

As Introduced

136th General Assembly

Regular Session

2025-2026

H. B. No. 93

Representatives Hall, T., Sweeney

**Cosponsors: Representatives McNally, Jarrells, Brewer, Synenberg, Isaacsohn,
Rader, Piccolantonio, Brent, Upchurch, Denson, Troy, Hiner, Cockley, Brennan,
Rogers, Daniels, Russo, Santucci**

A BILL

To amend section 151.40 and to enact sections 1
122.65, 122.651, 122.652, 122.653, 122.654, 2
122.655, 122.657, 122.658, and 122.659 of the 3
Revised Code to restore the Clean Ohio Fund to 4
be administered by the Department of Development 5
and the Clean Ohio Council. 6

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, 122.657, 8
122.658, and 122.659 of the Revised Code be enacted to read as 9
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 board of county commissioners or, 23
in the case of a county that has adopted a charter under Ohio 24
Constitution, Article X, Section 3, the county executive. 25

(C) "Assessment" means a phase I and phase II property 26
assessment conducted in accordance with section 3746.04 of the 27
Revised Code and rules adopted under that section. 28

(D) "Certified professional," "hazardous substance," 29
"petroleum," and "release" have the same meanings as in section 30
3746.01 of the Revised Code. 31

(E) "County land reutilization corporation" means a 32
corporation organized under section 1724.04 of the Revised Code. 33

(F) "Loan" includes credit enhancement. 34

(G) "No further action letter" means a letter that is 35
prepared by a certified professional when, on the basis of the 36
best knowledge, information, and belief of the certified 37
professional, the certified professional concludes that the 38
cleanup or remediation of a brownfield meets the applicable 39
cleanup standards and that contains all of the information 40
specified in rules adopted under section 3746.04 of the Revised 41
Code. 42

(H) "Property" means any parcel of real property, or 43
portion of such a parcel, and any improvements to it. 44

(I) "Cleanup or remediation" means any action to contain, 45
remove, or dispose of hazardous substances or petroleum at a 46
brownfield. "Cleanup or remediation" includes the acquisition of 47
a brownfield, demolition performed at a brownfield, and the 48
installation or upgrade of the minimum amount of infrastructure 49
that is necessary to make a brownfield operational for economic 50
development activity. 51

Sec. 122.651. (A) (1) There is hereby created the clean 52
Ohio council consisting of the director of development or the 53
director's designee, the director of environmental protection or 54
the director's designee, the speaker of the house of 55
representatives or the speaker's designee, the minority leader 56
of the house of representatives or the minority leader's 57
designee, the president of the senate or the president's 58
designee, the minority leader of the senate or the minority 59
leader's designee, and seven members to be appointed by the 60
governor with the advice and consent of the senate. 61

(2) Of the members appointed by the governor: 62

(a) One shall represent the interests of counties; 63

(b) One shall represent the interests of municipal 64
corporations; 65

(c) One shall represent the interests of business and 66
development; 67

(d) One shall represent the interests of county land 68
reutilization corporations, as defined in section 1724.01 of the 69
Revised Code; 70

(e) One shall represent environmental interests and be a 71
certified professional; 72

<u>(f) Two shall represent the public.</u>	73
<u>(3) The members appointed by the governor shall reflect</u>	74
<u>the demographic and economic diversity of the population of the</u>	75
<u>state and shall represent all areas of the state.</u>	76
<u>(4) All appointments to the council shall be made not</u>	77
<u>later than one hundred twenty days after the effective date of</u>	78
<u>this section.</u>	79
<u>(B) (1) The members of the clean Ohio council shall serve</u>	80
<u>at the pleasure of their appointing or designating authorities.</u>	81
<u>Of the initial members appointed by the governor to the clean</u>	82
<u>Ohio council, four shall be appointed for two years and three</u>	83
<u>shall be appointed for one year. Thereafter, terms of office for</u>	84
<u>members appointed by the governor shall be for two years, with</u>	85
<u>each term ending on the same day of the same month as did the</u>	86
<u>term that it succeeds. Each of those members shall hold office</u>	87
<u>from the date of appointment until the end of the term for which</u>	88
<u>the member is appointed.</u>	89
<u>(2) Members of the council may be reappointed. Vacancies</u>	90
<u>shall be filled in the same manner as provided for original</u>	91
<u>appointments. Any member appointed to fill a vacancy occurring</u>	92
<u>prior to the expiration date of the term for which the member</u>	93
<u>was appointed shall hold office for the remainder of that term.</u>	94
<u>A member shall continue in office after the expiration date of</u>	95
<u>the member's term until the member's successor takes office, or</u>	96
<u>until a period of sixty days has elapsed, whichever occurs</u>	97
<u>first. The governor may remove a member appointed by the</u>	98
<u>governor for misfeasance, nonfeasance, or malfeasance in office.</u>	99
<u>(C) The director of development shall serve as the</u>	100
<u>chairperson of the council, and the director of environmental</u>	101

