

As Introduced

135th General Assembly

Regular Session

2023-2024

H. B. No. 519

Representatives Hall, Sweeney

**Cosponsors: Representatives Brent, McNally, Russo, Santucci, Piccolantonio,
Carruthers, Brennan, Hillyer, Weinstein, Dell'Aquila, Isaacsohn**

A BILL

To amend section 151.40 and to enact sections 1
122.65, 122.651, 122.652, 122.653, 122.654,
122.655, 122.656, 122.657, 122.658, and 122.659 2
of the Revised Code to restore the Clean Ohio 3
Fund to be administered by the Department of 4
Development and the Clean Ohio Council. 5
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 151.40 be amended and sections 7
122.65, 122.651, 122.652, 122.653, 122.654, 122.655, 122.656, 8
122.657, 122.658, and 122.659 of the Revised Code be enacted to 9
read as follows: 10

Sec. 122.65. As used in sections 122.65 to 122.659 of the 11
Revised Code: 12

(A) "Applicable cleanup standards" means either of the 13
following: 14

(1) For property to which Chapter 3734. of the Revised 15
Code and rules adopted under that chapter apply, the 16
requirements for closure or corrective action established in 17

rules adopted under section 3734.12 of the Revised Code; 18

(2) For property to which Chapter 3746. of the Revised 19
Code and rules adopted under that chapter apply, the cleanup 20
standards that are established in rules adopted under section 21
3746.04 of the Revised Code. 22

(B) "Applicant" means a county, township, municipal 23
corporation, port authority, or conservancy district, or a park 24
district, other similar park authority, county land 25
reutilization corporation, nonprofit organization, or 26
organization for profit that has entered into an agreement with 27
a county, township, municipal corporation, port authority, or 28
conservancy district to work in conjunction with that county, 29
township, municipal corporation, port authority, or conservancy 30
district for the purposes of sections 122.65 to 122.659 of the 31
Revised Code. 32

(C) "Assessment" means a phase I and phase II property 33
assessment conducted in accordance with section 3746.04 of the 34
Revised Code and rules adopted under that section. 35

(D) "Certified professional," "hazardous substance," 36
"petroleum," and "release" have the same meanings as in section 37
3746.01 of the Revised Code. 38

(E) "County land reutilization corporation" means a 39
corporation organized under section 1724.04 of the Revised Code. 40

(F) "Distressed area," "eligible area," "inner city area," 41
"labor surplus area," and "situational distress area" have the 42
same meanings as in section 122.16 of the Revised Code. 43

(G) "Institutional property" means property currently or 44
formerly owned or controlled by the state that is or was used 45
for a public or charitable purpose. "Institutional property" 46

does not include property that is or was used for educational 47
purposes. 48

(H) "Loan" includes credit enhancement. 49

(I) "No further action letter" means a letter that is 50
prepared by a certified professional when, on the basis of the 51
best knowledge, information, and belief of the certified 52
professional, the certified professional concludes that the 53
cleanup or remediation of a brownfield meets the applicable 54
cleanup standards and that contains all of the information 55
specified in rules adopted under section 3746.04 of the Revised 56
Code. 57

(J) "Nonprofit organization" means a corporation, 58
association, group, institution, society, or other organization 59
that is exempt from federal income taxation under section 501(c) 60
(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 61
U.S.C. 501(c) (3), as amended. 62

(K) "Property" means any parcel of real property, or 63
portion of such a parcel, and any improvements to it. 64

(L) "Public health project" means the cleanup or 65
remediation of a release or threatened release of hazardous 66
substances or petroleum at a property where little or no 67
economic redevelopment potential exists. 68

(M) "Official poverty line" has the same meaning as in 69
section 3923.51 of the Revised Code. 70

(N) "Cleanup or remediation" means any action to contain, 71
remove, or dispose of hazardous substances or petroleum at a 72
brownfield. "Cleanup or remediation" includes the acquisition of 73
a brownfield, demolition performed at a brownfield, and the 74
installation or upgrade of the minimum amount of infrastructure 75

that is necessary to make a brownfield operational for economic 76
development activity. 77

Sec. 122.651. (A) (1) There is hereby created the clean 78
Ohio council consisting of the director of development or the 79
director's designee, the director of environmental protection or 80
the director's designee, the speaker of the house of 81
representatives or the speaker's designee, the minority leader 82
of the house of representatives or the minority leader's 83
designee, the president of the senate or the president's 84
designee, the minority leader of the senate or the minority 85
leader's designee, and seven members to be appointed by the 86
governor with the advice and consent of the senate. 87

(2) Of the members appointed by the governor: 88

(a) One shall represent the interests of counties; 89

(b) One shall represent the interests of municipal 90
corporations; 91

(c) One shall represent the interests of business and 92
development; 93

(d) One shall represent the interests of county land 94
reutilization corporations, as defined in section 1724.01 of the 95
Revised Code; 96

(e) One shall represent environmental interests and be a 97
certified professional; 98

(f) Two shall represent the public. 99

(3) The members appointed by the governor shall reflect 100
the demographic and economic diversity of the population of the 101
state and shall represent all areas of the state. 102

(4) All appointments to the council shall be made not 103
later than one hundred twenty days after the effective date of 104
this section. 105

