

**As Introduced**

**134th General Assembly**

**Regular Session**

**2021-2022**

**H. B. No. 143**

**Representative Hillyer**

**Cosponsors: Representatives Seitz, Troy, Swearingen, Loychik**

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**A BILL**

To amend sections 122.65, 122.658, and 151.40 of 1  
the Revised Code relating to the Clean Ohio 2  
Program and to make an appropriation. 3

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

**Section 1.** That sections 122.65, 122.658, and 151.40 of 4  
the Revised Code be amended to read as follows: 5

**Sec. 122.65.** As used in sections 122.65 to 122.659 of the 6  
Revised Code: 7

(A) "Applicable cleanup standards" means either of the 8  
following: 9

(1) For property to which Chapter 3734. of the Revised 10  
Code and rules adopted under it apply, the requirements for 11  
closure or corrective action established in rules adopted under 12  
section 3734.12 of the Revised Code; 13

(2) For property to which Chapter 3746. of the Revised 14  
Code and rules adopted under it apply, the cleanup standards 15  
that are established in rules adopted under section 3746.04 of 16  
the Revised Code. 17

(B) "Applicant" means a county, township, municipal corporation, port authority, or conservancy district or a park district, other similar park authority, county land reutilization corporation, nonprofit organization, or organization for profit that has entered into an agreement with a county, township, municipal corporation, port authority, or conservancy district to work in conjunction with that county, township, municipal corporation, port authority, or conservancy district for the purposes of sections 122.65 to 122.658 of the Revised Code.

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

(D) "Brownfield" means an abandoned, idled, or under-used industrial, commercial, or institutional property where expansion or redevelopment is complicated by known or potential releases of hazardous substances or petroleum.

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

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

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

(H) "Distressed area" means either a municipal corporation 47  
with a population of at least fifty thousand or a county that 48  
meets any two of the following criteria: 49

(1) Its average rate of unemployment, during the most 50  
recent five-year period for which data are available, is equal 51  
to at least one hundred twenty-five per cent of the average rate 52  
of unemployment for the United States for the same period. 53

(2) It has a per capita income equal to or below eighty 54  
per cent of the median county per capita income of the United 55  
States as determined by the most recently available figures from 56  
the United States census bureau. 57

(3) (a) In the case of a municipal corporation, at least 58  
twenty per cent of the residents have a total income for the 59  
most recent census year that is below the official poverty line. 60

(b) In the case of a county, in intercensal years, the 61  
county has a ratio of transfer payment income to total county 62  
income equal to or greater than twenty-five per cent. 63

"Distressed area" includes a municipal corporation the 64  
majority of the population of which is situated in a county that 65  
is a distressed area. 66

~~(H)~~ (I) "Eligible area" means a distressed area, an inner 67  
city area, a labor surplus area, or a situational distress area. 68

~~(I)~~ (J) "Inner city area" means an area in a municipal 69  
corporation that has a population of at least one hundred 70  
thousand, is not a labor surplus area, and is a targeted 71  
investment area established by the municipal corporation that is 72  
comprised of block tracts identified in the most recently 73  
available figures from the United States census bureau in which 74  
at least twenty per cent of the population in the area is at or 75

below the official poverty line or of contiguous block tracts 76  
meeting those criteria. 77

~~(J)~~ (K) "Institutional property" means property currently 78  
or formerly owned or controlled by the state that is or was used 79  
for a public or charitable purpose. However, "institutional 80  
property" does not mean property that is or was used for 81  
educational purposes. 82

~~(K)~~ (L) "Integrating committee" means a district public 83  
works integrating committee established under section 164.04 of 84  
the Revised Code. 85

~~(L)~~ (M) "Labor surplus area" means an area designated as a 86  
labor surplus area by the United States department of labor. 87

~~(M)~~ (N) "Loan" includes credit enhancement. 88

~~(N)~~ (O) "No further action letter" means a letter that is 89  
prepared by a certified professional when, on the basis of the 90  
best knowledge, information, and belief of the certified 91  
professional, the certified professional concludes that the 92  
cleanup or remediation of a brownfield meets the applicable 93  
cleanup standards and that contains all of the information 94  
specified in rules adopted under division (B) (7) of section 95  
3746.04 of the Revised Code. 96

~~(O)~~ (P) "Nonprofit organization" means a corporation, 97  
association, group, institution, society, or other organization 98  
that is exempt from federal income taxation under section 501(c) 99  
(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 100  
U.S.C. 501(c) (3), as amended. 101