protection shall serve as the vice-chairperson. The council 102
annually shall select from among its members a secretary to keep 103
a record of its proceedings. A majority vote of a quorum of the 104
members of the council is necessary to take action on any 105
matter. The council may adopt bylaws governing its operation, 106
including bylaws that establish the frequency of meetings, 107
procedures for reviewing eligible projects under sections 122.65 108
to 122.658 of the Revised Code, policies and requirements 109
established under section 122.657 of the Revised Code, and other 110
necessary procedures. 111

(D) Members of the clean Ohio council are public officials 112
or officers only for the purposes of section 9.86 and Chapters 113
102. and 2921. of the Revised Code. Serving as a member of the 114
clean Ohio council does not constitute holding a public office 115
or position of employment so as to constitute grounds for 116
removal of public officers or employees serving as members of 117
the council from their offices or positions of employment. 118
Members of the council shall file with the Ohio ethics 119
commission the disclosure statement described in division (A) of 120
section 102.02 of the Revised Code on the form prescribed by the 121
commission and be subject to divisions (C) and (D) of that 122
section. Members of the council shall serve without compensation 123
for attending council meetings, but shall receive their actual 124
and necessary traveling and other expenses incurred in the 125
performance of their official duties in accordance with the 126
rules of the office of budget and management. 127

(E) Members appointed by the governor to represent the 128
interests of counties, municipal corporations, county land 129
reutilization corporations, and certified professionals do not 130
have a conflict of interest by virtue of their service in the 131
position. For the purposes of this division, "conflict of 132

interest" means the taking of any action as a member of the 133
council that affects a public agency the person serves as an 134
officer or employee. 135

(F) The department of development shall provide office 136
space for the council. The staff of the department of 137
development and the environmental protection agency shall assist 138
the council in its duties. 139

(G) Sections 101.82 to 101.87 of the Revised Code do not 140
apply to the clean Ohio council. 141

Sec. 122.652. (A) (1) An applicant seeking a grant or loan 142
for a brownfield cleanup or remediation project from the clean 143
Ohio revitalization fund created in section 122.658 of the 144
Revised Code shall request an application form from the director 145
of development. The applicant shall complete the application and 146
include all of the information required by sections 122.65 to 147
122.659 of the Revised Code and policies and requirements 148
established under section 122.657 of the Revised Code. 149

(2) In addition to the information that is required to be 150
included in the application under division (A) (1) of this 151
section, an applicant shall include an affidavit signed by the 152
authorized representative of the applicant and its development 153
partner, if applicable, certifying that the applicant did not 154
cause or contribute to the release of hazardous substances or 155
petroleum at the brownfield that is the subject of the 156
application. No person shall submit a false affidavit under 157
division (A) (2) of this section. 158

(3) After completion of the application, but prior to the 159
submission of the application to the director under division (B) 160
of this section, the applicant shall conduct a public meeting 161

concerning the application and the proposed cleanup or 162
remediation. Not later than forty-five days prior to conducting 163
the public meeting, the applicant shall do all of the following: 164

(a) Provide notice of the date, time, and location of the 165
public meeting on the internet in a manner that is accessible to 166
the public; 167

(b) Post notice of the date, time, and location of the 168
public meeting at the property on a sign that measures not less 169
than four feet by four feet or, if the political subdivision in 170
which the sign is to be posted prohibits a sign of that size, 171
the maximum size of sign permitted by that political 172
subdivision; 173

(c) Provide an electronic copy of the application to a 174
public library in the vicinity of the property for public 175
review. 176

The submission of the application and the location of the 177
public library shall be included in the notices required under 178
division (A) (3) of this section. The general public may submit 179
comments to the applicant concerning the application prior to 180
and at the public meeting. 181

(B) (1) An applicant shall submit a completed application, 182
all required information, and an application summary to the 183
director. Based on a review of the application summaries 184
submitted to the director, the director shall prioritize all 185
applications in accordance with criteria and procedures 186
established pursuant to section 122.657 of the Revised Code. The 187
director shall choose not more than six applications annually 188
for each of the districts created in section 164.03 of the 189
Revised Code that the director determines merit funding and 190

shall forward those applications and all accompanying 191
information to the clean Ohio council. In prioritizing and 192
choosing applications under this division, the director may 193
consult with local and regional economic development agencies or 194
resources, community development agencies or organizations, 195
local business organizations, and other appropriate entities 196
located or operating in the district in which the proposed 197
brownfield cleanup or remediation project is located. 198