(B)(1) The members of the clean Ohio council shall serve 106
at the pleasure of their appointing or designating authorities. 107
Of the initial members appointed by the governor to the clean 108
Ohio council, four shall be appointed for two years and three 109
shall be appointed for one year. Thereafter, terms of office for 110
members appointed by the governor shall be for two years, with 111
each term ending on the same day of the same month as did the 112
term that it succeeds. Each of those members shall hold office 113
from the date of appointment until the end of the term for which 114
the member is appointed. 115

(2) Members of the council may be reappointed. Vacancies 116
shall be filled in the same manner as provided for original 117
appointments. Any member appointed to fill a vacancy occurring 118
prior to the expiration date of the term for which the member 119
was appointed shall hold office for the remainder of that term. 120
A member shall continue in office after the expiration date of 121
the member's term until the member's successor takes office, or 122
until a period of sixty days has elapsed, whichever occurs 123
first. The governor may remove a member appointed by the 124
governor for misfeasance, nonfeasance, or malfeasance in office. 125

(C) The director of development shall serve as the 126
chairperson of the council, and the director of environmental 127
protection shall serve as the vice-chairperson. The council 128
annually shall select from among its members a secretary to keep 129
a record of its proceedings. A majority vote of a quorum of the 130
members of the council is necessary to take action on any 131
matter. The council may adopt bylaws governing its operation, 132

including bylaws that establish the frequency of meetings, 133
procedures for reviewing eligible projects under sections 122.65 134
to 122.658 of the Revised Code, policies and requirements 135
established under section 122.657 of the Revised Code, and other 136
necessary procedures. 137

(D) Members of the clean Ohio council are public officials 138
or officers only for the purposes of section 9.86 and Chapters 139
102. and 2921. of the Revised Code. Serving as a member of the 140
clean Ohio council does not constitute holding a public office 141
or position of employment so as to constitute grounds for 142
removal of public officers or employees serving as members of 143
the council from their offices or positions of employment. 144
Members of the council shall file with the Ohio ethics 145
commission the disclosure statement described in division (A) of 146
section 102.02 of the Revised Code on the form prescribed by the 147
commission and be subject to divisions (C) and (D) of that 148
section. Members of the council shall serve without compensation 149
for attending council meetings, but shall receive their actual 150
and necessary traveling and other expenses incurred in the 151
performance of their official duties in accordance with the 152
rules of the office of budget and management. 153

(E) Members appointed by the governor to represent the 154
interests of counties, municipal corporations, county land 155
reutilization corporations, and certified professionals do not 156
have a conflict of interest by virtue of their service in the 157
position. For the purposes of this division, "conflict of 158
interest" means the taking of any action as a member of the 159
council that affects a public agency the person serves as an 160
officer or employee. 161

(F) The department of development shall provide office 162

space for the council. The staff of the department of 163
development and the environmental protection agency shall assist 164
the council in its duties. 165

(G) Sections 101.82 to 101.87 of the Revised Code do not 166
apply to the clean Ohio council. 167

Sec. 122.652. (A) (1) An applicant seeking a grant or loan 168
for a brownfield cleanup or remediation project from the clean 169
Ohio revitalization fund created in section 122.658 of the 170
Revised Code shall request an application form from the director 171
of development. The applicant shall complete the application and 172
include all of the information required by sections 122.65 to 173
122.659 of the Revised Code and policies and requirements 174
established under section 122.657 of the Revised Code. 175

(2) In addition to the information that is required to be 176
included in the application under division (A)(1) of this 177
section, an applicant shall include an affidavit signed by the 178
authorized representative of the applicant and its development 179
partner, if applicable, certifying that the applicant did not 180
cause or contribute to the release of hazardous substances or 181
petroleum at the brownfield that is the subject of the 182
application. No person shall submit a false affidavit under 183
division (A)(2) of this section. 184

(3) After completion of the application, but prior to the 185
submission of the application to the director under division (B) 186
of this section, the applicant shall conduct a public meeting 187
concerning the application and the proposed cleanup or 188
remediation. 189

(a) Not later than forty-five days prior to conducting the 190
public meeting, the applicant shall provide notice of the date, 191

time, and location of the public meeting on the internet in a 192
manner that is accessible to the public. 193

(b) Not later than forty-five days prior to the hearing, 194
the applicant shall post notice of the date, time, and location 195
of the public meeting at the property on a sign that measures 196
not less than four feet by four feet or, if the political 197
subdivision in which the sign is to be posted prohibits a sign 198
of that size, the maximum size of sign permitted by that 199
political subdivision. 200

(c) Not later than forty-five days prior to the public 201
meeting, the applicant shall provide an electronic copy of the 202
application to a public library in the vicinity of the property 203
for public review. The submission of the application and the 204
location of the public library shall be included in the notice 205
required under this division. The general public may submit 206
comments to the applicant concerning the application prior to 207
and at the public meeting. 208

(B) (1) An applicant shall submit a completed application, 209
all required information, and an application summary to the 210
director. Based on a review of the application summaries 211
submitted to the director, the director shall prioritize all 212
applications in accordance with criteria and procedures 213
established pursuant to section 122.657 of the Revised Code. The 214
director shall choose not more than six applications annually 215
for each of the districts created in section 164.03 of the 216
Revised Code that the director determines merit funding and 217
shall forward those applications and all accompanying 218
information to the clean Ohio council. In prioritizing and 219
choosing applications under this division, the director may 220
consult with local and regional economic development agencies or 221

resources, community development agencies or organizations, 222
local business organizations, and other appropriate entities 223
located or operating in the district in which the proposed 224
brownfield cleanup or remediation project is located. 225

