

As Introduced

132nd General Assembly

Regular Session

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S. B. No. 309

Senators Peterson, Kunze

Cosponsors: Senators Beagle, Uecker, Bacon, Oelslager

A BILL

To amend sections 122.17, 3735.65, 3735.67, 1
3735.671, 5709.61, 5709.62, 5709.63, 5709.631, 2
5709.632, and 5751.01 and to enact sections 3
5751.052 and 5751.091 of the Revised Code to 4
lengthen the maximum term of the job creation 5
tax credit for businesses making substantial 6
fixed asset and employment investments and for 7
their suppliers, to authorize commercial 8
activity tax exclusions for receipts of those 9
suppliers from sales to such businesses, and to 10
authorize local governments to grant longer term 11
property tax exemptions for such businesses or 12
suppliers. 13

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

Section 1. That sections 122.17, 3735.65, 3735.67, 14
3735.671, 5709.61, 5709.62, 5709.63, 5709.631, 5709.632, and 15
5751.01 be amended and sections 5751.052 and 5751.091 of the 16
Revised Code be enacted to read as follows: 17

Sec. 122.17. (A) As used in this section: 18

(1) "Payroll" means the total taxable income paid by the employer during the employer's taxable year, or during the calendar year that includes the employer's tax period, to each employee or each home-based employee employed in the project to the extent such payroll is not used to determine the credit under section 122.171 of the Revised Code. "Payroll" excludes amounts paid before the day the taxpayer becomes eligible for the credit and retirement or other benefits paid or contributed by the employer to or on behalf of employees.

(2) "Baseline payroll" means Ohio employee payroll, except that the applicable measurement period is the twelve months immediately preceding the date the tax credit authority approves the taxpayer's application or the date the tax credit authority receives the recommendation described in division (C) (2) (a) of this section, whichever occurs first, multiplied by the sum of one plus an annual pay increase factor to be determined by the tax credit authority.

(3) "Ohio employee payroll" means the amount of compensation used to determine the withholding obligations in division (A) of section 5747.06 of the Revised Code and paid by the employer during the employer's taxable year, or during the calendar year that includes the employer's tax period, to the following:

(a) An employee employed in the project who is a resident of this state including a qualifying work-from-home employee not designated as a home-based employee by an applicant under division (C) (1) of this section;

(b) An employee employed at the project location who is not a resident and whose compensation is not exempt from the tax imposed under section 5747.02 of the Revised Code pursuant to a

reciprocity agreement with another state under division (A) (3) 49
of section 5747.05 of the Revised Code; 50

(c) A home-based employee employed in the project. 51

"Ohio employee payroll" excludes any such compensation to 52
the extent it is used to determine the credit under section 53
122.171 of the Revised Code, and excludes amounts paid before 54
the day the taxpayer becomes eligible for the credit under this 55
section. 56

(4) "Excess payroll" means Ohio employee payroll minus 57
baseline payroll. 58

(5) "Home-based employee" means an employee whose services 59
are performed primarily from the employee's residence in this 60
state exclusively for the benefit of the project and whose rate 61
of pay is at least one hundred thirty-one per cent of the 62
federal minimum wage under 29 U.S.C. 206. 63

(6) "Full-time equivalent employees" means the quotient 64
obtained by dividing the total number of hours for which 65
employees were compensated for employment in the project by two 66
thousand eighty. "Full-time equivalent employees" excludes hours 67
that are counted for a credit under section 122.171 of the 68
Revised Code. 69

(7) "Metric evaluation date" means the date by which the 70
taxpayer must meet all of the commitments included in the 71
agreement. 72

(8) "Qualifying work-from-home employee" means an employee 73
who is a resident of this state and whose services are 74
supervised from the employer's project location and performed 75
primarily from a residence of the employee located in this 76
state. 77

(9) "Resident" or "resident of this state" means an individual who is a resident as defined in section 5747.01 of the Revised Code.

(10) "Megaproject" means a project in this state that meets all of the following requirements:

(a) The project requires unique sites, extremely robust utility service, and a technically skilled workforce;

(b) The megaproject operator of the project compensates the project's employees at an average hourly wage of at least three hundred per cent of the federal minimum wage under 29 U.S.C. 206, exclusive of employee benefits, at the time the tax credit authority approves the project for a credit under this section;

(c) The project satisfies either of the following by the metric evaluation date applicable to the project:

(i) The megaproject operator makes at least one billion dollars in fixed-asset investments in the project;

(ii) The megaproject operator creates at least fifty million dollars in Ohio employee payroll at the project.

(d) If the project satisfies division (A)(10)(c)(ii) of this section, then, on and after the metric evaluation date and until the end of the last year for which the megaproject qualifies for the credit authorized under this section, the megaproject operator maintains at least fifty million dollars in Ohio employee payroll at the project.

(11) "Megaproject operator" means a taxpayer that undertakes and operates a megaproject.

(12) "Megaproject supplier" means a supplier in this state

that sells tangible personal property directly to a megaproject 106
operator and meets all of the following requirements: 107

(a) Satisfies both of the following by the metric 108
evaluation date applicable to the megaproject supplier: 109

(i) Makes at least one hundred million dollars in fixed- 110
asset investments in this state; 111

(ii) Creates at least ten million dollars in Ohio employee 112
payroll. 113

(b) On and after the metric evaluation date, until the end 114
of the last year for which the megaproject supplier qualifies 115
for the credit authorized under this section, maintains at least 116
ten million dollars in Ohio employee payroll. 117

(B) The tax credit authority may make grants under this 118
section to foster job creation in this state. Such a grant shall 119
take the form of a refundable credit allowed against the tax 120
imposed by section 5725.18, 5726.02, 5729.03, 5733.06, 5736.02, 121
or 5747.02 or levied under Chapter 5751. of the Revised Code. 122
The credit shall be claimed for the taxable years or tax periods 123
specified in the taxpayer's agreement with the tax credit 124
authority under division (D) of this section. With respect to 125
taxes imposed under section 5726.02, 5733.06, or 5747.02 or 126
Chapter 5751. of the Revised Code, the credit shall be claimed 127
in the order required under section 5726.98, 5733.98, 5747.98, 128
or 5751.98 of the Revised Code. The amount of the credit 129
available for a taxable year or for a calendar year that 130
includes a tax period equals the excess payroll for that year 131
multiplied by the percentage specified in the agreement with the 132
tax credit authority. 133

(C) (1) A taxpayer or potential taxpayer who proposes a 134

project to create new jobs in this state may apply to the tax 135
credit authority to enter into an agreement for a tax credit 136
under this section. 137

An application shall not propose to include both home- 138
based employees and employees who are not home-based employees 139
in the computation of Ohio employee payroll for the purposes of 140
the same tax credit agreement, except that a qualifying work- 141
from-home employee shall not be considered to be a home-based 142
employee unless so designated by the applicant. If a taxpayer or 143
potential taxpayer employs both home-based employees and 144
employees who are not home-based employees in a project, the 145
taxpayer shall submit separate applications for separate tax 146
credit agreements for the project, one of which shall include 147
home-based employees in the computation of Ohio employee payroll 148
and one of which shall include all other employees in the 149
computation of Ohio employee payroll. 150

The director of development services shall prescribe the 151
form of the application. After receipt of an application, the 152
authority may enter into an agreement with the taxpayer for a 153
credit under this section if it determines all of the following: 154

(a) The taxpayer's project will increase payroll; 155

(b) The taxpayer's project is economically sound and will 156
benefit the people of this state by increasing opportunities for 157
employment and strengthening the economy of this state; 158

(c) Receiving the tax credit is a major factor in the 159
taxpayer's decision to go forward with the project. 160

(2) (a) A taxpayer that chooses to begin the project prior 161
to receiving the determination of the authority may, upon 162
submitting the taxpayer's application to the authority, request 163

that the chief investment officer of the nonprofit corporation 164
formed under section 187.01 of the Revised Code and the director 165
review the taxpayer's application and recommend to the authority 166
that the taxpayer's application be considered. As soon as 167
possible after receiving such a request, the chief investment 168
officer and the director shall review the taxpayer's application 169
and, if they determine that the application warrants 170
consideration by the authority, make that recommendation to the 171
authority not later than six months after the application is 172
received by the authority. 173

(b) The authority shall consider any taxpayer's 174
application for which it receives a recommendation under 175
division (C) (2) (a) of this section. If the authority determines 176
that the taxpayer does not meet all of the criteria set forth in 177
division (C) (1) of this section, the authority and the 178
development services agency shall proceed in accordance with 179
rules adopted by the director pursuant to division (I) of this 180
section. 181

(D) An agreement under this section shall include all of 182
the following: 183

(1) A detailed description of the project that is the 184
subject of the agreement; 185

(2) (a) The term of the tax credit, which, except as 186
provided in division (D) (2) (b) or (c) of this section, shall not 187
exceed fifteen years, and the first taxable year, or first 188
calendar year that includes a tax period, for which the credit 189
may be claimed; 190

(b) If the tax credit is computed on the basis of home- 191
based employees, the term of the credit shall expire on or 192

before the last day of the taxable or calendar year ending 193
before the beginning of the seventh year after September 6, 194
2012, the effective date of H.B. 327 of the 129th general 195
assembly; 196

(c) If the taxpayer is a megaproject operator or a 197
megaproject supplier, the term of the tax credit shall not 198
exceed thirty years. 199

(3) A requirement that the taxpayer shall maintain 200
operations at the project location for at least the greater of 201
seven years or the term of the credit plus three years; 202

(4) The percentage, as determined by the tax credit 203
authority, of excess payroll that will be allowed as the amount 204
of the credit for each taxable year or for each calendar year 205
that includes a tax period; 206

(5) The pay increase factor to be applied to the 207
taxpayer's baseline payroll; 208

(6) A requirement that the taxpayer annually shall report 209
to the director of development services full-time equivalent 210
employees, payroll, Ohio employee payroll, investment, the 211
provision of health care benefits and tuition reimbursement if 212
required in the agreement, and other information the director 213
needs to perform the director's duties under this section; 214

(7) A requirement that the director of development 215
services annually review the information reported under division 216
(D) (6) of this section and verify compliance with the agreement; 217
if the taxpayer is in compliance, a requirement that the 218
director issue a certificate to the taxpayer stating that the 219
information has been verified and identifying the amount of the 220
credit that may be claimed for the taxable or calendar year~~r~~. If 221

the taxpayer is a megaproject supplier, the director shall issue 222
such a certificate to the supplier or to any megaproject 223
operator (a) to which the supplier directly sells tangible 224
personal property and (b) that is authorized to claim the credit 225
pursuant to division (D)(10) of this section. 226

(8) A provision providing that the taxpayer may not 227
relocate a substantial number of employment positions from 228
elsewhere in this state to the project location unless the 229
director of development services determines that the legislative 230
authority of the county, township, or municipal corporation from 231
which the employment positions would be relocated has been 232
notified by the taxpayer of the relocation. 233

For purposes of this section, the movement of an 234
employment position from one political subdivision to another 235
political subdivision shall be considered a relocation of an 236
employment position unless the employment position in the first 237
political subdivision is replaced. The movement of a qualifying 238
work-from-home employee to a different residence located in this 239
state or to the project location shall not be considered a 240
relocation of an employment position. 241

(9) If the tax credit is computed on the basis of home- 242
based employees, that the tax credit may not be claimed by the 243
taxpayer until the taxable year or tax period in which the 244
taxpayer employs at least two hundred employees more than the 245
number of employees the taxpayer employed on June 30, 2011. 246

(10) If the taxpayer is a megaproject supplier, the 247
percentage of the annual tax credit certified under division (D) 248
(7) of this section, up to one hundred per cent, that may be 249
claimed by each megaproject operator to which the supplier 250
directly sells tangible personal property, rather than by that 251

<u>supplier.</u>	252
<u>(11) If the taxpayer is a megaproject operator or</u>	253
<u>megaproject supplier, a requirement that the taxpayer continue</u>	254
<u>to qualify as a megaproject operator or megaproject supplier,</u>	255
<u>respectively, until the end of the last year for which the</u>	256
<u>taxpayer qualifies for the credit authorized under this section.</u>	257
(E) If a taxpayer fails to meet or comply with any	258
condition or requirement set forth in a tax credit agreement,	259
the tax credit authority may amend the agreement to reduce the	260
percentage or term of the tax credit. The reduction of the	261
percentage or term may take effect in the current taxable or	262
calendar year.	263
(F) Projects that consist solely of point-of-final-	264
purchase retail facilities are not eligible for a tax credit	265
under this section. If a project consists of both point-of-	266
final-purchase retail facilities and nonretail facilities, only	267
the portion of the project consisting of the nonretail	268
facilities is eligible for a tax credit and only the excess	269
payroll from the nonretail facilities shall be considered when	270
computing the amount of the tax credit. If a warehouse facility	271
is part of a point-of-final-purchase retail facility and	272
supplies only that facility, the warehouse facility is not	273
eligible for a tax credit. Catalog distribution centers are not	274
considered point-of-final-purchase retail facilities for the	275
purposes of this division, and are eligible for tax credits	276
under this section.	277
(G) Financial statements and other information submitted	278
to the development services agency or the tax credit authority	279
by an applicant or recipient of a tax credit under this section,	280
and any information taken for any purpose from such statements	281

or information, are not public records subject to section 149.43 282
of the Revised Code. However, the chairperson of the authority 283
may make use of the statements and other information for 284
purposes of issuing public reports or in connection with court 285
proceedings concerning tax credit agreements under this section. 286
Upon the request of the tax commissioner or, if the applicant or 287
recipient is an insurance company, upon the request of the 288
superintendent of insurance, the chairperson of the authority 289
shall provide to the commissioner or superintendent any 290
statement or information submitted by an applicant or recipient 291
of a tax credit in connection with the credit. The commissioner 292
or superintendent shall preserve the confidentiality of the 293
statement or information. 294

(H) A taxpayer claiming a credit under this section shall 295
submit to the tax commissioner or, if the taxpayer is an 296
insurance company, to the superintendent of insurance, a copy of 297
the director of development services' certificate of 298
verification under division (D) (7) of this section with the 299
taxpayer's tax report or return for the taxable year or for the 300
calendar year that includes the tax period. Failure to submit a 301
copy of the certificate with the report or return does not 302
invalidate a claim for a credit if the taxpayer submits a copy 303
of the certificate to the commissioner or superintendent within 304
the time prescribed by section 5703.0510 of the Revised Code or 305
within thirty days after the commissioner or superintendent 306
requests it. 307

(I) The director of development services, after 308
consultation with the tax commissioner and the superintendent of 309
insurance and in accordance with Chapter 119. of the Revised 310
Code, shall adopt rules necessary to implement this section, 311
including rules that establish a procedure to be followed by the 312

tax credit authority and the development services agency in the 313
event the authority considers a taxpayer's application for which 314
it receives a recommendation under division (C) (2) (a) of this 315
section but does not approve it. The rules may provide for 316
recipients of tax credits under this section to be charged fees 317
to cover administrative costs of the tax credit program. For the 318
purposes of these rules, a qualifying work-from-home employee 319
shall be considered to be an employee employed at the 320
applicant's project location. The fees collected shall be 321
credited to the tax incentives operating fund created in section 322
122.174 of the Revised Code. At the time the director gives 323
public notice under division (A) of section 119.03 of the 324
Revised Code of the adoption of the rules, the director shall 325
submit copies of the proposed rules to the chairpersons of the 326
standing committees on economic development in the senate and 327
the house of representatives. 328

(J) For the purposes of this section, a taxpayer may 329
include a partnership, a corporation that has made an election 330
under subchapter S of chapter one of subtitle A of the Internal 331
Revenue Code, or any other business entity through which income 332
flows as a distributive share to its owners. A partnership, S- 333
corporation, or other such business entity may elect to pass the 334
credit received under this section through to the persons to 335
whom the income or profit of the partnership, S-corporation, or 336
other entity is distributed. The election shall be made on the 337
annual report required under division (D) (6) of this section. 338
The election applies to and is irrevocable for the credit for 339
which the report is submitted. If the election is made, the 340
credit shall be apportioned among those persons in the same 341
proportions as those in which the income or profit is 342
distributed. 343

(K) (1) If the director of development services determines 344
that a taxpayer who has received a credit under this section is 345
not complying with the requirements of the agreement, the 346
director shall notify the tax credit authority of the 347
noncompliance. After receiving such a notice, and after giving 348
the taxpayer an opportunity to explain the noncompliance, the 349
tax credit authority may require the taxpayer to refund to this 350
state a portion of the credit in accordance with the following: 351

(a) If the taxpayer fails to comply with the requirement 352
under division (D) (3) of this section, an amount determined in 353
accordance with the following: 354

(i) If the taxpayer maintained operations at the project 355
location for a period less than or equal to the term of the 356
credit, an amount not exceeding one hundred per cent of the sum 357
of any credits allowed and received under this section; 358

(ii) If the taxpayer maintained operations at the project 359
location for a period longer than the term of the credit, but 360
less than the greater of seven years or the term of the credit 361
plus three years, an amount not exceeding seventy-five per cent 362
of the sum of any credits allowed and received under this 363
section. 364

(b) If, on the metric evaluation date, the taxpayer fails 365
to substantially meet the job creation, payroll, or investment 366
requirements included in the agreement, an amount determined at 367
the discretion of the authority; 368

(c) If the taxpayer fails to substantially maintain the 369
number of new full-time equivalent employees or amount of 370
payroll required under the agreement at any time during the term 371
of the agreement after the metric evaluation date, an amount 372

determined at the discretion of the authority. 373

(2) If a taxpayer files for bankruptcy and fails as 374
described in division (K) (1) (a), (b), or (c) of this section, 375
the director may immediately commence an action to recoup an 376
amount not exceeding one hundred per cent of the sum of any 377
credits received by the taxpayer under this section. 378

(3) In determining the portion of the tax credit to be 379
refunded to this state, the tax credit authority shall consider 380
the effect of market conditions on the taxpayer's project and 381
whether the taxpayer continues to maintain other operations in 382
this state. After making the determination, the authority shall 383
certify the amount to be refunded to the tax commissioner or 384
superintendent of insurance, as appropriate. If the amount is 385
certified to the commissioner, the commissioner shall make an 386
assessment for that amount against the taxpayer under Chapter 387
5726., 5733., 5736., 5747., or 5751. of the Revised Code. If the 388
amount is certified to the superintendent, the superintendent 389
shall make an assessment for that amount against the taxpayer 390
under Chapter 5725. or 5729. of the Revised Code. The time 391
limitations on assessments under those chapters do not apply to 392
an assessment under this division, but the commissioner or 393
superintendent, as appropriate, shall make the assessment within 394
one year after the date the authority certifies to the 395
commissioner or superintendent the amount to be refunded. 396

