

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 733

Representatives Edwards, Wilkin

A BILL

To amend sections 3318.024, 3318.051, 3318.055, 1
3318.084, and 3318.364 and to enact sections 2
3318.33, 3318.34, and 3318.35 of the Revised 3
Code to establish the Accelerated Appalachian 4
School Building Assistance Program, the 5
Classroom Facilities Re-Entry Program, and the 6
Capital Improvement and Replacement Program, and 7
to make an appropriation. 8

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

Section 1. That sections 3318.024, 3318.051, 3318.055, 9
3318.084, and 3318.364 be amended and sections 3318.33, 3318.34, 10
and 3318.35 of the Revised Code be enacted to read as follows: 11

Sec. 3318.024. In the first year of a capital biennium, 12
any funds appropriated to the Ohio facilities construction 13
commission for classroom facilities projects under this chapter 14
in the previous capital biennium that were not spent or 15
encumbered, or for which an encumbrance has been canceled under 16
section 3318.05 of the Revised Code, shall be used by the 17
commission only for projects under sections 3318.01 to 3318.20 18
of the Revised Code, subject to appropriation by the general 19

assembly. 20

In the second year of a capital biennium, any funds 21
appropriated to the Ohio facilities construction commission for 22
classroom facilities projects under this chapter that were not 23
spent or encumbered in the first year of the biennium and which 24
are in excess of an amount equal to half of the appropriations 25
for the capital biennium, or for which an encumbrance has been 26
canceled under section 3318.05 of the Revised Code, shall be 27
used by the commission only for projects under sections 3318.01 28
to 3318.20, 3318.33, 3318.34, 3318.35, 3318.351, 3318.364, 29
3318.37, 3318.371, 3318.38, and 3318.40 to 3318.46 of the 30
Revised Code, subject to appropriation by the general assembly. 31

Sec. 3318.051. (A) Any city, exempted village, or local 32
school district that commences a project under sections 3318.01 33
to 3318.20, 3318.33, 3318.34, 3318.36, 3318.37, or 3318.38 of 34
the Revised Code ~~on or after September 5, 2006,~~ need not levy 35
the tax otherwise required under division (B) of section 3318.05 36
of the Revised Code, if the district board of education adopts a 37
resolution petitioning the Ohio facilities construction 38
commission to approve the transfer of money in accordance with 39
this section and the commission approves that transfer. If so 40
approved, the commission and the district board shall enter into 41
an agreement under which the board, in each of twenty-three 42
consecutive years beginning in the year in which the board and 43
the commission enter into the project agreement under section 44
3318.08 of the Revised Code, shall transfer into the maintenance 45
fund required by division (D) of section 3318.05 of the Revised 46
Code not less than an amount equal to one-half mill for each 47
dollar of the district's valuation unless and until the 48
agreement to make those transfers is rescinded by the district 49
board pursuant to division (F) of this section. 50

(B) On the first day of July each year, or on an 51
alternative date prescribed by the commission, the district 52
treasurer shall certify to the commission and the auditor of 53
state that the amount required for the year has been 54
transferred. The auditor of state shall include verification of 55
the transfer as part of any audit of the district under section 56
117.11 of the Revised Code. If the auditor of state finds that 57
less than the required amount has been deposited into a 58
district's maintenance fund, the auditor of state shall notify 59
the district board of education in writing of that fact and 60
require the board to deposit into the fund, within ninety days 61
after the date of the notice, the amount by which the fund is 62
deficient for the year. If the district board fails to 63
demonstrate to the auditor of state's satisfaction that the 64
board has made the deposit required in the notice, the auditor 65
of state shall notify the department of education. At that time, 66
the department shall withhold an amount equal to ten per cent of 67
the district's funds calculated for the current fiscal year 68
under Chapter 3317. of the Revised Code until the auditor of 69
state notifies the department that the auditor of state is 70
satisfied that the board has made the required transfer. 71

(C) Money transferred to the maintenance fund shall be 72
used for the maintenance or, upon approval of the Ohio 73
facilities construction commission, upgrade of the facilities 74
acquired under the district's project. 75

(D) The transfers to the maintenance fund under this 76
section does not affect a district's obligation to establish and 77
maintain a capital and maintenance fund under section 3315.18 of 78
the Revised Code. 79

(E) Any decision by the commission to approve or not 80

approve the transfer of money under this section is final and 81
not subject to appeal. The commission shall not be responsible 82
for errors or miscalculations made in deciding whether to 83
approve a petition to make transfers under this section. 84

