

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**S. B. No. 185**

**Senator Seitz**

**Cosponsors: Senators Balderson, Patton**

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**A BILL**

To amend sections 727.01, 1710.01, 1710.02, 1  
1710.021, 1710.03, 1710.04, 1710.05, 1710.06, 2  
1710.061, 1710.07, 1710.11, 1710.12, 1710.13, 3  
4582.06, and 4582.31; to amend, for the purpose 4  
of adopting a new section number as indicated in 5  
parentheses, section 1710.061 (1710.40); and to 6  
enact sections 1710.20, 1710.21, 1710.22, 7  
1710.23, 1710.24, 1710.241, 1710.25, 1710.26, 8  
1710.27, 1710.28, 1710.29, 1710.30, 1710.31, 9  
1710.32, 1710.33, 1710.331, and 1710.34 of the 10  
Revised Code to revise the law governing special 11  
improvement districts created for the purpose of 12  
developing and implementing plans for special 13  
energy improvement projects. 14

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

**Section 1.** That sections 727.01, 1710.01, 1710.02, 15  
1710.021, 1710.03, 1710.04, 1710.05, 1710.06, 1710.061, 1710.07, 16  
1710.11, 1710.12, 1710.13, 4582.06, and 4582.31 be amended; 17  
section 1710.061 (1710.40) be amended for the purpose of 18  
adopting a new section number as shown in parentheses; and 19

sections 1710.20, 1710.21, 1710.22, 1710.23, 1710.24, 1710.241, 20  
1710.25, 1710.26, 1710.27, 1710.28, 1710.29, 1710.30, 1710.31, 21  
1710.32, 1710.33, 1710.331, and 1710.34 of the Revised Code be 22  
enacted to read as follows: 23

**Sec. 727.01.** (A) Each municipal corporation shall have 24  
special power to levy and collect special assessments. The 25  
legislative authority of a municipal corporation may assess upon 26  
the abutting, adjacent, and contiguous, or other specially 27  
benefited, lots or lands in the municipal corporation, ~~any~~; 28

(1) Any part of the cost connected with the improvement of 29  
any of the following: 30

(a) Any street, alley, dock, wharf, pier, public road, 31  
place, boulevard, parkway, or park entrance ~~or an~~; 32

(b) An easement of the municipal corporation available for 33  
the purpose of the improvement to be made in it. 34

The legislative authority may assess the part of the cost 35  
connected with an improvement of a place described in division 36  
(A)(1)(a) or (b) of this section if the improvement is made by 37  
grading, draining, curbing, paving, repaving, repairing, 38  
treating the surface with substances designed to lay the dust on 39  
it or preserve it, constructing sidewalks, piers, wharves, 40  
docks, retaining walls, sewers, sewage disposal works and 41  
treatment plants, sewage pumping stations, water treatment 42  
plants, water pumping stations, reservoirs, and water storage 43  
tanks or standpipes, together with the facilities and 44  
appurtenances necessary and proper therefor, drains, storm-water 45  
retention basins, watercourses, water mains, or laying of water 46  
pipe, or the lighting, sprinkling, sweeping, or cleaning 47  
thereof, or removing snow therefrom, ~~any~~. 48

(2) Any part of the cost and expense of planting, 49  
maintaining, and removing shade trees ~~thereupon~~upon any place 50  
described in division (A) (1) (a) or (b) of this section;~~any~~ 51

(3) Any part of the cost of a voluntary action, as defined 52  
in section 3746.01 of the Revised Code, undertaken pursuant to 53  
Chapter 3746. of the Revised Code by a special improvement 54  
district created under Chapter 1710. of the Revised Code, 55  
including the cost of acquiring property with respect to which 56  
the voluntary action is undertaken;~~any~~ 57

(4) Any part of the cost and expense of constructing, 58  
maintaining, repairing, cleaning, and enclosing ditches;~~any~~ 59

(5) Any part of the cost and expense of operating, 60  
maintaining, and replacing heating and cooling facilities for 61  
enclosed pedestrian canopies and malls;~~any~~ 62

(6) Any part of the cost and expense of acquiring and 63  
improving parking facilities and structures for off-street 64  
parking of motor vehicles or of acquiring land and improving it 65  
by clearing, grading, draining, paving, lighting, erecting, 66  
constructing, and equipping it for parking facilities and 67  
structures for off-street parking of motor vehicles, to the 68  
extent authorized by section 717.05 of the Revised Code, but 69  
only if no special assessment made for the purpose of developing 70  
off-street parking facilities and structures is levied against 71  
any land being used solely for off-street parking or against any 72  
land used solely for single or two-family dwellings;~~any~~ 73

(7) Any part of the cost and expense of operating and 74  
maintaining the off-street parking facilities and structures; 75  
~~and any~~ 76

(8) Any part of the cost connected with changing the 77

channel of, or narrowing, widening, dredging, deepening, or 78  
improving, any stream or watercourse, and for constructing or 79  
improving any levees or boulevards on any stream or watercourse, 80  
or along or about any stream or watercourse, together with any 81  
retaining wall, riprap protection, bulkhead, culverts, 82  
approaches, flood gates, waterways, or drains incidental to any 83  
stream or watercourse, or for making any other improvement of 84  
any river or lake front, whether it is privately or publicly 85  
owned, which the legislative authority declares conducive to the 86  
public health, convenience, or welfare. ~~In~~ 87

(B) In addition, a municipal corporation may levy a 88  
special assessment for ~~public improvement or public services~~ 89  
plans of a district formed under Chapter 1710. of the Revised 90  
Code, as provided in that chapter, if those plans are for any of 91  
the following: 92

(1) Public improvements; 93

(2) Public services; 94

(3) Special energy improvement projects. ~~Except~~ 95

(C) Except as otherwise provided in Chapter 1710. of the 96  
Revised Code, special assessments may be levied by any of the 97  
following methods: 98

~~(A)~~ (1) By a percentage of the tax value of the property 99  
assessed; 100

~~(B)~~ (2) In proportion to the benefits that may result from 101  
the improvement; 102

~~(C)~~ (3) By the front foot of the property bounding and 103  
abutting upon the improvement. 104

**Sec. 1710.01.** As used in this chapter: 105

(A) "Special improvement district" means a special 106  
improvement district organized under ~~this chapter~~ sections 107  
1710.02 to 1710.13 of the Revised Code. 108

(B) "Church" means a fellowship of believers, 109  
congregation, society, corporation, convention, or association 110  
that is formed primarily or exclusively for religious purposes 111  
and that is not formed for the private profit of any person. 112

(C) "Church property" means property that is described as 113  
being exempt from taxation under division (A) (2) of section 114  
5709.07 of the Revised Code and that the county auditor has 115  
entered on the exempt list compiled under section 5713.07 of the 116  
Revised Code. 117

(D) "Municipal executive" means the mayor, city manager, 118  
or other chief executive officer of the municipal corporation in 119  
which a special improvement district is located. 120

(E) "Participating political subdivision" means the 121  
municipal corporation or township, or each of the municipal 122  
corporations or townships, that has territory within the 123  
boundaries of a special improvement district or an energy 124  
special improvement district created under this chapter. 125

(F) "Legislative authority of a participating political 126  
subdivision" means, with reference to a township, the board of 127  
township trustees. 128

(G) "Public improvement" means the planning, design, 129  
construction, reconstruction, enlargement, or alteration of any 130  
facility or improvement, including the acquisition of land, for 131  
which a special assessment may be levied under Chapter 727. of 132  
the Revised Code, ~~and includes any special energy improvement~~ 133  
~~project.~~ 134

(H) "Public service" means any service that can be 135  
provided by a municipal corporation or any service for which a 136  
special assessment may be levied under Chapter 727. of the 137  
Revised Code. 138

(I) "Special energy improvement project" means any 139  
property, device, structure, or equipment necessary for the 140  
acquisition, installation, equipping, and improvement of any 141  
real or personal property used for the purpose of creating a 142  
solar photovoltaic project, a solar thermal energy project, a 143  
geothermal energy project, a customer-generated energy project, 144  
or an energy efficiency improvement, whether such real or 145  
personal property is publicly or privately owned. 146

(J) "Existing qualified nonprofit corporation" means a 147  
nonprofit corporation that existed before the creation of the 148  
corresponding special improvement district under this chapter, 149  
that is composed of members located within or adjacent to the 150  
district, that has established a police department under section 151  
1702.80 of the Revised Code, and that is organized for purposes 152  
that include acquisition of real property within an area 153  
specified by its articles for the subsequent transfer of such 154  
property to its members exclusively for charitable, scientific, 155  
literary, or educational purposes, or holding and maintaining 156  
and leasing such property; planning for and assisting in the 157  
development of its members; providing for the relief of the poor 158  
and distressed or underprivileged in the area and adjacent 159  
areas; combating community deterioration and lessening the 160  
burdens of government; providing or assisting others in 161  
providing housing for low- or moderate-income persons; and 162  
assisting its members by the provision of public safety and 163  
security services, parking facilities, transit service, 164  
landscaping, and parks. 165

(K) "Energy efficiency improvement" means energy efficiency technologies, products, and activities that reduce or support the reduction of energy consumption, allow for the reduction in demand, or support the production of clean, renewable energy and that are or will be permanently fixed to real property.

