

AN ACT

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

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 307.86, 339.05, 505.08, 731.14, 749.37, and 5540.03 of the Revised Code be amended to read as follows:

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

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

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

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

(3) The product to be purchased is personal protective equipment and the purchase is completed during the period of the emergency declared by Executive Order 2020-01D, issued on March 9, 2020.

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

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

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

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

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

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

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

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

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

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

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

(2) Requests issuers of the policies, contracts, plans, or services to submit proposals to the contracting authority, in a form prescribed by the contracting authority, setting forth the coverage and cost of the policies, contracts, plans, or services as the contracting authority desires to purchase;

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

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

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

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

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

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

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

(d) The contracting authority negotiates with the prospective lessors to obtain a lease at the best and lowest price reasonably possible considering the fair market value of the property and any relocation and operational costs that may be incurred during the period the lease is in effect.

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

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

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

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

(M) The county contracting authority determines that the use of competitive sealed proposals would be advantageous to the county and the contracting authority complies with section 307.862 of the Revised Code.

(N) The purchase consists of used supplies and is made at a public auction.

Any issuer of policies, contracts, plans, or services listed in division (F) of this section and any prospective lessor under division (I) of this section may have the issuer's or prospective lessor's name and address, or the name and address of an agent, placed on a special notification list to be kept by the contracting authority, by sending the contracting authority that name and address. The contracting authority shall send notice to all persons listed on the special notification list. Notices shall state the deadline and place for submitting proposals. The contracting authority shall mail the notices at least six weeks prior to the deadline set by the contracting authority for submitting proposals. Every five years the contracting authority may review this list and remove any person from the list after mailing the person notification of that action.

Any contracting authority that negotiates a contract under division (F) of this section shall request proposals and negotiate with issuers in accordance with that division at least every three

years from the date of the signing of such a contract, unless the parties agree upon terms for extensions or renewals of the contract. Such extension or renewal periods shall not exceed six years from the date the initial contract is signed.

Any real estate appraiser employed pursuant to division (I) of this section shall disclose any fees or compensation received from any source in connection with that employment.

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

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

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

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

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

(3) The product to be purchased is personal protective equipment and the purchase is completed during the period of the emergency declared by Executive Order 2020-01D, issued on March 9, 2020.

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

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

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

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

Sec. 505.08. After adopting by a unanimous vote a resolution declaring a real and present emergency in connection with the administration of township services or the execution of duties assigned by law to any officer of a township, the board of township trustees may, by resolution, enter into a contract, without bidding or advertising, for the purchase of services, materials, equipment, or supplies needed to meet the emergency if the estimated cost of the contract is less than fifty thousand dollars.

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

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

Sec. 731.14. All contracts made by the legislative authority of a village shall be executed in the name of the village and signed on its behalf by the mayor and clerk. Except where the contract is for equipment, services, materials, or supplies to be purchased under division (D) of section 713.23 or section 125.04 or 5513.01 of the Revised Code, available from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code, or required to be purchased from a qualified nonprofit agency under sections 125.60 to 125.6012 of the Revised Code, or, during the period of emergency declared by Executive Order 2020-01D, issued on March 9, 2020, when the purchase is for personal protective equipment necessary to respond to that emergency, when any expenditure, other than the compensation of persons employed in the village, exceeds fifty thousand dollars, such contracts shall be in writing and made with the lowest and best bidder after advertising once a week for not less than two consecutive weeks in a newspaper of general circulation within the village. The legislative authority may also cause notice to be inserted in trade papers or other publications designated by it or to be distributed by electronic means, including posting the notice on the legislative authority's internet web site. If the legislative authority posts the notice on its web site, it may eliminate the second notice otherwise required to be published in a newspaper of general circulation within the village, provided that the first notice published in such newspaper meets all of the following requirements:

- (A) It is published at least two weeks before the opening of bids.
- (B) It includes a statement that the notice is posted on the legislative authority's internet web site.
- (C) It includes the internet address of the legislative authority's internet web site.
- (D) It includes instructions describing how the notice may be accessed on the legislative authority's internet web site.