(F) If the district board determines that it no longer can 85
continue making the transfers agreed to under this section, the 86
board may rescind the agreement only so long as the electors of 87
the district have approved, in accordance with section 3318.063 88
of the Revised Code, the levy of a tax for the maintenance of 89
the classroom facilities acquired under the district's project 90
and that levy continues to be collected as approved by the 91
electors. That levy shall be for a number of years that is equal 92
to the difference between twenty-three years and the number of 93
years that the district made transfers under this section and 94
shall be at the rate of not less than one-half mill for each 95
dollar of the district's valuation. The district board shall 96
continue to make the transfers agreed to under this section 97
until that levy has been approved by the electors. 98

Sec. 3318.055. Notwithstanding any provision to the 99
contrary in sections 3318.05, 3318.06, 3318.061, 3318.08, 100
3318.33, 3318.34, 3318.36, 3318.361, and 3318.38 of the Revised 101
Code, if the amount of money that would be raised in a school 102
district by the twenty-three year maintenance tax specified in 103
those sections during the first twelve-month period of its 104
collection, as estimated by the department of taxation, would be 105
less than ten per cent of the amount of money that the school 106
district was required to deposit into its capital and 107
maintenance fund during the most recent fiscal year under 108
section 3315.18 of the Revised Code, the school district shall 109
not be required to include such maintenance tax on a ballot 110
proposal, as otherwise required under sections 3318.05, 3318.06, 111

3318.061, 3318.08, 3318.33, 3318.34, 3318.36, 3318.361, and 112
3318.38 of the Revised Code. 113

Sec. 3318.084. (A) Notwithstanding anything to the 114
contrary in Chapter 3318. of the Revised Code, a school district 115
board may apply any local donated contribution toward any of the 116
following: 117

(1) The district's portion of the basic project cost of a 118
project under either sections 3318.01 to 3318.20 or sections 119
3318.40 to 3318.45 of the Revised Code to reduce the amount of 120
bonds the district otherwise must issue in order to receive 121
state assistance under those sections; 122

(2) If the school district is not a joint vocational 123
school district proceeding under sections 3318.40 to 3318.45 of 124
the Revised Code, an offset of all or part of a district's 125
obligation to levy the tax described in division (B) of section 126
3318.05 of the Revised Code, which shall be applied only in the 127
manner prescribed in division (B) of this section; 128

(3) If the school district is a joint vocational school 129
district proceeding under sections 3318.40 to 3318.45 of the 130
Revised Code, all or part of the amount the school district is 131
obligated to set aside for maintenance of the classroom 132
facilities acquired under that project pursuant to section 133
3318.43 of the Revised Code. 134

(B) No school district board shall apply any local donated 135
contribution under division (A) (2) of this section unless the 136
Ohio facilities construction commission first approves that 137
application. 138

Upon the request of the school district board to apply 139
local donated contribution under division (A) (2) of this 140

section, the commission in consultation with the department of 141
taxation shall determine the amount of total revenue that likely 142
would be generated by one-half mill of the tax described in 143
division (B) of section 3318.05 of the Revised Code over the 144
entire twenty-three-year period required under that section and 145
shall deduct from that amount any amount of local donated 146
contribution that the board has committed to apply under 147
division (A) (2) of this section. The commission then shall 148
determine in consultation with the department of taxation the 149
rate of tax over twenty-three years necessary to generate the 150
amount of a one-half mill tax not offset by the local donated 151
contribution. Notwithstanding anything to the contrary in 152
section 3318.06, 3318.061, or 3318.361 of the Revised Code, the 153
rate determined by the commission shall be the rate for which 154
the district board shall seek elector approval under those 155
sections to meet its obligation under division (B) of section 156
3318.05 of the Revised Code. In the case of a complete offset of 157
the district's obligation under division (B) of section 3318.05 158
of the Revised Code, the district shall not be required to levy 159
the tax otherwise required under that section. At the end of the 160
twenty-three-year period of the tax required under division (B) 161
of section 3318.05 of the Revised Code, whether or not the tax 162
is actually levied, the commission in consultation of the 163
department of taxation shall recalculate the amount that would 164
have been generated by the tax if it had been levied at one-half 165
mill. If the total amount actually generated over that period 166
from both the tax that was actually levied and any local donated 167
contribution applied under division (A) (2) of this section is 168
less than the amount that would have been raised by a one-half 169
mill tax, the district shall pay any difference. If the total 170
amount actually raised in such manner is greater than the amount 171
that would have been raised by a one-half mill tax the 172

difference shall be zero and no payments shall be made by either 173
the district or the commission. 174