(L) On or before the first day of August each year, the 397
director of development services shall submit a report to the 398
governor, the president of the senate, and the speaker of the 399
house of representatives on the tax credit program under this 400
section. The report shall include information on the number of 401
agreements that were entered into under this section during the 402

preceding calendar year, a description of the project that is 403
the subject of each such agreement, and an update on the status 404
of projects under agreements entered into before the preceding 405
calendar year. 406

(M) There is hereby created the tax credit authority, 407
which consists of the director of development services and four 408
other members appointed as follows: the governor, the president 409
of the senate, and the speaker of the house of representatives 410
each shall appoint one member who shall be a specialist in 411
economic development; the governor also shall appoint a member 412
who is a specialist in taxation. Terms of office shall be for 413
four years. Each member shall serve on the authority until the 414
end of the term for which the member was appointed. Vacancies 415
shall be filled in the same manner provided for original 416
appointments. Any member appointed to fill a vacancy occurring 417
prior to the expiration of the term for which the member's 418
predecessor was appointed shall hold office for the remainder of 419
that term. Members may be reappointed to the authority. Members 420
of the authority shall receive their necessary and actual 421
expenses while engaged in the business of the authority. The 422
director of development services shall serve as chairperson of 423
the authority, and the members annually shall elect a vice- 424
chairperson from among themselves. Three members of the 425
authority constitute a quorum to transact and vote on the 426
business of the authority. The majority vote of the membership 427
of the authority is necessary to approve any such business, 428
including the election of the vice-chairperson. 429

The director of development services may appoint a 430
professional employee of the development services agency to 431
serve as the director's substitute at a meeting of the 432
authority. The director shall make the appointment in writing. 433

In the absence of the director from a meeting of the authority, 434
the appointed substitute shall serve as chairperson. In the 435
absence of both the director and the director's substitute from 436
a meeting, the vice-chairperson shall serve as chairperson. 437

(N) For purposes of the credits granted by this section 438
against the taxes imposed under sections 5725.18 and 5729.03 of 439
the Revised Code, "taxable year" means the period covered by the 440
taxpayer's annual statement to the superintendent of insurance. 441

(O) On or before the first day of March of each of the 442
five calendar years beginning with 2014, each taxpayer subject 443
to an agreement with the tax credit authority under this section 444
on the basis of home-based employees shall report the number of 445
home-based employees and other employees employed by the 446
taxpayer in this state to the development services agency. 447

(P) On or before the first day of January of 2019, the 448
director of development services shall submit a report to the 449
governor, the president of the senate, and the speaker of the 450
house of representatives on the effect of agreements entered 451
into under this section in which the taxpayer included home- 452
based employees in the computation of income tax revenue, as 453
that term was defined in this section prior to the amendment of 454
this section by H.B. 64 of the 131st general assembly. The 455
report shall include information on the number of such 456
agreements that were entered into in the preceding six years, a 457
description of the projects that were the subjects of such 458
agreements, and an analysis of nationwide home-based employment 459
trends, including the number of home-based jobs created from 460
July 1, 2011, through June 30, 2017, and a description of any 461
home-based employment tax incentives provided by other states 462
during that time. 463

(Q) The director of development services may require any 464
agreement entered into under this section for a tax credit 465
computed on the basis of home-based employees to contain a 466
provision that the taxpayer makes available health care benefits 467
and tuition reimbursement to all employees. 468

(R) Original agreements approved by the tax credit 469
authority under this section in 2014 or 2015 before September 470
29, 2015, may be revised at the request of the taxpayer to 471
conform with the amendments to this section and sections 472
5733.0610, 5736.50, 5747.058, and 5751.50 of the Revised Code by 473
H.B. 64 of the 131st general assembly, upon mutual agreement of 474
the taxpayer and the development services agency, and approval 475
by the tax credit authority. 476

(S) (1) As used in division (S) of this section: 477

(a) "Eligible agreement" means an agreement approved by 478
the tax credit authority under this section on or before 479
December 31, 2013. 480

(b) "Reporting period" means a period corresponding to the 481
annual report required under division (D) (6) of this section. 482

(c) "Income tax revenue" has the same meaning as under 483
this section as it existed before September 29, 2015, the 484
effective date of the amendment of this section by H.B. 64 of 485
the 131st general assembly. 486

(2) In calendar year 2016 and thereafter, the tax credit 487
authority shall annually determine a withholding adjustment 488
factor to be used in the computation of income tax revenue for 489
eligible agreements. The withholding adjustment factor shall be 490
a numerical percentage that equals the percentage that employer 491
income tax withholding rates have been increased or decreased as 492

a result of changes in the income tax rates prescribed by 493
section 5747.02 of the Revised Code by amendment of that section 494
taking effect on or after June 29, 2013. 495

(3) Except as provided in division (S)(4) of this section, 496
for reporting periods ending in 2015 and thereafter for 497
taxpayers subject to eligible agreements, the tax credit 498
authority shall adjust the income tax revenue reported on the 499
taxpayer's annual report by multiplying the withholding 500
adjustment factor by the taxpayer's income tax revenue and doing 501
one of the following: 502

(a) If the income tax rates prescribed by section 5747.02 503
of the Revised Code have decreased by amendment of that section 504
taking effect on or after June 29, 2013, add the product to the 505
taxpayer's income tax revenue. 506

(b) If the income tax rates prescribed by section 5747.02 507
of the Revised Code have increased by amendment of that section 508
taking effect on or after June 29, 2013, subtract the product 509
from the taxpayer's income tax revenue. 510

(4) Division (S)(3) of this section shall not apply unless 511
all of the following apply for the reporting period with respect 512
to the eligible agreement: 513

(a) The taxpayer has achieved one hundred per cent of the 514
new employment commitment identified in the agreement. 515

(b) If applicable, the taxpayer has achieved one hundred 516
per cent of the new payroll commitment identified in the 517
agreement. 518

(c) If applicable, the taxpayer has achieved one hundred 519
per cent of the investment commitment identified in the 520
agreement. 521

(5) Failure by a taxpayer to have achieved any of the 522
applicable commitments described in divisions (S) (4) (a) to (c) 523
of this section in a reporting period does not disqualify the 524
taxpayer for the adjustment under division (S) of this section 525
for an ensuing reporting period. 526

(T) The director of development services shall notify the 527
tax commissioner if the director determines that a megaproject 528
operator or megaproject supplier is not in compliance with the 529
agreement pursuant to a review conducted under division (D) (7) 530
of this section. 531

Sec. 3735.65. As used in sections 3735.65 to 3735.70 of 532
the Revised Code: 533

(A) "Housing officer" means an officer or agency of a 534
municipal corporation or county designated by the legislative 535
authority of the municipal corporation or county, pursuant to 536
section 3735.66 of the Revised Code, for each community 537
reinvestment area to administer sections 3735.65 to 3735.69 of 538
the Revised Code. One officer or agency may be designated as the 539
housing officer for more than one community reinvestment area. 540

(B) "Community reinvestment area" means an area within a 541
municipal corporation or unincorporated area of a county for 542
which the legislative authority of the municipal corporation or, 543
for the unincorporated area, of the county, has adopted a 544
resolution under section 3735.66 of the Revised Code describing 545
the boundaries of the area and containing a statement of finding 546
that the area included in the description is one in which 547
housing facilities or structures of historical significance are 548
located and new housing construction and repair of existing 549
facilities or structures are discouraged. 550

(C) "Remodeling" means any change made in a structure for 551
the purpose of making it structurally more sound, more 552
habitable, or for the purpose of improving its appearance. 553

(D) "Structure of historical or architectural 554
significance" means those designated as such by resolution of 555
the legislative authority of a municipal corporation, for those 556
located in a municipal corporation, or the county, for those 557
located in the unincorporated area of the county based on age, 558
rarity, architectural quality, or because of a previous 559
designation by a historical society, association, or agency. 560

(E) "Megaproject," "megaproject operator," and 561
"megaproject supplier" have the same meanings as in section 562
122.17 of the Revised Code. 563

Sec. 3735.67. (A) The owner of real property located in a 564
community reinvestment area and eligible for exemption from 565
taxation under a resolution adopted pursuant to section 3735.66 566
of the Revised Code may file an application for an exemption 567
from real property taxation of a percentage of the assessed 568
valuation of a new structure, or of the increased assessed 569
valuation of an existing structure after remodeling began, if 570
the new structure or remodeling is completed after the effective 571
date of the resolution adopted pursuant to section 3735.66 of 572
the Revised Code. The application shall be filed with the 573
housing officer designated for the community reinvestment area 574
in which the property is located. If any part of the new 575
structure or remodeled structure that would be exempted is of 576
real property to be used for commercial or industrial purposes, 577
the legislative authority and the owner of the property shall 578
enter into a written agreement pursuant to section 3735.671 of 579
the Revised Code prior to commencement of construction or 580

remodeling; if such an agreement is subject to approval by the 581
board of education of the school district within the territory 582
of which the property is or will be located, the agreement shall 583
not be formally approved by the legislative authority until the 584
board of education approves the agreement in the manner 585
prescribed by that section. 586

(B) The housing officer shall verify the construction of 587
the new structure or the cost of the remodeling of the existing 588
structure and the facts asserted in the application. The housing 589
officer shall determine whether the construction or remodeling 590
meets the requirements for an exemption under this section. In 591
cases involving a structure of historical or architectural 592
significance, the housing officer shall not determine whether 593
the remodeling meets the requirements for a tax exemption unless 594
the appropriateness of the remodeling has been certified, in 595
writing, by the society, association, agency, or legislative 596
authority that has designated the structure or by any 597
organization or person authorized, in writing, by such society, 598
association, agency, or legislative authority to certify the 599
appropriateness of the remodeling. 600

(C) If the construction or remodeling meets the 601
requirements for exemption, the housing officer shall forward 602
the application to the county auditor with a certification as to 603
the division of this section under which the exemption is 604
granted, and the period and percentage of the exemption as 605
determined by the legislative authority pursuant to that 606
division. If the construction or remodeling is of commercial or 607
industrial property and the legislative authority is not 608
required to certify a copy of a resolution under section 609
3735.671 of the Revised Code, the housing officer shall comply 610
with the notice requirements prescribed under section 5709.83 of 611

the Revised Code, unless the board has adopted a resolution 612
under that section waiving its right to receive such a notice. 613

(D) Except as provided in division (F) of this section, 614
the tax exemption shall first apply in the year the construction 615
or remodeling would first be taxable but for this section. In 616
the case of remodeling that qualifies for exemption, a 617
percentage, not to exceed one hundred per cent, of the increased 618
assessed valuation of an existing structure after remodeling 619
began shall be exempted from real property taxation. In the case 620
of construction of a structure that qualifies for exemption, a 621
percentage, not to exceed one hundred per cent, of the assessed 622
value of the structure shall be exempted from real property 623
taxation. In either case, the percentage shall be the percentage 624
set forth in the agreement if the structure or remodeling is to 625
be used for commercial or industrial purposes, or the percentage 626
set forth in the resolution describing the community 627
reinvestment area if the structure or remodeling is to be used 628
for residential purposes. 629

The construction of new structures and the remodeling of 630
existing structures are hereby declared to be a public purpose 631
for which exemptions from real property taxation may be granted 632
for the following periods: 633

(1) For every dwelling and commercial or industrial 634
properties, located within the same community reinvestment area, 635
upon which the cost of remodeling is at least two thousand five 636
hundred dollars in the case of a dwelling containing not more 637
than two family units or at least five thousand dollars in the 638
case of all other property, a period to be determined by the 639
legislative authority adopting the resolution, but not exceeding 640
fifteen years. The period of exemption for a dwelling described 641

in division (D) (1) of this section may be extended by a 642
legislative authority for up to an additional ten years if the 643
dwelling is a structure of historical or architectural 644
significance, is a certified historic structure that has been 645
subject to federal tax treatment under 26 U.S.C. 47 and 170(h), 646
and units within the structure have been leased to individual 647
tenants for five consecutive years; 648

(2) Except as provided in division (F) of this section, 649
for construction of every dwelling, and commercial or industrial 650
structure located within the same community reinvestment area, a 651
period to be determined by the legislative authority adopting 652
the resolution, but not exceeding fifteen years. The period of 653
exemption for construction of a commercial or industrial 654
structure may be extended by a legislative authority for up to 655
an additional fifteen years if the structure is situated on the 656
site of a megaproject or is owned and occupied by a megaproject 657
supplier. 658

(E) Any person, board, or officer authorized by section 659
5715.19 of the Revised Code to file complaints with the county 660
board of revision may file a complaint with the housing officer 661
challenging the continued exemption of any property granted an 662
exemption under this section. A complaint against exemption 663
shall be filed prior to the thirty-first day of December of the 664
tax year for which taxation of the property is requested. The 665
housing officer shall determine whether the property continues 666
to meet the requirements for exemption and shall certify the 667
housing officer's findings to the complainant. If the housing 668
officer determines that the property does not meet the 669
requirements for exemption, the housing officer shall notify the 670
county auditor, who shall correct the tax list and duplicate 671
accordingly. 672

(F) The owner of a dwelling constructed in a community reinvestment area may file an application for an exemption after the year the construction first became subject to taxation. The application shall be processed in accordance with the procedures prescribed under this section and shall be granted if the construction that is the subject of the application otherwise meets the requirements for an exemption under this section. If approved, the exemption sought in the application first applies in the year the application is filed. An exemption approved pursuant to this division continues only for those years remaining in the period described in division (D) (2) of this section. No exemption may be claimed for any year in that period that precedes the year in which the application is filed.

Sec. 3735.671. (A) If construction or remodeling of commercial or industrial property is to be exempted from taxation pursuant to section 3735.67 of the Revised Code, the legislative authority and the owner of the property, prior to the commencement of construction or remodeling, shall enter into a written agreement, binding on both parties for a period of time that does not end prior to the end of the period of the exemption, that includes all of the information and statements prescribed by this section. Agreements may include terms not prescribed by this section, but such terms shall in no way derogate from the information and statements prescribed by this section.

(1) Except as otherwise provided in division (A) (2) or (3) of this section, an agreement entered into under this section shall not be approved by the legislative authority unless the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves the agreement. For the purpose of

obtaining such approval, the legislative authority shall certify 704
a copy of the agreement to the board of education not later than 705
forty-five days prior to approving the agreement, excluding 706
Saturday, Sunday, and a legal holiday as defined in section 1.14 707
of the Revised Code. The board of education, by resolution 708
adopted by a majority of the board, shall approve or disapprove 709
the agreement and certify a copy of the resolution to the 710
legislative authority not later than fourteen days prior to the 711
date stipulated by the legislative authority as the date upon 712
which approval of the agreement is to be formally considered by 713
the legislative authority. The board of education may include in 714
the resolution conditions under which the board would approve 715
the agreement. The legislative authority may approve an 716
agreement at any time after the board of education certifies its 717
resolution approving the agreement to the legislative authority, 718
or, if the board approves the agreement conditionally, at any 719
time after the conditions are agreed to by the board and the 720
legislative authority. 721

(2) Approval of an agreement by the board of education is 722
not required under division (A)(1) of this section if, for each 723
tax year the real property is exempted from taxation, the sum of 724
the following quantities, as estimated at or prior to the time 725
the agreement is formally approved by the legislative authority, 726
equals or exceeds fifty per cent of the amount of taxes, as 727
estimated at or prior to that time, that would have been charged 728
and payable that year upon the real property had that property 729
not been exempted from taxation: 730

(a) The amount of taxes charged and payable on any portion 731
of the assessed valuation of the new structure or of the 732
increased assessed valuation of an existing structure after 733
remodeling began that will not be exempted from taxation under 734

the agreement; 735

(b) The amount of taxes charged and payable on tangible 736
personal property located on the premises of the new structure 737
or of the structure to be remodeled under the agreement, whether 738
payable by the owner of the structure or by a related member, as 739
defined in section 5733.042 of the Revised Code without regard 740
to division (B) of that section. 741

(c) The amount of any cash payment by the owner of the new 742
structure or structure to be remodeled to the school district, 743
the dollar value, as mutually agreed to by the owner and the 744
board of education, of any property or services provided by the 745
owner of the property to the school district, whether by gift, 746
loan, or otherwise, and any payment by the legislative authority 747
to the school district pursuant to section 5709.82 of the 748
Revised Code. 749

The estimates of quantities used for purposes of division 750
(A) (2) of this section shall be estimated by the legislative 751
authority. The legislative authority shall certify to the board 752
of education that the estimates have been made in good faith. 753
Departures of the actual quantities from the estimates 754
subsequent to approval of the agreement by the board of 755
education do not invalidate the agreement. 756

(3) If a board of education has adopted a resolution 757
waiving its right to approve agreements and the resolution 758
remains in effect, approval of an agreement by the board is not 759
required under this division. If a board of education has 760
adopted a resolution allowing a legislative authority to deliver 761
the notice required under this division fewer than forty-five 762
business days prior to the legislative authority's execution of 763
the agreement, the legislative authority shall deliver the 764

notice to the board not later than the number of days prior to 765
such execution as prescribed by the board in its resolution. If 766
a board of education adopts a resolution waiving its right to 767
approve agreements or shortening the notification period, the 768
board shall certify a copy of the resolution to the legislative 769
authority. If the board of education rescinds such a resolution, 770
it shall certify notice of the rescission to the legislative 771
authority. 772

(B) Each agreement shall include the following 773
information: 774

(1) The names of all parties to the agreement; 775

(2) A description of the remodeling or construction, 776
whether or not to be exempted from taxation, including existing 777
or new structure size and cost thereof; the value of machinery, 778
equipment, furniture, and fixtures, including an itemization of 779
the value of machinery, equipment, furniture, and fixtures used 780
at another location in this state prior to the agreement and 781
relocated or to be relocated from that location to the property, 782
and the value of machinery, equipment, furniture, and fixtures 783
at the facility prior to the execution of the agreement; the 784
value of inventory at the property, including an itemization of 785
the value of inventory held at another location in this state 786
prior to the agreement and relocated or to be relocated from 787
that location to the property, and the value of inventory held 788
at the property prior to the execution of the agreement; 789

(3) The scheduled starting and completion dates of 790
remodeling or construction of real property or of investments 791
made in machinery, equipment, furniture, fixtures, and 792
inventory; 793

(4) Estimates of the number of employee positions to be 794
created each year of the agreement and of the number of employee 795
positions retained by the owner due to the remodeling or 796
construction, itemized as to the number of full-time, part-time, 797
permanent, and temporary positions; 798

(5) Estimates of the dollar amount of payroll attributable 799
to the positions set forth in division (B) (4) of this section, 800
similarly itemized; 801

(6) The number of employee positions, if any, at the 802
property and at any other location in this state at the time the 803
agreement is executed, itemized as to the number of full-time, 804
part-time, permanent, and temporary positions. 805

(C) Each agreement shall set forth the following 806
information and incorporate the following statements: 807

(1) A description of real property to be exempted from 808
taxation under the agreement, the percentage of the assessed 809
valuation of the real property exempted from taxation, and the 810
period for which the exemption is granted, accompanied by the 811
statement: "The exemption commences the first year for which the 812
real property would first be taxable were that property not 813
exempted from taxation. No exemption shall commence 814
after (insert date) nor extend beyond 815
(insert date)."