The bids shall be opened and shall be publicly read by the clerk of the village or a person designated by the clerk at the time, date, and place specified in the advertisement to bidders or specifications. The time, date, and place of bid openings may be extended to a later date by the legislative authority of the village, provided that written or oral notice of the change shall be given to all persons who have received or requested specifications no later than ninety-six hours prior to the original time and date fixed for the opening. This section does not apply to those villages that have provided for the appointment of a village administrator under section 735.271 of the Revised Code.

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

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

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

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

This section does not otherwise alter the competitive bidding requirements that apply to the board when entering into a contract for a public improvement.

Sec. 5540.03. (A) A transportation improvement district may:

- (1) Adopt bylaws for the regulation of its affairs and the conduct of its business;
- (2) Adopt an official seal;
- (3) Sue and be sued in its own name, plead and be impleaded, provided any actions against the district shall be brought in the court of common pleas of the county in which the principal office of the district is located, or in the court of common pleas of the county in which the cause of action arose, and all summonses, exceptions, and notices of every kind shall be served on the district by leaving a copy thereof at its principal office with the secretary-treasurer;
- (4) Purchase, construct, maintain, repair, sell, exchange, police, operate, or lease projects;
- (5) Issue either or both of the following for the purpose of providing funds to pay the costs of any project or part thereof:
 - (a) Transportation improvement district revenue bonds;
 - (b) Bonds pursuant to Section 13 of Article VIII, Ohio Constitution~~;~~
 - (6) Maintain such funds as it considers necessary;
 - (7) Direct its agents or employees, when properly identified in writing and after at least five days' written notice, to enter upon lands within its jurisdiction to make surveys and examinations preliminary to the location and construction of projects for the district, without liability of the district or its agents or employees except for actual damage done;
 - (8) Make and enter into all contracts and agreements necessary or incidental to the performance of its functions and the execution of its powers under this chapter;
 - (9) Employ or retain or contract for the services of consulting engineers, superintendents, managers, and such other engineers, construction and accounting experts, financial advisers, trustees, marketing, remarketing, and administrative agents, attorneys, and other employees, independent contractors, or agents as are necessary in its judgment and fix their compensation, provided all such

expenses shall be payable solely from the proceeds of bonds or from revenues;

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

(11) Acquire, hold, and dispose of property in the exercise of its powers and the performance of its duties under this chapter;

(12) Establish and collect tolls or user charges for its projects;

(13) Subject to section 5540.18 of the Revised Code, enter into an agreement with a contiguous board of county commissioners other than the board of county commissioners that created the transportation improvement district, for the district to exercise all or any portion of its powers with respect to a project that is located wholly or partially within the county that is party to the agreement;

(14) Do all acts necessary and proper to carry out the powers expressly granted in this chapter.

(B)(1) Chapters 123., 124., 125., and 153., and 4115., and sections 9.331 to 9.335 and 307.86 of the Revised Code do not apply to contracts or projects of a transportation improvement district.

(2) A transportation improvement district is subject to sections 4115.03 to 4115.21 and 4115.99 of the Revised Code, unless the amount of state or local government funds, including, but not limited to, those provided by any agency, entity, or instrumentality of the state or a local government as described in division (A)(10) of this section received for the contract or project, is, in the aggregate, less than the amounts described in or calculated under section 4115.03 of the Revised Code.

SECTION 2. That existing sections 307.86, 339.05, 505.08, 731.14, 749.37, and 5540.03 of the Revised Code are hereby repealed.

SECTION 3. Except as otherwise provided in this act, all appropriation items in this act are appropriated out of any moneys in the state treasury to the credit of the designated fund that are not otherwise appropriated for the capital biennium ending June 30, 2022.