(C) As used in this section, "local donated contribution" 175
means any of the following: 176

(1) Any moneys irrevocably donated or granted to a school 177
district board by a source other than the state which the board 178
has the authority to apply to the school district's project 179
under sections 3318.01 to 3318.20 of the Revised Code and which 180
the board has pledged for that purpose by resolution adopted by 181
a majority of its members; 182

(2) Any irrevocable letter of credit issued on behalf of a 183
school district which the school district board has encumbered 184
for payment of the school district's share of its project under 185
sections 3318.01 to 3318.20 of the Revised Code that has been 186
approved by the commission in consultation with the department 187
of education; 188

(3) Any cash a school district has on hand that the school 189
district board has encumbered for payment of the school 190
district's share of its project under sections 3318.01 to 191
3318.20 of the Revised Code that has been approved by the 192
commission in consultation with the department of education, 193
including the following: 194

(a) Any year-end operating fund balances that can be spent 195
for classroom facilities; 196

(b) Any cash resulting from a lease-purchase agreement 197
that the school district board has entered into under section 198
3313.375 of the Revised Code, provided that the agreement and 199
the related financing documents contain provisions protecting 200
the state's superior interest in the project. 201

(4) Any moneys spent by a source other than the school 202
district or the state for construction or renovation of specific 203
classroom facilities that have been approved by the commission 204
as part of the basic project cost of the district's project. The 205
school district, the commission, and the entity providing the 206
local donated contribution under division (C) (4) of this section 207
shall enter into an agreement identifying the classroom 208
facilities to be acquired by the expenditures made by that 209
entity. The agreement shall include, but not be limited to, 210
stipulations that require an audit by the commission of such 211
expenditures made on behalf of the district and that specify the 212
maximum amount of credit to be allowed for those expenditures. 213
Upon completion of the construction or renovation, the 214
commission shall determine the actual amount that the commission 215
will credit, at the request of the district board, toward the 216
district's portion of the basic project cost, any project cost 217
overruns, or the basic project cost of future segments if the 218
project has been divided into segments under section 3318.33 or 219
3318.38 of the Revised Code. The actual amount of the credit 220
shall not exceed the lesser of the amount specified in the 221
agreement or the actual cost of the construction or renovation. 222

(D) No state moneys shall be released for a project to 223
which this section applies until: 224

(1) Any local donated contribution authorized under 225
division (A) (1) of this section is first deposited into the 226
school district's project construction fund. 227

(2) The school district board and the commission have 228
included a stipulation in their agreement entered into under 229
section 3318.08 of the Revised Code under which the board will 230
deposit into a fund approved by the commission according to a 231

schedule that does not extend beyond the anticipated completion 232
date of the project the total amount of any local donated 233
contribution authorized under division (A) (2) or (3) of this 234
section and dedicated by the board for that purpose. 235

However, if any local donated contribution as described in 236
division (C) (4) of this section has been approved under this 237
section, the state moneys may be released even if the entity 238
providing that local donated contribution has not spent the 239
moneys so dedicated as long as the agreement required under that 240
section has been executed. 241

Sec. 3318.33. (A) The accelerated Appalachian school 242
building assistance program is hereby established. Under the 243
program, notwithstanding section 3318.02 of the Revised Code, 244
any school district that has any territory within the 245
Appalachian region, as defined in section 107.21 of the Revised 246
Code, and that has not been approved to receive assistance under 247
sections 3318.01 to 3318.20 of the Revised Code prior to the 248
effective date of this section, may, beginning on that date, 249
apply for approval of and be approved for such assistance. 250
Except as otherwise provided in this section, any project 251
approved and undertaken pursuant to this section shall comply 252
with all provisions of sections 3318.01 to 3318.20 of the 253
Revised Code. 254

(B) The Ohio facilities construction commission shall 255
provide assistance to school districts eligible for assistance 256
under this section in the following manner: 257

(1) Each fiscal biennium, the commission shall select to 258
receive assistance under this section not fewer than three 259
school districts eligible for such assistance until all such 260
eligible districts have received assistance under sections 261

