

As Passed by the House

133rd General Assembly

Regular Session

2019-2020

Am. S. B. No. 4

Senators Rulli, Kunze

Cosponsors: Senators Hottinger, Antonio, Brenner, Craig, Dolan, Eklund, Fedor, Gavarone, Hackett, Hill, Hoagland, Huffman, S., Lehner, Manning, Obhof, O'Brien, Peterson, Sykes, Terhar, Thomas, Uecker, Williams, Yuko Representatives Blessing, Jones, Robinson, Crawley, Patterson, Sobecki, Scherer, Perales, Rogers, Antani, Crossman, Cupp, Ghanbari, Howse, Roemer, Seitz, West

A BILL

To amend sections 307.86, 339.05, 505.08, 731.14, 1
749.37, and 5540.03 of the Revised Code to apply 2
the Prevailing Wage Law to transportation 3
improvement district projects under certain 4
circumstances, to temporarily expand the use of 5
certain tax increment financing payments, to 6
exempt personal protective equipment from 7
certain political subdivision competitive 8
bidding law during the period of the emergency 9
declared by Executive Order 2020-01D, issued on 10
March 9, 2020, and to make capital 11
appropriations to the Facilities Construction 12
Commission and the Public Works Commission for 13
the biennium ending June 30, 2022. 14

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

Section 1. That sections 307.86, 339.05, 505.08, 731.14, 15
749.37, and 5540.03 of the Revised Code be amended to read as 16

follows: 17

Sec. 307.86. Anything to be purchased, leased, leased with 18
an option or agreement to purchase, or constructed, including, 19
but not limited to, any product, structure, construction, 20
reconstruction, improvement, maintenance, repair, or service, 21
except the services of an accountant, architect, attorney at 22
law, physician, professional engineer, construction project 23
manager, consultant, surveyor, or appraiser, by or on behalf of 24
the county or contracting authority, as defined in section 25
307.92 of the Revised Code, at a cost in excess of fifty 26
thousand dollars, except as otherwise provided in division (D) 27
of section 713.23 and in sections 9.48, 125.04, 125.60 to 28
125.6012, 307.022, 307.041, 307.861, 339.05, 340.036, 4115.31 to 29
4115.35, 5119.44, 5513.01, 5543.19, 5713.01, and 6137.05 of the 30
Revised Code, shall be obtained through competitive bidding. 31
However, competitive bidding is not required when any of the 32
following applies: 33

(A) The board of county commissioners, by a unanimous vote 34
of its members, makes a determination that a real and present 35
emergency exists, and that determination and the reasons for it 36
are entered in the minutes of the proceedings of the board, when 37
~~either~~ any of the following applies: 38

(1) The estimated cost is less than one hundred thousand 39
dollars. 40

(2) There is actual physical disaster to structures, radio 41
communications equipment, or computers. 42

(3) The product to be purchased is personal protective 43
equipment and the purchase is completed during the period of the 44
emergency declared by Executive Order 2020-01D, issued on March 45

9, 2020. 46

For purposes of this division, ~~"unanimous:~~ 47

"Personal protective equipment" means equipment worn to 48
minimize exposure to hazards that cause workplace injuries and 49
illnesses. 50

"Unanimous vote" means all three members of a board of 51
county commissioners when all three members are present, or two 52
members of the board if only two members, constituting a quorum, 53
are present. 54

Whenever a contract of purchase, lease, or construction is 55
exempted from competitive bidding under division (A)(1) of this 56
section because the estimated cost is less than one hundred 57
thousand dollars, but the estimated cost is fifty thousand 58
dollars or more, the county or contracting authority shall 59
solicit informal estimates from no fewer than three persons who 60
could perform the contract, before awarding the contract. With 61
regard to each such contract, the county or contracting 62
authority shall maintain a record of such estimates, including 63
the name of each person from whom an estimate is solicited. The 64
county or contracting authority shall maintain the record for 65
the longer of at least one year after the contract is awarded or 66
the amount of time the federal government requires. 67

(B) (1) The purchase consists of supplies or a replacement 68
or supplemental part or parts for a product or equipment owned 69
or leased by the county, and the only source of supply for the 70
supplies, part, or parts is limited to a single supplier. 71

(2) The purchase consists of services related to 72
information technology, such as programming services, that are 73
proprietary or limited to a single source. 74

(C) The purchase is from the federal government, the 75
state, another county or contracting authority of another 76
county, or a board of education, educational service center, 77
township, or municipal corporation. 78

(D) The purchase is made by a county department of job and 79
family services under section 329.04 of the Revised Code and 80
consists of family services duties or workforce development 81
activities or is made by a county board of developmental 82
disabilities under section 5126.05 of the Revised Code and 83
consists of program services, such as direct and ancillary 84
client services, child care, case management services, 85
residential services, and family resource services. 86

(E) The purchase consists of criminal justice services, 87
social services programs, family services, or workforce 88
development activities by the board of county commissioners from 89
nonprofit corporations or associations under programs funded by 90
the federal government or by state grants. 91

