees 1669
except for actual damage done; 1670

(12) Sell, lease, or convey other interests in real and 1671
personal property and grant easements or rights-of-way over 1672
property of the port authority. The board of directors shall 1673
specify the consideration and any terms thereof for the sale, 1674
lease, or conveyance of other interests in real and personal 1675
property. Any determinations made by the board of directors under 1676
this division shall be conclusive. The sale, lease, or conveyance 1677
may be made without advertising and the receipt of bids. 1678

(13) Promote, advertise, and publicize the port authority 1679
facilities and its authorized purposes, provide information to 1680
persons with an interest in transportation and other port 1681
authority activities, and appear before rate-making authorities to 1682
represent and promote the interests of the port authority and its 1683
authorized purposes; 1684

(14) Adopt rules, not in conflict with general law, governing 1685
the use of and the safeguarding of its property, grounds, 1686
buildings, equipment, and facilities, safeguarding persons and 1687
their property located on or in port authority property, and 1688
governing the conduct of its employees and the public, in order to 1689
promote the public safety and convenience in and about its 1690

terminals and grounds, and to maintain order. Any such regulation 1691
shall be posted at no less than five public places in the port 1692
authority, as determined by the board of directors, for a period 1693
of not fewer than fifteen days, and shall be available for public 1694
inspection at the principal office of the port authority during 1695
regular business hours. No person shall violate any lawful 1696
regulation adopted and posted as provided in this division. 1697

(15) Do all acts necessary or appropriate to carry out its 1698
authorized purposes. The port authority shall have the powers and 1699
rights granted to other subdivisions under section 9.20 of the 1700
Revised Code. 1701

(16) Develop and implement plans for special energy 1702
improvement projects and create and govern energy special 1703
improvement districts in accordance with sections 1710.30 to 1704
1710.37 of the Revised Code. 1705

(B) Any instrument by which real property is acquired 1706
pursuant to this section shall identify the agency of the state 1707
that has the use and benefit of the real property as specified in 1708
section 5301.012 of the Revised Code. 1709

(C) Whoever violates division (A)(14) of this section is 1710
guilty of a minor misdemeanor. 1711

Sec. 4582.31. (A) A port authority created in accordance with 1712
section 4582.22 of the Revised Code may: 1713

(1) Adopt bylaws for the regulation of its affairs and the 1714
conduct of its business; 1715

(2) Adopt an official seal; 1716

(3) Maintain a principal office within its jurisdiction, and 1717
maintain such branch offices as it may require; 1718

(4) Acquire, construct, furnish, equip, maintain, repair, 1719
sell, exchange, lease to or from, or lease with an option to 1720

purchase, convey other interests in real or personal property, or 1721
any combination thereof, related to, useful for, or in furtherance 1722
of any authorized purpose and operate any property in connection 1723
with transportation, recreational, governmental operations, or 1724
cultural activities; 1725

(5) Straighten, deepen, and improve any channel, river, 1726
stream, or other water course or way which may be necessary or 1727
proper in the development of the facilities of a port authority; 1728

(6) Make available the use or services of any port authority 1729
facility to one or more persons, one or more governmental 1730
agencies, or any combination thereof; 1731

(7) Issue bonds or notes for the acquisition, construction, 1732
furnishing, or equipping of any port authority facility or other 1733
permanent improvement that a port authority is authorized to 1734
acquire, construct, furnish, or equip, in compliance with Chapter 1735
133. of the Revised Code, except that such bonds or notes may only 1736
be issued pursuant to a vote of the electors residing within the 1737
area of jurisdiction of the port authority. The net indebtedness 1738
incurred by a port authority shall never exceed two per cent of 1739
the total value of all property within the territory comprising 1740
the port authority as listed and assessed for taxation. 1741

(8) Issue port authority revenue bonds beyond the limit of 1742
bonded indebtedness provided by law, payable solely from revenues 1743
as provided in section 4582.48 of the Revised Code, for the 1744
purpose of providing funds to pay the costs of any port authority 1745
facility or facilities or parts thereof; 1746

(9) Apply to the proper authorities of the United States 1747
pursuant to appropriate law for the right to establish, operate, 1748
and maintain foreign trade zones and establish, operate, and 1749
maintain foreign trade zones and to acquire, exchange, sell, lease 1750
to or from, lease with an option to purchase, or operate 1751

facilities, land, or property therefor in accordance with the 1752
"Foreign Trade Zones Act," 48 Stat. 998 (1934), 19 U.S.C. 81a to 1753
81u; 1754