(2) "..... (insert name of owner) shall pay such real 817
property taxes as are not exempted under this agreement and are 818
charged against such property and shall file all tax reports and 819
returns as required by law. If (insert name of owner) 820
fails to pay such taxes or file such returns and reports, 821
exemptions from taxation granted under this agreement are 822

rescinded beginning with the year for which such taxes are 823
charged or such reports or returns are required to be filed and 824
thereafter." 825

(3) "..... (insert name of owner) hereby certifies 826
that at the time this agreement is executed, (insert 827
name of owner) does not owe any delinquent real or tangible 828
personal property taxes to any taxing authority of the State of 829
Ohio, and does not owe delinquent taxes for which 830
(insert name of owner) is liable under Chapter 5733., 5735., 831
5739., 5741., 5743., 5747., or 5753. of the Ohio Revised Code, 832
or, if such delinquent taxes are owed, (insert name 833
of owner) currently is paying the delinquent taxes pursuant to 834
an undertaking enforceable by the State of Ohio or an agent or 835
instrumentality thereof, has filed a petition in bankruptcy 836
under 11 U.S.C.A. 101, et seq., or such a petition has been 837
filed against (insert name of owner). For the 838
purposes of this certification, delinquent taxes are taxes that 839
remain unpaid on the latest day prescribed for payment without 840
penalty under the chapter of the Revised Code governing payment 841
of those taxes." 842

(4) "..... (insert name of municipal corporation or 843
county) shall perform such acts as are reasonably necessary or 844
appropriate to effect, claim, reserve, and maintain exemptions 845
from taxation granted under this agreement including, without 846
limitation, joining in the execution of all documentation and 847
providing any necessary certificates required in connection with 848
such exemptions." 849

(5) "If for any reason (insert name of 850
municipal corporation or county) revokes the designation of the 851
area, entitlements granted under this agreement shall continue 852

for the number of years specified under this agreement, 853
unless (insert name of owner) materially fails to 854
fulfill its obligations under this agreement 855
and (insert name of municipal corporation or 856
county) terminates or modifies the exemptions from taxation 857
pursuant to this agreement." 858

(6) "If (insert name of owner) materially fails 859
to fulfill its obligations under this agreement, or 860
if (insert name of municipal corporation or county) 861
determines that the certification as to delinquent taxes 862
required by this agreement is fraudulent, (insert 863
name of municipal corporation or county) may terminate or modify 864
the exemptions from taxation granted under this agreement." 865

(7) "..... (insert name of owner) shall provide to 866
the proper tax incentive review council any information 867
reasonably required by the council to evaluate the applicant's 868
compliance with the agreement, including returns filed pursuant 869
to section 5711.02 of the Ohio Revised Code if requested by the 870
council." 871

(8) "This agreement is not transferable or assignable 872
without the express, written approval of (insert name 873
of municipal corporation or county)." 874

(9) "Exemptions from taxation granted under this agreement 875
shall be revoked if it is determined that (insert 876
name of owner), any successor to that person, or any related 877
member (as those terms are defined in division (E) of section 878
3735.671 of the Ohio Revised Code) has violated the prohibition 879
against entering into this agreement under division (E) of 880
section 3735.671 or section 5709.62 or 5709.63 of the Ohio 881
Revised Code prior to the time prescribed by that division or 882

either of those sections." 883

(10) "..... (insert name of owner) and 884
(insert name of municipal corporation or county) acknowledge 885
that this agreement must be approved by formal action of the 886
legislative authority of (insert name of municipal 887
corporation or county) as a condition for the agreement to take 888
effect. This agreement takes effect upon such approval." 889

(11) If the agreement relates to a commercial or 890
industrial structure subject to the extension for megaprojects 891
or megaproject operators described in division (D)(2) of section 892
3735.67 of the Revised Code, both of the following: 893

(a) A requirement that the owner of the structure annually 894
certify to the legislative authority whether the megaproject 895
operator of the megaproject upon which the structure is situated 896
or the megaproject supplier, as applicable, holds a certificate 897
issued under division (D)(7) of section 122.17 of the Revised 898
Code on the first day of the current tax year; 899

(b) A provision authorizing the legislative authority to 900
terminate the exemption for current and subsequent tax years if 901
the megaproject operator or megaproject supplier does not hold a 902
certificate issued under division (D)(7) of section 122.17 of 903
the Revised Code on the first day of the current tax year. 904

The statement described in division (C)(6) of this section 905
may include the following statement, appended at the end of the 906
statement: ", and may require the repayment of the amount of 907
taxes that would have been payable had the property not been 908
exempted from taxation under this agreement." If the agreement 909
includes a statement requiring repayment of exempted taxes, it 910
also may authorize the legislative authority to secure repayment 911

of such taxes by a lien on the exempted property in the amount 912
required to be repaid. Such a lien shall attach, and may be 913
perfected, collected, and enforced, in the same manner as a 914
mortgage lien on real property, and shall otherwise have the 915
same force and effect as a mortgage lien on real property. 916

(D) Except as otherwise provided in this division, an 917
agreement entered into under this section shall require that the 918
owner pay an annual fee equal to the greater of one per cent of 919
the amount of taxes exempted under the agreement or five hundred 920
dollars; provided, however, that if the value of the incentives 921
exceeds two hundred fifty thousand dollars, the fee shall not 922
exceed two thousand five hundred dollars. The fee shall be 923
payable to the legislative authority once per year for each year 924
the agreement is effective on the days and in the form specified 925
in the agreement. Fees paid shall be deposited in a special fund 926
created for such purpose by the legislative authority and shall 927
be used by the legislative authority exclusively for the purpose 928
of complying with section 3735.672 of the Revised Code and by 929
the tax incentive review council created under section 5709.85 930
of the Revised Code exclusively for the purposes of performing 931
the duties prescribed under that section. The legislative 932
authority may waive or reduce the amount of the fee, but such 933
waiver or reduction does not affect the obligations of the 934
legislative authority or the tax incentive review council to 935
comply with section 3735.672 or 5709.85 of the Revised Code. 936

(E) If any person that is party to an agreement granting 937
an exemption from taxation discontinues operations at the 938
structure to which that exemption applies prior to the 939
expiration of the term of the agreement, that person, any 940
successor to that person, and any related member shall not enter 941
into an agreement under this section or section 5709.62, 942

5709.63, or 5709.632 of the Revised Code, and no legislative 943
authority shall enter into such an agreement with such a person, 944
successor, or related member, prior to the expiration of five 945
years after the discontinuation of operations. As used in this 946
division, "successor" means a person to which the assets or 947
equity of another person has been transferred, which transfer 948
resulted in the full or partial nonrecognition of gain or loss, 949
or resulted in a carryover basis, both as determined by rule 950
adopted by the tax commissioner. "Related member" has the same 951
meaning as defined in section 5733.042 of the Revised Code 952
without regard to division (B) of that section. 953

The director of development services shall review all 954
agreements submitted to the director under division (F) of this 955
section for the purpose of enforcing this division. If the 956
director determines there has been a violation of this division, 957
the director shall notify the legislative authority of such 958
violation, and the legislative authority immediately shall 959
revoke the exemption granted under the agreement. 960

(F) When an agreement is entered into under this section, 961
the legislative authority authorizing the agreement shall 962
forward a copy of the agreement to the director of development 963
services within fifteen days after the agreement is entered 964
into. 965

Sec. 5709.61. As used in sections 5709.61 to 5709.69 of 966
the Revised Code: 967

(A) "Enterprise zone" or "zone" means any of the 968
following: 969

(1) An area with a single continuous boundary designated 970
in the manner set forth in section 5709.62 or 5709.63 of the 971

Revised Code and certified by the director of development as 972
having a population of at least four thousand according to the 973
best and most recent data available to the director and having 974
at least two of the following characteristics: 975

(a) It is located in a municipal corporation defined by 976
the United States office of management and budget as a principal 977
city of a metropolitan statistical area; 978

(b) It is located in a county designated as being in the 979
"Appalachian region" under the "Appalachian Regional Development 980
Act of 1965," 79 Stat. 5, 40 App. U.S.C.A. 403, as amended; 981

(c) Its average rate of unemployment, during the most 982
recent twelve-month period for which data are available, is 983
equal to at least one hundred twenty-five per cent of the 984
average rate of unemployment for the state of Ohio for the same 985
period; 986

(d) There is a prevalence of commercial or industrial 987
structures in the area that are vacant or demolished, or are 988
vacant and the taxes charged thereon are delinquent, and 989
certification of the area as an enterprise zone would likely 990
result in the reduction of the rate of vacant or demolished 991
structures or the rate of tax delinquency in the area; 992

(e) The population of all census tracts in the area, 993
according to the federal census of 2000, decreased by at least 994
ten per cent between the years 1980 and 2000; 995

(f) At least fifty-one per cent of the residents of the 996
area have incomes of less than eighty per cent of the median 997
income of residents of the municipal corporation or municipal 998
corporations in which the area is located, as determined in the 999
same manner specified under section 119(b) of the "Housing and 1000

Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 1001
5318, as amended; 1002

(g) The area contains structures previously used for 1003
industrial purposes, but currently not so used due to age, 1004
obsolescence, deterioration, relocation of the former occupant's 1005
operations, or cessation of operations resulting from 1006
unfavorable economic conditions either generally or in a 1007
specific economic sector; 1008

(h) It is located within one or more adjacent city, local, 1009
or exempted village school districts, the income-weighted tax 1010
capacity of each of which is less than seventy per cent of the 1011
average of the income-weighted tax capacity of all city, local, 1012
or exempted village school districts in the state according to 1013
the most recent data available to the director from the 1014
department of taxation. 1015

The director of development shall adopt rules in 1016
accordance with Chapter 119. of the Revised Code establishing 1017
conditions constituting the characteristics described in 1018
divisions (A) (1) (d), (g), and (h) of this section. 1019

If an area could not be certified as an enterprise zone 1020
unless it satisfied division (A) (1) (g) of this section, the 1021
legislative authority may enter into agreements in that zone 1022
under section 5709.62, 5709.63, or 5709.632 of the Revised Code 1023
only if such agreements result in the development of the 1024
facilities described in that division, the parcel of land on 1025
which such facilities are situated, or adjacent parcels. The 1026
director of development annually shall review all agreements in 1027
such zones to determine whether the agreements have resulted in 1028
such development; if the director determines that the agreements 1029
have not resulted in such development, the director immediately 1030

shall revoke certification of the zone and notify the 1031
legislative authority of such revocation. Any agreements entered 1032
into prior to revocation under this paragraph shall continue in 1033
effect for the period provided in the agreement. 1034

(2) An area with a single continuous boundary designated 1035
in the manner set forth in section 5709.63 of the Revised Code 1036
and certified by the director of development as having all of 1037
the following characteristics: 1038

(a) Being located within a county that contains a 1039
population of three hundred thousand or less; 1040

(b) Having a population of at least one thousand according 1041
to the best and most recent data available to the director; 1042

(c) Having at least two of the characteristics described 1043
in divisions (A) (1) (b) to (h) of this section. 1044

(3) An area with a single continuous boundary designated 1045
in the manner set forth under division (A) (1) of section 1046
5709.632 of the Revised Code and certified by the director of 1047
development as having a population of at least four thousand, or 1048
under division (A) (2) of that section and certified as having a 1049
population of at least one thousand, according to the best and 1050
most recent data available to the director. 1051

(B) "Enterprise" means any form of business organization 1052
including, but not limited to, any partnership, sole 1053
proprietorship, or corporation, including an S corporation as 1054
defined in section 1361 of the Internal Revenue Code and any 1055
corporation that is majority work-owned either directly through 1056
the ownership of stock or indirectly through participation in an 1057
employee stock ownership plan. 1058

(C) "Facility" means an enterprise's place of business in 1059

a zone, including land, buildings, machinery, equipment, and 1060
other materials, except inventory, used in business. "Facility" 1061
includes land, buildings, machinery, production and station 1062
equipment, other equipment, and other materials, except 1063
inventory, used in business to generate electricity, provided 1064
that, for purposes of sections 5709.61 to 5709.69 of the Revised 1065
Code, the value of the property at such a facility shall be 1066
reduced by the value, if any, that is not apportioned under 1067
section 5727.15 of the Revised Code to the taxing district in 1068
which the facility is physically located. In the case of such a 1069
facility that is physically located in two adjacent taxing 1070
districts, the property located in each taxing district 1071
constitutes a separate facility. 1072

"Facility" does not include any portion of an enterprise's 1073
place of business used primarily for making retail sales unless 1074
the place of business is located in an impacted city as defined 1075
in section 1728.01 of the Revised Code or the board of education 1076
of the city, local, or exempted village school district within 1077
the territory of which the place of business is located adopts a 1078
resolution waiving the exclusion of retail facilities under 1079
section 5709.634 of the Revised Code. 1080

(D) "Vacant facility" means a facility that has been 1081
vacant for at least ninety days immediately preceding the date 1082
on which an agreement is entered into under section 5709.62 or 1083
5709.63 of the Revised Code. 1084

(E) "Expand" means to make expenditures to add land, 1085
buildings, machinery, equipment, or other materials, except 1086
inventory, to a facility that equal at least ten per cent of the 1087
market value of the facility prior to such expenditures, as 1088
determined for the purposes of local property taxation. 1089

(F) "Renovate" means to make expenditures to alter or repair a facility that equal at least fifty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(G) "Occupy" means to make expenditures to alter or repair a vacant facility equal to at least twenty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(H) "Project site" means all or any part of a facility that is newly constructed, expanded, renovated, or occupied by an enterprise.

(I) "Project" means any undertaking by an enterprise to establish a facility or to improve a project site by expansion, renovation, or occupancy.

(J) "Position" means the position of one full-time employee performing a particular set of tasks and duties.

(K) "Full-time employee" means an individual who is employed for consideration by an enterprise for at least thirty-five hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.

(L) "New employee" means a full-time employee first employed by an enterprise at a facility that is a project site after the enterprise enters an agreement under section 5709.62 or 5709.63 of the Revised Code. "New employee" does not include an employee if, immediately prior to being employed by the enterprise, the employee was employed by an enterprise that is a related member or predecessor enterprise of that enterprise.

(M) "Unemployed person" means any person who is totally

unemployed in this state, as that term is defined in division 1119
(M) of section 4141.01 of the Revised Code, for at least ten 1120
consecutive weeks immediately preceding that person's employment 1121
at a facility that is a project site, or who is so unemployed 1122
for at least twenty-six of the fifty-two weeks immediately 1123
preceding that person's employment at such a facility. 1124

(N) "JTPA eligible employee" means any individual who is 1125
eligible for employment or training under the "Job Training 1126
Partnership Act," 96 Stat. 1324 (1982), 29 U.S.C. 1501, as 1127
amended. 1128

(O) "First used in business" means that the property 1129
referred to has not been used in business in this state by the 1130
enterprise that owns it, or by an enterprise that is a related 1131
member or predecessor enterprise of such an enterprise, other 1132
than as inventory, prior to being used in business at a facility 1133
as the result of a project. 1134

(P) "Training program" means any noncredit training 1135
program or course of study that is offered by any state college 1136
or university; university branch district; community college; 1137
technical college; nonprofit college or university certified 1138
under section 1713.02 of the Revised Code; school district; 1139
joint vocational school district; school registered and 1140
authorized to offer programs under section 3332.05 of the 1141
Revised Code; an entity administering any federal, state, or 1142
local adult education and training program; or any enterprise; 1143
and that meets all of the following requirements: 1144

(1) It is approved by the director of development; 1145

(2) It is established or operated to satisfy the need of a 1146
particular industry or enterprise for skilled or semi-skilled 1147

employees; 1148

(3) An individual is required to complete the course or 1149
program before filling a position at a project site. 1150

(Q) "Development" means to engage in the process of 1151
clearing and grading land, making, installing, or constructing 1152
water distribution systems, sewers, sewage collection systems, 1153
steam, gas, and electric lines, roads, curbs, gutters, 1154
sidewalks, storm drainage facilities, and construction of other 1155
facilities or buildings equal to at least fifty per cent of the 1156
market value of the facility prior to the expenditures, as 1157
determined for the purposes of local property taxation. 1158

(R) "Large manufacturing facility" means a single Ohio 1159
facility that employed an average of at least one thousand 1160
individuals during the five calendar years preceding an 1161
agreement authorized under division (C) (3) of section 5709.62 or 1162
division (B) (2) of section 5709.63 of the Revised Code. For 1163
purposes of this division, both of the following apply: 1164

(1) A single Ohio manufacturing facility employed an 1165
average of at least one thousand individuals during the five 1166
calendar years preceding entering into such an agreement if one- 1167
fifth of the sum of the number of employees employed on the 1168
highest employment day during each of the five calendar years 1169
equals or exceeds one thousand. 1170

(2) The highest employment day is the day or days during a 1171
calendar year on which the number of employees employed at a 1172
single Ohio manufacturing facility was greater than on any other 1173
day during the calendar year. 1174