3318.01 to 3318.20 of the Revised Code. 262

(2) Notwithstanding section 3318.02 of the Revised Code, 263
the commission shall conduct an on-site visit and shall assess 264
the classroom facilities needs of each school district eligible 265
for assistance under this section that is selected under 266
division (B) (1) of this section. 267

(3) Any school district eligible for assistance under this 268
section and selected under division (B) (1) of this section may 269
apply to the commission for conditional approval of its project 270
as determined by the assessment conducted under division (B) (2) 271
of this section. The commission shall conditionally approve that 272
project and submit it to the controlling board for approval 273
pursuant to section 3318.04 of the Revised Code. 274

(C) (1) If the controlling board approves a project 275
submitted under division (B) (3) of this section, the commission 276
and the school district shall enter into an agreement as 277
prescribed in section 3318.08 of the Revised Code. 278

(2) Any district to which this section applies may opt to 279
divide the district's entire classroom facilities needs, as 280
those needs are jointly determined by the staff of the 281
commission and the school district, into discrete segments as 282
prescribed in section 3318.034 of the Revised Code. 283

(D) Under the program, to incentivize a district's 284
electors to vote favorably on both of the propositions described 285
in divisions (A) and (B) of section 3318.05 of the Revised Code, 286
the commission shall reduce the district's portion of the basic 287
project cost, as it is determined under section 3318.032 of the 288
Revised Code, as follows: 289

(1) If, in the first election in which the propositions 290

appear on the ballot the district's electors vote favorably for 291
the propositions, the district's portion of the basic project 292
cost shall be reduced by twenty per cent. 293

(2) If, in the second election in which the propositions 294
appear on the ballot the district's electors vote favorably for 295
the propositions, the district's portion of the basic project 296
cost shall be reduced by fifteen per cent. 297

(3) If, in the third election in which the propositions 298
appear on the ballot the district's electors vote favorably for 299
the propositions, the district's portion of the basic project 300
cost shall be reduced by twelve per cent. 301

(E) If, for any fiscal year, the amount appropriated for 302
all projects or segments approved by the commission under the 303
program is not adequate, the commission shall proportionately 304
reduce the amount of state funds each of the districts with an 305
approved project or segment receives under this section for that 306
fiscal year. However, each of those districts shall be eligible 307
for continued assistance under this section in subsequent fiscal 308
years until its project or segment is completed. 309

Sec. 3318.34. (A) The classroom facilities re-entry 310
program is hereby established. Under the program, 311
notwithstanding any provision in this chapter to the contrary, a 312
city, local, or exempted village school district that has 313
already received any assistance for a project funded under any 314
version of sections 3318.01 to 3318.20 or section 3318.36 or 315
3318.37 of the Revised Code and the prior project was one for 316
which electors of such district approved a levy within the last 317
twenty years pursuant to any version of section 3318.06 of the 318
Revised Code for purposes of qualifying for the funding of that 319
project may apply to the Ohio facilities construction commission 320

for funding assistance to renovate existing or build new 321
facilities due to changes in enrollment, programming, or 322
condition of existing facilities. 323

(B) Except as otherwise provided in this section, any 324
project approved and undertaken pursuant to this section shall 325
comply with all provisions of sections 3318.01 to 3318.20 of the 326
Revised Code. 327

(C) The commission shall establish application procedures, 328
deadlines, and priorities for funding projects under this 329
section. 330

Sec. 3318.35. (A) The capital improvement and replacement 331
program is hereby established. Under the program, 332
notwithstanding any provision in this chapter to the contrary, a 333
city, local, or exempted village school district that has 334
already received any assistance for a project funded under any 335
version of sections 3318.01 to 3318.20 of the Revised Code and 336
the prior project was one for which electors of such district 337
approved a levy within the last twenty years pursuant to any 338
version of section 3318.06 of the Revised Code for purposes of 339
qualifying for the funding of that project may apply to the Ohio 340
facilities construction commission for funding to be used in the 341
maintenance of facilities renovated or constructed under the 342
district's previous project. 343

(B) Except as otherwise provided in this section, any 344
project approved and undertaken pursuant to this section shall 345
comply with all provisions of sections 3318.01 to 3318.20 of the 346
Revised Code. 347

(C) The commission shall establish application procedures, 348
deadlines, and priorities for funding projects under this 349

section. 350

Sec. 3318.364. In any fiscal year, the Ohio facilities 351
construction commission may, at its discretion, provide 352
assistance under sections 3318.01 to 3318.20 of the Revised Code 353
to a school district that has entered into an expedited local 354
partnership agreement under section 3318.36 of the Revised Code 355
before the district is otherwise eligible for that assistance 356
based on its percentile rank, if the commission determines all 357
of the following: 358