(10) Enjoy and possess the same rights, privileges, and 1755
powers granted municipal corporations under sections 721.04 to 1756
721.11 of the Revised Code; 1757

(11) Maintain such funds as it considers necessary; 1758

(12) Direct its agents or employees, when properly identified 1759
in writing, and after at least five days' written notice, to enter 1760
upon lands within the confines of its jurisdiction in order to 1761
make surveys and examinations preliminary to location and 1762
construction of works for the purposes of the port authority, 1763
without liability of the port authority or its agents or employees 1764
except for actual damage done; 1765

(13) Promote, advertise, and publicize the port authority and 1766
its facilities; provide information to shippers and other 1767
commercial interests; and appear before rate-making authorities to 1768
represent and promote the interests of the port authority; 1769

(14) Adopt rules, not in conflict with general law, it finds 1770
necessary or incidental to the performance of its duties and the 1771
execution of its powers under sections 4582.21 to 4582.54 of the 1772
Revised Code. Any such rule shall be posted at no less than five 1773
public places in the port authority, as determined by the board of 1774
directors, for a period of not fewer than fifteen days, and shall 1775
be available for public inspection at the principal office of the 1776
port authority during regular business hours. No person shall 1777
violate any lawful rule adopted and posted as provided in this 1778
division. 1779

(15) Do any of the following, in regard to any interests in 1780
any real or personal property, or any combination thereof, 1781
including, without limitation, machinery, equipment, plants, 1782

factories, offices, and other structures and facilities related 1783
to, useful for, or in furtherance of any authorized purpose, for 1784
such consideration and in such manner, consistent with Article 1785
VIII of the Ohio Constitution, as the board in its sole discretion 1786
may determine: 1787

(a) Loan moneys to any person or governmental entity for the 1788
acquisition, construction, furnishing, and equipping of the 1789
property; 1790

(b) Acquire, construct, maintain, repair, furnish, and equip 1791
the property; 1792

(c) Sell to, exchange with, lease, convey other interests in, 1793
or lease with an option to purchase the same or any lesser 1794
interest in the property to the same or any other person or 1795
governmental entity; 1796

(d) Guarantee the obligations of any person or governmental 1797
entity. 1798

A port authority may accept and hold as consideration for the 1799
conveyance of property or any interest therein such property or 1800
interests therein as the board in its discretion may determine, 1801
notwithstanding any restrictions that apply to the investment of 1802
funds by a port authority. 1803

(16) Sell, lease, or convey other interests in real and 1804
personal property, and grant easements or rights-of-way over 1805
property of the port authority. The board of directors shall 1806
specify the consideration and any terms for the sale, lease, or 1807
conveyance of other interests in real and personal property. Any 1808
determination made by the board under this division shall be 1809
conclusive. The sale, lease, or conveyance may be made without 1810
advertising and the receipt of bids. 1811

(17) Exercise the right of eminent domain to appropriate any 1812
land, rights, rights-of-way, franchises, easements, or other 1813

property, necessary or proper for any authorized purpose, pursuant 1814
to the procedure provided in sections 163.01 to 163.22 of the 1815
Revised Code, if funds equal to the appraised value of the 1816
property to be acquired as a result of such proceedings are 1817
available for that purpose. However, nothing contained in sections 1818
4582.201 to 4582.59 of the Revised Code shall authorize a port 1819
authority to take or disturb property or facilities belonging to 1820
any agency or political subdivision of this state, public utility, 1821
cable operator, or common carrier, which property or facilities 1822
are necessary and convenient in the operation of the agency or 1823
political subdivision, public utility, cable operator, or common 1824
carrier, unless provision is made for the restoration, relocation, 1825
or duplication of such property or facilities, or upon the 1826
election of the agency or political subdivision, public utility, 1827
cable operator, or common carrier, for the payment of 1828
compensation, if any, at the sole cost of the port authority, 1829
provided that: 1830

(a) If any restoration or duplication proposed to be made 1831
under this section involves a relocation of the property or 1832
facilities, the new facilities and location shall be of at least 1833
comparable utilitarian value and effectiveness and shall not 1834
impair the ability of the public utility, cable operator, or 1835
common carrier to compete in its original area of operation; 1836