(F) The purchase consists of any form of an insurance 92
policy or contract authorized to be issued under Title XXXIX of 93
the Revised Code or any form of health care plan authorized to 94
be issued under Chapter 1751. of the Revised Code, or any 95
combination of such policies, contracts, plans, or services that 96
the contracting authority is authorized to purchase, and the 97
contracting authority does all of the following: 98

(1) Determines that compliance with the requirements of 99
this section would increase, rather than decrease, the cost of 100
the purchase; 101

(2) Requests issuers of the policies, contracts, plans, or 102
services to submit proposals to the contracting authority, in a 103

form prescribed by the contracting authority, setting forth the 104
coverage and cost of the policies, contracts, plans, or services 105
as the contracting authority desires to purchase; 106

(3) Negotiates with the issuers for the purpose of 107
purchasing the policies, contracts, plans, or services at the 108
best and lowest price reasonably possible. 109

(G) The purchase consists of computer hardware, software, 110
or consulting services that are necessary to implement a 111
computerized case management automation project administered by 112
the Ohio prosecuting attorneys association and funded by a grant 113
from the federal government. 114

(H) Child care services are purchased for provision to 115
county employees. 116

(I) (1) Property, including land, buildings, and other real 117
property, is leased for offices, storage, parking, or other 118
purposes, and all of the following apply: 119

(a) The contracting authority is authorized by the Revised 120
Code to lease the property. 121

(b) The contracting authority develops requests for 122
proposals for leasing the property, specifying the criteria that 123
will be considered prior to leasing the property, including the 124
desired size and geographic location of the property. 125

(c) The contracting authority receives responses from 126
prospective lessors with property meeting the criteria specified 127
in the requests for proposals by giving notice in a manner 128
substantially similar to the procedures established for giving 129
notice under section 307.87 of the Revised Code. 130

(d) The contracting authority negotiates with the 131

prospective lessors to obtain a lease at the best and lowest 132
price reasonably possible considering the fair market value of 133
the property and any relocation and operational costs that may 134
be incurred during the period the lease is in effect. 135

(2) The contracting authority may use the services of a 136
real estate appraiser to obtain advice, consultations, or other 137
recommendations regarding the lease of property under this 138
division. 139

(J) The purchase is made pursuant to section 5139.34 or 140
sections 5139.41 to 5139.46 of the Revised Code and is of 141
programs or services that provide case management, treatment, or 142
prevention services to any felony or misdemeanor delinquent, 143
unruly youth, or status offender under the supervision of the 144
juvenile court, including, but not limited to, community 145
residential care, day treatment, services to children in their 146
home, or electronic monitoring. 147

(K) The purchase is made by a public children services 148
agency pursuant to section 307.92 or 5153.16 of the Revised Code 149
and consists of family services, programs, or ancillary services 150
that provide case management, prevention, or treatment services 151
for children at risk of being or alleged to be abused, 152
neglected, or dependent children. 153

(L) The purchase is to obtain the services of emergency 154
medical service organizations under a contract made by the board 155
of county commissioners pursuant to section 307.05 of the 156
Revised Code with a joint emergency medical services district. 157

(M) The county contracting authority determines that the 158
use of competitive sealed proposals would be advantageous to the 159
county and the contracting authority complies with section 160

307.862 of the Revised Code.	161
(N) The purchase consists of used supplies and is made at a public auction.	162 163
Any issuer of policies, contracts, plans, or services listed in division (F) of this section and any prospective lessor under division (I) of this section may have the issuer's or prospective lessor's name and address, or the name and address of an agent, placed on a special notification list to be kept by the contracting authority, by sending the contracting authority that name and address. The contracting authority shall send notice to all persons listed on the special notification list. Notices shall state the deadline and place for submitting proposals. The contracting authority shall mail the notices at least six weeks prior to the deadline set by the contracting authority for submitting proposals. Every five years the contracting authority may review this list and remove any person from the list after mailing the person notification of that action.	164 165 166 167 168 169 170 171 172 173 174 175 176 177 178
Any contracting authority that negotiates a contract under division (F) of this section shall request proposals and negotiate with issuers in accordance with that division at least every three years from the date of the signing of such a contract, unless the parties agree upon terms for extensions or renewals of the contract. Such extension or renewal periods shall not exceed six years from the date the initial contract is signed.	179 180 181 182 183 184 185 186
Any real estate appraiser employed pursuant to division (I) of this section shall disclose any fees or compensation received from any source in connection with that employment.	187 188 189

As used in division (N) of this section, "supplies" means 190
any personal property including equipment, materials, and other 191
tangible assets. 192