(L) "Customer-generated energy project" means a wind, biomass, or gasification facility for the production of electricity that meets either of the following requirements:

(1) The facility is designed to have a generating capacity of two hundred fifty kilowatts of electricity or less.

(2) The facility is:

(a) Designed to have a generating capacity of more than two hundred fifty kilowatts of electricity;

(b) Operated in parallel with electric transmission and distribution facilities serving the real property at the site of the customer-generated energy project;

(c) Intended primarily to offset part or all of the facility owner's requirements for electricity at the site of the customer-generated energy project and is located on the facility owner's real property; and

(d) Not producing energy for direct sale by the facility owner to the public.

(M) "Reduction in demand" means a change in customer behavior or a change in customer-owned or operated assets that reduces or has the capability to reduce the demand for electricity as a result of price signals or other incentives.

(N) "Electric distribution utility" and "mercantile

customer" have the same meanings as in section 4928.01 of the Revised Code.

(O) "Port authority" means a port authority created under section 4582.02 or 4582.22 of the Revised Code.

**Sec. 1710.02.** (A) A special improvement district may be created within the boundaries of any one municipal corporation, any one township, or any combination of contiguous municipal corporations and townships for the purpose of developing and implementing plans for public improvements and public services that benefit the district. A district may be created by petition of the owners of real property within the proposed district, or by an existing qualified nonprofit corporation. If the district is created by an existing qualified nonprofit corporation, the purposes for which the district is created may be supplemental to the other purposes for which the corporation is organized. All territory in a special improvement district shall be contiguous; ~~except that the territory in a special improvement district may be noncontiguous if at least one special energy improvement project is designated for each parcel of real property included within the special improvement district.~~ Additional territory may be added to a special improvement district created under this chapter for the purpose of developing and implementing plans for special energy improvement projects if at least one special energy improvement project is designated for each parcel of real property included within such additional territory and the addition of territory is authorized by the initial plan proposed under division (F) of this section or a plan adopted by the board of directors of the special improvement district under section 1710.06 of the Revised Code.

The district shall be governed by the board of ~~trustees~~



directors of a nonprofit corporation. ~~This and the~~ board shall 224  
be known as the board of directors of the special improvement 225  
district. No special improvement district shall include any 226  
church property, or property of the federal or state government 227  
or a county, township, or municipal corporation, unless the 228  
church or the county, township, or municipal corporation 229  
specifically requests in writing that the property be included 230  
within the district, or unless the church is a member of the 231  
existing qualified nonprofit corporation creating the district 232  
at the time the district is created. More than one district may 233  
be created within a participating political subdivision, but no 234  
real property may be included within more than one district 235  
unless the owner of the property files a written consent with 236  
the clerk of the legislative authority, the township fiscal 237  
officer, or the village clerk, as appropriate. The area of each 238  
district shall be contiguous; ~~except that the area of a special-~~ 239  
~~improvement district may be noncontiguous if all parcels of real-~~ 240  
~~property included within such area contain at least one special-~~ 241  
~~energy improvement thereon.~~ 242

(B) Except as provided in division (C) of this section, a 243  
district created under ~~this chapter~~ sections 1710.02 to 1710.13 244  
of the Revised Code is not a political subdivision. A district 245  
created under ~~this chapter~~ those sections shall be considered a 246  
public agency under section 102.01 and a public authority under 247  
section 4115.03 of the Revised Code. Each member of the board of 248  
directors of a district, each member's designee or proxy, and 249  
each officer and employee of a district shall be considered a 250  
public official or employee under section 102.01 of the Revised 251  
Code and a public official and public servant under section 252  
2921.42 of the Revised Code. Districts created under ~~this~~ 253  
~~chapter~~ sections 1710.02 to 1710.13 of the Revised Code are not 254

subject to sections 121.81 to 121.83 of the Revised Code.— 255  
~~Districts created under this chapter~~ but are subject to 256  
sections 121.22 and 121.23 of the Revised Code. 257

(C) Each district created under ~~this chapter~~ sections 258  
1710.02 to 1710.13 of the Revised Code shall be considered a 259  
political subdivision for purposes of section 4905.34 of the 260  
Revised Code. 261

Membership on the board of directors of the district shall 262  
not be considered as holding a public office. Directors and 263  
their designees shall be entitled to the immunities provided by 264  
Chapter 1702. and to the same immunity as an employee under 265  
division (A) (6) of section 2744.03 of the Revised Code, except 266  
that directors and their designees shall not be entitled to the 267  
indemnification provided in section 2744.07 of the Revised Code 268  
unless the director or designee is an employee or official of a 269  
participating political subdivision of the district and is 270  
acting within the scope of the director's or designee's 271  
employment or official responsibilities. 272

District officers and district members and directors and 273  
their designees or proxies shall not be required to file a 274  
statement with the Ohio ethics commission under section 102.02 275  
of the Revised Code. All records of the district shall be 276  
treated as public records under section 149.43 of the Revised 277  
Code, except that records of organizations contracting with a 278  
district shall not be considered to be public records under 279  
section 149.43 or section 149.431 of the Revised Code solely by 280  
reason of any contract with a district. 281

(D) Except as otherwise provided in this section, the 282  
nonprofit corporation that governs a district shall be organized 283  
in the manner described in Chapter 1702. of the Revised Code. 284

Except in the case of a district created by an existing 285  
qualified nonprofit corporation, the corporation's articles of 286  
incorporation are required to be approved, as provided in 287  
division (E) of this section, by resolution of the legislative 288  
authority of each participating political subdivision of the 289  
district. A copy of that resolution shall be filed along with 290  
the articles of incorporation in the secretary of state's 291  
office. 292

In addition to meeting the requirements for articles of 293  
incorporation set forth in Chapter 1702. of the Revised Code, 294  
the articles of incorporation for the nonprofit corporation 295  
governing a district formed under ~~this chapter~~ sections 1710.02 296  
to 1710.13 of the Revised Code shall provide all the following: 297

(1) The name for the district, which shall include the 298  
name of each participating political subdivision of the 299  
district; 300

(2) A description of the territory within the district, 301  
which may be all or part of each participating political 302  
subdivision. The description shall be specific enough to enable 303  
real property owners to determine if their property is located 304  
within the district. 305

(3) A description of the procedure by which the articles 306  
of incorporation may be amended. The procedure shall include 307  
receiving approval of the amendment, by resolution, from the 308  
legislative authority of each participating political 309  
subdivision and filing the approved amendment and resolution 310  
with the secretary of state. 311