(2) Notwithstanding division (B)(1) of this section, if 226
the director receives only one application in any given year for 227
a district created in section 164.03 of the Revised Code, the 228
director may forward that application to the clean Ohio council 229
as the district's top priority project for that year. 230

Sec. 122.653. (A) Upon receipt of an application from the 231
director of development, the clean Ohio council shall examine 232
the application and all accompanying information to determine if 233
the application is complete. If the council determines that the 234
application is not complete, the council immediately shall 235
notify the applicant that the application is not complete, 236
provide a description of the information that is missing from 237
the application, and return the application and all accompanying 238
information to the applicant. The applicant may resubmit the 239
application directly to the council within ten business days 240
after receipt of such notice. 241

(B) The council shall approve or disapprove in writing 242
applications submitted to the council by the director for grants 243
or loans from the clean Ohio revitalization fund. The council 244
shall not approve a project that fails to comply with the 245
requirements established in sections 122.65 to 122.659 of the 246
Revised Code and policies and requirements established under 247
section 122.657 of the Revised Code. The council also shall not 248
approve a project if the applicant or, if applicable, the 249
applicant's development partner caused or contributed to the 250
contamination at the property. In approving or disapproving 251

applications, the council shall use the selection process 252
established in policies and requirements established under 253
section 122.657 of the Revised Code. 254

(C) If the council approves an application under this 255
section, the department of development shall enter into an 256
agreement with the applicant to award a grant or make a loan for 257
the applicant's brownfield cleanup or remediation project. The 258
department shall not disburse grant or loan funds before the 259
agreement is executed. The agreement shall contain, at minimum, 260
all of the following: 261

(1) The designation of a single officer or employee of the 262
applicant who will serve as project manager; 263

(2) Procedures for the payment or disbursement of funds 264
from the grant or loan to the applicant; 265

(3) A designation of the percentage of the estimated total 266
cost of the project for which the grant or loan will provide 267
funding, which shall not exceed seventy-five per cent of that 268
cost as provided in section 122.658 of the Revised Code; 269

(4) A description of the manner by which the applicant 270
will provide the remainder of the estimated total cost of the 271
project, which shall equal at least twenty-five per cent of that 272
cost as provided in section 122.658 of the Revised Code; 273

(5) An assurance that the applicant will clean up or 274
remediate the brownfield to the applicable cleanup standards; 275

(6) A provision for the reimbursement of grant moneys or 276
immediate repayment of the loan, as applicable, if the completed 277
project does not comply with the applicable cleanup standards; 278

(7) Any other provisions that the department considers 279

necessary in order to ensure that the project's implementation 280
will comply with the requirements established in sections 122.65 281
to 122.659 of the Revised Code. 282

(D) A grant may be awarded or a loan may be made for a 283
project under this section to an applicant to pay the costs of 284
cleanup or remediation of a brownfield in order to comply with 285
the applicable cleanup standards. 286

Sec. 122.654. (A) (1) Except as otherwise provided in 287
division (G) of this section, an applicant who has entered into 288
an agreement with the department of development under section 289
122.653 of the Revised Code shall employ a certified 290
professional to determine if the brownfield cleanup or 291
remediation project complies with applicable cleanup standards. 292
The certified professional shall make this determination in 293
accordance with Chapter 3746. of the Revised Code and rules 294
adopted under that chapter. If the certified professional 295
determines that the cleanup or remediation complies with the 296
applicable cleanup standards, the certified professional shall 297
prepare a no further action letter. 298

(2) Upon completion of a no further action letter, the 299
certified professional shall send a copy of the letter to the 300
applicant. The letter shall be accompanied by both of the 301
following: 302

(a) A written request that the applicant notify the 303
certified professional as to whether the applicant wishes to 304
submit the no further action letter to the director of 305
environmental protection; 306

(b) A written notice informing the applicant that the 307
original no further action letter may be submitted to the 308

director of environmental protection only by a certified 309
professional and that the person may receive a covenant not to 310
sue under Chapter 3746. of the Revised Code and rules adopted 311
under that chapter in connection with the cleanup or remediation 312
only if the no further action letter is submitted to the 313
director on the applicant's behalf by a certified professional. 314

(3) The certified professional shall send a copy of the no 315
further action letter to the clean Ohio council and the 316
director. 317

(4) Promptly after receipt of the letter, request, and 318
notice, the applicant shall send written notice to the certified 319
professional informing the certified professional as to whether 320
the applicant wishes to submit the no further action letter to 321
the director and shall send a copy of the notice to the clean 322
Ohio council. If the applicant's notice indicates that the 323
applicant wishes to have the no further action letter submitted 324
to the director, promptly after receipt of the notice, the 325
certified professional shall submit the original no further 326
action letter to the director by certified mail on behalf of the 327
applicant. In addition, the certified professional shall send 328
written notice to the clean Ohio council informing the council 329
that the original no further action letter has been submitted to 330
the director. If the applicant notifies the certified 331
professional that the applicant does not wish to submit the no 332
further action letter to the director, the certified 333
professional shall send the original no further action letter to 334
the applicant promptly after receiving the notice. 335

(B) If the certified professional determines that the 336
cleanup or remediation does not comply with applicable cleanup 337
standards, the certified professional shall send to the 338

applicant and the clean Ohio council written notice of that fact 339
and of the certified professional's inability to issue a no 340
further action letter for the property. 341

(C) If the director receives a copy of a no further action 342
letter from a certified professional, the director shall review 343
the letter and determine if the cleanup or remediation complies 344
with applicable cleanup standards. The director shall prepare a 345
written report of the the director's determination and send a 346
copy of the report to the clean Ohio council. 347