Sec. 339.05. (A) A board of county hospital trustees may 193
adopt, annually, bidding procedures and purchasing or leasing 194
policies provided through a joint purchasing arrangement 195
sponsored by a nonprofit organization, for services, supplies, 196
and equipment, that are routinely used in the operation of the 197
hospital and that cost in excess of the amount specified in 198
section 307.86 of the Revised Code as the amount above which 199
purchases must be competitively bid. If a board of county 200
hospital trustees adopts those policies and procedures, and if 201
the board of county commissioners approves them, the board of 202
county hospital trustees may follow those policies and 203
procedures in lieu of following the competitive bidding 204
procedures of sections 307.86 to 307.92 of the Revised Code. 205

(B) Notwithstanding section 307.86 of the Revised Code, 206
the board of county hospital trustees is exempt from competitive 207
bidding as required under that section if the board, by a 208
unanimous vote of its members, makes a determination that a real 209
and present emergency exists, and ~~either~~any of the following 210
applies: 211

(1) The estimated cost is less than one hundred thousand 212
dollars. 213

(2) There is actual physical damage to structures or 214
equipment. 215

(3) The product to be purchased is personal protective 216
equipment and the purchase is completed during the period of the 217
emergency declared by Executive Order 2020-01D, issued on March 218

9, 2020. 219

The board shall enter the determination of emergency and 220
the reasons for it in the minutes of its proceedings. 221

(C) For purposes of this section, a vote is unanimous if 222
all members of a board of county hospital trustees are present, 223
or a lesser number of members of the board if not all members 224
are present, provided that the number of members present 225
constitutes a quorum. Board members participating in a vote by 226
means of authorized communications equipment in accordance with 227
section 339.02 of the Revised Code are considered to be present 228
in person and may vote on matters under this section. 229

(D) Whenever a contract of purchase, lease, or 230
construction is exempted from competitive bidding because the 231
estimated cost is less than one hundred thousand dollars, but 232
the estimated cost is fifty thousand dollars or more, the board 233
shall solicit informal estimates from not fewer than three 234
persons who could perform the contract, before awarding the 235
contract. With regard to each such contract, the board shall 236
maintain a record of the informal estimates, including the name 237
of each person from whom an informal estimate was solicited. The 238
board shall maintain the record for the longer of at least one 239
year after the contract is awarded or an amount of time required 240
by the federal government. 241

(E) "Personal protective equipment" means equipment worn 242
to minimize exposure to hazards that cause workplace injuries 243
and illnesses. 244

Sec. 505.08. After adopting by a unanimous vote a 245
resolution declaring a real and present emergency in connection 246
with the administration of township services or the execution of 247

duties assigned by law to any officer of a township, the board 248
of township trustees may, by resolution, enter into a contract, 249
without bidding or advertising, for the purchase of services, 250
materials, equipment, or supplies needed to meet the emergency 251
if the estimated cost of the contract is less than fifty 252
thousand dollars. 253

During the period of the emergency declared by Executive 254
Order 2020-01D, issued on March 9, 2020, the board of township 255
trustees may, by resolution, enter into a contract, without 256
bidding or advertising, for the purchase of personal protective 257
equipment needed to meet the emergency, regardless of the 258
estimated cost of the contract. 259

"Personal protective equipment" means equipment worn to 260
minimize exposure to hazards that cause workplace injuries and 261
illnesses. 262

Sec. 731.14. All contracts made by the legislative 263
authority of a village shall be executed in the name of the 264
village and signed on its behalf by the mayor and clerk. Except 265
where the contract is for equipment, services, materials, or 266
supplies to be purchased under division (D) of section 713.23 or 267
section 125.04 or 5513.01 of the Revised Code, available from a 268
qualified nonprofit agency pursuant to sections 4115.31 to 269
4115.35 of the Revised Code, or required to be purchased from a 270
qualified nonprofit agency under sections 125.60 to 125.6012 of 271
the Revised Code, or, during the period of emergency declared by 272
Executive Order 2020-01D, issued on March 9, 2020, when the 273
purchase is for personal protective equipment necessary to 274
respond to that emergency, when any expenditure, other than the 275
compensation of persons employed in the village, exceeds fifty 276
thousand dollars, such contracts shall be in writing and made 277

with the lowest and best bidder after advertising once a week 278
for not less than two consecutive weeks in a newspaper of 279
general circulation within the village. The legislative 280
authority may also cause notice to be inserted in trade papers 281
or other publications designated by it or to be distributed by 282
electronic means, including posting the notice on the 283
legislative authority's internet web site. If the legislative 284
authority posts the notice on its web site, it may eliminate the 285
second notice otherwise required to be published in a newspaper 286
of general circulation within the village, provided that the 287
first notice published in such newspaper meets all of the 288
following requirements: 289

(A) It is published at least two weeks before the opening 290
of bids. 291

(B) It includes a statement that the notice is posted on 292
the legislative authority's internet web site. 293

(C) It includes the internet address of the legislative 294
authority's internet web site. 295

(D) It includes instructions describing how the notice may 296
be accessed on the legislative authority's internet web site. 297