(b) If any restoration or duplication made under this section 1837
involves a relocation of the property or facilities, the port 1838
authority shall acquire no interest or right in or to the 1839
appropriated property or facilities, except as provided in 1840
division (A)(15) of this section, until the relocated property or 1841
facilities are available for use and until marketable title 1842
thereto has been transferred to the public utility, cable 1843
operator, or common carrier. 1844

As used in division (A)(17) of this section, "cable operator" 1845

has the same meaning as in the "Cable Communications Policy Act of 1846
1984," Pub. L. No. 98-549, 98 Stat. 2780, 47 U.S.C. 522, as 1847
amended by the "Telecommunications Act of 1996," Pub. L. No. 1848
104-104, 110 Stat. 56. 1849

(18)(a) Make and enter into all contracts and agreements and 1850
execute all instruments necessary or incidental to the performance 1851
of its duties and the execution of its powers under sections 1852
4582.21 to 4582.59 of the Revised Code. 1853

(b)(i) Except as provided in division (A)(18)(c) of this 1854
section or except when the port authority elects to construct a 1855
building, structure, or other improvement pursuant to a contract 1856
made with a construction manager at risk under sections 9.33 to 1857
9.335 of the Revised Code or with a design-build firm under 1858
section 153.65 to 153.73 of the Revised Code, when the cost of a 1859
contract for the construction of any building, structure, or other 1860
improvement undertaken by a port authority involves an expenditure 1861
exceeding the higher of one hundred thousand dollars or the amount 1862
as adjusted under division (A)(18)(b)(ii) of this section, and the 1863
port authority is the contracting entity, the port authority shall 1864
make a written contract after notice calling for bids for the 1865
award of the contract has been given by publication twice, with at 1866
least seven days between publications, in a newspaper of general 1867
circulation in the area of the port authority or as provided in 1868
section 7.16 of the Revised Code. Each such contract shall be let 1869
to the lowest responsive and responsible bidder in accordance with 1870
section 9.312 of the Revised Code. Every contract shall be 1871
accompanied by or shall refer to plans and specifications for the 1872
work to be done, prepared for and approved by the port authority, 1873
signed by an authorized officer of the port authority and by the 1874
contractor, and shall be executed in triplicate. 1875

Each bid shall be awarded in accordance with sections 153.54, 1876
153.57, and 153.571 of the Revised Code. The port authority may 1877

reject any and all bids. 1878

(ii) On January 1, 2012, and the first day of January of 1879
every even-numbered year thereafter, the director of commerce 1880
shall adjust the threshold level for contracts subject to the 1881
bidding requirements contained in division (A)(18)(b)(i) of this 1882
section. The director shall adjust this amount according to the 1883
average increase for each of the two years immediately preceding 1884
the adjustment as set forth in the producer price index for 1885
material and supply inputs for new nonresidential construction as 1886
determined by the bureau of labor statistics of the United States 1887
department of labor or, if that index no longer is published, a 1888
generally available comparable index. If there is no resulting 1889
increase, the threshold shall remain the same until the next 1890
scheduled adjustment on the first day of January of the next 1891
even-numbered year. 1892

(c) The board of directors by rule may provide criteria for 1893
the negotiation and award without competitive bidding of any 1894
contract as to which the port authority is the contracting entity 1895
for the construction of any building or structure or other 1896
improvement under any of the following circumstances: 1897

(i) There exists a real and present emergency that threatens 1898
damage or injury to persons or property of the port authority or 1899
other persons, provided that a statement specifying the nature of 1900
the emergency that is the basis for the negotiation and award of a 1901
contract without competitive bidding shall be signed by the 1902
officer of the port authority that executes that contract at the 1903
time of the contract's execution and shall be attached to the 1904
contract. 1905

(ii) A commonly recognized industry or other standard or 1906
specification does not exist and cannot objectively be articulated 1907
for the improvement. 1908