(D) If the director receives an original no further action 348
letter from a certified professional on behalf of an applicant, 349
the director shall issue or deny a covenant not to sue under 350
Chapter 3746. of the Revised Code and rules adopted under that 351
chapter except as otherwise specifically provided in sections 352
122.65 to 122.659 of the Revised Code. 353

(E) (1) A certified professional shall maintain all 354
documents and data prepared or acquired by the certified 355
professional in connection with the cleanup or remediation for 356
not less than ten years after the date of issuance of a no 357
further action letter or after the notice required under 358
division (B) of this section has been sent, whichever is 359
applicable. The clean Ohio council and the director may request 360
a certified professional to provide the clean Ohio council and 361
the director with documents and data for purposes of sections 362
122.65 to 122.659 of the Revised Code. 363

(2) No certified professional shall fail to comply with 364
this division or a request made under it. 365

(F) The clean Ohio council and director may request an 366
applicant to provide the council or the director with documents 367

and data for purposes of sections 122.65 to 122.659 of the 368
Revised Code. No applicant shall fail to comply with a request 369
made by the council or the director under this division. 370

(G) For purposes of sections 122.65 to 122.659 of the 371
Revised Code, Chapter 3746. of the Revised Code and rules 372
adopted under that chapter apply except as otherwise 373
specifically provided under those sections. 374

(H) For cleanup or remediation of a brownfield that is 375
subject to closure or corrective action requirements established 376
in rules adopted under section 3734.12 of the Revised Code, an 377
applicant who has entered into an agreement with the department 378
of development under section 122.653 of the Revised Code shall 379
send to the director documentation that demonstrates that the 380
cleanup or remediation complies with the applicable cleanup 381
standards. The director shall review the documentation and 382
determine if the cleanup or remediation complies with the 383
applicable cleanup standards. For purposes of the cleanup or 384
remediation, the applicant also shall obtain any necessary 385
review or approval from the director. The director shall prepare 386
a written report of the director's determination and send a copy 387
of the report to the clean Ohio council. 388

Sec. 122.655. (A) (1) A no further action letter issued 389
under section 122.654 of the Revised Code, a covenant not to sue 390
issued under Chapter 3746. of the Revised Code and rules adopted 391
under that chapter, if applicable, and any restrictions on the 392
use of the property that are needed in order to comply with the 393
applicable cleanup standards shall be filed by the applicant in 394
the office of the county recorder of the county in which the 395
property is located and shall be recorded in the same manner as 396
the deed to the property. 397

(2) No applicant shall fail to comply with division (A) of this section. 398
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(B) Pursuant to Chapter 5309. of the Revised Code, a no further action letter issued under section 122.654 of the Revised Code, a covenant not to sue issued under Chapter 3746. of the Revised Code and rules adopted under that chapter, if applicable, and any restrictions on the use of the property, as described in division (A) of this section, in connection with registered land, as defined in section 5309.01 of the Revised Code, shall be entered as a memorial on the page of the register where the title of the owner is registered. 400
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Sec. 122.656. (A) (1) An applicant may submit an application for property that is located in an eligible area on a form prescribed by the director of development to request a grant from the clean Ohio revitalization fund to pay for the cost of an assessment that is required for purposes of sections 122.65 to 122.659 of the Revised Code, the cleanup or remediation of a brownfield, or public health projects. The director shall not make loans from the clean Ohio revitalization fund for purposes of this section. 409
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(2) The authorized representative of an applicant shall sign and submit an affidavit with the application certifying that the applicant and its development partner, if applicable, did not cause or contribute to the release of hazardous substances or petroleum on the property that is the subject of the application. No person shall submit a false affidavit under division (A) (2) of this section. 418
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(3) After completion of the application, but prior to the submission of the application to the director, the applicant shall comply with the public notice and public meeting 425
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requirements established under division (A) (3) of section 428
122.652 of the Revised Code. 429

(B) Upon receipt of an application, the director shall 430
examine the application and all accompanying information to 431
determine if the application is complete. If the director 432
determines that the application is not complete, the director 433
immediately shall notify the applicant that the application is 434
not complete, provide a description of the information that is 435
missing from the application, and return the application and all 436
accompanying information to the applicant. The applicant may 437
resubmit the application. 438

(C) The director shall approve or disapprove in writing 439
applications submitted for grants from the clean Ohio 440
revitalization fund under this section. The director shall not 441
approve an application that fails to comply with the policies 442
and requirements established under this section and section 443
122.657 of the Revised Code. The director also shall not approve 444
an application if the applicant caused or contributed to the 445
release of hazardous substances or petroleum at the property. In 446
approving or disapproving applications, the director shall use 447
the criteria established pursuant to section 122.657 of the 448
Revised Code. Prior to the approval or disapproval of an 449
application under this section, the director shall notify the 450
clean Ohio council of the pending approval or disapproval. 451

(D) If the director approves an application under this 452
section, the director shall enter into an agreement with the 453
applicant to award a grant to the applicant. The director shall 454
not pay or disburse funds to the applicant before the agreement 455
is executed. 456

(E) If the director executes an agreement under this 457

section, the director shall forward a copy of the agreement to 458
the clean Ohio council for the purposes of sections 122.65 to 459
122.658 of the Revised Code. 460