~~(P)~~ (Q) "Property" means any parcel of real property, or 102  
portion of such a parcel, and any improvements to it. 103

~~(Q)~~~~(R)~~ "Public health project" means the cleanup or 104  
remediation of a release or threatened release of hazardous 105  
substances or petroleum at a property where little or no 106  
economic redevelopment potential exists. 107

~~(R)~~~~(S)~~ "Official poverty line" has the same meaning as in 108  
section 3923.51 of the Revised Code. 109

~~(S)~~~~(T)~~ "Situational distress area" means a county or a 110  
municipal corporation that has experienced or is experiencing a 111  
closing or downsizing of a major employer that will adversely 112  
affect the county or municipal corporation's economy and that 113  
has applied to the director of development to be designated as a 114  
situational distress area for not more than thirty months by 115  
demonstrating all of the following: 116

(1) The number of jobs lost by the closing or downsizing; 117

(2) The impact that the job loss has on the county or 118  
municipal corporation's unemployment rate as measured by the 119  
director of job and family services; 120

(3) The annual payroll associated with the job loss; 121

(4) The amount of state and local taxes associated with 122  
the job loss; 123

(5) The impact that the closing or downsizing has on 124  
suppliers located in the county or municipal corporation. 125

**Sec. 122.658.** (A) The clean Ohio revitalization fund is 126  
hereby created in the state treasury. The fund shall consist of 127  
moneys credited to it pursuant to section 151.40 of the Revised 128  
Code. Moneys in the fund shall be used to make grants or loans 129  
for projects that have been approved by the clean Ohio council 130  
in accordance with section 122.653 of the Revised Code, except 131

that the council annually shall devote twenty per cent of the 132  
net proceeds of obligations deposited in the clean Ohio 133  
revitalization fund for the purposes of section 122.656 of the 134  
Revised Code. 135

Moneys in the clean Ohio revitalization fund may be used 136  
to pay reasonable costs incurred by the department of 137  
development and the environmental protection agency in 138  
administering sections 122.65 to 122.658 of the Revised Code. 139  
All investment earnings of the fund shall be credited to the 140  
fund. Investment earnings credited to the clean Ohio 141  
revitalization fund may be used to pay costs incurred by the 142  
department of development and the environmental protection 143  
agency pursuant to sections 122.65 to 122.658 of the Revised 144  
Code. 145

The department of development shall administer the clean 146  
Ohio revitalization fund in accordance with this section, 147  
policies and requirements established under section 122.657 of 148  
the Revised Code, and the terms of agreements entered into by 149  
the council under section 122.653 of the Revised Code. 150

(B) Grants awarded and loans made under section 122.653 of 151  
the Revised Code shall provide not more than seventy-five per 152  
cent of the estimated total cost of a project. A grant or loan 153  
to any one project shall not exceed three million dollars. An 154  
applicant shall provide at least twenty-five per cent of the 155  
estimated total cost of a project. The applicant's share may 156  
consist of one or a combination of any of the following: 157

(1) Payment of the cost of acquiring the property for the 158  
purposes of sections 122.65 to 122.658 of the Revised Code; 159

(2) Payment of the reasonable cost of an assessment at the 160

property;	161
(3) 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;	162 163 164
(4) Moneys received by the applicant in any form for use in performing the cleanup or remediation;	165 166
(5) Loans secured by the applicant for the purpose of the cleanup or remediation of the brownfield.	167 168
Costs that were incurred more than two years prior to the submission of an application to the clean Ohio council for the acquisition of property, assessments, and labor and materials shall not be used as part of the applicant's matching share.	169 170 171 172
(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. However, 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.	173 174 175 176 177 178 179 180 181 182 183 184 185
(D) Grants awarded or loans made under section 122.653 of the Revised Code from the clean Ohio revitalization fund shall be used by an applicant only to pay the costs of the actual cleanup or remediation of a brownfield and shall not be used by	186 187 188 189

an applicant to pay any administrative costs incurred by the 190  
applicant. Costs related to the use of a certified professional 191  
for purposes of section 122.654 of the Revised Code are not 192  
administrative costs and may be paid with moneys from grants 193  
awarded or loans made under section 122.653 of the Revised Code. 194