(S) "Business cycle" means the cycle of business activity 1175
usually regarded as passing through alternating stages of 1176

prosperity and depression. 1177

(T) "Making retail sales" means the effecting of point-of- 1178
final-purchase transactions at a facility open to the consuming 1179
public, wherein one party is obligated to pay the price and the 1180
other party is obligated to provide a service or to transfer 1181
title to or possession of the item sold. 1182

(U) "Environmentally contaminated" means that hazardous 1183
substances exist at a facility under conditions that have caused 1184
or would cause the facility to be identified as contaminated by 1185
the state or federal environmental protection agency. These may 1186
include facilities located at sites identified in the master 1187
sites list or similar database maintained by the state 1188
environmental protection agency if the sites have been 1189
investigated by the agency and found to be contaminated. 1190

(V) "Remediate" means to make expenditures to clean up an 1191
environmentally contaminated facility so that it is no longer 1192
environmentally contaminated that equal at least ten per cent of 1193
the real property market value of the facility prior to such 1194
expenditures as determined for the purposes of property 1195
taxation. 1196

(W) "Related member" has the same meaning as defined in 1197
section 5733.042 of the Revised Code without regard to division 1198
(B) of that section, except that it is used with respect to an 1199
enterprise rather than a taxpayer. 1200

(X) "Predecessor enterprise" means an enterprise from 1201
which the assets or equity of another enterprise has been 1202
transferred, which transfer resulted in the full or partial 1203
nonrecognition of gain or loss, or resulted in a carryover 1204
basis, both as determined by rule adopted by the tax 1205

commissioner. 1206

(Y) "Successor enterprise" means an enterprise to which 1207
the assets or equity of another enterprise has been transferred, 1208
which transfer resulted in the full or partial nonrecognition of 1209
gain or loss, or resulted in a carryover basis, both as 1210
determined by rule adopted by the tax commissioner. 1211

(Z) "Megaproject," "megaproject operator," and 1212
"megaproject supplier" have the same meanings as in section 1213
122.17 of the Revised Code. 1214

Sec. 5709.62. (A) In any municipal corporation that is 1215
defined by the United States office of management and budget as 1216
a principal city of a metropolitan statistical area, the 1217
legislative authority of the municipal corporation may designate 1218
one or more areas within its municipal corporation as proposed 1219
enterprise zones. Upon designating an area, the legislative 1220
authority shall petition the director of development services 1221
for certification of the area as having the characteristics set 1222
forth in division (A) (1) of section 5709.61 of the Revised Code 1223
as amended by Substitute Senate Bill No. 19 of the 120th general 1224
assembly. Except as otherwise provided in division (E) of this 1225
section, on and after July 1, 1994, legislative authorities 1226
shall not enter into agreements under this section unless the 1227
legislative authority has petitioned the director and the 1228
director has certified the zone under this section as amended by 1229
that act; however, all agreements entered into under this 1230
section as it existed prior to July 1, 1994, and the incentives 1231
granted under those agreements shall remain in effect for the 1232
period agreed to under those agreements. Within sixty days after 1233
receiving such a petition, the director shall determine whether 1234
the area has the characteristics set forth in division (A) (1) of 1235

section 5709.61 of the Revised Code, and shall forward the 1236
findings to the legislative authority of the municipal 1237
corporation. If the director certifies the area as having those 1238
characteristics, and thereby certifies it as a zone, the 1239
legislative authority may enter into an agreement with an 1240
enterprise under division (C) of this section. 1241

(B) Any enterprise that wishes to enter into an agreement 1242
with a municipal corporation under division (C) of this section 1243
shall submit a proposal to the legislative authority of the 1244
municipal corporation on a form prescribed by the director of 1245
development services, together with the application fee 1246
established under section 5709.68 of the Revised Code. The form 1247
shall require the following information: 1248

(1) An estimate of the number of new employees whom the 1249
enterprise intends to hire, or of the number of employees whom 1250
the enterprise intends to retain, within the zone at a facility 1251
that is a project site, and an estimate of the amount of payroll 1252
of the enterprise attributable to these employees; 1253

(2) An estimate of the amount to be invested by the 1254
enterprise to establish, expand, renovate, or occupy a facility, 1255
including investment in new buildings, additions or improvements 1256
to existing buildings, machinery, equipment, furniture, 1257
fixtures, and inventory; 1258

(3) A listing of the enterprise's current investment, if 1259
any, in a facility as of the date of the proposal's submission. 1260

The enterprise shall review and update the listings 1261
required under this division to reflect material changes, and 1262
any agreement entered into under division (C) of this section 1263
shall set forth final estimates and listings as of the time the 1264

agreement is entered into. The legislative authority may, on a 1265
separate form and at any time, require any additional 1266
information necessary to determine whether an enterprise is in 1267
compliance with an agreement and to collect the information 1268
required to be reported under section 5709.68 of the Revised 1269
Code. 1270

(C) Upon receipt and investigation of a proposal under 1271
division (B) of this section, if the legislative authority finds 1272
that the enterprise submitting the proposal is qualified by 1273
financial responsibility and business experience to create and 1274
preserve employment opportunities in the zone and improve the 1275
economic climate of the municipal corporation, the legislative 1276
authority may do one of the following: 1277

(1) Enter into an agreement with the enterprise under 1278
which the enterprise agrees to establish, expand, renovate, or 1279
occupy a facility and hire new employees, or preserve employment 1280
opportunities for existing employees, in return for one or more 1281
of the following incentives: 1282

(a) Exemption for a specified number of years, not to 1283
exceed fifteen, of a specified portion, up to seventy-five per 1284
cent, of the assessed value of tangible personal property first 1285
used in business at the project site as a result of the 1286
agreement. If an exemption for inventory is specifically granted 1287
in the agreement pursuant to this division, the exemption 1288
applies to inventory required to be listed pursuant to sections 1289
5711.15 and 5711.16 of the Revised Code, except that, in the 1290
instance of an expansion or other situations in which an 1291
enterprise was in business at the facility prior to the 1292
establishment of the zone, the inventory that is exempt is that 1293
amount or value of inventory in excess of the amount or value of 1294

inventory required to be listed in the personal property tax 1295
return of the enterprise in the return for the tax year in which 1296
the agreement is entered into. 1297

(b) Exemption for a specified number of years, not to 1298
exceed fifteen, of a specified portion, up to seventy-five per 1299
cent, of the increase in the assessed valuation of real property 1300
constituting the project site subsequent to formal approval of 1301
the agreement by the legislative authority; 1302

(c) Provision for a specified number of years, not to 1303
exceed fifteen, of any optional services or assistance that the 1304
municipal corporation is authorized to provide with regard to 1305
the project site. 1306

(2) Enter into an agreement under which the enterprise 1307
agrees to remediate an environmentally contaminated facility, to 1308
spend an amount equal to at least two hundred fifty per cent of 1309
the true value in money of the real property of the facility 1310
prior to remediation as determined for the purposes of property 1311
taxation to establish, expand, renovate, or occupy the 1312
remediated facility, and to hire new employees or preserve 1313
employment opportunities for existing employees at the 1314
remediated facility, in return for one or more of the following 1315
incentives: 1316

(a) Exemption for a specified number of years, not to 1317
exceed fifteen, of a specified portion, not to exceed fifty per 1318
cent, of the assessed valuation of the real property of the 1319
facility prior to remediation; 1320

(b) Exemption for a specified number of years, not to 1321
exceed fifteen, of a specified portion, not to exceed one 1322
hundred per cent, of the increase in the assessed valuation of 1323

the real property of the facility during or after remediation; 1324

(c) The incentive under division (C) (1) (a) of this 1325
section, except that the percentage of the assessed value of 1326
such property exempted from taxation shall not exceed one 1327
hundred per cent; 1328

(d) The incentive under division (C) (1) (c) of this 1329
section. 1330

(3) Enter into an agreement with an enterprise that plans 1331
to purchase and operate a large manufacturing facility that has 1332
ceased operation or announced its intention to cease operation, 1333
in return for exemption for a specified number of years, not to 1334
exceed fifteen, of a specified portion, up to one hundred per 1335
cent, of the assessed value of tangible personal property used 1336
in business at the project site as a result of the agreement, or 1337
of the assessed valuation of real property constituting the 1338
project site, or both. 1339

(4) Enter into an agreement with an enterprise that is 1340
either the owner of real property constituting the site of a 1341
megaproject or a megaproject supplier in return for an exemption 1342
for a specified number of years, not to exceed thirty, of a 1343
specified portion, up to one hundred per cent, of the increase 1344
in the assessed value of real property constituting the site of 1345
a megaproject or real property owned and occupied by the 1346
megaproject supplier, respectively, beginning after the tax year 1347
in which the agreement is formally approved by the legislative 1348
authority. 1349

(D) (1) Notwithstanding divisions (C) (1) (a) and (b) of this 1350
section, the portion of the assessed value of tangible personal 1351
property or of the increase in the assessed valuation of real 1352

property exempted from taxation under those divisions may exceed 1353
seventy-five per cent in any year for which that portion is 1354
exempted if the average percentage exempted for all years in 1355
which the agreement is in effect does not exceed sixty per cent, 1356
or if the board of education of the city, local, or exempted 1357
village school district within the territory of which the 1358
property is or will be located approves a percentage in excess 1359
of seventy-five per cent. 1360

(2) Notwithstanding any provision of the Revised Code to 1361
the contrary, the exemptions described in divisions (C) (1) (a), 1362
(b), and (c), (C) (2) (a), (b), and (c), and (C) (3) of this 1363
section may be for up to fifteen years and the exemption 1364
described in division (C) (4) of this section may be for up to 1365
thirty years if the board of education of the city, local, or 1366
exempted village school district within the territory of which 1367
the property is or will be located approves a number of years in 1368
excess of ten. 1369

(3) For the purpose of obtaining the approval of a city, 1370
local, or exempted village school district under division (D) (1) 1371
or (2) of this section, the legislative authority shall deliver 1372
to the board of education a notice not later than forty-five 1373
days prior to approving the agreement, excluding Saturdays, 1374
Sundays, and legal holidays as defined in section 1.14 of the 1375
Revised Code. The notice shall state the percentage to be 1376
exempted, an estimate of the true value of the property to be 1377
exempted, and the number of years the property is to be 1378
exempted. The board of education, by resolution adopted by a 1379
majority of the board, shall approve or disapprove the agreement 1380
and certify a copy of the resolution to the legislative 1381
authority not later than fourteen days prior to the date 1382
stipulated by the legislative authority as the date upon which 1383

approval of the agreement is to be formally considered by the 1384
legislative authority. The board of education may include in the 1385
resolution conditions under which the board would approve the 1386
agreement, including the execution of an agreement to compensate 1387
the school district under division (B) of section 5709.82 of the 1388
Revised Code. The legislative authority may approve the 1389
agreement at any time after the board of education certifies its 1390
resolution approving the agreement to the legislative authority, 1391
or, if the board approves the agreement conditionally, at any 1392
time after the conditions are agreed to by the board and the 1393
legislative authority. 1394

If a board of education has adopted a resolution waiving 1395
its right to approve agreements and the resolution remains in 1396
effect, approval of an agreement by the board is not required 1397
under this division. If a board of education has adopted a 1398
resolution allowing a legislative authority to deliver the 1399
notice required under this division fewer than forty-five 1400
business days prior to the legislative authority's approval of 1401
the agreement, the legislative authority shall deliver the 1402
notice to the board not later than the number of days prior to 1403
such approval as prescribed by the board in its resolution. If a 1404
board of education adopts a resolution waiving its right to 1405
approve agreements or shortening the notification period, the 1406
board shall certify a copy of the resolution to the legislative 1407
authority. If the board of education rescinds such a resolution, 1408
it shall certify notice of the rescission to the legislative 1409
authority. 1410

(4) The legislative authority shall comply with section 1411
5709.83 of the Revised Code unless the board of education has 1412
adopted a resolution under that section waiving its right to 1413
receive such notice. 1414

(E) This division applies to zones certified by the 1415
director of development services under this section prior to 1416
July 22, 1994. 1417

The legislative authority that designated a zone to which 1418
this division applies may enter into an agreement with an 1419
enterprise if the legislative authority finds that the 1420
enterprise satisfies one of the criteria described in divisions 1421
(E) (1) to (5) of this section: 1422

(1) The enterprise currently has no operations in this 1423
state and, subject to approval of the agreement, intends to 1424
establish operations in the zone; 1425

(2) The enterprise currently has operations in this state 1426
and, subject to approval of the agreement, intends to establish 1427
operations at a new location in the zone that would not result 1428
in a reduction in the number of employee positions at any of the 1429
enterprise's other locations in this state; 1430

(3) The enterprise, subject to approval of the agreement, 1431
intends to relocate operations, currently located in another 1432
state, to the zone; 1433

(4) The enterprise, subject to approval of the agreement, 1434
intends to expand operations at an existing site in the zone 1435
that the enterprise currently operates; 1436

(5) The enterprise, subject to approval of the agreement, 1437
intends to relocate operations, currently located in this state, 1438
to the zone, and the director of development services has issued 1439
a waiver for the enterprise under division (B) of section 1440
5709.633 of the Revised Code. 1441

The agreement shall require the enterprise to agree to 1442
establish, expand, renovate, or occupy a facility in the zone 1443

and hire new employees, or preserve employment opportunities for 1444
existing employees, in return for one or more of the incentives 1445
described in division (C) of this section. 1446

(F) All agreements entered into under this section shall 1447
be in the form prescribed under section 5709.631 of the Revised 1448
Code. After an agreement is entered into under this section, if 1449
the legislative authority revokes its designation of a zone, or 1450
if the director of development services revokes a zone's 1451
certification, any entitlements granted under the agreement 1452
shall continue for the number of years specified in the 1453
agreement. 1454

(G) Except as otherwise provided in this division, an 1455
agreement entered into under this section shall require that the 1456
enterprise pay an annual fee equal to the greater of one per 1457
cent of the dollar value of incentives offered under the 1458
agreement or five hundred dollars; provided, however, that if 1459
the value of the incentives exceeds two hundred fifty thousand 1460
dollars, the fee shall not exceed two thousand five hundred 1461
dollars. The fee shall be payable to the legislative authority 1462
once per year for each year the agreement is effective on the 1463
days and in the form specified in the agreement. Fees paid shall 1464
be deposited in a special fund created for such purpose by the 1465
legislative authority and shall be used by the legislative 1466
authority exclusively for the purpose of complying with section 1467
5709.68 of the Revised Code and by the tax incentive review 1468
council created under section 5709.85 of the Revised Code 1469
exclusively for the purposes of performing the duties prescribed 1470
under that section. The legislative authority may waive or 1471
reduce the amount of the fee charged against an enterprise, but 1472
such a waiver or reduction does not affect the obligations of 1473
the legislative authority or the tax incentive review council to 1474

comply with section 5709.68 or 5709.85 of the Revised Code. 1475

(H) When an agreement is entered into pursuant to this 1476
section, the legislative authority authorizing the agreement 1477
shall forward a copy of the agreement to the director of 1478
development services and to the tax commissioner within fifteen 1479
days after the agreement is entered into. If any agreement 1480
includes terms not provided for in section 5709.631 of the 1481
Revised Code affecting the revenue of a city, local, or exempted 1482
village school district or causing revenue to be forgone by the 1483
district, including any compensation to be paid to the school 1484
district pursuant to section 5709.82 of the Revised Code, those 1485
terms also shall be forwarded in writing to the director of 1486
development services along with the copy of the agreement 1487
forwarded under this division. 1488

(I) After an agreement is entered into, the enterprise 1489
shall file with each personal property tax return required to be 1490
filed, or annual report required to be filed under section 1491
5727.08 of the Revised Code, while the agreement is in effect, 1492
an informational return, on a form prescribed by the tax 1493
commissioner for that purpose, setting forth separately the 1494
property, and related costs and values, exempted from taxation 1495
under the agreement. 1496

(J) Enterprises may agree to give preference to residents 1497
of the zone within which the agreement applies relative to 1498
residents of this state who do not reside in the zone when 1499
hiring new employees under the agreement. 1500

(K) An agreement entered into under this section may 1501
include a provision requiring the enterprise to create one or 1502
more temporary internship positions for students enrolled in a 1503
course of study at a school or other educational institution in 1504

the vicinity, and to create a scholarship or provide another 1505
form of educational financial assistance for students holding 1506
such a position in exchange for the student's commitment to work 1507
for the enterprise at the completion of the internship. 1508

(L) The tax commissioner's authority in determining the 1509
accuracy of any exemption granted by an agreement entered into 1510
under this section is limited to divisions (C) (1) (a) and (b), 1511
(C) (2) (a), (b), and (c), (C) (3) and (4), (D), and (I) of this 1512
section and divisions (B) (1) to (10) of section 5709.631 of the 1513
Revised Code and, as authorized by law, to enforcing any 1514
modification to, or revocation of, that agreement by the 1515
legislative authority of a municipal corporation or the director 1516
of development services. 1517

Sec. 5709.63. (A) With the consent of the legislative 1518
authority of each affected municipal corporation or of a board 1519
of township trustees, a board of county commissioners may, in 1520
the manner set forth in section 5709.62 of the Revised Code, 1521
designate one or more areas in one or more municipal 1522
corporations or in unincorporated areas of the county as 1523
proposed enterprise zones. A board of county commissioners may 1524
designate no more than one area within a township, or within 1525
adjacent townships, as a proposed enterprise zone. The board 1526
shall petition the director of development services for 1527
certification of the area as having the characteristics set 1528
forth in division (A) (1) or (2) of section 5709.61 of the 1529
Revised Code as amended by Substitute Senate Bill No. 19 of the 1530
120th general assembly. Except as otherwise provided in division 1531
(D) of this section, on and after July 1, 1994, boards of county 1532
commissioners shall not enter into agreements under this section 1533
unless the board has petitioned the director and the director 1534
has certified the zone under this section as amended by that 1535

act; however, all agreements entered into under this section as 1536
it existed prior to July 1, 1994, and the incentives granted 1537
under those agreements shall remain in effect for the period 1538
agreed to under those agreements. The director shall make the 1539
determination in the manner provided under section 5709.62 of 1540
the Revised Code. 1541