(F) For purposes of this section, an applicant shall 461
conduct, or cause to be conducted, an assessment, a cleanup or 462
remediation of a brownfield, or a public health project in 463
accordance with applicable cleanup standards and environmental 464
statutes and rules. 465

Sec. 122.657. For the purposes of sections 122.65 to 466
122.659 of the Revised Code, the director of development shall 467
establish policies and requirements regarding all of the 468
following: 469

(A) The form and content of applications for grants or 470
loans from the clean Ohio revitalization fund under section 471
122.652 of the Revised Code. The policies and requirements shall 472
require that each application include, at a minimum, all of the 473
following: 474

(1) The name, address, and telephone number of the 475
applicant; 476

(2) The legal description of the property for which the 477
grant or loan is requested; 478

(3) A summary description of the hazardous substances or 479
petroleum present at the brownfield; 480

(4) A detailed explanation of the proposed cleanup or 481
remediation of the brownfield, including an identification of 482
the applicable cleanup standards and a detailed description of 483
the proposed use of the brownfield after completion of the 484
cleanup or remediation; 485

<u>(5) An estimate of the total cost to clean up or remediate</u>	486
<u>the brownfield in order to comply with the applicable cleanup</u>	487
<u>standards. The total cost shall include the cost of employing a</u>	488
<u>certified professional under section 122.654 of the Revised</u>	489
<u>Code.</u>	490
<u>(6) A detailed explanation of the portion of the estimated</u>	491
<u>total cost of the cleanup or remediation of the brownfield that</u>	492
<u>the applicant proposes to provide as required under sections</u>	493
<u>122.653 and 122.658 of the Revised Code and financial records</u>	494
<u>supporting the implementation of the project;</u>	495
<u>(7) A certified copy of a resolution or ordinance</u>	496
<u>approving the project that the applicant shall obtain from the</u>	497
<u>board of township trustees of the township or the legislative</u>	498
<u>authority of the municipal corporation in which the property is</u>	499
<u>located, whichever is applicable;</u>	500
<u>(8) A description of the estimated economic benefit that</u>	501
<u>will result from a cleanup or remediation of the brownfield;</u>	502
<u>(9) An application summary;</u>	503
<u>(10) With respect to applications for loans, information</u>	504
<u>demonstrating that the applicant will implement a financial</u>	505
<u>management plan that includes, without limitation, provisions</u>	506
<u>for the satisfactory repayment of the loan;</u>	507
<u>(11) Any other provisions that the director requires to be</u>	508
<u>included in an application.</u>	509
<u>(B) Procedures for conducting public meetings and</u>	510
<u>providing public notice under division (A) of section 122.652 of</u>	511
<u>the Revised Code;</u>	512
<u>(C) A selection process that provides for the</u>	513

prioritization of brownfield cleanup or remediation projects for 514
which grant or loan applications are submitted under section 515
122.652 of the Revised Code. The policies and requirements shall 516
require the selection process to give priority to projects in 517
which the post-cleanup or remediation use will be for a 518
combination of residential, commercial, or industrial purposes, 519
which may include the conversion of a portion of a brownfield to 520
a recreation, park, or natural area that is integrated with the 521
residential, commercial, or industrial use of the brownfield 522
after cleanup or remediation, or will incorporate projects that 523
are funded by grants awarded under sections 164.20 to 164.27 of 524
the Revised Code. The policies and requirements shall require 525
the selection process to incorporate and emphasize all of the 526
following factors: 527

(1) The potential economic benefit that will result from 528
the cleanup or remediation of a brownfield; 529

(2) The potential environmental improvement that will 530
result from the cleanup or remediation of a brownfield; 531

(3) The amount and nature of the match provided by an 532
applicant as required under sections 122.653 and 122.658 of the 533
Revised Code; 534

(4) Funding priorities recommended by the director; 535

(5) The potential benefit to low-income communities, 536
including minority communities, that will result from the 537
cleanup or remediation of a brownfield; 538

(6) Any other factors that the director considers 539
appropriate. 540

(D) (1) The development of criteria and associated scoring 541
that the director of development shall use when awarding grants 542

under section 122.656 of the Revised Code. The criteria shall 543
give priority to public health projects. In addition, the 544
director of development, in consultation with the director of 545
environmental protection, shall establish policies and 546
requirements that require the criteria to include a public 547
health project selection process that incorporates and 548
emphasizes all of the following factors: 549

(a) The potential environmental improvement that will 550
result from the cleanup or remediation; 551

(b) The ability of an applicant to access the property for 552
purposes of the cleanup or remediation; 553

(c) Any other factors that the director of development 554
considers appropriate. 555

(2) The director of development may develop any other 556
policies and requirements that the director determines are 557
necessary for the administration of section 122.656 of the 558
Revised Code. 559

(E) The development of a brownfield cleanup and 560
remediation oversight program to ensure compliance with sections 561
122.65 to 122.659 of the Revised Code and policies and 562
requirements established under this section. The policies and 563
requirements shall require the program to include, at a minimum, 564
both of the following: 565

(1) Procedures for the accounting of invoices and receipts 566
and any other documents that are necessary to demonstrate that a 567
cleanup or remediation was properly performed; 568

(2) Procedures that are necessary to provide a detailed 569
explanation of the status of the property five years after the 570
completed cleanup or remediation. 571

(F) A delineation of what constitutes administrative costs 572
for purposes of divisions (D) and (F) of section 122.658 of the 573
Revised Code; 574

(G) Procedures and requirements for making loans and loan 575
agreements that include at least all of the following: 576