The bids shall be opened and shall be publicly read by the 298
clerk of the village or a person designated by the clerk at the 299
time, date, and place specified in the advertisement to bidders 300
or specifications. The time, date, and place of bid openings may 301
be extended to a later date by the legislative authority of the 302
village, provided that written or oral notice of the change 303
shall be given to all persons who have received or requested 304
specifications no later than ninety-six hours prior to the 305
original time and date fixed for the opening. This section does 306

not apply to those villages that have provided for the 307
appointment of a village administrator under section 735.271 of 308
the Revised Code. 309

As used in this section, "personal protective equipment" 310
means equipment worn to minimize exposure to hazards that cause 311
workplace injuries and illnesses. 312

Sec. 749.37. Notwithstanding any conflicting provision of 313
sections 749.09 to 749.14 and 749.26 to 749.31 of the Revised 314
Code, Chapter 153. of the Revised Code, or any other competitive 315
bidding requirement specified in the Revised Code that requires 316
a public authority to enter into separate contracts for the 317
design and construction of a public improvement,~~a.~~ 318

(A) A board of hospital commissioners or a board of 319
hospital trustees may enter into a single contract under which 320
the entity awarded the contract is responsible for providing 321
both design and construction services related to the erection of 322
a hospital, any addition to the hospital, or any other 323
improvement to the hospital or its properties involving 324
alteration, repair, replacement, renovation, installation, or 325
demolition. 326

(B) During the period of the emergency declared by 327
Executive Order 2020-01D, issued on March 9, 2020, a board of 328
hospital commissioners or a board of hospital trustees may 329
purchase personal protective equipment necessary to respond to 330
the emergency without following competitive bidding procedures. 331
As used in this section, "personal protective equipment" means 332
equipment worn to minimize exposure to hazards that cause 333
workplace injuries and illnesses. 334

This section does not otherwise alter the competitive 335

bidding requirements that apply to the board when entering into	336
a contract for a public improvement.	337
Sec. 5540.03. (A) A transportation improvement district	338
may:	339
(1) Adopt bylaws for the regulation of its affairs and the	340
conduct of its business;	341
(2) Adopt an official seal;	342
(3) Sue and be sued in its own name, plead and be	343
impleaded, provided any actions against the district shall be	344
brought in the court of common pleas of the county in which the	345
principal office of the district is located, or in the court of	346
common pleas of the county in which the cause of action arose,	347
and all summonses, exceptions, and notices of every kind shall	348
be served on the district by leaving a copy thereof at its	349
principal office with the secretary-treasurer;	350
(4) Purchase, construct, maintain, repair, sell, exchange,	351
police, operate, or lease projects;	352
(5) Issue either or both of the following for the purpose	353
of providing funds to pay the costs of any project or part	354
thereof:	355
(a) Transportation improvement district revenue bonds;	356
(b) Bonds pursuant to Section 13 of Article VIII, Ohio	357
Constitution + .	358
(6) Maintain such funds as it considers necessary;	359
(7) Direct its agents or employees, when properly	360
identified in writing and after at least five days' written	361
notice, to enter upon lands within its jurisdiction to make	362

surveys and examinations preliminary to the location and 363
construction of projects for the district, without liability of 364
the district or its agents or employees except for actual damage 365
done; 366

(8) Make and enter into all contracts and agreements 367
necessary or incidental to the performance of its functions and 368
the execution of its powers under this chapter; 369

(9) Employ or retain or contract for the services of 370
consulting engineers, superintendents, managers, and such other 371
engineers, construction and accounting experts, financial 372
advisers, trustees, marketing, remarketing, and administrative 373
agents, attorneys, and other employees, independent contractors, 374
or agents as are necessary in its judgment and fix their 375
compensation, provided all such expenses shall be payable solely 376
from the proceeds of bonds or from revenues; 377

(10) Receive and accept from the federal or any state or 378
local government, including, but not limited to, any agency, 379
entity, or instrumentality of any of the foregoing, loans and 380
grants for or in aid of the construction, maintenance, or repair 381
of any project, and receive and accept aid or contributions from 382
any source or person of money, property, labor, or other things 383
of value, to be held, used, and applied only for the purposes 384
for which such loans, grants, and contributions are made. 385
Nothing in division (A) (10) of this section shall be construed 386
as imposing any liability on this state for any loan received by 387
a transportation improvement district from a third party unless 388
this state has entered into an agreement to accept such 389
liability. 390