Any enterprise wishing to enter into an agreement with the 1542
board under division (B) or (D) of this section shall submit a 1543
proposal to the board on the form and accompanied by the 1544
application fee prescribed under division (B) of section 5709.62 1545
of the Revised Code. The enterprise shall review and update the 1546
estimates and listings required by the form in the manner 1547
required under that division. The board may, on a separate form 1548
and at any time, require any additional information necessary to 1549
determine whether an enterprise is in compliance with an 1550
agreement and to collect the information required to be reported 1551
under section 5709.68 of the Revised Code. 1552

(B) If the board of county commissioners finds that an 1553
enterprise submitting a proposal is qualified by financial 1554
responsibility and business experience to create and preserve 1555
employment opportunities in the zone and to improve the economic 1556
climate of the municipal corporation or municipal corporations 1557
or the unincorporated areas in which the zone is located and to 1558
which the proposal applies, the board, with the consent of the 1559
legislative authority of each affected municipal corporation or 1560
of the board of township trustees, may do ~~either~~ one of the 1561
following: 1562

(1) Enter into an agreement with the enterprise under 1563
which the enterprise agrees to establish, expand, renovate, or 1564
occupy a facility in the zone and hire new employees, or 1565

preserve employment opportunities for existing employees, in 1566
return for the following incentives: 1567

(a) When the facility is located in a municipal 1568
corporation, the board may enter into an agreement for one or 1569
more of the incentives provided in division (C) of section 1570
5709.62 of the Revised Code, subject to division (D) of that 1571
section; 1572

(b) When the facility is located in an unincorporated 1573
area, the board may enter into an agreement for one or more of 1574
the following incentives: 1575

(i) Exemption for a specified number of years, not to 1576
exceed fifteen, of a specified portion, up to sixty per cent, of 1577
the assessed value of tangible personal property first used in 1578
business at a project site as a result of the agreement. If an 1579
exemption for inventory is specifically granted in the agreement 1580
pursuant to this division, the exemption applies to inventory 1581
required to be listed pursuant to sections 5711.15 and 5711.16 1582
of the Revised Code, except, in the instance of an expansion or 1583
other situations in which an enterprise was in business at the 1584
facility prior to the establishment of the zone, the inventory 1585
that is exempt is that amount or value of inventory in excess of 1586
the amount or value of inventory required to be listed in the 1587
personal property tax return of the enterprise in the return for 1588
the tax year in which the agreement is entered into. 1589

(ii) Exemption for a specified number of years, not to 1590
exceed fifteen, of a specified portion, up to sixty per cent, of 1591
the increase in the assessed valuation of real property 1592
constituting the project site subsequent to formal approval of 1593
the agreement by the board; 1594

(iii) Provision for a specified number of years, not to 1595
exceed fifteen, of any optional services or assistance the board 1596
is authorized to provide with regard to the project site; 1597

(iv) The incentive described in division (C) (2) of section 1598
5709.62 of the Revised Code. 1599

(2) Enter into an agreement with an enterprise that plans 1600
to purchase and operate a large manufacturing facility that has 1601
ceased operation or has announced its intention to cease 1602
operation, in return for exemption for a specified number of 1603
years, not to exceed fifteen, of a specified portion, up to one 1604
hundred per cent, of tangible personal property used in business 1605
at the project site as a result of the agreement, or of real 1606
property constituting the project site, or both. 1607

(3) Enter into an agreement with an enterprise that is 1608
either the owner of real property constituting the site of a 1609
megaproject or a megaproject supplier in return for an exemption 1610
for a specified number of years, not to exceed thirty, of a 1611
specified portion, up to one hundred per cent, of the increase 1612
in the assessed value of real property constituting the site of 1613
a megaproject or real property owned and occupied by the 1614
megaproject supplier, respectively, beginning after the tax year 1615
in which the agreement is formally approved by the legislative 1616
authority. 1617

(C) (1) (a) Notwithstanding divisions (B) (1) (b) (i) and (ii) 1618
of this section, the portion of the assessed value of tangible 1619
personal property or of the increase in the assessed valuation 1620
of real property exempted from taxation under those divisions 1621
may exceed sixty per cent in any year for which that portion is 1622
exempted if the average percentage exempted for all years in 1623
which the agreement is in effect does not exceed fifty per cent, 1624

or if the board of education of the city, local, or exempted
village school district within the territory of which the
property is or will be located approves a percentage in excess
of sixty per cent.

(b) Notwithstanding any provision of the Revised Code to
the contrary, the exemptions described in divisions (B) (1) (b)
(i), (ii), (iii), and (iv) and (B) (2) of this section may be for
up to fifteen years and the exemption described in division (B)
(3) of this section may be for up to thirty years if the board
of education of the city, local, or exempted village school
district within the territory of which the property is or will
be located approves a number of years in excess of ten.

(c) For the purpose of obtaining the approval of a city,
local, or exempted village school district under division (C) (1)
(a) or (b) of this section, the board of county commissioners
shall deliver to the board of education a notice not later than
forty-five days prior to approving the agreement, excluding
Saturdays, Sundays, and legal holidays as defined in section
1.14 of the Revised Code. The notice shall state the percentage
to be exempted, an estimate of the true value of the property to
be exempted, and the number of years the property is to be
exempted. The board of education, by resolution adopted by a
majority of the board, shall approve or disapprove the agreement
and certify a copy of the resolution to the board of county
commissioners not later than fourteen days prior to the date
stipulated by the board of county commissioners as the date upon
which approval of the agreement is to be formally considered by
the board of county commissioners. The board of education may
include in the resolution conditions under which the board would
approve the agreement, including the execution of an agreement
to compensate the school district under division (B) of section

5709.82 of the Revised Code. The board of county commissioners 1656
may approve the agreement at any time after the board of 1657
education certifies its resolution approving the agreement to 1658
the board of county commissioners, or, if the board of education 1659
approves the agreement conditionally, at any time after the 1660
conditions are agreed to by the board of education and the board 1661
of county commissioners. 1662

If a board of education has adopted a resolution waiving 1663
its right to approve agreements and the resolution remains in 1664
effect, approval of an agreement by the board of education is 1665
not required under division (C) of this section. If a board of 1666
education has adopted a resolution allowing a board of county 1667
commissioners to deliver the notice required under this division 1668
fewer than forty-five business days prior to approval of the 1669
agreement by the board of county commissioners, the board of 1670
county commissioners shall deliver the notice to the board of 1671
education not later than the number of days prior to such 1672
approval as prescribed by the board of education in its 1673
resolution. If a board of education adopts a resolution waiving 1674
its right to approve agreements or shortening the notification 1675
period, the board of education shall certify a copy of the 1676
resolution to the board of county commissioners. If the board of 1677
education rescinds such a resolution, it shall certify notice of 1678
the rescission to the board of county commissioners. 1679

(2) The board of county commissioners shall comply with 1680
section 5709.83 of the Revised Code unless the board of 1681
education has adopted a resolution under that section waiving 1682
its right to receive such notice. 1683

(D) This division applies to zones certified by the 1684
director of development services under this section prior to 1685

July 22, 1994. 1686

With the consent of the legislative authority of each 1687
affected municipal corporation or board of township trustees of 1688
each affected township, the board of county commissioners that 1689
designated a zone to which this division applies may enter into 1690
an agreement with an enterprise if the board finds that the 1691
enterprise satisfies one of the criteria described in divisions 1692
(D) (1) to (5) of this section: 1693

(1) The enterprise currently has no operations in this 1694
state and, subject to approval of the agreement, intends to 1695
establish operations in the zone; 1696

(2) The enterprise currently has operations in this state 1697
and, subject to approval of the agreement, intends to establish 1698
operations at a new location in the zone that would not result 1699
in a reduction in the number of employee positions at any of the 1700
enterprise's other locations in this state; 1701

(3) The enterprise, subject to approval of the agreement, 1702
intends to relocate operations, currently located in another 1703
state, to the zone; 1704

(4) The enterprise, subject to approval of the agreement, 1705
intends to expand operations at an existing site in the zone 1706
that the enterprise currently operates; 1707

(5) The enterprise, subject to approval of the agreement, 1708
intends to relocate operations, currently located in this state, 1709
to the zone, and the director of development services has issued 1710
a waiver for the enterprise under division (B) of section 1711
5709.633 of the Revised Code. 1712

The agreement shall require the enterprise to agree to 1713
establish, expand, renovate, or occupy a facility in the zone 1714

and hire new employees, or preserve employment opportunities for 1715
existing employees, in return for one or more of the incentives 1716
described in division (B) of this section. 1717

(E) All agreements entered into under this section shall 1718
be in the form prescribed under section 5709.631 of the Revised 1719
Code. After an agreement under this section is entered into, if 1720
the board of county commissioners revokes its designation of a 1721
zone, or if the director of development services revokes a 1722
zone's certification, any entitlements granted under the 1723
agreement shall continue for the number of years specified in 1724
the agreement. 1725

(F) Except as otherwise provided in this division, an 1726
agreement entered into under this section shall require that the 1727
enterprise pay an annual fee equal to the greater of one per 1728
cent of the dollar value of incentives offered under the 1729
agreement or five hundred dollars; provided, however, that if 1730
the value of the incentives exceeds two hundred fifty thousand 1731
dollars, the fee shall not exceed two thousand five hundred 1732
dollars. The fee shall be payable to the board of county 1733
commissioners once per year for each year the agreement is 1734
effective on the days and in the form specified in the 1735
agreement. Fees paid shall be deposited in a special fund 1736
created for such purpose by the board and shall be used by the 1737
board exclusively for the purpose of complying with section 1738
5709.68 of the Revised Code and by the tax incentive review 1739
council created under section 5709.85 of the Revised Code 1740
exclusively for the purposes of performing the duties prescribed 1741
under that section. The board may waive or reduce the amount of 1742
the fee charged against an enterprise, but such waiver or 1743
reduction does not affect the obligations of the board or the 1744
tax incentive review council to comply with section 5709.68 or 1745

5709.85 of the Revised Code, respectively. 1746

(G) With the approval of the legislative authority of a 1747
municipal corporation or the board of township trustees of a 1748
township in which a zone is designated under division (A) of 1749
this section, the board of county commissioners may delegate to 1750
that legislative authority or board any powers and duties of the 1751
board of county commissioners to negotiate and administer 1752
agreements with regard to that zone under this section. 1753

(H) When an agreement is entered into pursuant to this 1754
section, the board of county commissioners authorizing the 1755
agreement or the legislative authority or board of township 1756
trustees that negotiates and administers the agreement shall 1757
forward a copy of the agreement to the director of development 1758
services and to the tax commissioner within fifteen days after 1759
the agreement is entered into. If any agreement includes terms 1760
not provided for in section 5709.631 of the Revised Code 1761
affecting the revenue of a city, local, or exempted village 1762
school district or causing revenue to be foregone by the 1763
district, including any compensation to be paid to the school 1764
district pursuant to section 5709.82 of the Revised Code, those 1765
terms also shall be forwarded in writing to the director of 1766
development services along with the copy of the agreement 1767
forwarded under this division. 1768

(I) After an agreement is entered into, the enterprise 1769
shall file with each personal property tax return required to be 1770
filed, or annual report that is required to be filed under 1771
section 5727.08 of the Revised Code, while the agreement is in 1772
effect, an informational return, on a form prescribed by the tax 1773
commissioner for that purpose, setting forth separately the 1774
property, and related costs and values, exempted from taxation 1775

under the agreement. 1776

(J) Enterprises may agree to give preference to residents 1777
of the zone within which the agreement applies relative to 1778
residents of this state who do not reside in the zone when 1779
hiring new employees under the agreement. 1780

(K) An agreement entered into under this section may 1781
include a provision requiring the enterprise to create one or 1782
more temporary internship positions for students enrolled in a 1783
course of study at a school or other educational institution in 1784
the vicinity, and to create a scholarship or provide another 1785
form of educational financial assistance for students holding 1786
such a position in exchange for the student's commitment to work 1787
for the enterprise at the completion of the internship. 1788

(L) The tax commissioner's authority in determining the 1789
accuracy of any exemption granted by an agreement entered into 1790
under this section is limited to divisions (B) (1) (b) (i) and 1791
(ii), (B) (2) and (3), (C), and (I) of this section, division (B) 1792
(1) (b) (iv) of this section as it pertains to divisions (C) (2) 1793
(a), (b), and (c) of section 5709.62 of the Revised Code, and 1794
divisions (B) (1) to (10) of section 5709.631 of the Revised Code 1795
and, as authorized by law, to enforcing any modification to, or 1796
revocation of, that agreement by the board of county 1797
commissioners or the director of development services or, if the 1798
board's powers and duties are delegated under division (G) of 1799
this section, by the legislative authority of a municipal 1800
corporation or board of township trustees. 1801

Sec. 5709.631. Each agreement entered into under sections 1802
5709.62, 5709.63, and 5709.632 of the Revised Code on or after 1803
April 1, 1994, shall be in writing and shall include all of the 1804
information and statements prescribed by this section. 1805

Agreements may include terms not prescribed by this section, but 1806
such terms shall in no way derogate from the information and 1807
statements prescribed by this section. 1808

(A) Each agreement shall include the following 1809
information: 1810

(1) The names of all parties to the agreement; 1811

(2) A description of the investments to be made by the 1812
applicant enterprise or by another party at the facility whether 1813
or not the investments are exempted from taxation, including 1814
existing or new building size and cost thereof; the value of 1815
machinery, equipment, furniture, and fixtures, including an 1816
itemization of the value of machinery, equipment, furniture, and 1817
fixtures used at another location in this state prior to the 1818
agreement and relocated or to be relocated from that location to 1819
the facility and the value of machinery, equipment, furniture, 1820
and fixtures at the facility prior to the execution of the 1821
agreement that will not be exempted from taxation; the value of 1822
inventory at the facility, including an itemization of the value 1823
of inventory held at another location in this state prior to the 1824
agreement and relocated or to be relocated from that location to 1825
the facility, and the value of inventory held at the facility 1826
prior to the execution of the agreement that will not be 1827
exempted from taxation; 1828

(3) The scheduled starting and completion dates of 1829
investments made in building, machinery, equipment, furniture, 1830
fixtures, and inventory; 1831

(4) Estimates of the number of employee positions to be 1832
created each year of the agreement and of the number of employee 1833
positions retained by the applicant enterprise due to the 1834

project, itemized as to the number of full-time, part-time, 1835
permanent, and temporary positions; 1836

(5) Estimates of the dollar amount of payroll attributable 1837
to the positions set forth in division (A)(4) of this section, 1838
similarly itemized; 1839

(6) The number of employee positions, if any, at the 1840
project site and at any other location in the state at the time 1841
the agreement is executed, itemized as to the number of full- 1842
time, part-time, permanent, and temporary positions. 1843

(B) Each agreement shall set forth the following 1844
information and incorporate the following statements: 1845

(1) A description of real property to be exempted from 1846
taxation under the agreement, the percentage of the assessed 1847
valuation of the real property exempted from taxation, and the 1848
period for which the exemption is granted, accompanied by the 1849
statement: "The exemption commences the first year for which the 1850
real property would first be taxable were that property not 1851
exempted from taxation. No exemption shall commence 1852
after (insert date) nor extend beyond 1853
(insert date)." The tax commissioner shall adopt rules 1854
prescribing the form the description of such property shall 1855
assume to ensure that the property to be exempted from taxation 1856
under the agreement is distinguishable from property that is not 1857
to be exempted under that agreement. 1858

(2) A description of tangible personal property to be 1859
exempted from taxation under the agreement, the percentage of 1860
the assessed value of the tangible personal property exempted 1861
from taxation, and the period for which the exemption is 1862
granted, accompanied by the statement: "The minimum investment 1863

for tangible personal property to qualify for the exemption is 1864
\$..... (insert dollar amount) to purchase machinery and 1865
equipment first used in business at the facility as a result of 1866
the project, \$..... (insert dollar amount) for furniture 1867
and fixtures and other noninventory personal property first used 1868
in business at the facility as a result of the project, and 1869
\$..... (insert dollar amount) for new inventory. The 1870
maximum investment for tangible personal property to qualify for 1871
the exemption is \$..... (insert dollar amount) to purchase 1872
machinery and equipment first used in business at the facility 1873
as a result of the project, \$..... (insert dollar amount) 1874
for furniture and fixtures and other noninventory personal 1875
property first used in business at the facility as a result of 1876
the project, and \$..... (insert dollar amount) for new 1877
inventory. The exemption commences the first year for which the 1878
tangible personal property would first be taxable were that 1879
property not exempted from taxation. No exemption shall commence 1880
after tax return year (insert year) nor extend beyond 1881
tax return year (insert year). In no instance shall 1882
any tangible personal property be exempted from taxation for 1883
more than ten return years unless, under division (D) (2) of 1884
section 5709.62 or under division (C) (1) (b) of section 5709.63 1885
of the Revised Code, the board of education approves exemption 1886
for a number of years in excess of ten, in which case the 1887
tangible personal property may be exempted from taxation for 1888
that number of years, not to exceed fifteen return years." No 1889
exemption shall be allowed for any type of tangible personal 1890
property if the total investment is less than the minimum dollar 1891
amount specified for that type of property. If, for a type of 1892
tangible personal property, there are no minimum or maximum 1893
investment dollar amounts specified in the statement or the 1894
dollar amounts are designated in the statement as not 1895

applicable, the exemption shall apply to the total cost of that 1896
type of tangible personal property first used in business at the 1897
facility as a result of the project. The tax commissioner shall 1898
adopt rules prescribing the form the description of such 1899
property shall assume to ensure that the property to be exempted 1900
from taxation under the agreement is distinguishable from 1901
property that is not to be exempted under that agreement. 1902

(3) "..... (insert name of enterprise) shall pay such 1903
real and tangible personal property taxes as are not exempted 1904
under this agreement and are charged against such property and 1905
shall file all tax reports and returns as required by law. 1906
If (insert name of enterprise) fails to pay such 1907
taxes or file such returns and reports, all incentives granted 1908
under this agreement are rescinded beginning with the year for 1909
which such taxes are charged or such reports or returns are 1910
required to be filed and thereafter." 1911