(1) Not more than fifteen per cent of moneys annually 577
allocated to the clean Ohio revitalization fund shall be used 578
for loans. 579

(2) The loans shall be made at or below market rates of 580
interest, including, without limitation, interest-free loans. 581

(3) The recipient of a loan shall identify a source of 582
security and a source of repayment of the loan. 583

(4) The clean Ohio council may accept notes and other 584
forms of obligation to evidence indebtedness, accept mortgages, 585
liens, pledges, assignments, and other security interests to 586
secure such indebtedness, and take any actions that are 587
considered by the council to be appropriate to protect such 588
security and safeguard against losses, including, without 589
limitation, foreclosure and bidding on the purchase of property 590
upon foreclosure or other sale. 591

(H) Any other policies and requirements that the director 592
determines are necessary for the administration of sections 593
122.65 to 122.659 of the Revised Code. 594

Sec. 122.658. (A) (1) The clean Ohio revitalization fund is 595
created in the state treasury. The fund shall consist of moneys 596
credited to it pursuant to section 151.40 of the Revised Code. 597
Moneys in the fund shall be used to make grants or loans for 598
projects that have been approved by the clean Ohio council in 599
accordance with section 122.653 of the Revised Code, except that 600

the council annually shall devote twenty per cent of the net 601
proceeds of obligations deposited in the clean Ohio 602
revitalization fund for the purposes of section 122.656 of the 603
Revised Code. 604

(2) Moneys in the clean Ohio revitalization fund may be 605
used to pay reasonable costs incurred by the department of 606
development and the environmental protection agency in 607
administering sections 122.65 to 122.659 of the Revised Code. 608
All investment earnings of the fund shall be credited to the 609
fund. Investment earnings credited to the clean Ohio 610
revitalization fund may be used to pay costs incurred by the 611
department of development and the environmental protection 612
agency pursuant to sections 122.65 to 122.659 of the Revised 613
Code. 614

(3) The department of development shall administer the 615
clean Ohio revitalization fund in accordance with this section, 616
policies and requirements established under section 122.657 of 617
the Revised Code, and the terms of agreements entered into by 618
the council under section 122.653 of the Revised Code. 619

(B) (1) Grants awarded and loans made under section 122.653 620
of the Revised Code shall provide not more than seventy-five per 621
cent of the estimated total cost of a project. A grant or loan 622
to any one project shall not exceed six million dollars. An 623
applicant shall provide at least twenty-five per cent of the 624
estimated total cost of a project. The applicant's share may 625
consist of one or a combination of any of the following: 626

(a) Payment of the cost of acquiring the property for the 627
purposes of sections 122.65 to 122.659 of the Revised Code; 628

(b) Payment of the reasonable cost of an assessment at the 629

<u>property;</u>	630
<u>(c) Clearance of the property;</u>	631
<u>(d) The reasonable value, as determined by the council, of labor and materials that will be contributed by the applicant in performing the cleanup or remediation;</u>	632 633 634
<u>(e) Moneys received by the applicant in any form for use in performing the cleanup or remediation;</u>	635 636
<u>(f) Loans secured by the applicant for the purpose of the cleanup or remediation of the brownfield.</u>	637 638
<u>(2) Costs that were incurred more than two years prior to the submission of an application for a grant or loan under section 122.653 of the Revised Code, for the acquisition of property, assessments, clearance, cleanup, demolition, and labor and materials shall not be used as part of the applicant's matching share.</u>	639 640 641 642 643 644
<u>(C) The department of development shall not make any payment to an applicant from the clean Ohio revitalization fund to pay costs of the applicant that were not included in an application for a grant or loan under section 122.653 of the Revised Code or that exceed the amount of the estimated total cost of the project included in the application. If, upon completion of a project, the costs of the project are less than the amounts included in the application, the amounts included in the application less the amounts of the actual costs of the project shall be credited to the clean Ohio revitalization fund. The amounts credited shall be equivalent in percentage to the percentage of the costs of the project that were to be funded by the grant or loan from the fund.</u>	645 646 647 648 649 650 651 652 653 654 655 656 657
<u>(D) Grants awarded or loans made under section 122.653 of</u>	658

the Revised Code from the clean Ohio revitalization fund shall 659
be used by an applicant only to pay the costs of the actual 660
cleanup or remediation of a brownfield and shall not be used by 661
an applicant to pay any administrative costs incurred by the 662
applicant. Costs related to the use of a certified professional 663
for purposes of section 122.654 of the Revised Code are not 664
administrative costs and may be paid with moneys from grants 665
awarded or loans made under section 122.653 of the Revised Code. 666

(E) The portion of net proceeds of obligations devoted 667
under division (A) of this section for the purposes of section 668
122.656 of the Revised Code shall be used to make grants for 669
assessments, cleanup or remediation of brownfields, and public 670
health projects that have been approved by the director of 671
development under that section. The department of development 672
shall administer section 122.656 of the Revised Code in 673
accordance with this section, policies and requirements 674
established under section 122.657 of the Revised Code, and the 675
terms of agreements entered into by the director under section 676
122.656 of the Revised Code. The director shall not grant more 677
than twenty-five million dollars for public health projects 678
under section 122.656 of the Revised Code. 679

(F) Grants awarded under section 122.656 of the Revised 680
Code shall be used by an applicant only to pay the costs of 681
actually conducting an assessment, a cleanup or remediation of a 682
brownfield, or a public health project and shall not be used by 683
an applicant to pay any administrative costs incurred by the 684
applicant. Costs related to the use of a certified professional 685
for purposes of section 122.654 of the Revised Code are not 686
administrative costs and may be paid with moneys from grants 687
awarded under section 122.656 of the Revised Code. 688