(11) Acquire, hold, and dispose of property in the 391
exercise of its powers and the performance of its duties under 392

this chapter;	393
(12) Establish and collect tolls or user charges for its projects;	394 395
(13) Subject to section 5540.18 of the Revised Code, enter into an agreement with a contiguous board of county commissioners other than the board of county commissioners that created the transportation improvement district, for the district to exercise all or any portion of its powers with respect to a project that is located wholly or partially within the county that is party to the agreement;	396 397 398 399 400 401 402
(14) Do all acts necessary and proper to carry out the powers expressly granted in this chapter.	403 404
(B) <u>(1)</u> Chapters 123., 124., 125., <u>and 153.,</u> and 4115., and sections 9.331 to 9.335 and 307.86 of the Revised Code do not apply to contracts or projects of a transportation improvement district.	405 406 407 408
<u>(2) A transportation improvement district is subject to sections 4115.03 to 4115.21 and 4115.99 of the Revised Code, unless the amount of state or local government funds, including, but not limited to, those provided by any agency, entity, or instrumentality of the state or a local government as described in division (A) (10) of this section received for the contract or project, is, in the aggregate, less than the amounts described in or calculated under section 4115.03 of the Revised Code.</u>	409 410 411 412 413 414 415 416
Section 2. That existing sections 307.86, 339.05, 505.08, 731.14, 749.37, and 5540.03 of the Revised Code are hereby repealed.	417 418 419
Section 3. Except as otherwise provided in this act, all appropriation items in this act are appropriated out of any	420 421

moneys in the state treasury to the credit of the designated 422
fund that are not otherwise appropriated for the capital 423
biennium ending June 30, 2022. 424

Section 4. FCC FACILITIES CONSTRUCTION COMMISSION 425

426

1 2 3

A School Building Program Assistance Fund (Fund 7032)

B C23002 School Building Program Assistance \$ 300,000,000

C TOTAL School Building Program Assistance Fund \$ 300,000,000

D TOTAL ALL FUNDS \$ 300,000,000

SCHOOL BUILDING PROGRAM ASSISTANCE 427

Capital appropriations in this section made from 428
appropriation item C23002, School Building Program Assistance, 429
shall be used by the Facilities Construction Commission to 430
provide funding to school districts that receive conditional 431
approval from the Commission pursuant to Chapter 3318. of the 432
Revised Code. 433

Section 5. PWC PUBLIC WORKS COMMISSION 434

435

1 2 3

A State Capital Improvements Fund (Fund 7038)

B	C15000	Local Public Infrastructure/State CIP	\$	175,000,000
C	TOTAL	State Capital Improvements Fund	\$	175,000,000
D	State Capital Improvements Revolving Loan Fund (Fund 7040)			
E	C15030	Revolving Loan	\$	42,500,000
F	TOTAL	State Capital Improvements Revolving Loan Fund	\$	42,500,000
G	Clean Ohio Conservation Fund (Fund 7056)			
H	C15060	Clean Ohio Conservation Program	\$	37,500,000
I	TOTAL	Clean Ohio Conservation Fund	\$	37,500,000
J	TOTAL ALL FUNDS		\$	255,000,000

LOCAL PUBLIC INFRASTRUCTURE 436

Capital appropriations in this section made from the State 437
Capital Improvements Fund (Fund 7038) shall be used in 438
accordance with sections 164.01 to 164.12 of the Revised Code. 439
The Director of the Public Works Commission may certify to the 440
Director of Budget and Management that a need exists to 441
appropriate investment earnings to be used in accordance with 442
sections 164.01 to 164.12 of the Revised Code. If the Director 443
of Budget and Management determines pursuant to division (D) of 444
section 164.08 and section 164.12 of the Revised Code that 445
investment earnings are available to support additional 446
appropriations, such amounts are hereby appropriated. 447

If the Public Works Commission receives refunds due to 448
project overpayments that are discovered during a post-project 449

audit, the Director of the Public Works Commission may certify 450
to the Director of Budget and Management that refunds have been 451
received. In certifying the refunds, the Director of the Public 452
Works Commission shall provide the Director of Budget and 453
Management information on the project refunds. The certification 454
shall detail by project the source and amount of project 455
overpayments received and include any supporting documentation 456
required or requested by the Director of Budget and Management. 457
Upon receipt of the certification, the Director of Budget and 458
Management shall determine if the project refunds are necessary 459
to support existing appropriations. If the project refunds are 460
available to support additional appropriations, these amounts 461
are hereby appropriated to appropriation item C15000, Local 462
Public Infrastructure/State CIP. 463

REVOLVING LOAN 464

Capital appropriations in this section made from the State 465
Capital Improvements Revolving Loan Fund (Fund 7040) shall be 466
used in accordance with sections 164.01 to 164.12 of the Revised 467
Code. 468

If the Public Works Commission receives refunds due to 469
project overpayments that are discovered during a post-project 470
audit, the Director of the Public Works Commission may certify 471
to the Director of Budget and Management that refunds have been 472
received. In certifying the refunds, the Director of the Public 473
Works Commission shall provide the Director of Budget and 474
Management information on the project refunds. The certification 475
shall detail by project the source and amount of project 476
overpayments received and include any supporting documentation 477
required or requested by the Director of Budget and Management. 478
Upon receipt of the certification, the Director of Budget and 479

Management shall determine if the project refunds are necessary 480
to support existing appropriations. If the project refunds are 481
available to support additional appropriations, these amounts 482
are hereby appropriated to appropriation item C15030, Revolving 483
Loan. 484