(4) "..... (insert name of enterprise) hereby 1912
certifies that at the time this agreement is 1913
executed, (insert name of enterprise) does not owe 1914
any delinquent real or tangible personal property taxes to any 1915
taxing authority of the State of Ohio, and does not owe 1916
delinquent taxes for which (insert name of 1917
enterprise) is liable under Chapter 5727., 5733., 5735., 5739., 1918
5741., 5743., 5747., or 5753. of the Revised Code, or, if such 1919
delinquent taxes are owed, (insert name of 1920
enterprise) currently is paying the delinquent taxes pursuant to 1921
a delinquent tax contract enforceable by the State of Ohio or an 1922
agent or instrumentality thereof, has filed a petition in 1923
bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition 1924
has been filed against (insert name of enterprise). 1925
For the purposes of the certification, delinquent taxes are 1926

taxes that remain unpaid on the latest day prescribed for 1927
payment without penalty under the chapter of the Revised Code 1928
governing payment of those taxes." 1929

(5) "..... (insert name of municipal corporation or 1930
county) shall perform such acts as are reasonably necessary or 1931
appropriate to effect, claim, reserve, and maintain exemptions 1932
from taxation granted under this agreement including, without 1933
limitation, joining in the execution of all documentation and 1934
providing any necessary certificates required in connection with 1935
such exemptions." 1936

(6) "If for any reason the enterprise zone designation 1937
expires, the Director of the Ohio Department of Development 1938
revokes certification of the zone, or (insert name of 1939
municipal corporation or county) revokes the designation of the 1940
zone, entitlements granted under this agreement shall continue 1941
for the number of years specified under this agreement, 1942
unless (insert name of enterprise) materially fails 1943
to fulfill its obligations under this agreement and 1944
(insert name of municipal corporation or county) terminates or 1945
modifies the exemptions from taxation granted under this 1946
agreement." 1947

(7) "If (insert name of enterprise) materially 1948
fails to fulfill its obligations under this agreement, other 1949
than with respect to the number of employee positions estimated 1950
to be created or retained under this agreement, or if 1951
(insert name of municipal corporation or county) determines that 1952
the certification as to delinquent taxes required by this 1953
agreement is fraudulent, (insert name of municipal 1954
corporation or county) may terminate or modify the exemptions 1955
from taxation granted under this agreement." 1956

(8) "..... (insert name of enterprise) shall provide 1957
to the proper tax incentive review council any information 1958
reasonably required by the council to evaluate the enterprise's 1959
compliance with the agreement, including returns or annual 1960
reports filed pursuant to section 5711.02 or 5727.08 of the Ohio 1961
Revised Code if requested by the council." 1962

(9) "..... (insert name of enterprise) and 1963
(insert name of municipal corporation or county) acknowledge 1964
that this agreement must be approved by formal action of the 1965
legislative authority of (insert name of municipal 1966
corporation or county) as a condition for the agreement to take 1967
effect. This agreement takes effect upon such approval." 1968

(10) "This agreement is not transferable or assignable 1969
without the express, written approval of (insert name 1970
of municipal corporation or county)." 1971

(11) "Exemptions from taxation granted under this 1972
agreement shall be revoked if it is determined 1973
that (insert name of enterprise), any successor 1974
enterprise, or any related member (as those terms are defined in 1975
section 5709.61 of the Ohio Revised Code) has violated the 1976
prohibition against entering into this agreement under division 1977
(E) of section 3735.671 or section 5709.62, 5709.63, or 5709.632 1978
of the Ohio Revised Code prior to the time prescribed by that 1979
division or either of those sections." 1980

(12) "In any three-year period during which this agreement 1981
is in effect, if the actual number of employee positions created 1982
or retained by (insert name of enterprise) is 1983
not equal to or greater than seventy-five per cent of the number 1984
of employee positions estimated to be created or retained under 1985
this agreement during that three-year period, 1986

(insert name of enterprise) shall repay the amount of taxes on property that would have been payable had the property not been exempted from taxation under this agreement during that three-year period. In addition, the (insert name of municipal corporation or county) may terminate or modify the exemptions from taxation granted under this agreement."

(13) If the enterprise is the owner of real property constituting the site of a megaproject or is a megaproject supplier, both of the following:

(a) A requirement that the enterprise annually certify to the legislative authority whether the megaproject operator or megaproject supplier, as applicable, holds a certificate issued under division (D)(7) of section 122.17 of the Revised Code on the first day of the current tax year;

(b) A provision authorizing the legislative authority to terminate the exemption for current and subsequent tax years if the megaproject operator or megaproject supplier, as applicable, does not hold a certificate issued under division (D)(7) of section 122.17 of the Revised Code on the first day of the current tax year.

The statement described in division (B)(7) of this section may include the following statement, appended at the end of the statement: "and may require the repayment of the amount of taxes that would have been payable had the property not been exempted from taxation under this agreement." If the agreement includes a statement requiring repayment of exempted taxes, it also may authorize the legislative authority to secure repayment of such taxes by a lien on the exempted property in the amount required to be repaid. Such a lien on exempted real property shall attach, and may be perfected, collected, and enforced, in the

same manner as a mortgage lien on real property, and shall 2017
otherwise have the same force and effect as a mortgage lien on 2018
real property. Notwithstanding section 5719.01 of the Revised 2019
Code, such a lien on exempted tangible personal property shall 2020
attach, and may be perfected, collected, and enforced, in the 2021
same manner as a security interest in goods under Chapter 1309. 2022
of the Revised Code, and shall otherwise have the same force and 2023
effect as such a security interest. 2024

(C) If the director of development had to issue a waiver 2025
under section 5709.633 of the Revised Code as a condition for 2026
the agreement to be executed, the agreement shall include the 2027
following statement: 2028

"Continuation of this agreement is subject to the validity 2029
of the circumstance upon which (insert name of 2030
enterprise) applied for, and the Director of the Ohio Department 2031
of Development issued, the waiver pursuant to section 5709.633 2032
of the Ohio Revised Code. If, after formal approval of this 2033
agreement by (insert name of municipal corporation or 2034
county), the Director or (insert name of municipal 2035
corporation or county) discovers that such a circumstance did 2036
not exist, (insert name of enterprise) shall be 2037
deemed to have materially failed to comply with this agreement." 2038

If the director issued a waiver on the basis of the 2039
circumstance described in division (B) (3) of section 5709.633 of 2040
the Ohio Revised Code, the conditions enumerated in divisions 2041
(B) (3) (a) (i) and (ii) or divisions (B) (3) (b) (i) and (ii) of that 2042
section shall be incorporated in the information described in 2043
divisions (A) (2), (3), and (4) of this section. 2044

Sec. 5709.632. (A) (1) The legislative authority of a 2045
municipal corporation defined by the United States office of 2046

management and budget as a principal city of a metropolitan 2047
statistical area may, in the manner set forth in section 5709.62 2048
of the Revised Code, designate one or more areas in the 2049
municipal corporation as a proposed enterprise zone. 2050

(2) With the consent of the legislative authority of each 2051
affected municipal corporation or of a board of township 2052
trustees, a board of county commissioners may, in the manner set 2053
forth in section 5709.62 of the Revised Code, designate one or 2054
more areas in one or more municipal corporations or in 2055
unincorporated areas of the county as proposed urban jobs and 2056
enterprise zones, except that a board of county commissioners 2057
may designate no more than one area within a township, or within 2058
adjacent townships, as a proposed urban jobs and enterprise 2059
zone. 2060

(3) The legislative authority or board of county 2061
commissioners may petition the director of development services 2062
for certification of the area as having the characteristics set 2063
forth in division (A)(3) of section 5709.61 of the Revised Code. 2064
Within sixty days after receiving such a petition, the director 2065
shall determine whether the area has the characteristics set 2066
forth in that division and forward the findings to the 2067
legislative authority or board of county commissioners. If the 2068
director certifies the area as having those characteristics and 2069
thereby certifies it as a zone, the legislative authority or 2070
board may enter into agreements with enterprises under division 2071
(B) of this section. Any enterprise wishing to enter into an 2072
agreement with a legislative authority or board of county 2073
commissioners under this section and satisfying one of the 2074
criteria described in divisions (B)(1) to (5) of this section 2075
shall submit a proposal to the legislative authority or board on 2076
the form prescribed under division (B) of section 5709.62 of the 2077

Revised Code and shall review and update the estimates and 2078
listings required by the form in the manner required under that 2079
division. The legislative authority or board may, on a separate 2080
form and at any time, require any additional information 2081
necessary to determine whether an enterprise is in compliance 2082
with an agreement and to collect the information required to be 2083
reported under section 5709.68 of the Revised Code. 2084

(B) Prior to entering into an agreement with an 2085
enterprise, the legislative authority or board of county 2086
commissioners shall determine whether the enterprise submitting 2087
the proposal is qualified by financial responsibility and 2088
business experience to create and preserve employment 2089
opportunities in the zone and to improve the economic climate of 2090
the municipal corporation or municipal corporations or the 2091
unincorporated areas in which the zone is located and to which 2092
the proposal applies, and whether the enterprise satisfies one 2093
of the following criteria: 2094

(1) The enterprise currently has no operations in this 2095
state and, subject to approval of the agreement, intends to 2096
establish operations in the zone; 2097

(2) The enterprise currently has operations in this state 2098
and, subject to approval of the agreement, intends to establish 2099
operations at a new location in the zone that would not result 2100
in a reduction in the number of employee positions at any of the 2101
enterprise's other locations in this state; 2102

(3) The enterprise, subject to approval of the agreement, 2103
intends to relocate operations, currently located in another 2104
state, to the zone; 2105

(4) The enterprise, subject to approval of the agreement, 2106

intends to expand operations at an existing site in the zone 2107
that the enterprise currently operates; 2108

(5) The enterprise, subject to approval of the agreement, 2109
intends to relocate operations, currently located in this state, 2110
to the zone, and the director of development services has issued 2111
a waiver for the enterprise under division (B) of section 2112
5709.633 of the Revised Code. 2113

(C) If the legislative authority or board determines that 2114
the enterprise is so qualified and satisfies one of the criteria 2115
described in divisions (B)(1) to (5) of this section, the 2116
legislative authority or board may, after complying with section 2117
5709.83 of the Revised Code and, in the case of a board of 2118
commissioners, with the consent of the legislative authority of 2119
each affected municipal corporation or of the board of township 2120
trustees, enter into an agreement with the enterprise under 2121
which the enterprise agrees to establish, expand, renovate, or 2122
occupy a facility in the zone and hire new employees, or 2123
preserve employment opportunities for existing employees, in 2124
return for the following incentives: 2125

(1) When the facility is located in a municipal 2126
corporation, a legislative authority or board of commissioners 2127
may enter into an agreement for one or more of the incentives 2128
provided in ~~division~~ divisions (C)(1), (2), and (3) of section 2129
5709.62 of the Revised Code, subject to division (D) of that 2130
section, or for the incentive provided in division (C)(4) of 2131
that section if the enterprise is the owner of real property 2132
constituting the site of a megaproject or is a megaproject 2133
supplier; 2134

(2) When the facility is located in an unincorporated 2135
area, a board of commissioners may enter into an agreement for 2136

one or more of the incentives provided in divisions (B) (1) (b) ~~7~~ 2137
and (B) (2), and (B) (3) of section 5709.63 of the Revised Code, 2138
subject to division (C) of that section, or for the incentive 2139
provided in division (B) (3) of that section if the enterprise is 2140
the owner of real property constituting the site of a 2141
megaproject or is a megaproject supplier. 2142

(D) All agreements entered into under this section shall 2143
be in the form prescribed under section 5709.631 of the Revised 2144
Code. After an agreement under this section is entered into, if 2145
the legislative authority or board of county commissioners 2146
revokes its designation of the zone, or if the director of 2147
development services revokes the zone's certification, any 2148
entitlements granted under the agreement shall continue for the 2149
number of years specified in the agreement. 2150

(E) Except as otherwise provided in this division, an 2151
agreement entered into under this section shall require that the 2152
enterprise pay an annual fee equal to the greater of one per 2153
cent of the dollar value of incentives offered under the 2154
agreement or five hundred dollars; provided, however, that if 2155
the value of the incentives exceeds two hundred fifty thousand 2156
dollars, the fee shall not exceed two thousand five hundred 2157
dollars. The fee shall be payable to the legislative authority 2158
or board of commissioners once per year for each year the 2159
agreement is effective on the days and in the form specified in 2160
the agreement. Fees paid shall be deposited in a special fund 2161
created for such purpose by the legislative authority or board 2162
and shall be used by the legislative authority or board 2163
exclusively for the purpose of complying with section 5709.68 of 2164
the Revised Code and by the tax incentive review council created 2165
under section 5709.85 of the Revised Code exclusively for the 2166
purposes of performing the duties prescribed under that section. 2167

The legislative authority or board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the legislative authority or board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(F) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A) (2) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board to negotiate and administer agreements with regard to that zone under this section.

(G) When an agreement is entered into pursuant to this section, the legislative authority or board of commissioners authorizing the agreement shall forward a copy of the agreement to the director of development services and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be forgone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development services along with the copy of the agreement forwarded under this division.

(H) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed while the agreement is in effect, an informational return,

on a form prescribed by the tax commissioner for that purpose, 2198
setting forth separately the property, and related costs and 2199
values, exempted from taxation under the agreement. 2200

(I) An agreement entered into under this section may 2201
include a provision requiring the enterprise to create one or 2202
more temporary internship positions for students enrolled in a 2203
course of study at a school or other educational institution in 2204
the vicinity, and to create a scholarship or provide another 2205
form of educational financial assistance for students holding 2206
such a position in exchange for the student's commitment to work 2207
for the enterprise at the completion of the internship. 2208

Sec. 5751.01. As used in this chapter: 2209

(A) "Person" means, but is not limited to, individuals, 2210
combinations of individuals of any form, receivers, assignees, 2211
trustees in bankruptcy, firms, companies, joint-stock companies, 2212
business trusts, estates, partnerships, limited liability 2213
partnerships, limited liability companies, associations, joint 2214
ventures, clubs, societies, for-profit corporations, S 2215
corporations, qualified subchapter S subsidiaries, qualified 2216
subchapter S trusts, trusts, entities that are disregarded for 2217
federal income tax purposes, and any other entities. 2218

(B) "Consolidated elected taxpayer" means a group of two 2219
or more persons treated as a single taxpayer for purposes of 2220
this chapter as the result of an election made under section 2221
5751.011 of the Revised Code. 2222

(C) "Combined taxpayer" means a group of two or more 2223
persons treated as a single taxpayer for purposes of this 2224
chapter under section 5751.012 of the Revised Code. 2225

(D) "Taxpayer" means any person, or any group of persons 2226

in the case of a consolidated elected taxpayer or combined 2227
taxpayer treated as one taxpayer, required to register or pay 2228
tax under this chapter. "Taxpayer" does not include excluded 2229
persons. 2230

(E) "Excluded person" means any of the following: 2231

(1) Any person with not more than one hundred fifty 2232
thousand dollars of taxable gross receipts during the calendar 2233
year. Division (E) (1) of this section does not apply to a person 2234
that is a member of a consolidated elected taxpayer; 2235

(2) A public utility that paid the excise tax imposed by 2236
section 5727.24 or 5727.30 of the Revised Code based on one or 2237
more measurement periods that include the entire tax period 2238
under this chapter, except that a public utility that is a 2239
combined company is a taxpayer with regard to the following 2240
gross receipts: 2241

(a) Taxable gross receipts directly attributed to a public 2242
utility activity, but not directly attributed to an activity 2243
that is subject to the excise tax imposed by section 5727.24 or 2244
5727.30 of the Revised Code; 2245

(b) Taxable gross receipts that cannot be directly 2246
attributed to any activity, multiplied by a fraction whose 2247
numerator is the taxable gross receipts described in division 2248
(E) (2) (a) of this section and whose denominator is the total 2249
taxable gross receipts that can be directly attributed to any 2250
activity; 2251

(c) Except for any differences resulting from the use of 2252
an accrual basis method of accounting for purposes of 2253
determining gross receipts under this chapter and the use of the 2254
cash basis method of accounting for purposes of determining 2255

gross receipts under section 5727.24 of the Revised Code, the 2256
gross receipts directly attributed to the activity of a natural 2257
gas company shall be determined in a manner consistent with 2258
division (D) of section 5727.03 of the Revised Code. 2259

As used in division (E) (2) of this section, "combined 2260
company" and "public utility" have the same meanings as in 2261
section 5727.01 of the Revised Code. 2262

(3) A financial institution, as defined in section 5726.01 2263
of the Revised Code, that paid the tax imposed by section 2264
5726.02 of the Revised Code based on one or more taxable years 2265
that include the entire tax period under this chapter; 2266

(4) A person directly or indirectly owned by one or more 2267
financial institutions, as defined in section 5726.01 of the 2268
Revised Code, that paid the tax imposed by section 5726.02 of 2269
the Revised Code based on one or more taxable years that include 2270
the entire tax period under this chapter. 2271

For the purposes of division (E) (4) of this section, a 2272
person owns another person under the following circumstances: 2273

(a) In the case of corporations issuing capital stock, one 2274
corporation owns another corporation if it owns fifty per cent 2275
or more of the other corporation's capital stock with current 2276
voting rights; 2277

(b) In the case of a limited liability company, one person 2278
owns the company if that person's membership interest, as 2279
defined in section 1705.01 of the Revised Code, is fifty per 2280
cent or more of the combined membership interests of all persons 2281
owning such interests in the company; 2282

(c) In the case of a partnership, trust, or other 2283
unincorporated business organization other than a limited 2284

liability company, one person owns the organization if, under 2285
the articles of organization or other instrument governing the 2286
affairs of the organization, that person has a beneficial 2287
interest in the organization's profits, surpluses, losses, or 2288
distributions of fifty per cent or more of the combined 2289
beneficial interests of all persons having such an interest in 2290
the organization. 2291

(5) A domestic insurance company or foreign insurance 2292
company, as defined in section 5725.01 of the Revised Code, that 2293
paid the insurance company premiums tax imposed by section 2294
5725.18 or Chapter 5729. of the Revised Code, or an unauthorized 2295
insurance company whose gross premiums are subject to tax under 2296
section 3905.36 of the Revised Code based on one or more 2297
measurement periods that include the entire tax period under 2298
this chapter; 2299

(6) A person that solely facilitates or services one or 2300
more securitizations of phase-in-recovery property pursuant to a 2301
final financing order as those terms are defined in section 2302
4928.23 of the Revised Code. For purposes of this division, 2303
"securitization" means transferring one or more assets to one or 2304
more persons and then issuing securities backed by the right to 2305
receive payment from the asset or assets so transferred. 2306

(7) Except as otherwise provided in this division, a pre- 2307
income tax trust as defined in division (FF) (4) of section 2308
5747.01 of the Revised Code and any pass-through entity of which 2309
such pre-income tax trust owns or controls, directly, 2310
indirectly, or constructively through related interests, more 2311
than five per cent of the ownership or equity interests. If the 2312
pre-income tax trust has made a qualifying pre-income tax trust 2313
election under division (FF) (3) of section 5747.01 of the 2314

Revised Code, then the trust and the pass-through entities of 2315
which it owns or controls, directly, indirectly, or 2316
constructively through related interests, more than five per 2317
cent of the ownership or equity interests, shall not be excluded 2318
persons for purposes of the tax imposed under section 5751.02 of 2319
the Revised Code. 2320

(8) Nonprofit organizations or the state and its agencies, 2321
instrumentalities, or political subdivisions. 2322

(F) Except as otherwise provided in divisions (F) (2), (3), 2323
and (4) of this section, "gross receipts" means the total amount 2324
realized by a person, without deduction for the cost of goods 2325
sold or other expenses incurred, that contributes to the 2326
production of gross income of the person, including the fair 2327
market value of any property and any services received, and any 2328
debt transferred or forgiven as consideration. 2329

(1) The following are examples of gross receipts: 2330

(a) Amounts realized from the sale, exchange, or other 2331
disposition of the taxpayer's property to or with another; 2332

(b) Amounts realized from the taxpayer's performance of 2333
services for another; 2334

(c) Amounts realized from another's use or possession of 2335
the taxpayer's property or capital; 2336

(d) Any combination of the foregoing amounts. 2337

(2) "Gross receipts" excludes the following amounts: 2338

(a) Interest income except interest on credit sales; 2339

(b) Dividends and distributions from corporations, and 2340
distributive or proportionate shares of receipts and income from 2341

a pass-through entity as defined under section 5733.04 of the Revised Code;

(c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset. Notwithstanding section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to (i) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; (ii) interest rate fluctuations; or (iii) commodity price fluctuations. As used in division (F)(2)(c) of this section, "hedging transaction" has the same meaning as used in section 1221 of the Internal Revenue Code and also includes transactions accorded hedge accounting treatment under statement of financial accounting standards number 133 of the financial accounting standards board. For the purposes of division (F)(2)(c) of this section, the actual transfer of title of real or tangible personal property to another entity is not a hedging transaction.