(2) Notwithstanding division (B)(1) of this section, if 199
the director receives only one application in any given year for 200
a district created in section 164.03 of the Revised Code, the 201
director may forward that application to the clean Ohio council 202
as the district's top priority project for that year. 203

Sec. 122.653. (A) Upon receipt of an application from the 204
director of development, the clean Ohio council shall examine 205
the application and all accompanying information to determine if 206
the application is complete. If the council determines that the 207
application is not complete, the council immediately shall 208
notify the applicant that the application is not complete, 209
provide a description of the information that is missing from 210
the application, and return the application and all accompanying 211
information to the applicant. The applicant may resubmit the 212
application directly to the council within ten business days 213
after receipt of such notice. 214

(B) The council shall approve or disapprove in writing 215
applications submitted to the council by the director for grants 216
or loans from the clean Ohio revitalization fund. The council 217
shall not approve a project that fails to comply with the 218
requirements established in sections 122.65 to 122.659 of the 219
Revised Code and policies and requirements established under 220

section 122.657 of the Revised Code. The council also shall not 221
approve a project if the applicant or, if applicable, the 222
applicant's development partner caused or contributed to the 223
contamination at the property. In approving or disapproving 224
applications, the council shall use the selection process 225
established in policies and requirements established under 226
section 122.657 of the Revised Code. 227

(C) If the council approves an application under this 228
section, the department of development shall enter into an 229
agreement with the applicant to award a grant or make a loan for 230
the applicant's brownfield cleanup or remediation project. The 231
department shall not disburse grant or loan funds before the 232
agreement is executed. The agreement shall contain, at minimum, 233
all of the following: 234

(1) The designation of a single officer or employee of the 235
applicant who will serve as project manager; 236

(2) Procedures for the payment or disbursement of funds 237
from the grant or loan to the applicant; 238

(3) A designation of the percentage of the estimated total 239
cost of the project for which the grant or loan will provide 240
funding, which shall not exceed seventy-five per cent of that 241
cost as provided in section 122.658 of the Revised Code; 242

(4) A description of the manner by which the applicant 243
will provide the remainder of the estimated total cost of the 244
project, which shall equal at least twenty-five per cent of that 245
cost as provided in section 122.658 of the Revised Code; 246

(5) An assurance that the applicant will clean up or 247
remediate the brownfield to the applicable cleanup standards; 248

(6) A provision for the reimbursement of grant moneys or 249

immediate repayment of the loan, as applicable, if the completed 250
project does not comply with the applicable cleanup standards; 251

(7) Any other provisions that the department considers 252
necessary in order to ensure that the project's implementation 253
will comply with the requirements established in sections 122.65 254
to 122.659 of the Revised Code. 255

(D) A grant may be awarded or a loan may be made for a 256
project under this section to an applicant to pay the costs of 257
cleanup or remediation of a brownfield in order to comply with 258
the applicable cleanup standards. 259

Sec. 122.654. (A) (1) Except as otherwise provided in 260
division (G) of this section, an applicant who has entered into 261
an agreement with the department of development under section 262
122.653 of the Revised Code shall employ a certified 263
professional to determine if the brownfield cleanup or 264
remediation project complies with applicable cleanup standards. 265
The certified professional shall make this determination in 266
accordance with Chapter 3746. of the Revised Code and rules 267
adopted under that chapter. If the certified professional 268
determines that the cleanup or remediation complies with the 269
applicable cleanup standards, the certified professional shall 270
prepare a no further action letter. 271

(2) Upon completion of a no further action letter, the 272
certified professional shall send a copy of the letter to the 273
applicant. The letter shall be accompanied by both of the 274
following: 275

(a) A written request that the applicant notify the 276
certified professional as to whether the applicant wishes to 277
submit the no further action letter to the director of 278

environmental protection; 279

(b) A written notice informing the applicant that the 280
original no further action letter may be submitted to the 281
director of environmental protection only by a certified 282
professional and that the person may receive a covenant not to 283
sue under Chapter 3746. of the Revised Code and rules adopted 284
under that chapter in connection with the cleanup or remediation 285
only if the no further action letter is submitted to the 286
director on the applicant's behalf by a certified professional. 287

(3) The certified professional shall send a copy of the no 288
further action letter to the clean Ohio council and the 289
director. 290