(4) The reasons for creating the district, plus an 312  
explanation of how the district will be conducive to the public 313

health, safety, peace, convenience, and welfare of the district. 314

(E) The articles of incorporation for a nonprofit 315  
corporation governing a district created under ~~this chapter~~ 316  
sections 1710.02 to 1710.13 of the Revised Code and amendments 317  
to them shall be submitted to the municipal executive, if any, 318  
and the legislative authority of each municipal corporation or 319  
township in which the proposed district is to be located. Except 320  
in the case of a district created by an existing qualified 321  
nonprofit corporation, the articles or amendments shall be 322  
accompanied by a petition signed either by the owners of at 323  
least sixty per cent of the front footage of all real property 324  
located in the proposed district that abuts upon any street, 325  
alley, public road, place, boulevard, parkway, park entrance, 326  
easement, or other existing public improvement within the 327  
proposed district, excluding church property or property owned 328  
by the state, county, township, municipal, or federal 329  
government, unless a church, county, township, or municipal 330  
corporation has specifically requested in writing that the 331  
property be included in the district, or by the owners of at 332  
least seventy-five per cent of the area of all real property 333  
located within the proposed district, excluding church property 334  
or property owned by the state, county, township, municipal, or 335  
federal government, unless a church, county, township, or 336  
municipal corporation has specifically requested in writing that 337  
the property be included in the district. ~~Pursuant to Section 20~~ 338  
~~of Article VIII, Ohio Constitution, the petition required under~~ 339  
~~this division may be for the purpose of developing and~~ 340  
~~implementing plans for special energy improvement projects, and,~~ 341  
~~in such case, is determined to be in furtherance of the purposes~~ 342  
~~set forth in Section 20 of Article VIII, Ohio Constitution. If a~~ 343  
~~special improvement district is being created under this chapter~~ 344

~~for the purpose of developing and implementing plans for special- 345  
energy improvement projects, the petition required under this- 346  
division shall be signed by one hundred per cent of the owners- 347  
of the area of all real property located within the proposed- 348  
special improvement district, at least one special energy- 349  
improvement project shall be designated for each parcel of real- 350  
property within the special improvement district, and the- 351  
special improvement district may include any number of parcels- 352  
of real property as determined by the legislative authority of- 353  
each participating political subdivision in which the proposed- 354  
special improvement district is to be located. For purposes of 355  
determining compliance with these requirements, the area of the 356  
district, or the front footage and ownership of property, shall 357  
be as shown in the most current records available at the county 358  
recorder's office and the county engineer's office sixty days 359  
prior to the date on which the petition is filed. 360~~

Each municipal corporation or township with which the 361  
petition is filed has sixty days to approve or disapprove, by 362  
resolution, the petition, including the articles of 363  
incorporation. In the case of a district created by an existing 364  
qualified nonprofit corporation, each municipal corporation or 365  
township has sixty days to approve or disapprove the creation of 366  
the district after the corporation submits the articles of 367  
incorporation or amendments thereto. This ~~chapter section~~ does 368  
not prohibit or restrict the rights of municipal corporations 369  
under Article XVIII of the Ohio Constitution or the right of the 370  
municipal legislative authority to impose reasonable conditions 371  
in a resolution of approval. ~~The acquisition, installation, 372  
equipping, and improvement of a special energy improvement- 373  
project under this chapter shall not supersede any local zoning, 374  
environmental, or similar law or regulation. 375~~

(F) Persons proposing creation and operation of the district may propose an initial plan for public services or public improvements that benefit all or any part of the district. Any initial plan shall be submitted as part of the petition proposing creation of the district or, in the case of a district created by an existing qualified nonprofit corporation, shall be submitted with the articles of incorporation or amendments thereto.

An initial plan may include provisions for the following:

(1) Creation and operation of the district and of the nonprofit corporation to govern the district ~~under this chapter;~~

(2) Hiring employees and professional services;

(3) Contracting for insurance;

(4) Purchasing or leasing office space and office equipment;

(5) Other actions necessary initially to form, operate, or organize the district and the nonprofit corporation to govern the district;

(6) A plan for public improvements or public services that benefit all or part of the district, which plan shall comply with the requirements of division (A) of section 1710.06 of the Revised Code and may include, but is not limited to, any of the permissive provisions described in the fourth sentence of that division or listed in divisions (A)(1) to (7) of that section;

~~(7) If the special improvement district is being created under this chapter for the purpose of developing and implementing plans for special energy improvement projects, provision for the addition of territory to the special~~

~~improvement district.~~

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After the initial plan is approved by all municipal  
corporations and townships to which it is submitted for approval  
and the district is created, each participating subdivision  
shall levy a special assessment within its boundaries to pay for  
the costs of the initial plan. The levy shall be for no more  
than ten years from the date of the approval of the initial  
plan; ~~except that if the proceeds of the levy are to be used to  
pay the costs of a special energy improvement project, the levy  
of a special assessment shall be for no more than thirty years  
from the date of approval of the initial plan. In the event that  
additional territory is added to a special improvement district,  
the special assessment to be levied with respect to such  
additional territory shall commence not earlier than the date  
such territory is added and shall be for no more than thirty  
years from such date.~~ For purposes of levying an assessment for  
this initial plan, the services or improvements included in the  
initial plan shall be deemed a special benefit to property  
owners within the district.

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(G) Each nonprofit corporation governing a district under  
~~this chapter sections 1710.02 to 1710.13 of the Revised Code~~ may  
do the following:

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(1) Exercise all powers of nonprofit corporations granted  
under Chapter 1702. of the Revised Code that do not conflict  
with ~~this chapter sections 1710.02 to 1710.13 of the Revised  
Code;~~

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(2) Develop, adopt, revise, implement, and repeal plans  
for public improvements and public services for all or any part  
of the district;

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(3) Contract with any person, political subdivision as 433  
defined in section 2744.01 of the Revised Code, or state agency 434  
as defined in section 1.60 of the Revised Code to develop and 435  
implement plans for public improvements or public services 436  
within the district; 437

(4) Contract and pay for insurance for the district and 438  
for directors, officers, agents, contractors, employees, or 439  
members of the district for any consequences of the 440  
implementation of any plan adopted by the district or any 441  
actions of the district. 442

~~The board of directors of a special improvement district 443  
may, acting as agent and on behalf of a participating political 444  
subdivision, sell, transfer, lease, or convey any special energy 445  
improvement project owned by the participating political 446  
subdivision upon a determination by the legislative authority 447  
thereof that the project is not required to be owned exclusively 448  
by the participating political subdivision for its purposes, for 449  
uses determined by the legislative authority thereof as those 450  
that will promote the welfare of the people of such 451  
participating political subdivision; to improve the quality of 452  
life and the general and economic well-being of the people of 453  
the participating political subdivision; better ensure the 454  
public health, safety, and welfare; protect water and other 455  
natural resources; provide for the conservation and preservation 456  
of natural and open areas and farmlands, including by making 457  
urban areas more desirable or suitable for development and 458  
revitalization; control, prevent, minimize, clean up, or mediate 459  
certain contamination of or pollution from lands in the state 460  
and water contamination or pollution; or provide for safe and 461  
natural areas and resources. The legislative authority of each 462  
participating political subdivision shall specify the 463~~



~~consideration for such sale, transfer, lease, or conveyance and  
any other terms thereof. Any determinations made by a  
legislative authority of a participating political subdivision  
under this division shall be conclusive.~~

~~Any sale, transfer, lease, or conveyance of a special  
energy improvement project by a participating political  
subdivision or the board of directors of the special improvement  
district may be made without advertising, receipt of bids, or  
other competitive bidding procedures applicable to the  
participating political subdivision or the special improvement  
district under Chapter 153. or 735. or section 1710.11 of the  
Revised Code or other representative provisions of the Revised  
Code.~~

**Sec. 1710.021.** Any owner of an interest in real property  
that is located within a proposed or existing special  
improvement district who enters into a contract to transfer the  
interest shall give to the transferee of the interest within the  
specified period of time both of the following:

(A) Within five days after entering into the contract,  
each notice that the owner received under ~~this chapter sections~~  
1710.02 to 1710.13 of the Revised Code within ninety days prior  
to entering into the contract;

(B) Within five days after its receipt, each notice that  
the owner receives under ~~this chapter sections~~ 1710.02 to  
1710.13 of the Revised Code after entering into the contract  
until the contract is completely performed or terminated.