(d) Proceeds received attributable to the repayment, maturity, or redemption of the principal of a loan, bond, mutual fund, certificate of deposit, or marketable instrument;

(e) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person;

(f) Contributions received by a trust, plan, or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Chapter

1, Subchapter (D) of the Internal Revenue Code applies;	2372
(g) Compensation, whether current or deferred, and whether	2373
in cash or in kind, received or to be received by an employee,	2374
former employee, or the employee's legal successor for services	2375
rendered to or for an employer, including reimbursements	2376
received by or for an individual for medical or education	2377
expenses, health insurance premiums, or employee expenses, or on	2378
account of a dependent care spending account, legal services	2379
plan, any cafeteria plan described in section 125 of the	2380
Internal Revenue Code, or any similar employee reimbursement;	2381
(h) Proceeds received from the issuance of the taxpayer's	2382
own stock, options, warrants, puts, or calls, or from the sale	2383
of the taxpayer's treasury stock;	2384
(i) Proceeds received on the account of payments from	2385
insurance policies, except those proceeds received for the loss	2386
of business revenue;	2387
(j) Gifts or charitable contributions received; membership	2388
dues received by trade, professional, homeowners', or	2389
condominium associations; and payments received for educational	2390
courses, meetings, meals, or similar payments to a trade,	2391
professional, or other similar association; and fundraising	2392
receipts received by any person when any excess receipts are	2393
donated or used exclusively for charitable purposes;	2394
(k) Damages received as the result of litigation in excess	2395
of amounts that, if received without litigation, would be gross	2396
receipts;	2397
(l) Property, money, and other amounts received or	2398
acquired by an agent on behalf of another in excess of the	2399
agent's commission, fee, or other remuneration;	2400

(m) Tax refunds, other tax benefit recoveries, and	2401
reimbursements for the tax imposed under this chapter made by	2402
entities that are part of the same combined taxpayer or	2403
consolidated elected taxpayer group, and reimbursements made by	2404
entities that are not members of a combined taxpayer or	2405
consolidated elected taxpayer group that are required to be made	2406
for economic parity among multiple owners of an entity whose tax	2407
obligation under this chapter is required to be reported and	2408
paid entirely by one owner, pursuant to the requirements of	2409
sections 5751.011 and 5751.012 of the Revised Code;	2410
(n) Pension reversions;	2411
(o) Contributions to capital;	2412
(p) Sales or use taxes collected as a vendor or an out-of-	2413
state seller on behalf of the taxing jurisdiction from a	2414
consumer or other taxes the taxpayer is required by law to	2415
collect directly from a purchaser and remit to a local, state,	2416
or federal tax authority;	2417
(q) In the case of receipts from the sale of cigarettes or	2418
tobacco products by a wholesale dealer, retail dealer,	2419
distributor, manufacturer, or seller, all as defined in section	2420
5743.01 of the Revised Code, an amount equal to the federal and	2421
state excise taxes paid by any person on or for such cigarettes	2422
or tobacco products under subtitle E of the Internal Revenue	2423
Code or Chapter 5743. of the Revised Code;	2424
(r) In the case of receipts from the sale, transfer,	2425
exchange, or other disposition of motor fuel as "motor fuel" is	2426
defined in section 5736.01 of the Revised Code, an amount equal	2427
to the value of the motor fuel, including federal and state	2428
motor fuel excise taxes and receipts from billing or invoicing	2429

the tax imposed under section 5736.02 of the Revised Code to 2430
another person; 2431

(s) In the case of receipts from the sale of beer or 2432
intoxicating liquor, as defined in section 4301.01 of the 2433
Revised Code, by a person holding a permit issued under Chapter 2434
4301. or 4303. of the Revised Code, an amount equal to federal 2435
and state excise taxes paid by any person on or for such beer or 2436
intoxicating liquor under subtitle E of the Internal Revenue 2437
Code or Chapter 4301. or 4305. of the Revised Code; 2438

(t) Receipts realized by a new motor vehicle dealer or 2439
used motor vehicle dealer, as defined in section 4517.01 of the 2440
Revised Code, from the sale or other transfer of a motor 2441
vehicle, as defined in that section, to another motor vehicle 2442
dealer for the purpose of resale by the transferee motor vehicle 2443
dealer, but only if the sale or other transfer was based upon 2444
the transferee's need to meet a specific customer's preference 2445
for a motor vehicle; 2446

(u) Receipts from a financial institution described in 2447
division (E)(3) of this section for services provided to the 2448
financial institution in connection with the issuance, 2449
processing, servicing, and management of loans or credit 2450
accounts, if such financial institution and the recipient of 2451
such receipts have at least fifty per cent of their ownership 2452
interests owned or controlled, directly or constructively 2453
through related interests, by common owners; 2454

(v) Receipts realized from administering anti-neoplastic 2455
drugs and other cancer chemotherapy, biologicals, therapeutic 2456
agents, and supportive drugs in a physician's office to patients 2457
with cancer; 2458

(w) Funds received or used by a mortgage broker that is 2459
not a dealer in intangibles, other than fees or other 2460
consideration, pursuant to a table-funding mortgage loan or 2461
warehouse-lending mortgage loan. Terms used in division (F) (2) 2462
(w) of this section have the same meanings as in section 1322.01 2463
of the Revised Code, except "mortgage broker" means a person 2464
assisting a buyer in obtaining a mortgage loan for a fee or 2465
other consideration paid by the buyer or a lender, or a person 2466
engaged in table-funding or warehouse-lending mortgage loans 2467
that are first lien mortgage loans. 2468

(x) Property, money, and other amounts received by a 2469
professional employer organization, as defined in section 2470
4125.01 of the Revised Code, from a client employer, as defined 2471
in that section, in excess of the administrative fee charged by 2472
the professional employer organization to the client employer; 2473

(y) In the case of amounts retained as commissions by a 2474
permit holder under Chapter 3769. of the Revised Code, an amount 2475
equal to the amounts specified under that chapter that must be 2476
paid to or collected by the tax commissioner as a tax and the 2477
amounts specified under that chapter to be used as purse money; 2478

(z) Qualifying distribution center receipts. 2479

(i) For purposes of division (F) (2) (z) of this section: 2480

(I) "Qualifying distribution center receipts" means 2481
receipts of a supplier from qualified property that is delivered 2482
to a qualified distribution center, multiplied by a quantity 2483
that equals one minus the Ohio delivery percentage. If the 2484
qualified distribution center is a refining facility, "supplier" 2485
includes all dealers, brokers, processors, sellers, vendors, 2486
cosigners, and distributors of qualified property. 2487

(II) "Qualified property" means tangible personal property 2488
delivered to a qualified distribution center that is shipped to 2489
that qualified distribution center solely for further shipping 2490
by the qualified distribution center to another location in this 2491
state or elsewhere or, in the case of gold, silver, platinum, or 2492
palladium delivered to a refining facility solely for refining 2493
to a grade and fineness acceptable for delivery to a registered 2494
commodities exchange. "Further shipping" includes storing and 2495
repackaging property into smaller or larger bundles, so long as 2496
the property is not subject to further manufacturing or 2497
processing. "Refining" is limited to extracting impurities from 2498
gold, silver, platinum, or palladium through smelting or some 2499
other process at a refining facility. 2500

(III) "Qualified distribution center" means a warehouse, a 2501
facility similar to a warehouse, or a refining facility in this 2502
state that, for the qualifying year, is operated by a person 2503
that is not part of a combined taxpayer group and that has a 2504
qualifying certificate. All warehouses or facilities similar to 2505
warehouses that are operated by persons in the same taxpayer 2506
group and that are located within one mile of each other shall 2507
be treated as one qualified distribution center. All refining 2508
facilities that are operated by persons in the same taxpayer 2509
group and that are located in the same or adjacent counties may 2510
be treated as one qualified distribution center. 2511

(IV) "Qualifying year" means the calendar year to which 2512
the qualifying certificate applies. 2513

(V) "Qualifying period" means the period of the first day 2514
of July of the second year preceding the qualifying year through 2515
the thirtieth day of June of the year preceding the qualifying 2516
year. 2517

(VI) "Qualifying certificate" means the certificate issued 2518
by the tax commissioner after the operator of a distribution 2519
center files an annual application with the commissioner. The 2520
application and annual fee shall be filed and paid for each 2521
qualified distribution center on or before the first day of 2522
September before the qualifying year or within forty-five days 2523
after the distribution center opens, whichever is later. 2524

The applicant must substantiate to the commissioner's 2525
satisfaction that, for the qualifying period, all persons 2526
operating the distribution center have more than fifty per cent 2527
of the cost of the qualified property shipped to a location such 2528
that it would be situated outside this state under the provisions 2529
of division (E) of section 5751.033 of the Revised Code. The 2530
applicant must also substantiate that the distribution center 2531
cumulatively had costs from its suppliers equal to or exceeding 2532
five hundred million dollars during the qualifying period. (For 2533
purposes of division (F) (2) (z) (i) (VI) of this section, 2534
"supplier" excludes any person that is part of the consolidated 2535
elected taxpayer group, if applicable, of the operator of the 2536
qualified distribution center.) The commissioner may require the 2537
applicant to have an independent certified public accountant 2538
certify that the calculation of the minimum thresholds required 2539
for a qualified distribution center by the operator of a 2540
distribution center has been made in accordance with generally 2541
accepted accounting principles. The commissioner shall issue or 2542
deny the issuance of a certificate within sixty days after the 2543
receipt of the application. A denial is subject to appeal under 2544
section 5717.02 of the Revised Code. If the operator files a 2545
timely appeal under section 5717.02 of the Revised Code, the 2546
operator shall be granted a qualifying certificate effective for 2547
the remainder of the qualifying year or until the appeal is 2548

finalized, whichever is earlier. If the operator does not 2549
prevail in the appeal, the operator shall pay the ineligible 2550
operator's supplier tax liability. 2551

(VII) "Ohio delivery percentage" means the proportion of 2552
the total property delivered to a destination inside Ohio from 2553
the qualified distribution center during the qualifying period 2554
compared with total deliveries from such distribution center 2555
everywhere during the qualifying period. 2556

(VIII) "Refining facility" means one or more buildings 2557
located in a county in the Appalachian region of this state as 2558
defined by section 107.21 of the Revised Code and utilized for 2559
refining or smelting gold, silver, platinum, or palladium to a 2560
grade and fineness acceptable for delivery to a registered 2561
commodities exchange. 2562

(IX) "Registered commodities exchange" means a board of 2563
trade, such as New York mercantile exchange, inc. or commodity 2564
exchange, inc., designated as a contract market by the commodity 2565
futures trading commission under the "Commodity Exchange Act," 7 2566
U.S.C. 1 et seq., as amended. 2567

(X) "Ineligible operator's supplier tax liability" means 2568
an amount equal to the tax liability of all suppliers of a 2569
distribution center had the distribution center not been issued 2570
a qualifying certificate for the qualifying year. Ineligible 2571
operator's supplier tax liability shall not include interest or 2572
penalties. The tax commissioner shall determine an ineligible 2573
operator's supplier tax liability based on information that the 2574
commissioner may request from the operator of the distribution 2575
center. An operator shall provide a list of all suppliers of the 2576
distribution center and the corresponding costs of qualified 2577
property for the qualifying year at issue within sixty days of a 2578

request by the commissioner under this division. 2579

(ii) (I) If the distribution center is new and was not open 2580
for the entire qualifying period, the operator of the 2581
distribution center may request that the commissioner grant a 2582
qualifying certificate. If the certificate is granted and it is 2583
later determined that more than fifty per cent of the qualified 2584
property during that year was not shipped to a location such 2585
that it would be situated outside of this state under the 2586
provisions of division (E) of section 5751.033 of the Revised 2587
Code or if it is later determined that the person that operates 2588
the distribution center had average monthly costs from its 2589
suppliers of less than forty million dollars during that year, 2590
then the operator of the distribution center shall pay the 2591
ineligible operator's supplier tax liability. (For purposes of 2592
division (F) (2) (z) (ii) of this section, "supplier" excludes any 2593
person that is part of the consolidated elected taxpayer group, 2594
if applicable, of the operator of the qualified distribution 2595
center.) 2596

(II) The commissioner may grant a qualifying certificate 2597
to a distribution center that does not qualify as a qualified 2598
distribution center for an entire qualifying period if the 2599
operator of the distribution center demonstrates that the 2600
business operations of the distribution center have changed or 2601
will change such that the distribution center will qualify as a 2602
qualified distribution center within thirty-six months after the 2603
date the operator first applies for a certificate. If, at the 2604
end of that thirty-six-month period, the business operations of 2605
the distribution center have not changed such that the 2606
distribution center qualifies as a qualified distribution 2607
center, the operator of the distribution center shall pay the 2608
ineligible operator's supplier tax liability for each year that 2609

the distribution center received a certificate but did not 2610
qualify as a qualified distribution center. For each year the 2611
distribution center receives a certificate under division (F) (2) 2612
(z) (ii) (II) of this section, the distribution center shall pay 2613
all applicable fees required under division (F) (2) (z) of this 2614
section and shall submit an updated business plan showing the 2615
progress the distribution center made toward qualifying as a 2616
qualified distribution center during the preceding year. 2617

(III) An operator may appeal a determination under 2618
division (F) (2) (z) (ii) (I) or (II) of this section that the 2619
ineligible operator is liable for the operator's supplier tax 2620
liability as a result of not qualifying as a qualified 2621
distribution center, as provided in section 5717.02 of the 2622
Revised Code. 2623

(iii) When filing an application for a qualifying 2624
certificate under division (F) (2) (z) (i) (VI) of this section, the 2625
operator of a qualified distribution center also shall provide 2626
documentation, as the commissioner requires, for the 2627
commissioner to ascertain the Ohio delivery percentage. The 2628
commissioner, upon issuing the qualifying certificate, also 2629
shall certify the Ohio delivery percentage. The operator of the 2630
qualified distribution center may appeal the commissioner's 2631
certification of the Ohio delivery percentage in the same manner 2632
as an appeal is taken from the denial of a qualifying 2633
certificate under division (F) (2) (z) (i) (VI) of this section. 2634

(iv) (I) In the case where the distribution center is new 2635
and not open for the entire qualifying period, the operator 2636
shall make a good faith estimate of an Ohio delivery percentage 2637
for use by suppliers in their reports of taxable gross receipts 2638
for the remainder of the qualifying period. The operator of the 2639

facility shall disclose to the suppliers that such Ohio delivery 2640
percentage is an estimate and is subject to recalculation. By 2641
the due date of the next application for a qualifying 2642
certificate, the operator shall determine the actual Ohio 2643
delivery percentage for the estimated qualifying period and 2644
proceed as provided in division (F) (2) (z) (iii) of this section 2645
with respect to the calculation and recalculation of the Ohio 2646
delivery percentage. The supplier is required to file, within 2647
sixty days after receiving notice from the operator of the 2648
qualified distribution center, amended reports for the impacted 2649
calendar quarter or quarters or calendar year, whichever the 2650
case may be. Any additional tax liability or tax overpayment 2651
shall be subject to interest but shall not be subject to the 2652
imposition of any penalty so long as the amended returns are 2653
timely filed. 2654

(II) The operator of a distribution center that receives a 2655
qualifying certificate under division (F) (2) (z) (ii) (II) of this 2656
section shall make a good faith estimate of the Ohio delivery 2657
percentage that the operator estimates will apply to the 2658
distribution center at the end of the thirty-six-month period 2659
after the operator first applied for a qualifying certificate 2660
under that division. The result of the estimate shall be 2661
multiplied by a factor of one and seventy-five one-hundredths. 2662
The product of that calculation shall be the Ohio delivery 2663
percentage used by suppliers in their reports of taxable gross 2664
receipts for each qualifying year that the distribution center 2665
receives a qualifying certificate under division (F) (2) (z) (ii) 2666
(II) of this section, except that, if the product is less than 2667
five per cent, the Ohio delivery percentage used shall be five 2668
per cent and that, if the product exceeds forty-nine per cent, 2669
the Ohio delivery percentage used shall be forty-nine per cent. 2670