(4) Promptly after receipt of the letter, request, and 291
notice, the applicant shall send written notice to the certified 292
professional informing the certified professional as to whether 293
the applicant wishes to submit the no further action letter to 294
the director and shall send a copy of the notice to the clean 295
Ohio council. If the applicant's notice indicates that the 296
applicant wishes to have the no further action letter submitted 297
to the director, promptly after receipt of the notice, the 298
certified professional shall submit the original no further 299
action letter to the director by certified mail on behalf of the 300
applicant. In addition, the certified professional shall send 301
written notice to the clean Ohio council informing the council 302
that the original no further action letter has been submitted to 303
the director. If the applicant notifies the certified 304
professional that the applicant does not wish to submit the no 305
further action letter to the director, the certified 306
professional shall send the original no further action letter to 307
the applicant promptly after receiving the notice. 308

(B) If the certified professional determines that the 309
cleanup or remediation does not comply with applicable cleanup 310
standards, the certified professional shall send to the 311
applicant and the clean Ohio council written notice of that fact 312
and of the certified professional's inability to issue a no 313
further action letter for the property. 314

(C) If the director receives a copy of a no further action 315
letter from a certified professional, the director shall review 316
the letter and determine whether the cleanup or remediation 317
complies with applicable cleanup standards. The director shall 318
prepare a written report of the the director's determination and 319
send a copy of the report to the clean Ohio council. 320

(D) If the director receives an original no further action 321
letter from a certified professional on behalf of an applicant, 322
the director shall issue or deny a covenant not to sue under 323
Chapter 3746. of the Revised Code and rules adopted under that 324
chapter except as otherwise specifically provided in sections 325
122.65 to 122.659 of the Revised Code. 326

(E) (1) A certified professional shall maintain all 327
documents and data prepared or acquired by the certified 328
professional in connection with the cleanup or remediation for 329
not less than ten years after the date of issuance of a no 330
further action letter or after the notice required under 331
division (B) of this section has been sent, whichever is 332
applicable. The clean Ohio council and the director may request 333
a certified professional to provide the clean Ohio council and 334
the director with documents and data for purposes of sections 335
122.65 to 122.659 of the Revised Code. 336

(2) No certified professional shall fail to comply with 337
division (E) (1) of this section or a request made under it. 338

(F) The clean Ohio council and director may request an 339
applicant to provide the council or the director with documents 340
and data for purposes of sections 122.65 to 122.659 of the 341
Revised Code. No applicant shall fail to comply with a request 342
made by the council or the director under this division. 343

(G) For purposes of sections 122.65 to 122.659 of the 344
Revised Code, Chapter 3746. of the Revised Code and rules 345
adopted under that chapter apply except as otherwise 346
specifically provided under those sections. 347

(H) For cleanup or remediation of a brownfield that is 348
subject to closure or corrective action requirements established 349
in rules adopted under section 3734.12 of the Revised Code, an 350
applicant who has entered into an agreement with the department 351
of development under section 122.653 of the Revised Code shall 352
send to the director documentation that demonstrates that the 353
cleanup or remediation complies with the applicable cleanup 354
standards. The director shall review the documentation and 355
determine if the cleanup or remediation complies with the 356
applicable cleanup standards. For purposes of the cleanup or 357
remediation, the applicant also shall obtain any necessary 358
review or approval from the director. The director shall prepare 359
a written report of the director's determination and send a copy 360
of the report to the clean Ohio council. 361

Sec. 122.655. (A) (1) A no further action letter issued 362
under section 122.654 of the Revised Code, a covenant not to sue 363
issued under Chapter 3746. of the Revised Code and rules adopted 364
under that chapter, if applicable, and any restrictions on the 365
use of the property that are needed in order to comply with the 366
applicable cleanup standards shall be filed by the applicant in 367
the office of the county recorder of the county in which the 368

property is located and shall be recorded in the same manner as 369
the deed to the property. 370

(2) No applicant shall fail to comply with division (A) of 371
this section. 372

(B) Pursuant to Chapter 5309. of the Revised Code, a no 373
further action letter issued under section 122.654 of the 374
Revised Code, a covenant not to sue issued under Chapter 3746. 375
of the Revised Code and rules adopted under that chapter, if 376
applicable, and any restrictions on the use of the property, as 377
described in division (A) of this section, in connection with 378
registered land, as defined in section 5309.01 of the Revised 379
Code, shall be entered as a memorial on the page of the register 380
where the title of the owner is registered. 381

Sec. 122.657. For the purposes of sections 122.65 to 382
122.659 of the Revised Code, the director of development shall 383
establish policies and requirements regarding all of the 384
following: 385

(A) The form and content of applications for grants or 386
loans from the clean Ohio revitalization fund under section 387
122.652 of the Revised Code. The policies and requirements shall 388
require that each application include, at a minimum, all of the 389
following: 390

(1) The name, address, and telephone number of the 391
applicant; 392

(2) The legal description of the property for which the 393
grant or loan is requested; 394

(3) A summary description of the hazardous substances or 395
petroleum present at the brownfield; 396