**Sec. 1710.03.** (A) Except as otherwise provided in this  
division, each owner of real property within a special  
improvement district other than the state or federal government

is a member of the district, and the real property of each 493  
member of the district is subject to special assessment under 494  
division (C) of section 1710.06 of the Revised Code. A church is 495  
not a member of the district unless the church specifically 496  
requested in writing that its property be included in the 497  
district or unless, in the case of a district created by an 498  
existing qualified nonprofit corporation, the church is a member 499  
of the corporation at the time the district is created. A 500  
county, township, or municipal corporation owning real property 501  
in the district is not a member of the district unless such 502  
entity specifically requested in writing that its property be 503  
included in the district. 504

The identity and address of the owners shall be determined 505  
for any particular action of the nonprofit corporation that 506  
governs the district, including notice of meetings of the 507  
district, no more than sixty days prior to the date of the 508  
action, from the most current records available at the county 509  
auditor's office. For purposes of ~~this chapter~~ sections 1710.02 510  
to 1710.13 of the Revised Code, the persons shown on such 511  
records as having common or joint ownership interests in a 512  
parcel of real property collectively shall constitute the owner 513  
of the real property. 514

(B) A member may file a written statement with the 515  
district's secretary at least three days prior to any meeting of 516  
the entire membership of the district to appoint a proxy to 517  
carry out the member's rights and responsibilities under ~~this~~ 518  
~~chapter~~ sections 1710.02 to 1710.13 of the Revised Code at that 519  
meeting. 520

(C) A member also may appoint a designee to carry out the 521  
member's rights and responsibilities under ~~this chapter~~ sections 522

1710.02 to 1710.13 of the Revised Code by filing a written 523  
designation form with the district's secretary. This form shall 524  
include the name and address of the member, the name and address 525  
of the designee, and the expiration date, if any, of the 526  
designation and may authorize the designee to vote at any 527  
meeting of the district. 528

(D) A proxy or designee need not be an elector or resident 529  
of any participating political subdivision of the district or a 530  
member of the district. The appointment of a proxy or a designee 531  
may be changed by filing a new form with the district's 532  
secretary. The most current form filed with the secretary is the 533  
valid appointment. Service of any notice upon a proxy or 534  
designee at the proxy's or designee's address as shown on that 535  
form satisfies any requirements for notification of the member. 536

**Sec. 1710.04.** (A) A special improvement district created 537  
~~under this chapter~~ sections 1710.02 to 1710.13 of the Revised 538  
Code shall be governed by the board of directors of the special 539  
improvement district. The board shall consist of at least five 540  
directors. The board shall include a person appointed by the 541  
legislative authority of each participating political 542  
subdivision and the municipal executive of each municipal 543  
corporation with territory within the boundaries of the special 544  
improvement district. The remainder of the board's members shall 545  
be members of the district. Except for the municipal executives 546  
and the appointees of the legislative authorities, and except as 547  
otherwise provided in this division, members of the board of 548  
directors shall be elected at a meeting of the entire membership 549  
of the district. The initial election of directors may occur at 550  
the first meeting of the entire membership of the district after 551  
its creation. All subsequent elections shall be held at ~~a~~ 552  
~~November~~ an annual meeting of the membership. 553

Each municipal executive may designate one person who is 554  
an employee of the municipal corporation involved with its 555  
planning or economic development functions to serve in the 556  
municipal executive's stead. This designee shall serve at the 557  
pleasure of the municipal executive. 558

In the case of a district created by an existing qualified 559  
nonprofit corporation, the corporation's board of ~~trustees~~ 560  
directors or other governing board, however denominated, shall 561  
be the board of directors of the special improvement district 562  
for the purposes of ~~this chapter~~ sections 1710.02 to 1710.13 of 563  
the Revised Code. The election of directors otherwise required 564  
by this division shall not be required, and the requirement that 565  
municipal executives and appointees of the legislative 566  
authorities be members of the district's board of directors may 567  
be satisfied by the membership on the corporation's governing 568  
board of representatives of such participating political 569  
subdivisions, or may be waived if approved by resolution of the 570  
legislative authorities of the participating political 571  
subdivisions. 572

(B) A director may file a written statement with the 573  
district's secretary at least three days prior to any meeting of 574  
the board to have a person act as proxy to carry out the 575  
director's rights and responsibilities under ~~this chapter~~ 576  
sections 1710.02 to 1710.13 of the Revised Code at that meeting. 577

A director may also appoint a designee to carry out the 578  
director's rights and responsibilities under ~~this chapter~~ 579  
sections 1710.02 to 1710.13 of the Revised Code by filing a 580  
written designation form with the district's secretary. This 581  
form shall include the name and address of the director, the 582  
name and address of the designee, and the expiration date, if 583

any, of the designation. 584

A proxy or designee need not be an elector or resident of 585  
a participating political subdivision of the district or a 586  
member of the district. The appointment of a proxy or designee 587  
may be changed by filing a new form with the district's 588  
secretary. The most current form filed with the secretary is the 589  
valid appointment. Service of any notice upon a proxy or 590  
designee at the proxy's or designee's address as shown on that 591  
form satisfies any requirements for notification of the 592  
director. 593

(C) Notice of the time, date, place, and agenda for any 594  
meeting of the board of directors shall be by written notice to 595  
each director, transmitted by certified mail, personal service, 596  
or electronic device prior to the meeting. If possible, the 597  
notice shall be served at least one week prior to the meeting. 598

The board shall act by a majority vote of those present 599  
and authorized to vote at any meeting where proper notice has 600  
been served. 601

(D) The board shall elect a chairperson, vice-chairperson, 602  
secretary, and treasurer of the board. These officers shall 603  
serve at the board's pleasure. A director may be elected to more 604  
than one office, except that the director elected as treasurer 605  
shall not be elected to any other office of the board. 606

By the first day of March of each year, the treasurer 607  
shall submit to each member of the district and to the municipal 608  
executive, chief fiscal officer, and legislative authority of 609  
each municipal corporation with territory within the boundaries 610  
of the special improvement district and the board of township 611  
trustees of each township with territory within the boundaries 612

of the special improvement district, a report of the district's 613  
activities and financial condition for the previous year. 614

(E) Divisions (B), (C), and (D) of this section do not 615  
apply to a district created by an existing qualified nonprofit 616  
corporation to the extent those divisions are not consistent 617  
with the regulations of the corporation, in which case the 618  
regulations of the corporation shall govern. 619

**Sec. 1710.05.** Except as otherwise provided in ~~this chapter~~ 620  
sections 1710.02 to 1710.13 of the Revised Code, the articles of 621  
incorporation or the code of regulations governing the nonprofit 622  
corporation shall provide for the method by which notice for 623  
meetings of the membership of the special improvement district 624  
is to be given and the method for voting by the membership of 625  
the district. 626

**Sec. 1710.06.** (A) The board of directors of a special 627  
improvement district may develop and adopt one or more written 628  
plans for public improvements or public services that benefit 629  
all or any part of the district. Each plan shall set forth the 630  
specific public improvements or public services that are to be 631  
provided, identify the area in which they will be provided, and 632  
specify the method of assessment to be used. Each plan for 633  
public improvements or public services shall indicate the period 634  
of time the assessments are to be levied for the improvements 635  
and services and, if public services are included in the plan, 636  
the period of time the services are to remain in effect. Plans 637  
for public improvements may include the planning, design, 638  
construction, reconstruction, enlargement, or alteration of any 639  
public improvements and the acquisition of land for the 640  
improvements. Plans for public improvements or public services 641  
may also include, but are not limited to, provisions for the 642

following:	643
(1) Creating and operating the district and the nonprofit corporation under <del>this chapter</del> <u>sections 1710.02 to 1710.13 of the Revised Code</u> , including hiring employees and professional services, contracting for insurance, and purchasing or leasing office space and office equipment and other requirements of the district;	644 645 646 647 648 649
(2) Planning, designing, and implementing a public improvements or public services plan, including hiring architectural, engineering, legal, appraisal, insurance, consulting, energy auditing, and planning services, and, for public services, managing, protecting, and maintaining public and private facilities, including public improvements;	650 651 652 653 654 655
(3) Conducting court proceedings to carry out <del>this chapter</del> <u>sections 1710.02 to 1710.13 of the Revised Code</u> ;	656 657
(4) Paying damages resulting from the provision of public improvements or public services and implementing the plans;	658 659
(5) Paying the costs of issuing, paying interest on, and redeeming <u>or refunding</u> notes and bonds issued for funding public improvements and public services plans;	660 661 662
<del>(6) Sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of any special energy improvement project by the special improvement district, between a participating political subdivision and the special improvement district, and between the special improvement district and any owner of real property in the special improvement district on which a special energy improvement</del>	663 664 665 666 667 668 669 670 671