CLEAN OHIO CONSERVATION GRANT REPAYMENTS 485

Capital appropriations in this section made from the Clean 486
Ohio Conservation Fund (Fund 7056) shall be used in accordance 487
with sections 164.20 to 164.27 of the Revised Code. 488

Any amount in grant repayments received by the Public 489
Works Commission and deposited into the Clean Ohio Conservation 490
Fund pursuant to section 164.261 of the Revised Code is hereby 491
appropriated through the foregoing appropriation item C15060, 492
Clean Ohio Conservation Program. 493

Section 6. BOND ISSUANCE AUTHORIZATIONS 494

(A) The Ohio Public Facilities Commission is hereby 495
authorized to issue and sell, in accordance with Section 2n of 496
Article VIII, Ohio Constitution, and Chapter 151. and 497
particularly sections 151.01 and 151.03 of the Revised Code, 498
original obligations in an aggregate principal amount not to 499
exceed \$300,000,000, in addition to the original issuance of 500
obligations heretofore authorized by prior acts of the General 501
Assembly. These authorized obligations shall be issued, subject 502
to applicable constitutional and statutory limitations, as 503
needed to provide sufficient moneys to the credit of the School 504
Building Program Assistance Fund (Fund 7032) to pay the state 505
share of the costs of constructing classroom facilities pursuant 506
to Chapter 3318. of the Revised Code. 507

(B) The Ohio Public Facilities Commission is hereby 508

authorized to issue and sell, in accordance with Section 2s of 509
Article VIII, Ohio Constitution, and Chapter 151. and 510
particularly sections 151.01 and 151.08 of the Revised Code, 511
original obligations, in an aggregate principal amount not to 512
exceed \$175,000,000, in addition to the original obligations 513
heretofore authorized by prior acts of the General Assembly. 514
These authorized obligations shall be issued, subject to 515
applicable constitutional and statutory limitations, as needed 516
to provide sufficient moneys to the credit of the State Capital 517
Improvements Fund (Fund 7038) to pay costs of capital 518
improvement projects of local subdivisions. 519

(C) The Ohio Public Facilities Commission is hereby 520
authorized to issue and sell, in accordance with Sections 2o and 521
2q of Article VIII, Ohio Constitution, and Chapter 151. and 522
particularly sections 151.01 and 151.09 of the Revised Code, 523
original obligations of the state in an aggregate principal 524
amount not to exceed \$50,000,000 in addition to the original 525
issuance of obligations heretofore authorized by prior acts of 526
the General Assembly. These authorized obligations shall be 527
issued, subject to applicable constitutional and statutory 528
limitations, as needed to provide sufficient moneys to the 529
credit of the Clean Ohio Conservation Fund (Fund 7056), the 530
Clean Ohio Agricultural Easement Fund (Fund 7057), and the Clean 531
Ohio Trail Fund (Fund 7061) to pay costs of conservation 532
projects. 533

Section 7. CERTIFICATION OF AVAILABILITY OF MONEYS 534

Moneys that require release shall not be expended from any 535
appropriation contained in this act without certification of the 536
Director of Budget and Management that there are sufficient 537
moneys in the state treasury in the fund from which the 538

appropriation is made. Such certification made by the Office of 539
Budget and Management shall be based on estimates of revenue, 540
receipts, and expenses. Nothing in this section limits the 541
authority of the Director of Budget and Management granted in 542
section 126.07 of the Revised Code. 543

Section 8. LIMITATION ON USE OF CAPITAL APPROPRIATIONS 544

The appropriations made in this act, excluding those made 545
from the State Capital Improvement Fund (Fund 7038) and the 546
State Capital Improvements Revolving Loan Fund (Fund 7040) for 547
buildings or structures, including remodeling and renovations, 548
are limited to: 549

(A) Acquisition of real property or interests in real 550
property; 551

(B) Buildings and structures, which includes construction, 552
demolition, complete heating and cooling, lighting, and lighting 553
fixtures, and all necessary utilities, ventilating, plumbing, 554
sprinkling, water and sewer systems, when such systems are 555
authorized or necessary; 556

(C) Architectural, engineering, and professional services 557
expenses directly related to the projects; 558

(D) Machinery that is necessary to the operation or 559
function of the building or structure at the time of initial 560
acquisition or construction; 561

(E) Acquisition, development, and deployment of new 562
computer systems, including the integration of existing and new 563
computer systems, but excluding regular or ongoing maintenance 564
or support agreements; 565

(F) Furniture, fixtures, or equipment that meets all the 566

following criteria: 567

(1) Is essential in bringing the facility up to its 568
intended use or is necessary for the functioning of the 569
particular facility or project; 570

(2) Has a unit cost of about \$100 or more; and 571

(3) Has a useful life of five years or more. 572

Furniture, fixtures, or equipment that is not an integral 573
part of or directly related to the basic purpose or function of 574
a project for which moneys are appropriated shall not be paid 575
for from these appropriations. This paragraph does not apply to 576
appropriation line items specifically for furniture, fixtures, 577
or equipment. 578