(4) A detailed explanation of the proposed cleanup or 397
remediation of the brownfield, including an identification of 398
the applicable cleanup standards and a detailed description of 399
the proposed use of the brownfield after completion of the 400
cleanup or remediation; 401

(5) An estimate of the total cost to clean up or remediate 402
the brownfield in order to comply with the applicable cleanup 403
standards. The total cost shall include the cost of employing a 404
certified professional under section 122.654 of the Revised 405
Code. 406

(6) A detailed explanation of the portion of the estimated 407
total cost of the cleanup or remediation of the brownfield that 408
the applicant proposes to provide as required under sections 409
122.653 and 122.658 of the Revised Code and financial records 410
supporting the implementation of the project; 411

(7) A certified copy of a resolution or ordinance 412
approving the project that the applicant shall obtain from the 413
board of township trustees of the township or the legislative 414
authority of the municipal corporation in which the property is 415
located, whichever is applicable; 416

(8) A description of the estimated economic benefit that 417
will result from a cleanup or remediation of the brownfield; 418

(9) An application summary; 419

(10) With respect to applications for loans, information 420
demonstrating that the applicant will implement a financial 421
management plan that includes, without limitation, provisions 422
for the satisfactory repayment of the loan; 423

(11) Any other provisions that the director requires to be 424
included in an application. 425

(B) Procedures for conducting public meetings and 426
providing public notice under division (A) of section 122.652 of 427
the Revised Code; 428

(C) A selection process that provides for the 429
prioritization of brownfield cleanup or remediation projects for 430
which grant or loan applications are submitted under section 431
122.652 of the Revised Code. The policies and requirements shall 432
require the selection process to give priority to projects in 433
which the post-cleanup or remediation use will be for a 434
combination of residential, commercial, or industrial purposes, 435
which may include the conversion of a portion of a brownfield to 436
a recreation, park, or natural area that is integrated with the 437
residential, commercial, or industrial use of the brownfield 438
after cleanup or remediation, or will incorporate projects that 439
are funded by grants awarded under sections 164.20 to 164.27 of 440
the Revised Code. The policies and requirements shall require 441
the selection process to incorporate and emphasize all of the 442
following factors: 443

(1) The potential economic benefit that will result from 444
the cleanup or remediation of a brownfield; 445

(2) The potential environmental improvement that will 446
result from the cleanup or remediation of a brownfield; 447

(3) The amount and nature of the match provided by an 448
applicant as required under sections 122.653 and 122.658 of the 449
Revised Code; 450

(4) Funding priorities recommended by the director; 451

(5) The potential benefit to low-income communities, 452
including minority communities, that will result from the 453
cleanup or remediation of a brownfield; 454

(6) Any other factors that the director considers 455
appropriate. 456

(D) The development of a brownfield cleanup and 457
remediation oversight program to ensure compliance with sections 458
122.65 to 122.659 of the Revised Code and policies and 459
requirements established under this section. The policies and 460
requirements shall require the program to include, at a minimum, 461
both of the following: 462

(1) Procedures for the accounting of invoices and receipts 463
and any other documents that are necessary to demonstrate that a 464
cleanup or remediation was properly performed; 465

(2) Procedures that are necessary to provide a detailed 466
explanation of the status of the property five years after the 467
completed cleanup or remediation. 468

(E) A delineation of what constitutes administrative costs 469
for purposes of division (D) of section 122.658 of the Revised 470
Code; 471

(F) Procedures and requirements for making loans and loan 472
agreements that include at least all of the following: 473

(1) Not more than fifteen per cent of moneys annually 474
allocated to the clean Ohio revitalization fund shall be used 475
for loans. 476

(2) The loans shall be made at or below market rates of 477
interest, including, without limitation, interest-free loans. 478

(3) The recipient of a loan shall identify a source of 479
security and a source of repayment of the loan. 480

(4) The clean Ohio council may accept notes and other 481
forms of obligation to evidence indebtedness, accept mortgages, 482

liens, pledges, assignments, and other security interests to 483
secure such indebtedness, and take any actions that are 484
considered by the council to be appropriate to protect such 485
security and safeguard against losses, including, without 486
limitation, foreclosure and bidding on the purchase of property 487
upon foreclosure or other sale. 488

(G) Any other policies and requirements that the director 489
determines are necessary for the administration of sections 490
122.65 to 122.659 of the Revised Code. 491

Sec. 122.658. (A) (1) The clean Ohio revitalization fund is 492
created in the state treasury. The fund shall consist of moneys 493
credited to it pursuant to section 151.40 of the Revised Code. 494
Moneys in the fund shall be used as follows: 495