~~project has been acquired, installed, equipped, or improved; and~~ 672

~~(7) Aggregating the renewable energy credits generated by~~ 673  
~~one or more special energy improvement projects within a special~~ 674  
~~improvement district, upon the consent of the owners of the~~ 675  
~~credits and for the purpose of negotiating and completing the~~ 676  
~~sale of such credits.~~ 677

(B) Once the board of directors of the special improvement 678  
district adopts a plan, it shall submit the plan to the 679  
legislative authority of each participating political 680  
subdivision and the municipal executive of each municipal 681  
corporation in which the district is located, if any. The 682  
legislative authorities and municipal executives shall review 683  
the plan and, within sixty days after receiving it, may submit 684  
their comments and recommendations about it to the district. 685  
After reviewing these comments and recommendations, the board of 686  
directors may amend the plan. It may then submit the plan, 687  
amended or otherwise, in the form of a petition to members of 688  
the district whose property may be assessed for the plan. Once 689  
the petition is signed by those members who own at least sixty 690  
per cent of the front footage of property that is to be assessed 691  
and that abuts upon a street, alley, public road, place, 692  
boulevard, parkway, park entrance, easement, or other public 693  
improvement, or those members who own at least seventy-five per 694  
cent of the area to be assessed for the improvement or service, 695  
the petition may be submitted to each legislative authority for 696  
approval. ~~If the special improvement district was created for~~ 697  
~~the purpose of developing and implementing plans for special~~ 698  
~~energy improvement projects, the petition required under this~~ 699  
~~division shall be signed by one hundred per cent of the owners~~ 700  
~~of the area of all real property located within the area to be~~ 701  
~~assessed for the special energy improvement project.~~ 702



Each legislative authority shall, by resolution, approve 703  
or reject the petition within sixty days after receiving it. If 704  
the petition is approved by the legislative authority of each 705  
participating political subdivision, the plan contained in the 706  
petition shall be effective at the earliest date on which a 707  
nonemergency resolution of the legislative authority with the 708  
latest effective date may become effective. A plan may not be 709  
resubmitted to the legislative authorities and municipal 710  
executives more than three times in any twelve-month period. 711

(C) Each participating political subdivision shall levy, 712  
by special assessment upon specially benefited property located 713  
within the district, the costs of any public improvements or 714  
public services plan contained in a petition approved by the 715  
participating political subdivisions under this section or 716  
division (F) of section 1710.02 of the Revised Code. The levy 717  
shall be made in accordance with the procedures set forth in 718  
Chapter 727. of the Revised Code, except that: 719

(1) The assessment for each improvements or services plan 720  
may be levied by any one or any combination of the methods of 721  
assessment listed in section 727.01 of the Revised Code, 722  
provided that the assessment is uniformly applied. 723

(2) For the purpose of levying an assessment, the board of 724  
directors may combine one or more improvements or services plans 725  
or parts of plans and levy a single assessment against specially 726  
benefited property. 727

(3) For purposes of special assessments levied by a 728  
township pursuant to ~~this chapter~~ sections 1710.02 to 1710.13 of 729  
the Revised Code, references in Chapter 727. of the Revised Code 730  
to the municipal corporation shall be deemed to refer to the 731  
township, and references to the legislative authority of the 732

municipal corporation shall be deemed to refer to the board of township trustees.

Church property or property owned by a political subdivision, including any participating political subdivision in which a special improvement district is located, shall be included in and be subject to special assessments made pursuant to a plan adopted under this section or division (F) of section 1710.02 of the Revised Code, if the church or political subdivision has specifically requested in writing that its property be included within the special improvement district and the church or political subdivision is a member of the district or, in the case of a district created by an existing qualified nonprofit corporation, if the church is a member of the corporation.

(D) All rights and privileges of property owners who are assessed under Chapter 727. of the Revised Code shall be granted to property owners assessed under this chapter sections 1710.02 to 1710.13 of the Revised Code, including those rights and privileges specified in sections 727.15 to 727.17 and 727.18 to 727.22 of the Revised Code and the right to notice of the resolution of necessity and the filing of the estimated assessment under section 727.13 of the Revised Code. Property owners assessed for public services under this chapter sections 1710.02 to 1710.13 of the Revised Code shall have the same rights and privileges as property owners assessed for public improvements under this chapter sections 1710.02 to 1710.13 of the Revised Code.

**Sec. 1710.07.** The cost of any public improvements or public services plan of a special improvement district may include, but is not limited to, the following:

(A) The cost of creating and operating the district under 763  
~~this chapter~~sections 1710.02 to 1710.13 of the Revised Code, 764  
including creating and operating a nonprofit organization 765  
organized under ~~this chapter~~ sections 1710.02 to 1710.13 of the 766  
Revised Code, hiring employees and professional services, 767  
contracting for insurance, and purchasing or leasing office 768  
space or office equipment; 769

(B) The cost of planning, designing, and implementing the 770  
public improvements or public services plan, including payment 771  
of architectural, engineering, legal, appraisal, insurance, 772  
consulting, energy auditing, and planning fees and expenses, 773  
and, for public services, the management, protection, and 774  
maintenance costs of public or private facilities; 775

(C) Any court costs incurred by the district in 776  
implementing the public improvements or public services plan; 777

(D) Any damages resulting from implementing the public 778  
improvements or public services plan; 779

(E) The costs of issuing, paying interest on, and 780  
redeeming or refunding notes and bonds issued for funding the 781  
public improvements or public services plan; ~~and~~ 782

~~(F) The costs associated with the sale, lease, lease with 783  
an option to purchase, conveyance of other interests in, or 784  
other contracts for the acquisition, construction, maintenance, 785  
repair, furnishing, equipping, operation, or improvement of any 786  
special energy improvement project by the district, between a 787  
participating political subdivision and the special improvement 788  
district, or between the special improvement district and any 789  
owner of real property in the special improvement district on 790  
which a special energy improvement project has been acquired, 791~~

~~installed, equipped, or improved.~~ 792

**Sec. 1710.11.** The board of directors of a special 793  
improvement district shall adopt written rules prescribing 794  
competitive bidding procedures for contracts awarded under ~~this~~ 795  
~~chapter~~ sections 1710.02 to 1710.13 of the Revised Code. The 796  
procedures may differ from competitive bidding procedures 797  
applicable to the participating political subdivisions of the 798  
district or those provided in Chapter 735. of the Revised Code. 799  
The rules shall provide for advertising for bids and specify the 800  
bidding procedures to be followed, and may specify conditions 801  
under which competitive bidding is not required and other 802  
conditions such as establishing a dollar limit per contract or 803  
specifying particular parties to a contract. 804

**Sec. 1710.12.** Any participating political subdivision of a 805  
special improvement district may issue bonds and notes in 806  
anticipation of collection of any special assessments authorized 807  
by ~~this chapter~~ sections 1710.02 to 1710.13 of the Revised Code. 808  
All proceeds of any ~~assessments, such bonds,~~ or notes issued to 809  
fund any public improvements or public services plan under ~~this~~ 810  
~~chapter~~ sections 1710.02 to 1710.13 of the Revised Code shall 811  
first be applied by the political subdivision to payment of 812  
those bonds or notes and any interest on them, as required by 813  
section 133.17 of the Revised Code. Any remaining proceeds shall 814  
be turned over to the treasurer of the district and deposited in 815  
a district account to be used for the purposes for which the 816  
assessment was made or for which the bonds or notes were issued. 817

**Sec. 1710.13.** This section does not apply to a special 818  
improvement district created by an existing qualified nonprofit 819  
corporation. 820

The process for dissolving a special improvement district 821

or repealing an improvements or services plan may be initiated 822  
by a petition signed by members of the district who own at least 823  
twenty per cent of the appraised value of the real property 824  
located in the district, excluding church property or real 825  
property owned by the federal government, the state, or a 826  
county, township, or municipal corporation, unless the church, 827  
county, township, or municipal corporation has specifically 828  
requested in writing that the property be included in the 829  
district, and filed with the municipal executive, if any, and 830  
the legislative authorities of all the participating political 831  
subdivisions of the district. As used in this section, 832  
"appraised value" means the taxable value established by the 833  
county auditor for purposes of real estate taxation. 834