(G) Amounts received by the state after July 1, 2025, from 689
JobsOhio representing any part of the gross profit on the sale 690
of spirituous liquors shall be credited to the clean Ohio 691
revitalization fund. 692

Sec. 122.659. (A) Nothing in sections 122.65 to 122.658 of 693
the Revised Code, nor any agreement entered into under those 694
sections, shall be construed to amend, modify, repeal, or 695
otherwise alter any other provision of the Revised Code relating 696
to administrative, civil, or criminal penalties, or enforcement 697
actions and remedies available to the environmental protection 698
agency, or in any way amend, modify, repeal, or alter the 699
authority of that agency to bring administrative, civil, or 700
criminal actions under any provision of the Revised Code. 701

(B) Nothing in sections 122.65 to 122.658 of the Revised 702
Code shall affect the ability or authority of any person that is 703
undertaking or has undertaken investigation or remediation 704
activities at a brownfield under those sections to seek cost 705
recovery or contribution from or any relief available against 706
any person who may have liability with respect to the 707
brownfield. 708

(C) (1) An applicant who has entered into an agreement 709
under section 122.653 or 122.656 of the Revised Code is not 710
liable in a civil action under the Revised Code or the common 711
law of the state for the costs of an assessment or cleanup or 712
remediation of hazardous substances or petroleum that is present 713
at or on the property at the time at which the agreement was 714
entered into, and is not subject to the issuance of an order by 715
the director of environmental protection under Chapter 3714., 716
3734., 3750., 3751., 3752., 6109., or 6111. of the Revised Code 717
regarding an assessment or cleanup or remediation of hazardous 718

substances or petroleum that is present at or on the property at 719
the time at which the agreement was entered into, when all of 720
the following conditions apply: 721

(a) No action or omission of the applicant caused, 722
contributed to, or exacerbated a release or threatened release 723
of hazardous substances or petroleum at or on the property. 724

(b) The applicant conducts or causes to be conducted all 725
assessments and cleanup or remediation at or on the property in 726
compliance with the agreement and in accordance with all 727
applicable laws. 728

(c) The applicant conducts or causes to be conducted 729
activities occurring at the property, which are not related to 730
assessments or cleanup or remediation at or on the property, in 731
compliance with any applicable requirements established under 732
Chapters 3714., 3734., 3737., 3750., 3751., 3752., 3767., 6109., 733
and 6111. of the Revised Code and rules adopted under those 734
chapters. 735

(2) Division (C) of this section does not create, and 736
shall not be construed as creating, a new cause of action 737
against or substantive legal right for the applicant. 738

(3) Division (C) of this section does not affect, and 739
shall not be construed as affecting, any immunities from civil 740
liability or defenses established by another section of the 741
Revised Code or available at common law to which an applicant 742
may be entitled. 743

(4) Nothing in division (C) of this section shall be 744
construed as affecting any obligations to comply with any 745
environmental laws established in the Revised Code or the common 746
law of the state with respect to any release of hazardous 747

substances or petroleum after the issuance of a covenant not to 748
sue under Chapter 3746. of the Revised Code or a determination 749
made under division (G) of section 122.654 of the Revised Code. 750

Sec. 151.40. (A) As used in this section: 751

(1) "Bond proceedings" includes any trust agreements, and 752
any amendments or supplements to them, as authorized by this 753
section. 754

(2) "Costs of revitalization projects" includes related 755
direct administrative expenses and allocable portions of the 756
direct costs of those projects of the department of development 757
or the environmental protection agency. 758

(3) "Issuing authority" means the treasurer of state. 759

(4) "Obligations" means obligations as defined in section 760
151.01 of the Revised Code issued to pay the costs of projects 761
for revitalization purposes as referred to in division (A) (2) of 762
Section 2o of Article VIII, Ohio Constitution and division (A) 763
(2) of Section 2q of Article VIII, Ohio Constitution. 764

(5) "Pledged liquor profits" means all receipts of the 765
state representing the gross profit on the sale of spirituous 766
liquor, as referred to in division (B) (4) of section 4301.10 of 767
the Revised Code, after paying all costs and expenses of the 768
division of liquor control and providing an adequate working 769
capital reserve for the division of liquor control as provided 770
in that division, and after satisfying the obligations of the 771
transfer agreement authorized under Chapter 4313. of the Revised 772
Code, but excluding the sum required by the second paragraph of 773
section 4301.12 of the Revised Code, as it was in effect on May 774
2, 1980, to be paid into the state treasury. 775