(a) To pay reasonable costs incurred by the department of 496
development and the environmental protection agency in 497
administering sections 122.65 to 122.659 of the Revised Code; 498

(b) Ten per cent of the remaining moneys in the fund, 499
after deducting the amount described in division (A) (1) (a) of 500
this section, or two hundred thousand dollars per county, 501
whichever is less, shall be divided equally among the counties 502
and used to pay the reasonable costs of assessments; 503

(c) All remaining moneys in the fund, after deducting the 504
amounts described in divisions (A) (1) (a) and (b) of this 505
section, shall be used to make grants or loans for projects that 506
have been approved by the clean Ohio council in accordance with 507
section 122.653 of the Revised Code. 508

(2) All investment earnings of the fund shall be credited 509
to the fund. Investment earnings credited to the clean Ohio 510
revitalization fund may be used to pay costs incurred by the 511

department of development and the environmental protection 512
agency pursuant to sections 122.65 to 122.659 of the Revised 513
Code. 514

(3) The department of development shall administer the 515
clean Ohio revitalization fund in accordance with this section, 516
policies and requirements established under section 122.657 of 517
the Revised Code, and the terms of agreements entered into by 518
the council under section 122.653 of the Revised Code. 519

(B) (1) Grants awarded and loans made under section 122.653 520
of the Revised Code shall provide not more than eighty per cent 521
of the estimated total cost of a project. A grant or loan to any 522
one project shall not exceed six million dollars. An applicant 523
shall provide at least twenty per cent of the estimated total 524
cost of a project. The applicant's share may consist of one or a 525
combination of any of the following: 526

(a) Payment of the cost of acquiring the property for the 527
purposes of sections 122.65 to 122.659 of the Revised Code; 528

(b) Payment of the reasonable cost of an assessment at the 529
property, other than an assessment funded under division (A) (1) 530
(b) of this section; 531

(c) Clearance of the property; 532

(d) The reasonable value, as determined by the council, of 533
labor and materials that will be contributed by the applicant in 534
performing the cleanup or remediation; 535

(e) Moneys received by the applicant in any form for use 536
in performing the cleanup or remediation; 537

(f) Loans secured by the applicant for the purpose of the 538
cleanup or remediation of the brownfield. 539

(2) Costs that were incurred more than two years prior to 540
the submission of an application for a grant or loan under 541
section 122.653 of the Revised Code, for the acquisition of 542
property, assessments, clearance, cleanup, demolition, and labor 543
and materials shall not be used as part of the applicant's 544
matching share. 545

(C) The department of development shall not make any 546
payment to an applicant from the clean Ohio revitalization fund 547
to pay costs of the applicant that were not included in an 548
application for a grant or loan under section 122.653 of the 549
Revised Code or that exceed the amount of the estimated total 550
cost of the project included in the application. If, upon 551
completion of a project, the costs of the project are less than 552
the amounts included in the application, the amounts included in 553
the application less the amounts of the actual costs of the 554
project shall be credited to the clean Ohio revitalization fund. 555
The amounts credited shall be equivalent in percentage to the 556
percentage of the costs of the project that were to be funded by 557
the grant or loan from the fund. 558

(D) Grants awarded or loans made under section 122.653 of 559
the Revised Code from the clean Ohio revitalization fund shall 560
be used by an applicant only to pay the costs of the actual 561
cleanup or remediation of a brownfield and shall not be used by 562
an applicant to pay any administrative costs incurred by the 563
applicant. Costs related to the use of a certified professional 564
for purposes of section 122.654 of the Revised Code are not 565
administrative costs and may be paid with moneys from grants 566
awarded or loans made under section 122.653 of the Revised Code. 567

(E) Amounts received by the state after July 1, 2025, from 568
JobsOhio representing any part of the gross profit on the sale 569

of spirituous liquors shall be credited to the clean Ohio 570
revitalization fund. 571

Sec. 122.659. (A) Nothing in sections 122.65 to 122.658 of 572
the Revised Code, nor any agreement entered into under those 573
sections, shall be construed to amend, modify, repeal, or 574
otherwise alter any other provision of the Revised Code relating 575
to administrative, civil, or criminal penalties, or enforcement 576
actions and remedies available to the environmental protection 577
agency, or in any way amend, modify, repeal, or alter the 578
authority of that agency to bring administrative, civil, or 579
criminal actions under any provision of the Revised Code. 580

(B) Nothing in sections 122.65 to 122.658 of the Revised 581
Code shall affect the ability or authority of any person that is 582
undertaking or has undertaken investigation or remediation 583
activities at a brownfield under those sections to seek cost 584
recovery or contribution from or any relief available against 585
any person who may have liability with respect to the 586
brownfield. 587