SECTION 4. FCC FACILITIES CONSTRUCTION COMMISSION

| | 1 | 2 | 3 |
|---|---|------------------------------------|----------------|
| A | School Building Program Assistance Fund (Fund 7032) | | |
| B | C23002 | School Building Program Assistance | \$ 300,000,000 |
| C | TOTAL School Building Program Assistance Fund | | \$ 300,000,000 |
| D | TOTAL ALL FUNDS | | \$ 300,000,000 |

SCHOOL BUILDING PROGRAM ASSISTANCE

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

SECTION 5. PWC PUBLIC WORKS COMMISSION

| | 1 | 2 | 3 |
|---|--|---------------------------------------|----------------|
| A | State Capital Improvements Fund (Fund 7038) | | |
| B | C15000 | Local Public Infrastructure/State CIP | \$ 175,000,000 |
| C | TOTAL State Capital Improvements Fund | | \$ 175,000,000 |
| D | State Capital Improvements Revolving Loan Fund (Fund 7040) | | |
| E | C15030 | Revolving Loan | \$ 42,500,000 |
| F | TOTAL State Capital Improvements Revolving Loan Fund | | \$ 42,500,000 |
| G | Clean Ohio Conservation Fund (Fund 7056) | | |
| H | C15060 | Clean Ohio Conservation Program | \$ 37,500,000 |
| I | TOTAL Clean Ohio Conservation Fund | | \$ 37,500,000 |
| J | TOTAL ALL FUNDS | | \$ 255,000,000 |

LOCAL PUBLIC INFRASTRUCTURE

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

If the Public Works Commission receives refunds due to project overpayments that are discovered during a post-project audit, the Director of the Public Works Commission may certify to the Director of Budget and Management that refunds have been received. In certifying the refunds, the Director of the Public Works Commission shall provide the Director of Budget and Management information on the project refunds. The certification shall detail by project the source and amount of project overpayments received and include any supporting documentation required or requested by the Director of Budget and Management. Upon receipt of the certification, the Director of Budget and Management shall determine if the project refunds are necessary to support existing appropriations. If the project refunds are available to support additional appropriations, these amounts are hereby appropriated to appropriation item C15000, Local Public Infrastructure/State CIP.

REVOLVING LOAN

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

If the Public Works Commission receives refunds due to project overpayments that are discovered during a post-project audit, the Director of the Public Works Commission may certify to the Director of Budget and Management that refunds have been received. In certifying the refunds, the Director of the Public Works Commission shall provide the Director of Budget and Management information on the project refunds. The certification shall detail by project the source and amount of project overpayments received and include any supporting documentation required or requested by the Director of Budget and Management. Upon receipt of the certification, the Director of Budget and Management shall determine if the project refunds are necessary to support existing appropriations. If the project refunds are available to support additional appropriations, these amounts are hereby appropriated to appropriation item C15030, Revolving Loan.

CLEAN OHIO CONSERVATION GRANT REPAYMENTS

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

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

SECTION 6. BOND ISSUANCE AUTHORIZATIONS

(A) The Ohio Public Facilities Commission is hereby authorized to issue and sell, in accordance with Section 2n of Article VIII, Ohio Constitution, and Chapter 151. and particularly

sections 151.01 and 151.03 of the Revised Code, original obligations in an aggregate principal amount not to exceed \$300,000,000, in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. These authorized obligations shall be issued, subject to applicable constitutional and statutory limitations, as needed to provide sufficient moneys to the credit of the School Building Program Assistance Fund (Fund 7032) to pay the state share of the costs of constructing classroom facilities pursuant to Chapter 3318. of the Revised Code.

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

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

SECTION 7. CERTIFICATION OF AVAILABILITY OF MONEYS

Moneys that require release shall not be expended from any appropriation contained in this act without certification of the Director of Budget and Management that there are sufficient moneys in the state treasury in the fund from which the appropriation is made. Such certification made by the Office of Budget and Management shall be based on estimates of revenue, receipts, and expenses. Nothing in this section limits the authority of the Director of Budget and Management granted in section 126.07 of the Revised Code.