Section 9. CONTINGENCY RESERVE REQUIREMENT 579

Any request for release of capital appropriations by the 580
Director of Budget and Management or the Controlling Board for 581
projects, the contracts for which are awarded by the Ohio 582
Facilities Construction Commission, shall contain a contingency 583
reserve, the amount of which shall be determined by the Ohio 584
Facilities Construction Commission, for payment of unanticipated 585
project expenses. Any amount deducted from the encumbrance for a 586
contractor's contract as an assessment for liquidated damages 587
shall be added to the encumbrance for the contingency reserve. 588
Contingency reserve funds shall be used to pay costs resulting 589
from unanticipated job conditions, to comply with rulings 590
regarding building and other codes, to pay costs related to 591
errors or omissions in contract documents, to pay costs 592
associated with changes in the scope of work, and to pay the 593
cost of settlements and judgments related to the project. 594

Any funds remaining upon completion of a project, may, 595

upon approval of the Controlling Board, be released for the use 596
of the institution to which the appropriation was made for 597
another capital facilities project or projects. 598

Section 10. SATISFACTION OF JUDGMENTS AND SETTLEMENTS 599
AGAINST THE STATE 600

Except as otherwise provided in this section, an 601
appropriation contained in this act or in any other act may be 602
used for the purpose of satisfying judgments, settlements, or 603
administrative awards ordered or approved by the Court of Claims 604
or by any other court of competent jurisdiction in connection 605
with civil actions against the state. This authorization does 606
not apply to appropriations that are to be applied to or used 607
for payment of guarantees by or on behalf of the state or for 608
payments under lease agreements relating to or debt service on 609
bonds, notes, or other obligations of the state. Notwithstanding 610
any other section of law to the contrary, this authorization 611
includes appropriations from funds into which proceeds or direct 612
obligations of the state are deposited only to the extent that 613
the judgment, settlement, or administrative award is for or 614
represents capital costs for which the appropriation may 615
otherwise be used and is consistent with the purpose for which 616
any related obligations were issued or entered into. Nothing 617
contained in this section is intended to subject the state to 618
suit in any forum in which it is not otherwise subject to suit, 619
nor is it intended to waive or compromise any defense or right 620
available to the state in any suit against it. 621

Section 11. CAPITAL RELEASES BY THE DIRECTOR OF BUDGET AND 622
MANAGEMENT 623

Notwithstanding section 126.14 of the Revised Code, the 624
appropriations to the Facilities Construction Commission from 625

the School Building Program Assistance Fund (Fund 7032) and to 626
the Public Works Commission from the Clean Ohio Conservation 627
Fund (Fund 7056), the State Capital Improvement Fund (Fund 628
7038), and the State Capital Improvements Revolving Loan Fund 629
(Fund 7040) shall be released upon presentation of a request to 630
release the funds, by the agency to which the appropriation has 631
been made, to the Director of Budget and Management. 632

Section 12. PREVAILING WAGE REQUIREMENT 633

Except as provided in section 4115.04 of the Revised Code, 634
moneys appropriated or reappropriated by the 133rd General 635
Assembly shall not be used for the construction of public 636
improvements, as defined in section 4115.03 of the Revised Code, 637
unless the mechanics, laborers, or workers engaged therein are 638
paid the prevailing rate of wages prescribed in section 4115.04 639
of the Revised Code. Nothing in this section affects the wages 640
and salaries established for state employees under Chapter 124. 641
of the Revised Code, or collective bargaining agreements entered 642
into by the state under Chapter 4117. of the Revised Code, while 643
engaged on force account work, nor does this section interfere 644
with the use of inmate and patient labor by the state. 645

Section 13. AUTHORIZATION OF THE DIRECTOR OF BUDGET AND 646
MANAGEMENT 647

The Director of Budget and Management shall authorize both 648
of the following: 649

(A) The initial release of moneys for projects from the 650
funds into which proceeds of direct obligations of the state are 651
deposited; and 652

(B) The expenditure or encumbrance of moneys from funds 653
into which proceeds of direct obligations are deposited, only 654

after determining to the Director's satisfaction that either of 655
the following applies: 656

(1) The application of such moneys to the particular 657
project will not negatively affect any exclusion of the interest 658
or interest equivalent on obligations issued to provide moneys 659
to the particular fund from the calculation of gross income for 660
federal income tax purposes under the "Internal Revenue Code of 661
1986," 100 Stat. 2085, 26 U.S.C. 1, as amended. 662

(2) Moneys for the project will come from the proceeds of 663
federally taxable obligations, the interest on which is not so 664
excluded from the calculation of gross income for federal income 665
tax purposes and which have been authorized and issued on that 666
basis by their issuing authority. 667