(C) (1) An applicant who has entered into an agreement 588
under section 122.653 of the Revised Code is not liable in a 589
civil action under the Revised Code or the common law of the 590
state for the costs of an assessment or cleanup or remediation 591
of hazardous substances or petroleum that is present at or on 592
the property at the time at which the agreement was entered 593
into, and is not subject to the issuance of an order by the 594
director of environmental protection under Chapter 3714., 3734., 595
3750., 3751., 3752., 6109., or 6111. of the Revised Code 596
regarding an assessment or cleanup or remediation of hazardous 597
substances or petroleum that is present at or on the property at 598
the time at which the agreement was entered into, when all of 599

the following conditions apply: 600

(a) No action or omission of the applicant caused, 601
contributed to, or exacerbated a release or threatened release 602
of hazardous substances or petroleum at or on the property. 603

(b) The applicant conducts or causes to be conducted all 604
assessments and cleanup or remediation at or on the property in 605
compliance with the agreement and in accordance with all 606
applicable laws. 607

(c) The applicant conducts or causes to be conducted 608
activities occurring at the property, which are not related to 609
assessments or cleanup or remediation at or on the property, in 610
compliance with any applicable requirements established under 611
Chapters 3714., 3734., 3737., 3750., 3751., 3752., 3767., 6109., 612
and 6111. of the Revised Code and rules adopted under those 613
chapters. 614

(2) Division (C) of this section does not create, and 615
shall not be construed as creating, a new cause of action 616
against or substantive legal right for the applicant. 617

(3) Division (C) of this section does not affect, and 618
shall not be construed as affecting, any immunities from civil 619
liability or defenses established by another section of the 620
Revised Code or available at common law to which an applicant 621
may be entitled. 622

(4) Nothing in division (C) of this section shall be 623
construed as affecting any obligations to comply with any 624
environmental laws established in the Revised Code or the common 625
law of the state with respect to any release of hazardous 626
substances or petroleum after the issuance of a covenant not to 627
sue under Chapter 3746. of the Revised Code or a determination 628

made under division (G) of section 122.654 of the Revised Code. 629

Sec. 151.40. (A) As used in this section: 630

(1) "Bond proceedings" includes any trust agreements, and 631
any amendments or supplements to them, as authorized by this 632
section. 633

(2) "Costs of revitalization projects" includes related 634
direct administrative expenses and allocable portions of the 635
direct costs of those projects of the department of development 636
or the environmental protection agency. 637

(3) "Issuing authority" means the treasurer of state. 638

(4) "Obligations" means obligations as defined in section 639
151.01 of the Revised Code issued to pay the costs of projects 640
for revitalization purposes as referred to in division (A)(2) of 641
Section 2o of Article VIII, Ohio Constitution and division (A) 642
(2) of Section 2q of Article VIII, Ohio Constitution. 643

(5) "Pledged liquor profits" means all receipts of the 644
state representing the gross profit on the sale of spirituous 645
liquor, as referred to in division (B)(4) of section 4301.10 of 646
the Revised Code, after paying all costs and expenses of the 647
division of liquor control and providing an adequate working 648
capital reserve for the division of liquor control as provided 649
in that division, and after satisfying the obligations of the 650
transfer agreement authorized under Chapter 4313. of the Revised 651
Code, but excluding the sum required by the second paragraph of 652
section 4301.12 of the Revised Code, as it was in effect on May 653
2, 1980, to be paid into the state treasury. 654

(6) "Pledged receipts" means, as and to the extent 655
provided in bond proceedings: 656

(a) Pledged liquor profits. The pledge of pledged liquor 657
profits to obligations is subject to the priority of the pledge 658
of those profits to obligations issued and to be issued pursuant 659
to Chapter 166. of the Revised Code. 660

(b) Moneys accruing to the state from the lease, sale, or 661
other disposition or use of revitalization projects or from the 662
repayment, including any interest, of loans or advances made 663
from net proceeds; 664

(c) Accrued interest received from the sale of 665
obligations; 666

(d) Income from the investment of the special funds; 667

(e) Any gifts, grants, donations, or pledges, and receipts 668
therefrom, available for the payment of debt service; 669

(f) Additional or any other specific revenues or receipts 670
lawfully available to be pledged, and pledged, pursuant to 671
further authorization by the general assembly, to the payment of 672
debt service. 673