(6) "Pledged receipts" means, as and to the extent 776

provided in bond proceedings:	777
(a) Pledged liquor profits. The pledge of pledged liquor profits to obligations is subject to the priority of the pledge of those profits to obligations issued and to be issued pursuant to Chapter 166. of the Revised Code.	778 779 780 781
(b) Moneys accruing to the state from the lease, sale, or other disposition or use of revitalization projects or from the repayment, including any interest, of loans or advances made from net proceeds;	782 783 784 785
(c) Accrued interest received from the sale of obligations;	786 787
(d) Income from the investment of the special funds;	788
(e) Any gifts, grants, donations, or pledges, and receipts therefrom, available for the payment of debt service;	789 790
(f) Additional or any other specific revenues or receipts lawfully available to be pledged, and pledged, pursuant to further authorization by the general assembly, to the payment of debt service.	791 792 793 794
(B) (1) The issuing authority shall issue obligations of the state to pay costs of revitalization projects pursuant to division (B) (2) of Section 2o of Article VIII, Ohio Constitution, division (B) (2) of Section 2q of Article VIII, Ohio Constitution, section 151.01 of the Revised Code as applicable to this section, and this section. <u>The issuing authority, upon the certification to it by the director of development of the amount of moneys needed in and for the purposes of the clean Ohio revitalization fund created by section 122.658 of the Revised Code, shall issue obligations in the amount determined by the issuing authority to be required</u>	795 796 797 798 799 800 801 802 803 804 805

for those purposes. Not more than four hundred million dollars 806
principal amount of obligations issued under this section for 807
revitalization purposes may be outstanding at any one time. Not 808
more than fifty million dollars principal amount of obligations, 809
plus the principal amount of obligations that in any prior 810
fiscal year could have been, but were not issued within the 811
fifty-million-dollar fiscal year limit, may be issued in any 812
fiscal year. 813

(2) The provisions and authorizations in section 151.01 of 814
the Revised Code apply to the obligations and the bond 815
proceedings except as otherwise provided or provided for in 816
those obligations and bond proceedings. 817

(C) Net proceeds of obligations shall be deposited as 818
follows: 819

(1) Before July 1, 2025, in the general revenue fund; 820

(2) On and after July 1, 2025, eighty per cent in the 821
clean Ohio revitalization fund created in section 122.658 of the 822
Revised Code, and twenty per cent in the general revenue fund. 823

(D) There is hereby created the revitalization projects 824
bond service fund, which shall be in the custody of the 825
treasurer of state, but shall be separate and apart from and not 826
a part of the state treasury. All money received by the state 827
and required by the bond proceedings, consistent with section 828
151.01 of the Revised Code and this section, to be deposited, 829
transferred, or credited to the bond service fund, and all other 830
money transferred or allocated to or received for the purposes 831
of that fund, shall be deposited and credited to the bond 832
service fund, subject to any applicable provisions of the bond 833
proceedings, but without necessity for any act of appropriation. 834

During the period beginning with the date of the first issuance 835
of obligations and continuing during the time that any 836
obligations are outstanding in accordance with their terms, so 837
long as moneys in the bond service fund are insufficient to pay 838
debt service when due on those obligations payable from that 839
fund, except the principal amounts of bond anticipation notes 840
payable from the proceeds of renewal notes or bonds anticipated, 841
and due in the particular fiscal year, a sufficient amount of 842
pledged receipts is committed and, without necessity for further 843
act of appropriation, shall be paid to the bond service fund for 844
the purpose of paying that debt service when due. 845

(E) The issuing authority may pledge all, or such portion 846
as the issuing authority determines, of the pledged receipts to 847
the payment of the debt service charges on obligations issued 848
under this section, and for the establishment and maintenance of 849
any reserves, as provided in the bond proceedings, and make 850
other provisions in the bond proceedings with respect to pledged 851
receipts as authorized by this section, which provisions are 852
controlling notwithstanding any other provisions of law 853
pertaining to them. 854

(F) The issuing authority may covenant in the bond 855
proceedings, and such covenants shall be controlling 856
notwithstanding any other provision of law, that the state and 857
applicable officers and state agencies, including the general 858
assembly, so long as any obligations issued under this section 859
are outstanding, shall maintain statutory authority for and 860
cause to be charged and collected wholesale or retail prices for 861
spirituous liquor sold by the state or its agents so that the 862
available pledged receipts are sufficient in time and amount to 863
meet debt service payable from pledged liquor profits and for 864
the establishment and maintenance of any reserves and other 865

requirements provided for in the bond proceedings. 866

(G) Obligations may be further secured, as determined by 867
the issuing authority, by a trust agreement between the state 868
and a corporate trustee, which may be any trust company or bank 869
having a place of business within the state. Any trust agreement 870
may contain the resolution or order authorizing the issuance of 871
the obligations, any provisions that may be contained in any 872
bond proceedings, and other provisions that are customary or 873
appropriate in an agreement of that type, including, but not 874
limited to: 875

(1) Maintenance of each pledge, trust agreement, or other 876
instrument comprising part of the bond proceedings until the 877
state has fully paid or provided for the payment of debt service 878
on the obligations secured by it; 879

(2) In the event of default in any payments required to be 880
made by the bond proceedings, enforcement of those payments or 881
agreements by mandamus, the appointment of a receiver, suit in 882
equity, action at law, or any combination of them; 883

(3) The rights and remedies of the holders or owners of 884
obligations and of the trustee and provisions for protecting and 885
enforcing them, including limitations on rights of individual 886
holders and owners. 887

(H) The obligations shall not be general obligations of 888
the state and the full faith and credit, revenue, and taxing 889
power of the state shall not be pledged to the payment of debt 890
service on them. The holders or owners of the obligations shall 891
have no right to have any moneys obligated or pledged for the 892
payment of debt service except as provided in this section and 893
in the applicable bond proceedings. The rights of the holders 894

and owners to payment of debt service are limited to all or that 895
portion of the pledged receipts, and those special funds, 896
pledged to the payment of debt service pursuant to the bond 897
proceedings in accordance with this section, and each obligation 898
shall bear on its face a statement to that effect. 899

Section 2. That existing section 151.40 of the Revised 900
Code is hereby repealed. 901