(A) The district has made an expenditure of local 359
resources under its expedited local partnership agreement on a 360
discrete part of its district-wide project. 361

(B) The district is ready to complete its district-wide 362
project or a segment of the project, in accordance with section 363
3318.034 of the Revised Code. 364

(C) The district is in compliance with division (D) (2) of 365
section 3318.36 of the Revised Code. 366

(D) Sufficient state funds have been appropriated for 367
classroom facilities projects for the fiscal year to pay the 368
state share of the district's project or segment after paying 369
the state share of projects for all of the following: 370

(1) Districts that previously had their conditional 371
approval lapse pursuant to section 3318.05 of the Revised Code; 372

(2) Districts eligible for assistance under division (B) 373
(2) of section 3318.04 of the Revised Code; 374

(3) Districts participating in the exceptional needs 375
school facilities assistance program under section 3318.37 or 376
3318.371 of the Revised Code; 377

(4) Districts participating in ~~the an accelerated urban~~ 378
school building assistance program under section 3318.33 or 379
3318.38 of the Revised Code. 380

Assistance under this section shall be offered to eligible 381
districts in the order of their percentile rankings at the time 382
they entered into their expedited local partnership agreements, 383
from lowest to highest percentile. In the event that more than 384
one district has the same percentile ranking, those districts 385
shall be offered assistance in the order of the date they 386
entered into their expedited local partnership agreements, from 387
earliest to latest date. 388

As used in this section, "local resources" and 389
"percentile" have the same meanings as in section 3318.36 of the 390
Revised Code. 391

Section 2. That existing sections 3318.024, 3318.051, 392
3318.055, 3318.084, and 3318.364 of the Revised Code are hereby 393
repealed. 394

Section 3. All items in this act are hereby appropriated 395
as designated out of any moneys in the state treasury to the 396
credit of the designated fund. The capital appropriations made 397
in this act are in addition to any other capital appropriations 398
made for the FY 2023-FY 2024 biennium. 399

Section 4. 400

401

B	School Building Program Assistance Fund (Fund 7032)	
C	C230GD Accelerated Appalachian School Building Assistance	\$600,000,000
D	TOTAL School Building Program Assistance Fund	\$600,000,000
E	TOTAL ALL FUNDS	\$600,000,000

ACCELERATED APPALACHIAN SCHOOL BUILDING ASSISTANCE 402

(A) Subject to division (B) of this section, capital 403
appropriations in this section made from appropriation item 404
C230GD, Accelerated Appalachian School Building Assistance, 405
shall be used by the Facilities Construction Commission to 406
provide funding to school districts that receive conditional 407
approval from the Commission pursuant to section 3318.33 of the 408
Revised Code. 409

(B) Expenditures made from the foregoing appropriation 410
item C230GD, Accelerated Appalachian School Building Assistance, 411
shall not exceed \$300,000,000 in each of fiscal years 2023 and 412
2024. 413

Section 5. Within the limits set forth in this act, the 414
Director of Budget and Management shall establish accounts 415
indicating the source and amount of funds for each appropriation 416
made in this act, and shall determine the form and manner in 417
which appropriation accounts shall be maintained. Expenditures 418
from capital appropriations contained in this act shall be 419
accounted for as though made in the capital appropriations act 420
of the 134th General Assembly. The capital appropriations made 421
in this act are subject to all provisions of the capital 422
appropriations act of the 134th General Assembly that are 423

generally applicable to such appropriations. 424

Section 6. The Ohio Public Facilities Commission is hereby 425
authorized to issue and sell, in accordance with Ohio 426
Constitution, Article VIII, Section 2n and Chapter 151. and 427
particularly sections 151.01 and 151.03 of the Revised Code, 428
original obligations in an aggregate principal amount not to 429
exceed \$600,000,000, in addition to the original issuance of 430
obligations heretofore authorized by prior acts of the General 431
Assembly. These authorized obligations shall be issued, subject 432
to applicable constitutional and statutory limitations, as 433
needed to provide sufficient moneys to the credit of the School 434
Building Program Assistance Fund (Fund 7032) to pay the state 435
share of the costs of constructing classroom facilities pursuant 436
to section 3318.33 of the Revised Code. 437