(B) (1) The issuing authority shall issue obligations of 674
the state to pay costs of revitalization projects pursuant to 675
division (B) (2) of Section 2o of Article VIII, Ohio 676
Constitution, division (B) (2) of Section 2q of Article VIII, 677
Ohio Constitution, section 151.01 of the Revised Code as 678
applicable to this section, and this section. Not more than four 679
hundred million dollars principal amount of obligations issued 680
under this section for revitalization purposes may be 681
outstanding at any one time. Not more than fifty million dollars 682
principal amount of obligations, plus the principal amount of 683
obligations that in any prior fiscal year could have been, but 684
were not issued within the fifty-million-dollar fiscal year 685

limit, may be issued in any fiscal year. 686

(2) The provisions and authorizations in section 151.01 of 687
the Revised Code apply to the obligations and the bond 688
proceedings except as otherwise provided or provided for in 689
those obligations and bond proceedings. 690

(C) Net proceeds of obligations shall be deposited as 691
follows: 692

(1) Before July 1, 2025, in the general revenue fund; 693

(2) On and after July 1, 2025, eighty per cent in the 694
clean Ohio revitalization fund created in section 122.658 of the 695
Revised Code, and twenty per cent in the general revenue fund. 696

(D) There is hereby created the revitalization projects 697
bond service fund, which shall be in the custody of the 698
treasurer of state, but shall be separate and apart from and not 699
a part of the state treasury. All money received by the state 700
and required by the bond proceedings, consistent with section 701
151.01 of the Revised Code and this section, to be deposited, 702
transferred, or credited to the bond service fund, and all other 703
money transferred or allocated to or received for the purposes 704
of that fund, shall be deposited and credited to the bond 705
service fund, subject to any applicable provisions of the bond 706
proceedings, but without necessity for any act of appropriation. 707
During the period beginning with the date of the first issuance 708
of obligations and continuing during the time that any 709
obligations are outstanding in accordance with their terms, so 710
long as moneys in the bond service fund are insufficient to pay 711
debt service when due on those obligations payable from that 712
fund, except the principal amounts of bond anticipation notes 713
payable from the proceeds of renewal notes or bonds anticipated, 714

and due in the particular fiscal year, a sufficient amount of 715
pledged receipts is committed and, without necessity for further 716
act of appropriation, shall be paid to the bond service fund for 717
the purpose of paying that debt service when due. 718

(E) The issuing authority may pledge all, or such portion 719
as the issuing authority determines, of the pledged receipts to 720
the payment of the debt service charges on obligations issued 721
under this section, and for the establishment and maintenance of 722
any reserves, as provided in the bond proceedings, and make 723
other provisions in the bond proceedings with respect to pledged 724
receipts as authorized by this section, which provisions are 725
controlling notwithstanding any other provisions of law 726
pertaining to them. 727

(F) The issuing authority may covenant in the bond 728
proceedings, and such covenants shall be controlling 729
notwithstanding any other provision of law, that the state and 730
applicable officers and state agencies, including the general 731
assembly, so long as any obligations issued under this section 732
are outstanding, shall maintain statutory authority for and 733
cause to be charged and collected wholesale or retail prices for 734
spirituous liquor sold by the state or its agents so that the 735
available pledged receipts are sufficient in time and amount to 736
meet debt service payable from pledged liquor profits and for 737
the establishment and maintenance of any reserves and other 738
requirements provided for in the bond proceedings. 739

(G) Obligations may be further secured, as determined by 740
the issuing authority, by a trust agreement between the state 741
and a corporate trustee, which may be any trust company or bank 742
having a place of business within the state. Any trust agreement 743
may contain the resolution or order authorizing the issuance of 744

the obligations, any provisions that may be contained in any 745
bond proceedings, and other provisions that are customary or 746
appropriate in an agreement of that type, including, but not 747
limited to: 748

(1) Maintenance of each pledge, trust agreement, or other 749
instrument comprising part of the bond proceedings until the 750
state has fully paid or provided for the payment of debt service 751
on the obligations secured by it; 752

(2) In the event of default in any payments required to be 753
made by the bond proceedings, enforcement of those payments or 754
agreements by mandamus, the appointment of a receiver, suit in 755
equity, action at law, or any combination of them; 756

(3) The rights and remedies of the holders or owners of 757
obligations and of the trustee and provisions for protecting and 758
enforcing them, including limitations on rights of individual 759
holders and owners. 760

(H) The obligations shall not be general obligations of 761
the state and the full faith and credit, revenue, and taxing 762
power of the state shall not be pledged to the payment of debt 763
service on them. The holders or owners of the obligations shall 764
have no right to have any moneys obligated or pledged for the 765
payment of debt service except as provided in this section and 766
in the applicable bond proceedings. The rights of the holders 767
and owners to payment of debt service are limited to all or that 768
portion of the pledged receipts, and those special funds, 769
pledged to the payment of debt service pursuant to the bond 770
proceedings in accordance with this section, and each obligation 771
shall bear on its face a statement to that effect. 772

Section 2. That existing section 151.40 of the Revised 773

Code is hereby repealed.

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