No later than forty-five days after such a petition is 835  
filed, the members of the district shall meet to consider it. 836  
Notice of the meeting shall be given as provided in section 837  
1710.05 of the Revised Code. Upon the affirmative vote of 838  
members who collectively own more than fifty per cent of the 839  
appraised value of the real property in the district that may be 840  
subject to assessment under division (C) of section 1710.06 of 841  
the Revised Code, the district shall be dissolved, or the plan 842  
shall be repealed, as applicable. 843

No rights or obligations of any person under any contract, 844  
or in relation to any bonds, notes, or assessments made under 845  
~~this chapter~~ sections 1710.02 to 1710.13 of the Revised Code, 846  
shall be affected by the dissolution of the district or the 847  
repeal of a plan, except with the consent of that person or by 848  
order of a court with jurisdiction over the matter. Upon 849  
dissolution of a district, any assets or rights of the district, 850  
after payment of all bonds, notes, or other obligations of the 851  
district, shall be deposited in a special account in the 852

treasury of each participating political subdivision, prorated 853  
among all participating political subdivisions to reflect the 854  
percentage of the district's territory within that political 855  
subdivision, to be used for the benefit of the territory that 856  
made up the district. 857

Once the members have approved the repeal of a plan, all 858  
bonds, notes, and other obligations of the district associated 859  
with the plan shall be paid. Thereafter, the plan shall be 860  
repealed. Upon receipt of proof that all bonds, notes, and other 861  
obligations have been paid and that the plan has been repealed, 862  
the participating political subdivisions shall terminate any 863  
levies imposed to pay for costs of the plan. 864

Sec. 1710.20. For the purpose of developing and 865  
implementing plans for special energy improvement projects, a 866  
property owner or owners may create an energy special 867  
improvement district. The property owner or owners shall create 868  
the district in accordance with sections 1710.20 to 1710.28 of 869  
the Revised Code and shall ensure that all of the following 870  
apply to the district: 871

(A) The district is governed by a nonprofit corporation 872  
organized under Chapter 1702. of the Revised Code acting through 873  
its board of directors. 874

(B) The territory comprising the district is within the 875  
boundaries of any one municipal corporation, any one township, 876  
or any combination of contiguous or noncontiguous municipal 877  
corporations or townships. 878

(C) At least one special energy improvement project is 879  
designated for each parcel of real property within the district. 880

Sec. 1710.21. In order to create an energy special 881

improvement district under sections 1710.20 to 1710.28 of the 882  
Revised Code, the person or persons proposing the creation of 883  
the district shall submit to each participating political 884  
subdivision all of the following: 885

(A) A written plan for special energy improvement projects 886  
created in accordance with section 1710.22 of the Revised Code; 887

(B) The articles of incorporation for the nonprofit 888  
corporation that will govern the district that meet the 889  
requirements of section 1710.23 of the Revised Code; and 890

(C) A petition for the creation of the district signed by 891  
one hundred per cent of the property owners located within the 892  
proposed district. 893

For purposes of compliance with division (C) of this 894  
section, the person or persons proposing creation of the 895  
district shall show the area of the district and the ownership 896  
of each parcel of property of the proposed district by reference 897  
to records that were available from each county recorder's 898  
office not more than sixty days prior to the submission of the 899  
petition. 900

**Sec. 1710.22.** (A) The person or persons proposing the 901  
creation of an energy special improvement district under 902  
sections 1710.20 to 1710.28 of the Revised Code shall ensure 903  
that the plan required under section 1710.21 of the Revised Code 904  
includes both of the following: 905

(1) A description of the proposed special energy 906  
improvement project or projects, including the cost of the 907  
proposed project or projects and a statement of which property 908  
or properties each project will benefit. The person or persons 909  
shall designate at least one special energy improvement project 910

for each parcel of real property within the proposed district. 911

(2) The method of assessment to be used and the time 912  
period during which the assessment will be levied. 913

(B) The person or persons proposing the creation of an 914  
energy special improvement district under sections 1710.20 to 915  
1710.28 of the Revised Code may include in the plan submitted 916  
under section 1710.21 of the Revised Code provisions for the 917  
following: 918

(1) Creating and operating the district and the nonprofit 919  
corporation, including hiring employees and professional 920  
services, contracting for insurance, and purchasing or leasing 921  
office space and office equipment and other requirements of the 922  
district; 923

(2) Planning, designing, and implementing a plan, and 924  
paying the costs of any action taken in furtherance of the plan, 925  
including hiring architectural, engineering, legal, financial, 926  
appraisal, insurance, consulting, energy auditing, and planning 927  
services; 928

(3) Paying the costs of issuing, paying interest on, and 929  
redeeming or refunding notes and bonds issued for the purpose of 930  
funding a plan; 931

(4) Sale, lease, lease with an option to purchase, 932  
conveyance of other interests in, or other contracts for the 933  
acquisition, construction, maintenance, repair, furnishing, 934  
equipping, operation, or improvement of any special energy 935  
improvement project by the energy special improvement district, 936  
between a participating political subdivision and the district, 937  
and between the district and any owner of real property in the 938  
district on which a special energy improvement project has been 939



acquired, installed, equipped, or improved; 940

(5) Aggregating the renewable energy credits generated by 941  
one or more special energy improvement projects within an energy 942  
special improvement district, upon the consent of the owners of 943  
the credits and for the purpose of negotiating and completing 944  
the sale of such credits; 945

(6) The addition of territory to the energy special 946  
improvement district; 947

(7) Any other actions necessary to form, operate, or 948  
organize the energy special improvement district and the 949  
nonprofit corporation that will govern the energy special 950  
improvement district. 951

**Sec. 1710.23.** The person or persons proposing the creation 952  
of an energy special improvement district under sections 1710.20 953  
to 1710.28 of the Revised Code shall ensure that in addition to 954  
meeting the requirements for articles of incorporation set forth 955  
in Chapter 1702. of the Revised Code, the articles of 956  
incorporation submitted under section 1710.21 of the Revised 957  
Code for the nonprofit corporation that will govern the energy 958  
special improvement district provide all of the following: 959

(A) The name for the district; 960

(B) A description of the territory within the district, 961  
which may be all or part of each participating political 962  
subdivision; 963

(C) A description of the procedure by which the articles 964  
of incorporation may be amended; 965

(D) The reasons for creating the district and an 966  
explanation of how the district will be conducive to the public 967

health, safety, peace, convenience, and welfare of the district. 968

Sec. 1710.24. (A) Each participating political subdivision 969  
with which the petition, the plan, and the articles of 970  
incorporation are filed under section 1710.21 of the Revised 971  
Code may, by resolution, approve or disapprove the petition, the 972  
plan, and the articles of incorporation not later than sixty 973  
days after the date that the petition, the plan, and the 974  
articles of incorporation were filed. A copy of any resolution 975  
approving the petition, plan, and articles of incorporation 976  
shall be filed along with the articles of incorporation in the 977  
secretary of state's office. The energy special improvement 978  
district is created upon the filing of approval by all 979  
participating political subdivisions within the proposed energy 980  
special improvement district. 981

This division does not prohibit or restrict the rights of 982  
municipal corporations under Article XVIII of the Ohio 983  
Constitution or the right of the municipal legislative authority 984  
to impose reasonable conditions in a resolution of approval. The 985  
acquisition, installation, equipping, and improvement of a 986  
special energy improvement project under this section does not 987  
supersede any local zoning, environmental, or similar law or 988  
regulation. 989

(B) If every participating political subdivision with 990  
which the petition, the plan, and the articles of incorporation 991  
were submitted approves the petition, the plan, and the articles 992  
of incorporation, each participating political subdivision shall 993  
levy a special assessment on all real property in the energy 994  
special improvement district that is located within its 995  
boundaries to pay for the costs of the plan. The participating 996  
political subdivision shall levy the special assessment for not 997

more than thirty years from the first day of the year in which 998  
the special assessment is first imposed. In the event that 999  
additional territory is added to the energy special improvement 1000  
district, a participating political subdivision shall levy the 1001  
special assessment with respect to such additional territory 1002  
commencing not earlier than the date such territory is added and 1003  
for not more than thirty years from the first day of the year in 1004  
which the special assessment is first imposed. 1005

(C) For purposes of levying a special assessment for the 1006  
plan, the special energy improvement projects included in the 1007  
plan are deemed a special benefit to property owners within the 1008  
energy special improvement district. The use of special 1009  
assessments levied to benefit such property owners does not 1010  
constitute expenditures made with public funds. The 1011  
participating political subdivision shall levy the special 1012  
assessment in accordance with Chapter 727. of the Revised Code 1013  
except that: 1014