(E) The portion of net proceeds of obligations devoted 195  
under division (A) of this section for the purposes of section 196  
122.656 of the Revised Code shall be used to make grants for 197  
assessments, cleanup or remediation of brownfields, and public 198  
health projects that have been approved by the director of 199  
development under that section. The department of development 200  
shall administer section 122.656 of the Revised Code in 201  
accordance with this section, policies and requirements 202  
established under section 122.657 of the Revised Code, and the 203  
terms of agreements entered into by the director under section 204  
122.656 of the Revised Code. The director shall not grant more 205  
than twenty-five million dollars for public health projects 206  
under section 122.656 of the Revised Code. 207

(F) Grants awarded under section 122.656 of the Revised 208  
Code shall be used by an applicant only to pay the costs of 209  
actually conducting an assessment, a cleanup or remediation of a 210  
brownfield, or a public health project and shall not be used by 211  
an applicant to pay any administrative costs incurred by the 212  
applicant. Costs related to the use of a certified professional 213  
for purposes of section 122.654 of the Revised Code are not 214  
administrative costs and may be paid with moneys from grants 215  
awarded under section 122.656 of the Revised Code. 216

(G) Any amounts received by the state after July 1, 2021, 217  
from JobsOhio representing any part of the gross profit on the 218  
sale of spirituous liquors shall be credited to the clean Ohio 219



<u>revitalization fund.</u>	220
<b>Sec. 151.40.</b> (A) As used in this section:	221
(1) "Bond proceedings" includes any trust agreements, and any amendments or supplements to them, as authorized by this section.	222 223 224
(2) "Costs of revitalization projects" includes related direct administrative expenses and allocable portions of the direct costs of those projects of the department of development or the environmental protection agency.	225 226 227 228
(3) "Issuing authority" means the treasurer of state.	229
(4) "Obligations" means obligations as defined in section 151.01 of the Revised Code issued to pay the costs of projects for revitalization purposes as referred to in division (A) (2) of Section 2o of Article VIII, Ohio Constitution and division (A) (2) of Section 2q of Article VIII, Ohio Constitution.	230 231 232 233 234
(5) "Pledged liquor profits" means all receipts of the state representing the gross profit on the sale of spirituous liquor, as referred to in division (B) (4) of section 4301.10 of the Revised Code, after paying all costs and expenses of the division of liquor control and providing an adequate working capital reserve for the division of liquor control as provided in that division, <u>and after satisfying the obligations of the transfer agreement authorized under Chapter 4313. of the Revised Code,</u> but excluding the sum required by the second paragraph of section 4301.12 of the Revised Code, as it was in effect on May 2, 1980, to be paid into the state treasury.	235 236 237 238 239 240 241 242 243 244 245
(6) "Pledged receipts" means, as and to the extent provided in bond proceedings:	246 247

(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.	248 249 250 251
(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;	252 253 254 255
(c) Accrued interest received from the sale of obligations;	256 257
(d) Income from the investment of the special funds;	258
(e) Any gifts, grants, donations, or pledges, and receipts therefrom, available for the payment of debt service;	259 260
(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.	261 262 263 264
(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. The issuing authority, upon the certification to it by the clean Ohio council 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 for those purposes. Not more than four hundred million dollars principal	265 266 267 268 269 270 271 272 273 274 275 276

amount of obligations issued under this section for 277  
revitalization purposes may be outstanding at any one time. Not 278  
more than fifty million dollars principal amount of obligations, 279  
plus the principal amount of obligations that in any prior 280  
fiscal year could have been, but were not issued within the 281  
fifty-million-dollar fiscal year limit, may be issued in any 282  
fiscal year. 283

(2) The provisions and authorizations in section 151.01 of 284  
the Revised Code apply to the obligations and the bond 285  
proceedings except as otherwise provided or provided for in 286  
those obligations and bond proceedings. 287

(C) Net proceeds of obligations shall be deposited in the 288  
clean Ohio revitalization fund created in section 122.658 of the 289  
Revised Code. 290