(iii) The contract is for any energy conservation measure as defined in section 307.041 of the Revised Code. 1909
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(iv) With respect to material to be incorporated into the improvement, only a single source or supplier exists for the material. 1911
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(v) A single bid is received by the port authority after complying with the provisions of division (A)(18)(b) of this section. 1914
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(d)(i) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in division (A)(18)(c)(ii) of this section, the port authority shall publish a notice calling for technical proposals twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority or as provided in section 7.16 of the Revised Code. After receipt of the technical proposals, the port authority may negotiate with and award a contract for the improvement to the proposer making the proposal considered to be the most advantageous to the port authority. 1917
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(ii) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in division (A)(18)(c)(iv) of this section, any construction activities related to the incorporation of the material into the improvement also may be provided without competitive bidding by the source or supplier of that material. 1927
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(e)(i) Any purchase, exchange, sale, lease, lease with an option to purchase, conveyance of other interests in, or other contract with a person or governmental entity that pertains to the acquisition, construction, maintenance, repair, furnishing, equipping, or operation of any real or personal property, or any combination thereof, related to, useful for, or in furtherance of an activity contemplated by Section 13 or 16 of Article VIII, Ohio 1933
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Constitution, shall be made in such manner and subject to such 1940
terms and conditions as may be determined by the board of 1941
directors in its discretion. 1942

(ii) Division (A)(18)(e)(i) of this section applies to all 1943
contracts that are subject to the division, notwithstanding any 1944
other provision of law that might otherwise apply, including, 1945
without limitation, any requirement of notice, any requirement of 1946
competitive bidding or selection, or any requirement for the 1947
provision of security. 1948

(iii) Divisions (A)(18)(e)(i) and (ii) of this section do not 1949
apply to either of the following: any contract secured by or to be 1950
paid from moneys raised by taxation or the proceeds of obligations 1951
secured by a pledge of moneys raised by taxation; or any contract 1952
secured exclusively by or to be paid exclusively from the general 1953
revenues of the port authority. For the purposes of this section, 1954
any revenues derived by the port authority under a lease or other 1955
agreement that, by its terms, contemplates the use of amounts 1956
payable under the agreement either to pay the costs of the 1957
improvement that is the subject of the contract or to secure 1958
obligations of the port authority issued to finance costs of such 1959
improvement, are excluded from general revenues. 1960

(19) Employ managers, superintendents, and other employees 1961
and retain or contract with consulting engineers, financial 1962
consultants, accounting experts, architects, attorneys, and any 1963
other consultants and independent contractors as are necessary in 1964
its judgment to carry out this chapter, and fix the compensation 1965
thereof. All expenses thereof shall be payable from any available 1966
funds of the port authority or from funds appropriated for that 1967
purpose by a political subdivision creating or participating in 1968
the creation of the port authority. 1969

(20) Receive and accept from any state or federal agency 1970
grants and loans for or in aid of the construction of any port 1971

authority facility or for research and development with respect to 1972
port authority facilities, and receive and accept aid or 1973
contributions from any source of money, property, labor, or other 1974
things of value, to be held, used, and applied only for the 1975
purposes for which the grants and contributions are made; 1976

(21) Engage in research and development with respect to port 1977
authority facilities; 1978

(22) Purchase fire and extended coverage and liability 1979
insurance for any port authority facility and for the principal 1980
office and branch offices of the port authority, insurance 1981
protecting the port authority and its officers and employees 1982
against liability for damage to property or injury to or death of 1983
persons arising from its operations, and any other insurance the 1984
port authority may agree to provide under any resolution 1985
authorizing its port authority revenue bonds or in any trust 1986
agreement securing the same; 1987

(23) Charge, alter, and collect rentals and other charges for 1988
the use or services of any port authority facility as provided in 1989
section 4582.43 of the Revised Code; 1990

(24) Provide coverage for its employees under Chapters 145., 1991
4123., and 4141. of the Revised Code; 1992

(25) Do all acts necessary or proper to carry out the powers 1993
expressly granted in sections 4582.21 to 4582.59 of the Revised 1994
Code. 1995

(26) Develop and implement plans for special energy 1996
improvement projects and create and govern energy special 1997
improvement districts in accordance with sections 1710.30 to 1998
1710.37 of the Revised Code. 1999

(B) Any instrument by which real property is acquired 2000
pursuant to this section shall identify the agency of the state 2001
that has the use and benefit of the real property as specified in 2002

section 5301.012 of the Revised Code. 2003

(C) Whoever violates division (A)(14) of this section is 2004
guilty of a minor misdemeanor. 2005

Section 2. That existing sections 1710.01, 1710.02, 1710.021, 2006
1710.03, 1710.04, 1710.05, 1710.06, 1710.061, 1710.07, 1710.11, 2007
1710.12, 1710.13, 4582.06, and 4582.31 of the Revised Code are 2008
hereby repealed. 2009