(1) The participating political subdivision may levy the 1015  
assessment for each plan by any one or any combination of the 1016  
methods of assessment listed in section 727.01 of the Revised 1017  
Code, provided that the assessment is uniformly applied; 1018

(2) For purposes of levying an assessment, the 1019  
participating political subdivision may combine one or more 1020  
plans or parts of plans and levy a single assessment against 1021  
specially benefited property; 1022

(3) For purposes of special assessments levied by a 1023  
township under this section, references in Chapter 727. of the 1024  
Revised Code to the municipal corporation are deemed to refer to 1025  
the township, and references to the legislative authority of the 1026  
municipal corporation are deemed to refer to the board of 1027

township trustees. 1028

(D) All applicable rights and privileges of a property 1029  
owner that is assessed under Chapter 727. of the Revised Code 1030  
are granted to a property owner assessed under this section, 1031  
including those rights and privileges specified in sections 1032  
727.15 to 727.17 and 727.18 to 727.22 of the Revised Code and 1033  
the right to notice of the resolution of necessity and the 1034  
filing of the estimated assessment under section 727.13 of the 1035  
Revised Code, unless waived by the property owner. 1036

**Sec. 1710.241.** A petition submitted under section 1710.21 1037  
of the Revised Code is in furtherance of the purposes set forth 1038  
in Section 2o of Article VIII, Ohio Constitution, if approved by 1039  
all of the participating political subdivisions with which the 1040  
petition is submitted. 1041

**Sec. 1710.25.** (A) Each nonprofit corporation governing an 1042  
energy special improvement district under sections 1710.20 to 1043  
1710.28 of the Revised Code may do the following: 1044

(1) Exercise all powers of nonprofit corporations granted 1045  
under Chapter 1702. of the Revised Code that do not conflict 1046  
with sections 1710.20 to 1710.28 of the Revised Code; 1047

(2) Develop, adopt, revise, implement, and repeal plans 1048  
for all or any part of the district; 1049

(3) Contract with any person, political subdivision as 1050  
defined in section 2744.01 of the Revised Code, or state agency 1051  
as defined in section 1.60 of the Revised Code to develop and 1052  
implement plans for special energy improvement projects within 1053  
the district; 1054

(4) For purposes relating to the financing of special 1055  
energy improvement projects, cooperate and contract with any 1056

port authority having jurisdiction over the territory in the 1057  
district; 1058

(5) Contract and pay for insurance for the district and 1059  
for directors, officers, agents, contractors, employees, or 1060  
members of the district for any consequences of the 1061  
implementation of any plan adopted by the district or any 1062  
actions of the district; 1063

(6) Act as an agent for and on behalf of a participating 1064  
political subdivision in order to sell, transfer, lease, or 1065  
convey any special energy improvement project owned by the 1066  
political subdivision, provided that the legislative authority 1067  
of the participating political subdivision determines that the 1068  
project is not required to be exclusively owned by the political 1069  
subdivision for its purposes, and provided that the sale is for 1070  
any of the following purposes: 1071

(a) To promote the welfare of the people of such 1072  
participating political subdivision; 1073

(b) To improve the quality of life and the general and 1074  
economic well-being of the people of the participating political 1075  
subdivision; 1076

(c) To better ensure the public health, safety, and 1077  
welfare; 1078

(d) To protect water and other natural resources; 1079

(e) To provide for the conservation and preservation of 1080  
natural and open areas and farmlands, including by making urban 1081  
areas more desirable or suitable for development and 1082  
revitalization; 1083

(f) To control, prevent, minimize, clean up, or mediate 1084

certain contamination of or pollution from lands in the state 1085  
and water contamination or pollution; or 1086

(g) To provide for safe and natural areas and resources. 1087

The legislative authority of a participating political 1088  
subdivision shall specify the consideration for such sale, 1089  
transfer, lease, or conveyance and any other terms thereof. Any 1090  
determinations made by a legislative authority of a 1091  
participating political subdivision under division (A) (6) of 1092  
this section are conclusive. 1093

(B) A participating political subdivision or a nonprofit 1094  
corporation governing an energy special improvement district may 1095  
make any purchase, sale, transfer, lease, or conveyance of a 1096  
special energy improvement project without advertising, receipt 1097  
of bids, or other competitive bidding procedures applicable to 1098  
the participating political subdivision or the energy special 1099  
improvement district under Chapter 153. or 735. or section 1100  
1710.11 of the Revised Code or other representative provisions 1101  
of the Revised Code. 1102

(C) Membership on the board of directors of the district 1103  
is not considered holding a public office. Directors and their 1104  
designees are entitled to the immunities provided by Chapter 1105  
1702. of the Revised Code and to the same immunity as an 1106  
employee under division (A) (6) of section 2744.03 of the Revised 1107  
Code, except that directors and their designees are not entitled 1108  
to the indemnification provided in section 2744.07 of the 1109  
Revised Code unless the director or designee is an employee or 1110  
official of a participating political subdivision of the 1111  
district and is acting within the scope of the director's or 1112  
designee's employment or official responsibilities. 1113

District officers and district members and directors and 1114  
their designees or proxies are not required to file a statement 1115  
with the Ohio ethics commission under section 102.02 of the 1116  
Revised Code. All records of the district are public records 1117  
under section 149.43 of the Revised Code, except that records of 1118  
organizations contracting with a district are not public records 1119  
under section 149.43 or 149.431 of the Revised Code solely by 1120  
reason of any contract with a district. 1121

**Sec. 1710.26.** (A) Each owner of real property within an 1122  
energy special improvement district created under sections 1123  
1710.20 to 1710.28 of the Revised Code is a member of the energy 1124  
special improvement district and of the nonprofit corporation 1125  
governing the district. The nonprofit corporation governing the 1126  
district shall determine the identity and address of each owner 1127  
for any particular action of the nonprofit corporation, 1128  
including notice of meetings of the district, not more than 1129  
sixty days prior to the date of the action, from the most 1130  
current records available at the county auditor's office. For 1131  
purposes of this section, the persons shown on such records as 1132  
having common or joint ownership interests in a parcel of real 1133  
property collectively constitute the owner of the real property. 1134  
The articles of incorporation or the code of regulations 1135  
governing the nonprofit corporation shall provide for the method 1136  
by which notice for meetings of the membership of the energy 1137  
special improvement district is given and the method for voting 1138  
by the membership of the district. 1139

(B) A member may file a written statement with the 1140  
district's secretary at least three days prior to any meeting of 1141  
the entire membership of the district to appoint a proxy to 1142  
carry out the member's rights and responsibilities under 1143  
sections 1710.20 to 1710.28 of the Revised Code at that meeting. 1144

(C) A member also may appoint a designee to carry out the member's rights and responsibilities under sections 1710.20 to 1710.28 of the Revised Code by filing a written designation form with the district's secretary. This form shall include the name and address of the member, the name and address of the designee, and the expiration date, if any, of the designation and may authorize the designee to vote at any meeting of the district.

(D) A proxy or designee need not be an elector or resident of any participating political subdivision of the district or a member of the district. A member may change the appointment of a proxy or a designee by filing a new form with the district's secretary. The most current form filed with the secretary is the valid appointment. Service of any notice upon a proxy or designee at the proxy's or designee's address as shown on that form satisfies any requirements for notification of the member.

**Sec. 1710.27.** The board of directors of the nonprofit corporation that governs an energy special improvement district created under sections 1710.20 to 1710.28 of the Revised Code may add additional territory to the district upon approval of a petition by one hundred per cent of the property owners of the additional territory and a plan that designates at least one special energy improvement project for each parcel of real property and that complies with section 1710.22 of the Revised Code.

**Sec. 1710.28.** A nonprofit corporation created for the purpose of governing an energy special improvement district created under sections 1710.20 to 1710.28 of the Revised Code may be dissolved as provided in the petition, the plan, and the articles of incorporation.

