

As Introduced

134th General Assembly

Regular Session

H. B. No. 143

2021-2022

Representative Hillyer

Cosponsors: Representatives Seitz, Troy, Swearingen, Loychik

A BILL

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

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

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

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

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

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

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

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- (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. 18
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- (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. 28
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- (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. 31
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- (E) "Certified professional," "hazardous substance," "petroleum," and "release" have the same meanings as in section 3746.01 of the Revised Code. 35
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- (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. 38
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- (G) "County land reutilization corporation" means a corporation organized under section 1724.04 of the Revised Code. 45
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(H) "Distressed area" means either a municipal corporation with a population of at least fifty thousand or a county that meets any two of the following criteria: 47
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(1) Its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period. 50
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(2) It has a per capita income equal to or below eighty per cent of the median county per capita income of the United States as determined by the most recently available figures from the United States census bureau. 54
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(3) (a) In the case of a municipal corporation, at least twenty per cent of the residents have a total income for the most recent census year that is below the official poverty line. 58
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(b) In the case of a county, in intercensal years, the county has a ratio of transfer payment income to total county income equal to or greater than twenty-five per cent. 61
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"Distressed area" includes a municipal corporation the majority of the population of which is situated in a county that is a distressed area. 64
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(H)—(I) "Eligible area" means a distressed area, an inner city area, a labor surplus area, or a situational distress area. 67
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(I)—(J) "Inner city area" means an area in a municipal corporation that has a population of at least one hundred thousand, is not a labor surplus area, and is a targeted investment area established by the municipal corporation that is comprised of block tracts identified in the most recently available figures from the United States census bureau in which at least twenty per cent of the population in the area is at or 69
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below the official poverty line or of contiguous block tracts	76
meeting those criteria.	77
<u>(J)—(K)</u> "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
<u>(K)—(L)</u> "Integrating committee" means a district public	83
works integrating committee established under section 164.04 of	84
the Revised Code.	85
<u>(L)—(M)</u> "Labor surplus area" means an area designated as a	86
labor surplus area by the United States department of labor.	87
<u>(M)—(N)</u> "Loan" includes credit enhancement.	88
<u>(N)—(O)</u> "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
<u>(O)—(P)</u> "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
<u>(P)—(Q)</u> "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 remediation of a release or threatened release of hazardous substances or petroleum at a property where little or no economic redevelopment potential exists.	104 105 106 107
(R)—(S) "Official poverty line" has the same meaning as in section 3923.51 of the Revised Code.	108 109
(S)—(T) "Situational distress area" means a county or a municipal corporation that has experienced or is experiencing a closing or downsizing of a major employer that will adversely affect the county or municipal corporation's economy and that has applied to the director of development to be designated as a situational distress area for not more than thirty months by demonstrating all of the following:	110 111 112 113 114 115 116
(1) The number of jobs lost by the closing or downsizing;	117
(2) The impact that the job loss has on the county or municipal corporation's unemployment rate as measured by the director of job and family services;	118 119 120
(3) The annual payroll associated with the job loss;	121
(4) The amount of state and local taxes associated with the job loss;	122 123
(5) The impact that the closing or downsizing has on suppliers located in the county or municipal corporation.	124 125
Sec. 122.658. (A) The clean Ohio revitalization fund is hereby created in the state treasury. The fund shall consist of moneys credited to it pursuant to section 151.40 of the Revised Code. Moneys in the fund shall be used to make grants or loans for projects that have been approved by the clean Ohio council in accordance with section 122.653 of the Revised Code, except	126 127 128 129 130 131

that the council annually shall devote twenty per cent of the
net proceeds of obligations deposited in the clean Ohio
revitalization fund for the purposes of section 122.656 of the
Revised Code. 132
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Moneys in the clean Ohio revitalization fund may be used
to pay reasonable costs incurred by the department of
development and the environmental protection agency in
administering sections 122.65 to 122.658 of the Revised Code. 136
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All investment earnings of the fund shall be credited to the
fund. Investment earnings credited to the clean Ohio
revitalization fund may be used to pay costs incurred by the
department of development and the environmental protection
agency pursuant to sections 122.65 to 122.658 of the Revised
Code. 140
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The department of development shall administer the clean
Ohio revitalization fund in accordance with this section,
policies and requirements established under section 122.657 of
the Revised Code, and the terms of agreements entered into by
the council under section 122.653 of the Revised Code. 146
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(B) Grants awarded and loans made under section 122.653 of
the Revised Code shall provide not more than seventy-five per
cent of the estimated total cost of a project. A grant or loan
to any one project shall not exceed three million dollars. An
applicant shall provide at least twenty-five per cent of the
estimated total cost of a project. The applicant's share may
consist of one or a combination of any of the following: 151
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(1) Payment of the cost of acquiring the property for the
purposes of sections 122.65 to 122.658 of the Revised Code; 158
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(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
applicant. Costs related to the use of a certified professional
for purposes of section 122.654 of the Revised Code are not
administrative costs and may be paid with moneys from grants
awarded or loans made under section 122.653 of the Revised Code.

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

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

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

<u>revitalization fund.</u>	220
Sec. 151.40. (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</u> <u>transfer agreement authorized under Chapter 4313. of the Revised</u> <u>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.	367 368
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.	369 370 371 372 373 374
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.	375 376 377 378 379 380 381 382 383 384 385