(v) Qualifying certificates and Ohio delivery percentages 2671
issued by the commissioner shall be open to public inspection 2672
and shall be timely published by the commissioner. A supplier 2673
relying in good faith on a certificate issued under this 2674
division shall not be subject to tax on the qualifying 2675
distribution center receipts under division (F)(2)(z) of this 2676
section. An operator receiving a qualifying certificate is 2677
liable for the ineligible operator's supplier tax liability for 2678
each year the operator received a certificate but did not 2679
qualify as a qualified distribution center. 2680

(vi) The annual fee for a qualifying certificate shall be 2681
one hundred thousand dollars for each qualified distribution 2682
center. If a qualifying certificate is not issued, the annual 2683
fee is subject to refund after the exhaustion of all appeals 2684
provided for in division (F)(2)(z)(i)(VI) of this section. The 2685
first one hundred thousand dollars of the annual application 2686
fees collected each calendar year shall be credited to the 2687
revenue enhancement fund. The remainder of the annual 2688
application fees collected shall be distributed in the same 2689
manner required under section 5751.20 of the Revised Code. 2690

(vii) The tax commissioner may require that adequate 2691
security be posted by the operator of the distribution center on 2692
appeal when the commissioner disagrees that the applicant has 2693
met the minimum thresholds for a qualified distribution center 2694
as set forth in division (F)(2)(z) of this section. 2695

(aa) Receipts of an employer from payroll deductions 2696
relating to the reimbursement of the employer for advancing 2697
moneys to an unrelated third party on an employee's behalf; 2698

(bb) Cash discounts allowed and taken; 2699

(cc) Returns and allowances;	2700
(dd) Bad debts from receipts on the basis of which the tax imposed by this chapter was paid in a prior quarterly tax payment period. For the purpose of this division, "bad debts" means any debts that have become worthless or uncollectible between the preceding and current quarterly tax payment periods, have been uncollected for at least six months, and that may be claimed as a deduction under section 166 of the Internal Revenue Code and the regulations adopted under that section, or that could be claimed as such if the taxpayer kept its accounts on the accrual basis. "Bad debts" does not include repossessed property, uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is paid, or expenses in attempting to collect any account receivable or for any portion of the debt recovered;	2701 2702 2703 2704 2705 2706 2707 2708 2709 2710 2711 2712 2713 2714
(ee) Any amount realized from the sale of an account receivable to the extent the receipts from the underlying transaction giving rise to the account receivable were included in the gross receipts of the taxpayer;	2715 2716 2717 2718
(ff) Any receipts directly attributed to a transfer agreement or to the enterprise transferred under that agreement under section 4313.02 of the Revised Code.	2719 2720 2721
(gg) (i) As used in this division:	2722
(I) "Qualified uranium receipts" means receipts from the sale, exchange, lease, loan, production, processing, or other disposition of uranium within a uranium enrichment zone certified by the tax commissioner under division (F) (2) (gg) (ii) of this section. "Qualified uranium receipts" does not include any receipts with a situs in this state outside a uranium	2723 2724 2725 2726 2727 2728

enrichment zone certified by the tax commissioner under division 2729
(F) (2) (gg) (ii) of this section. 2730

(II) "Uranium enrichment zone" means all real property 2731
that is part of a uranium enrichment facility licensed by the 2732
United States nuclear regulatory commission and that was or is 2733
owned or controlled by the United States department of energy or 2734
its successor. 2735

(ii) Any person that owns, leases, or operates real or 2736
tangible personal property constituting or located within a 2737
uranium enrichment zone may apply to the tax commissioner to 2738
have the uranium enrichment zone certified for the purpose of 2739
excluding qualified uranium receipts under division (F) (2) (gg) 2740
of this section. The application shall include such information 2741
that the tax commissioner prescribes. Within sixty days after 2742
receiving the application, the tax commissioner shall certify 2743
the zone for that purpose if the commissioner determines that 2744
the property qualifies as a uranium enrichment zone as defined 2745
in division (F) (2) (gg) of this section, or, if the tax 2746
commissioner determines that the property does not qualify, the 2747
commissioner shall deny the application or request additional 2748
information from the applicant. If the tax commissioner denies 2749
an application, the commissioner shall state the reasons for the 2750
denial. The applicant may appeal the denial of an application to 2751
the board of tax appeals pursuant to section 5717.02 of the 2752
Revised Code. If the applicant files a timely appeal, the tax 2753
commissioner shall conditionally certify the applicant's 2754
property. The conditional certification shall expire when all of 2755
the applicant's appeals are exhausted. Until final resolution of 2756
the appeal, the applicant shall retain the applicant's records 2757
in accordance with section 5751.12 of the Revised Code, 2758
notwithstanding any time limit on the preservation of records 2759

under that section. 2760

(hh) In the case of amounts collected by a licensed casino 2761
operator from casino gaming, amounts in excess of the casino 2762
operator's gross casino revenue. In this division, "casino 2763
operator" and "casino gaming" have the meanings defined in 2764
section 3772.01 of the Revised Code, and "gross casino revenue" 2765
has the meaning defined in section 5753.01 of the Revised Code. 2766

(ii) Receipts realized from the sale of agricultural 2767
commodities by an agricultural commodity handler, both as 2768
defined in section 926.01 of the Revised Code, that is licensed 2769
by the director of agriculture to handle agricultural 2770
commodities in this state. 2771

(jj) Qualifying integrated supply chain receipts. 2772

As used in division (F)(2)(jj) of this section: 2773

(i) "Qualifying integrated supply chain receipts" means 2774
receipts of a qualified integrated supply chain vendor from the 2775
sale of qualified property delivered to, or integrated supply 2776
chain services provided to, another qualified integrated supply 2777
chain vendor or to a retailer that is a member of the integrated 2778
supply chain. "Qualifying integrated supply chain receipts" does 2779
not include receipts of a person that is not a qualified 2780
integrated supply chain vendor from the sale of raw materials to 2781
a member of an integrated supply chain, or receipts of a member 2782
of an integrated supply chain from the sale of qualified 2783
property or integrated supply chain services to a person that is 2784
not a member of the integrated supply chain. 2785

(ii) "Qualified property" means any of the following: 2786

(I) Component parts used to hold, contain, package, or 2787
dispense qualified products, excluding equipment; 2788

(II) Work-in-process inventory that will become, comprise, 2789
or form a component part of a qualified product capable of being 2790
sold at retail, excluding equipment, machinery, furniture, and 2791
fixtures; 2792

(III) Finished goods inventory that is a qualified product 2793
capable of being sold at retail in the inventory's present form. 2794

(iii) "Qualified integrated supply chain vendor" means a 2795
person that is a member of an integrated supply chain and that 2796
provides integrated supply chain services within a qualified 2797
integrated supply chain district to a retailer that is a member 2798
of the integrated supply chain or to another qualified 2799
integrated supply chain vendor that is located within the same 2800
such district as the person but does not share a common owner 2801
with that person. 2802

(iv) "Qualified product" means a personal care, health, or 2803
beauty product or an aromatic product, including a candle. 2804
"Qualified product" does not include a drug that may be 2805
dispensed only pursuant to a prescription, durable medical 2806
equipment, mobility enhancing equipment, or a prosthetic device, 2807
as those terms are defined in section 5739.01 of the Revised 2808
Code. 2809

(v) "Integrated supply chain" means two or more qualified 2810
integrated supply chain vendors certified on the most recent 2811
list certified to the tax commissioner under this division that 2812
systematically collaborate and coordinate business operations 2813
with a retailer on the flow of tangible personal property from 2814
material sourcing through manufacturing, assembly, packaging, 2815
and delivery to the retailer to improve long-term financial 2816
performance of each vendor and the supply chain that includes 2817
the retailer. 2818

For the purpose of the certification required under this 2819
division, the reporting person for each retailer, on or before 2820
the first day of October of each year, shall certify to the tax 2821
commissioner a list of the qualified integrated supply chain 2822
vendors providing or receiving integrated supply chain services 2823
within a qualified integrated supply chain district for the 2824
ensuing calendar year. On or before the following first day of 2825
November, the commissioner shall issue a certificate to the 2826
retailer and to each vendor certified to the commissioner on 2827
that list. The certificate shall include the names of the 2828
retailer and of the qualified integrated supply chain vendors. 2829

The retailer shall notify the commissioner of any changes 2830
to the list, including additions to or subtractions from the 2831
list or changes in the name or legal entity of vendors certified 2832
on the list, within sixty days after the date the retailer 2833
becomes aware of the change. Within thirty days after receiving 2834
that notification, the commissioner shall issue a revised 2835
certificate to the retailer and to each vendor certified on the 2836
list. The revised certificate shall include the effective date 2837
of the change. 2838

Each recipient of a certificate issued pursuant to this 2839
division shall maintain a copy of the certificate for four years 2840
from the date the certificate was received. 2841

(vi) "Integrated supply chain services" means procuring 2842
raw materials or manufacturing, processing, refining, 2843
assembling, packaging, or repackaging tangible personal property 2844
that will become finished goods inventory capable of being sold 2845
at retail by a retailer that is a member of an integrated supply 2846
chain. 2847

(vii) "Retailer" means a person primarily engaged in 2848

making retail sales and any member of that person's consolidated 2849
elected taxpayer group or combined taxpayer group, whether or 2850
not that member is primarily engaged in making retail sales. 2851

(viii) "Qualified integrated supply chain district" means 2852
the parcel or parcels of land from which a retailer's integrated 2853
supply chain that existed on September 29, 2015, provides or 2854
receives integrated supply chain services, and to which all of 2855
the following apply: 2856

(I) The parcel or parcels are located wholly in a county 2857
having a population of greater than one hundred sixty-five 2858
thousand but less than one hundred seventy thousand based on the 2859
2010 federal decennial census. 2860

(II) The parcel or parcels are located wholly in the 2861
corporate limits of a municipal corporation with a population 2862
greater than seven thousand five hundred and less than eight 2863
thousand based on the 2010 federal decennial census that is 2864
partly located in the county described in division (F) (2) (jj) 2865
(viii) (I) of this section, as those corporate limits existed on 2866
September 29, 2015. 2867

(III) The aggregate acreage of the parcel or parcels 2868
equals or exceeds one hundred acres. 2869

(kk) In the case of a railroad company described in 2870
division (D) (9) of section 5727.01 of the Revised Code that 2871
purchases dyed diesel fuel directly from a supplier as defined 2872
by section 5736.01 of the Revised Code, an amount equal to the 2873
product of the number of gallons of dyed diesel fuel purchased 2874
directly from such a supplier multiplied by the average 2875
wholesale price for a gallon of diesel fuel as determined under 2876
section 5736.02 of the Revised Code for the period during which 2877

the fuel was purchased multiplied by a fraction, the numerator 2878
of which equals the rate of tax levied by section 5736.02 of the 2879
Revised Code less the rate of tax computed in section 5751.03 of 2880
the Revised Code, and the denominator of which equals the rate 2881
of tax computed in section 5751.03 of the Revised Code. 2882

(ll) Except as disallowed under section 5751.091 of the 2883
Revised Code, receipts of a megaproject supplier in a calendar 2884
year from sales of tangible personal property directly to a 2885
megaproject operator in this state, provided the supplier 2886
appears on the list certified to the tax commissioner for the 2887
calendar year under section 5751.052 of the Revised Code by the 2888
megaproject operator and both the operator and supplier hold a 2889
certificate issued under division (D)(7) of section 122.17 of 2890
the Revised Code on the first day of the calendar year. 2891

(mm) Any receipts for which the tax imposed by this 2892
chapter is prohibited by the constitution or laws of the United 2893
States or the constitution of this state. 2894

(3) In the case of a taxpayer when acting as a real estate 2895
broker, "gross receipts" includes only the portion of any fee 2896
for the service of a real estate broker, or service of a real 2897
estate salesperson associated with that broker, that is retained 2898
by the broker and not paid to an associated real estate 2899
salesperson or another real estate broker. For the purposes of 2900
this division, "real estate broker" and "real estate 2901
salesperson" have the same meanings as in section 4735.01 of the 2902
Revised Code. 2903

(4) A taxpayer's method of accounting for gross receipts 2904
for a tax period shall be the same as the taxpayer's method of 2905
accounting for federal income tax purposes for the taxpayer's 2906
federal taxable year that includes the tax period. If a 2907

taxpayer's method of accounting for federal income tax purposes 2908
changes, its method of accounting for gross receipts under this 2909
chapter shall be changed accordingly. 2910

(G) "Taxable gross receipts" means gross receipts situated 2911
to this state under section 5751.033 of the Revised Code. 2912

(H) A person has "substantial nexus with this state" if 2913
any of the following applies. The person: 2914

(1) Owns or uses a part or all of its capital in this 2915
state; 2916

(2) Holds a certificate of compliance with the laws of 2917
this state authorizing the person to do business in this state; 2918

(3) Has bright-line presence in this state; 2919

(4) Otherwise has nexus with this state to an extent that 2920
the person can be required to remit the tax imposed under this 2921
chapter under the Constitution of the United States. 2922

(I) A person has "bright-line presence" in this state for 2923
a reporting period and for the remaining portion of the calendar 2924
year if any of the following applies. The person: 2925

(1) Has at any time during the calendar year property in 2926
this state with an aggregate value of at least fifty thousand 2927
dollars. For the purpose of division (I)(1) of this section, 2928
owned property is valued at original cost and rented property is 2929
valued at eight times the net annual rental charge. 2930

(2) Has during the calendar year payroll in this state of 2931
at least fifty thousand dollars. Payroll in this state includes 2932
all of the following: 2933

(a) Any amount subject to withholding by the person under 2934

section 5747.06 of the Revised Code;	2935
(b) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state; and	2936 2937 2938
(c) Any amount the person pays for services performed in this state on its behalf by another.	2939 2940
(3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars.	2941 2942
(4) Has at any time during the calendar year within this state at least twenty-five per cent of the person's total property, total payroll, or total gross receipts.	2943 2944 2945
(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.	2946 2947
(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.	2948 2949
(K) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in this chapter that is not otherwise defined has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.	2950 2951 2952 2953 2954 2955 2956 2957
(L) "Calendar quarter" means a three-month period ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, or the thirty-first day of December.	2958 2959 2960
(M) "Tax period" means the calendar quarter or calendar year on the basis of which a taxpayer is required to pay the tax	2961 2962

imposed under this chapter.	2963
(N) "Calendar year taxpayer" means a taxpayer for which	2964
the tax period is a calendar year.	2965
(O) "Calendar quarter taxpayer" means a taxpayer for which	2966
the tax period is a calendar quarter.	2967
(P) "Agent" means a person authorized by another person to	2968
act on its behalf to undertake a transaction for the other,	2969
including any of the following:	2970
(1) A person receiving a fee to sell financial	2971
instruments;	2972
(2) A person retaining only a commission from a	2973
transaction with the other proceeds from the transaction being	2974
remitted to another person;	2975
(3) A person issuing licenses and permits under section	2976
1533.13 of the Revised Code;	2977
(4) A lottery sales agent holding a valid license issued	2978
under section 3770.05 of the Revised Code;	2979
(5) A person acting as an agent of the division of liquor	2980
control under section 4301.17 of the Revised Code.	2981
(Q) "Received" includes amounts accrued under the accrual	2982
method of accounting.	2983
(R) "Reporting person" means a person in a consolidated	2984
elected taxpayer or combined taxpayer group that is designated	2985
by that group to legally bind the group for all filings and tax	2986
liabilities and to receive all legal notices with respect to	2987
matters under this chapter, or, for the purposes of section	2988
5751.04 of the Revised Code, a separate taxpayer that is not a	2989

member of such a group. 2990

(S) "Megaproject," "megaproject operator," and 2991
"megaproject supplier" have the same meanings as in section 2992
122.17 of the Revised Code. 2993

Sec. 5751.052. The reporting person for each megaproject 2994
operator, on or before the first day of October of each year, 2995
shall certify to the tax commissioner a list of megaproject 2996
suppliers the operator estimates will sell tangible personal 2997
property directly to the megaproject in the ensuing calendar 2998
year, which shall include the name, address, and federal 2999
identification number of each megaproject supplier. On or before 3000
the following first day of November, the commissioner shall 3001
issue a certificate to the megaproject operator and to each 3002
supplier appearing on that list. The certificate shall include 3003
the names of the megaproject operator and the megaproject 3004
supplier. 3005

The megaproject operator shall notify the commissioner of 3006
any changes to the list, including additions to or subtractions 3007
from the list or changes in the name or legal entity of any 3008
megaproject supplier certified on the list, within sixty days 3009
after the date the megaproject operator becomes aware of the 3010
change. Within thirty days after receiving that notification, 3011
the commissioner shall issue a revised certificate to the 3012
megaproject operator and to each megaproject supplier certified 3013
on the list. The revised certificate shall include the effective 3014
date of the change. 3015

Each recipient of a certificate issued pursuant to this 3016
division shall maintain a copy of the certificate for four years 3017
from the date the certificate was received. 3018

Sec. 5751.091. (A) A taxpayer that takes the exclusion 3019
under division (F) (2) (11) of section 5751.01 of the Revised Code 3020
for a tax period that does not qualify for that exclusion for 3021
any portion of that tax period shall remit a payment to the tax 3022
commissioner equal to the product of the following: (a) the cost 3023
of all property received in this state by a megaproject operator 3024
from the taxpayer during that tax period, multiplied by (b) the 3025
tax rate prescribed in division (A) of section 5751.03 of the 3026
Revised Code. For all purposes of this chapter, the payment 3027
shall be considered a tax required to be paid under this 3028
chapter. 3029

(B) A taxpayer that is required to remit a payment to the 3030
commissioner under division (A) of this section for three 3031
consecutive calendar years may not take the exclusion for any 3032
tax period in any following calendar year. 3033

Section 2. That existing sections 122.17, 3735.65, 3034
3735.67, 3735.671, 5709.61, 5709.62, 5709.63, 5709.631, 3035
5709.632, and 5751.01 of the Revised Code are hereby repealed. 3036