(D) There is hereby created the revitalization projects 291  
bond service fund, which shall be in the custody of the 292  
treasurer of state, but shall be separate and apart from and not 293  
a part of the state treasury. All money received by the state 294  
and required by the bond proceedings, consistent with section 295  
151.01 of the Revised Code and this section, to be deposited, 296  
transferred, or credited to the bond service fund, and all other 297  
money transferred or allocated to or received for the purposes 298  
of that fund, shall be deposited and credited to the bond 299  
service fund, subject to any applicable provisions of the bond 300  
proceedings, but without necessity for any act of appropriation. 301  
During the period beginning with the date of the first issuance 302  
of obligations and continuing during the time that any 303  
obligations are outstanding in accordance with their terms, so 304  
long as moneys in the bond service fund are insufficient to pay 305  
debt service when due on those obligations payable from that 306

fund, except the principal amounts of bond anticipation notes 307  
payable from the proceeds of renewal notes or bonds anticipated, 308  
and due in the particular fiscal year, a sufficient amount of 309  
pledged receipts is committed and, without necessity for further 310  
act of appropriation, shall be paid to the bond service fund for 311  
the purpose of paying that debt service when due. 312

(E) The issuing authority may pledge all, or such portion 313  
as the issuing authority determines, of the pledged receipts to 314  
the payment of the debt service charges on obligations issued 315  
under this section, and for the establishment and maintenance of 316  
any reserves, as provided in the bond proceedings, and make 317  
other provisions in the bond proceedings with respect to pledged 318  
receipts as authorized by this section, which provisions are 319  
controlling notwithstanding any other provisions of law 320  
pertaining to them. 321

(F) The issuing authority may covenant in the bond 322  
proceedings, and such covenants shall be controlling 323  
notwithstanding any other provision of law, that the state and 324  
applicable officers and state agencies, including the general 325  
assembly, so long as any obligations issued under this section 326  
are outstanding, shall maintain statutory authority for and 327  
cause to be charged and collected wholesale or retail prices for 328  
spirituous liquor sold by the state or its agents so that the 329  
available pledged receipts are sufficient in time and amount to 330  
meet debt service payable from pledged liquor profits and for 331  
the establishment and maintenance of any reserves and other 332  
requirements provided for in the bond proceedings. 333

(G) Obligations may be further secured, as determined by 334  
the issuing authority, by a trust agreement between the state 335  
and a corporate trustee, which may be any trust company or bank 336

having a place of business within the state. Any trust agreement 337  
may contain the resolution or order authorizing the issuance of 338  
the obligations, any provisions that may be contained in any 339  
bond proceedings, and other provisions that are customary or 340  
appropriate in an agreement of that type, including, but not 341  
limited to: 342

(1) Maintenance of each pledge, trust agreement, or other 343  
instrument comprising part of the bond proceedings until the 344  
state has fully paid or provided for the payment of debt service 345  
on the obligations secured by it; 346

(2) In the event of default in any payments required to be 347  
made by the bond proceedings, enforcement of those payments or 348  
agreements by mandamus, the appointment of a receiver, suit in 349  
equity, action at law, or any combination of them; 350

(3) The rights and remedies of the holders or owners of 351  
obligations and of the trustee and provisions for protecting and 352  
enforcing them, including limitations on rights of individual 353  
holders and owners. 354

(H) The obligations shall not be general obligations of 355  
the state and the full faith and credit, revenue, and taxing 356  
power of the state shall not be pledged to the payment of debt 357  
service on them. The holders or owners of the obligations shall 358  
have no right to have any moneys obligated or pledged for the 359  
payment of debt service except as provided in this section and 360  
in the applicable bond proceedings. The rights of the holders 361  
and owners to payment of debt service are limited to all or that 362  
portion of the pledged receipts, and those special funds, 363  
pledged to the payment of debt service pursuant to the bond 364  
proceedings in accordance with this section, and each obligation 365  
shall bear on its face a statement to that effect. 366

**Section 2.** That existing sections 122.65, 122.658, and 151.40 of the Revised Code are hereby repealed.

**Section 3.** In each year of the biennium ending June 30, 2023, an amount equal to the revenue deposited into the Clean Ohio Revitalization Fund (Fund 7003) under division (G) of section 122.658 of the Revised Code is hereby appropriated for grants under the Clean Ohio Revitalization Program as described in sections 122.65 to 122.659 of the Revised Code.

**Section 4.** Within the limits set forth in this act, the Director of Budget and Management shall establish accounts indicating the source and amount of funds for each appropriation made in this act, and shall determine the form and manner in which appropriation accounts shall be maintained. Expenditures from appropriations contained in this act shall be accounted for as though made in the main operating appropriations act of the 134th General Assembly. The appropriations made in this act are subject to all provisions of the main operating appropriations act of the 134th General Assembly that are generally applicable to such appropriations.