SECTION 8. LIMITATION ON USE OF CAPITAL APPROPRIATIONS

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

- (A) Acquisition of real property or interests in real property;
- (B) Buildings and structures, which includes construction, demolition, complete heating and cooling, lighting, and lighting fixtures, and all necessary utilities, ventilating, plumbing, sprinkling, water and sewer systems, when such systems are authorized or necessary;
- (C) Architectural, engineering, and professional services expenses directly related to the

projects;

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

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

(F) Furniture, fixtures, or equipment that meets all the following criteria:

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

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

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

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

SECTION 9. CONTINGENCY RESERVE REQUIREMENT

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

Any funds remaining upon completion of a project, may, upon approval of the Controlling Board, be released for the use of the institution to which the appropriation was made for another capital facilities project or projects.

SECTION 10. SATISFACTION OF JUDGMENTS AND SETTLEMENTS AGAINST THE STATE

Except as otherwise provided in this section, an appropriation contained in this act or in any other act may be used for the purpose of satisfying judgments, settlements, or administrative awards ordered or approved by the Court of Claims or by any other court of competent jurisdiction in connection with civil actions against the state. This authorization does not apply to appropriations that are to be applied to or used for payment of guarantees by or on behalf of the state or for payments under lease agreements relating to or debt service on bonds, notes, or other obligations of the state. Notwithstanding any other section of law to the contrary, this authorization includes appropriations from funds into which proceeds or direct obligations of the state are deposited only to

the extent that the judgment, settlement, or administrative award is for or represents capital costs for which the appropriation may otherwise be used and is consistent with the purpose for which any related obligations were issued or entered into. Nothing contained in this section is intended to subject the state to suit in any forum in which it is not otherwise subject to suit, nor is it intended to waive or compromise any defense or right available to the state in any suit against it.

SECTION 11. CAPITAL RELEASES BY THE DIRECTOR OF BUDGET AND MANAGEMENT

Notwithstanding section 126.14 of the Revised Code, the appropriations to the Facilities Construction Commission from the School Building Program Assistance Fund (Fund 7032) and to the Public Works Commission from the Clean Ohio Conservation Fund (Fund 7056), the State Capital Improvement Fund (Fund 7038), and the State Capital Improvements Revolving Loan Fund (Fund 7040) shall be released upon presentation of a request to release the funds, by the agency to which the appropriation has been made, to the Director of Budget and Management.

SECTION 12. PREVAILING WAGE REQUIREMENT

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

SECTION 13. AUTHORIZATION OF THE DIRECTOR OF BUDGET AND MANAGEMENT

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

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

(B) The expenditure or encumbrance of moneys from funds into which proceeds of direct obligations are deposited, only after determining to the Director's satisfaction that either of the following applies:

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

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

In the event the Director determines that the condition set forth in division (B)(1) of this section does not apply, and that there is no existing fund in the state treasury to enable compliance

with the condition set forth in division (B)(2) of this section, the Director may create a fund in the state treasury for the purpose of receiving proceeds of federally taxable obligations. The Director may establish capital appropriation items in that taxable bond fund that correspond to the preexisting capital appropriation items in the associated tax-exempt bond fund. The Director also may transfer capital appropriations in whole or in part between the taxable and tax-exempt bond funds within a particular purpose for which the bonds have been authorized.

SECTION 14. OBLIGATIONS ISSUED UNDER CHAPTER 151. OF THE REVISED CODE

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

SECTION 15. TRANSFER OF OPEN ENCUMBRANCES

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

SECTION 16. LITIGATION PROCEEDS TO THE ADMINISTRATIVE BUILDING FUND

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

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

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

(2) On or after the first day of the municipal corporation's or township's fiscal year ending in or with 2021 but before the last day of that fiscal year, appropriate and expend the sum of not more

than twenty-five per cent of the unencumbered balance of the municipal public improvement tax increment equivalent fund, urban redevelopment tax increment equivalent fund, or township public improvement tax increment equivalent fund, as applicable, as of the first day of that fiscal year, plus not more than twenty-five per cent of any amount deposited to that fund during that fiscal year, to be used as authorized in division (B) of this section.

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

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

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

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

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

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____