In the event the Director determines that the condition 668
set forth in division (B) (1) of this section does not apply, and 669
that there is no existing fund in the state treasury to enable 670
compliance with the condition set forth in division (B) (2) of 671
this section, the Director may create a fund in the state 672
treasury for the purpose of receiving proceeds of federally 673
taxable obligations. The Director may establish capital 674
appropriation items in that taxable bond fund that correspond to 675
the preexisting capital appropriation items in the associated 676
tax-exempt bond fund. The Director also may transfer capital 677
appropriations in whole or in part between the taxable and tax- 678
exempt bond funds within a particular purpose for which the 679
bonds have been authorized. 680

Section 14. OBLIGATIONS ISSUED UNDER CHAPTER 151. OF THE 681
REVISED CODE 682

The capital improvements for which appropriations are made 683

in this act from the School Building Program Assistance Fund 684
(Fund 7032), the State Capital Improvements Fund (Fund 7038), 685
the State Capital Improvements Revolving Loan Fund (Fund 7040), 686
and the Clean Ohio Conservation Fund (Fund 7056) are determined 687
to be capital improvements and capital facilities for a 688
statewide system of common schools, local subdivision capital 689
improvement projects, and conservation purposes (under the Clean 690
Ohio Program) and are designated as capital facilities to which 691
proceeds of obligations issued under Chapter 151. of the Revised 692
Code are to be applied. 693

Section 15. TRANSFER OF OPEN ENCUMBRANCES 694

Upon the request of the agency to which a capital project 695
appropriation item is appropriated, the Director of Budget and 696
Management may transfer open encumbrance amounts between 697
separate encumbrances for the project appropriation item to the 698
extent that any reductions in encumbrances are agreed to by the 699
contracting vendor and the agency. 700

Section 16. LITIGATION PROCEEDS TO THE ADMINISTRATIVE 701
BUILDING FUND 702

Any proceeds received by the state as the result of 703
litigation or a settlement agreement related to any liability 704
for the planning, design, engineering, construction, or 705
constructed management of facilities operated by the Department 706
of Administrative Services shall be deposited into the General 707
Revenue Fund or the Building Improvement Fund (Fund 5KZ0). 708

Section 17. (A) Notwithstanding sections 5709.43 and 709
5709.75 of the Revised Code, the legislative authority of a 710
municipal corporation or a board of township trustees may do 711
either or both of the following: 712

(1) On or after the effective date of this section but 713
before the last day of the municipal corporation's or township's 714
fiscal year that ends in or with 2020, appropriate and expend 715
the sum of not more than twenty-five per cent of the 716
unencumbered money in the municipal public improvement tax 717
increment equivalent fund, urban redevelopment tax increment 718
equivalent fund, or township public improvement tax increment 719
equivalent fund, as applicable, as of that effective date, plus 720
not more than twenty-five per cent of any amount deposited to 721
that fund during the remainder of that fiscal year, to be used 722
as authorized in division (B) of this section; 723

(2) On or after the first day of the municipal 724
corporation's or township's fiscal year ending in or with 2021 725
but before the last day of that fiscal year, appropriate and 726
expend the sum of not more than twenty-five per cent of the 727
unencumbered balance of the municipal public improvement tax 728
increment equivalent fund, urban redevelopment tax increment 729
equivalent fund, or township public improvement tax increment 730
equivalent fund, as applicable, as of the first day of that 731
fiscal year, plus not more than twenty-five per cent of any 732
amount deposited to that fund during that fiscal year, to be 733
used as authorized in division (B) of this section. 734

(B) Money appropriated and expended under division (A) (1) 735
or (2) of this section shall be used solely to pay current 736
public safety expenses or road and bridge maintenance expenses 737
of the subdivision that are not eligible to be paid or 738
reimbursed with funds received by the subdivision pursuant to 42 739
U.S.C. 601, including such funds distributed to the subdivision 740
by the state. 741

(C) A municipal corporation or township appropriating and 742

expending money under division (A) (1) or (2) of this section 743
shall reimburse the fund from which the appropriation or 744
expenditure was made for the sum so appropriated and expended 745
from funds received by the subdivision pursuant to federal 746
legislation that may be used to pay for or reimburse those 747
expenses, but only if and to the extent those funds are 748
available. No reimbursement shall be required if such funds are 749
not received before the date the applicable exemption granted 750
under the resolution adopted under section 5709.40, 5709.41, or 751
5709.73 of the Revised Code expires. 752

Section 18. During the period of the emergency declared by 753
Executive Order 2020-01D, issued on March 9, 2020, a charter 754
county may enter into a contract, without bidding or advertising 755
or an otherwise selective process, for the purchase of personal 756
protective equipment needed to meet the emergency. 757

"Personal protective equipment" means equipment worn to 758
minimize exposure to hazards that cause workplace injuries and 759
illnesses. 760

Section 19. The items of law contained in this act, and 761
their applications, are severable. If an item of law contained 762
in this act, or if an application of an item of law contained in 763
this act, is held invalid, the invalidity does not affect other 764
items of law contained in this act and their applications that 765
can be given effect without the invalid item or application. 766