**Sec. 1710.29.** On and after the effective date of this



section, any special improvement district that, prior to the 1175  
effective date of this section, was created under sections 1176  
1710.01 to 1710.13 of the Revised Code for the purpose of 1177  
developing and implementing plans for special energy improvement 1178  
projects shall continue and shall be treated as though it was 1179  
created under sections 1710.20 to 1710.28 of the Revised Code. 1180  
Such a district shall hereafter be governed by the requirements 1181  
of sections 1710.20 to 1710.28 of the Revised Code. 1182

**Sec. 1710.30.** For the purpose of developing and 1183  
implementing one or more special energy improvement projects on 1184  
their property, a property owner or owners may petition the 1185  
municipal corporation, township, or any combination of 1186  
contiguous or noncontiguous municipal corporations or townships 1187  
within which their property is located. The property owner or 1188  
owners shall petition the municipal corporation or corporations 1189  
or township or townships in accordance with sections 1710.31 and 1190  
1710.32 of the Revised Code and shall ensure that both of the 1191  
following apply: 1192

(A) The parcels upon which the special energy improvement 1193  
project or projects will be developed and implemented are within 1194  
the boundaries of any one municipal corporation, any one 1195  
township, or any combination of contiguous or noncontiguous 1196  
municipal corporations or townships. 1197

(B) At least one special energy improvement project is 1198  
designated for each parcel of real property described in the 1199  
petition. 1200

**Sec. 1710.31.** (A) The person or persons proposing the 1201  
development and implementation of one or more special energy 1202  
improvement project or projects under sections 1710.30 to 1203  
1710.34 of the Revised Code shall submit to the legislative 1204

authority of each municipal corporation or corporations or 1205  
township or townships in which the proposed project or projects 1206  
are to be developed and implemented a petition for the 1207  
development and implementation of the special energy improvement 1208  
project or projects signed by one hundred per cent of the 1209  
property owners that are proposing the development and 1210  
implementation. 1211

(B) For purposes of compliance with division (A) of this 1212  
section, the person or persons proposing the development and 1213  
implementation of the special energy improvement project or 1214  
projects shall show the ownership of each parcel of property 1215  
described in the petition by reference to records that were 1216  
available from each county recorder's office not more than sixty 1217  
days prior to the submission of the petition. 1218

**Sec. 1710.32.** (A) The person or persons proposing the 1219  
development and implementation of one or more special energy 1220  
improvement projects under sections 1710.30 to 1710.34 of the 1221  
Revised Code shall ensure that the petition required under 1222  
section 1710.31 of the Revised Code includes all of the 1223  
following: 1224

(1) A description of the proposed special energy 1225  
improvement project or projects, including the cost of the 1226  
proposed project or projects and a statement of which property 1227  
or properties each project will benefit. The person or persons 1228  
shall designate at least one special energy improvement project 1229  
for each parcel of real property described in the petition. 1230

(2) The method of assessment to be used under section 1231  
1710.34 of the Revised Code and the time period during which the 1232  
assessment will be levied; 1233

(3) A statement that the development and implementation of the special energy improvement project or projects is being requested under sections 1710.30 to 1710.34 of the Revised Code.

(B) The person or persons proposing the development and implementation of the special energy improvement project or projects may include in the petition submitted under section 1710.31 of the Revised Code provisions for the following:

(1) Planning, designing, and implementing the special energy improvement projects, and paying the cost of any action taken in furtherance of the projects, including hiring architectural, engineering, legal, financial, appraisal, insurance, consulting, energy auditing, and planning services;

(2) Paying the costs of issuing, paying interest on, and redeeming or refunding notes and bonds issued for the purpose of funding special energy improvement projects;

(3) For purposes relating to the financing of special energy improvement projects, cooperating and contracting with any port authority having jurisdiction over the parcels upon which the special energy improvement project or projects will be developed and implemented;

(4) Sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of any special energy improvement project between a municipal corporation or corporations or township or townships and any owner of real property on which a special energy improvement project has been acquired, installed, equipped, or improved;

(5) Aggregating the renewable energy credits generated by

one or more special energy improvement projects, upon the 1263  
consent of the owners of the credits and for the purpose of 1264  
negotiating and completing the sale of such credits; 1265

(6) Any other actions necessary to develop and implement 1266  
the special energy improvement project or projects. 1267

**Sec. 1710.33.** (A) Each municipal corporation or township 1268  
with which a petition is filed under section 1710.31 of the 1269  
Revised Code may, by resolution, approve or disapprove of the 1270  
petition not later than sixty days after the date that the 1271  
petition was filed. 1272

This division does not prohibit or restrict the rights of 1273  
municipal corporations under Article XVIII of the Ohio 1274  
Constitution or the right of the municipal legislative authority 1275  
to impose reasonable conditions in a resolution of approval. The 1276  
acquisition, installation, equipping, and improvement of a 1277  
special energy improvement project under this section does not 1278  
supersede any local zoning, environmental, or similar law or 1279  
regulation. 1280

(B) A municipal corporation or township may disapprove a 1281  
petition under this section on the ground that the municipal 1282  
corporation or township desires the establishment of an energy 1283  
special improvement district under sections 1710.20 to 1710.28 1284  
of the Revised Code. If a municipal corporation or township 1285  
disapproves the petition on this ground, the person or persons 1286  
who submitted the petition may resubmit the petition under 1287  
sections 1710.20 to 1710.28 of the Revised Code. 1288

**Sec. 1710.331.** A petition submitted under section 1710.31 1289  
of the Revised Code is in furtherance of the purposes set forth 1290  
in Section 2o of Article VIII, Ohio Constitution, if approved by 1291

all of the municipal corporations or townships with which the 1292  
petition is submitted. 1293

**Sec. 1710.34.** (A) If every municipal corporation and 1294  
township with which a petition was submitted under section 1295  
1710.31 of the Revised Code approves the petition, each 1296  
municipal corporation or township that approved the petition 1297  
shall levy a special assessment to pay for the costs of the 1298  
development and implementation of the special energy improvement 1299  
project or projects described in the petition on all real 1300  
property that is located within the boundaries of the municipal 1301  
corporation or township and for which there is designated at 1302  
least one of the special energy improvement projects described 1303  
in the petition. The municipal corporation or township shall 1304  
levy the special assessment for not more than thirty years from 1305  
the first day of the year in which the special assessment is 1306  
first imposed. 1307

(B) For purposes of levying a special assessment under 1308  
this section, the special energy improvement project or projects 1309  
described in the petition are deemed a special benefit to any 1310  
owners of private property for which there is designated at 1311  
least one of those special energy improvement projects. The use 1312  
of special assessments levied to benefit such property owners 1313  
does not constitute expenditures made with public funds. The 1314  
municipal corporation or township shall levy the special 1315  
assessment in accordance with Chapter 727. of the Revised Code 1316  
except that: 1317

(1) The municipal corporation or township may levy the 1318  
special assessment by any one or any combination of the methods 1319  
of assessment listed in section 727.01 of the Revised Code, 1320  
provided that the assessment is uniformly applied; 1321

(2) For purposes of levying an assessment, the municipal corporation or township may combine one or more special energy improvement projects and levy a single assessment against specially benefited property; 1322  
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(3) For purposes of special assessments levied by a township under this section, references in Chapter 727. of the Revised Code to the municipal corporation are deemed to refer to the township, and references to the legislative authority of the municipal corporation are deemed to refer to the board of township trustees. 1326  
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(D) All applicable rights and privileges of a property owner that is assessed under Chapter 727. of the Revised Code are granted to a property owner assessed under this section, including those rights and privileges specified in sections 727.15 to 727.17 and 727.18 to 727.22 of the Revised Code and the right to notice of the resolution of necessity and the filing of the estimated assessment under section 727.13 of the Revised Code, unless waived by the property owner. 1332  
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**Sec. ~~1710.061~~1710.40.** (A) Except as provided in division (B) of this section, an electric distribution utility may count toward its compliance with the energy efficiency and peak demand reduction requirements of section 4928.66 of the Revised Code any efficiency savings or reduction in demand produced by a special energy improvement project located in its certified territory. 1340  
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(B) A mercantile customer that realizes energy efficiency savings or reduction in demand produced by a special energy improvement project that it owns may elect to commit the savings or reduction to the electric distribution utility in exchange for an exemption from an energy efficiency cost recovery 1347  
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mechanism permitted under section 4928.66 of the Revised Code, 1352  
approved by the public utilities commission. 1353

(C) The board of directors of ~~a~~an energy special 1354  
improvement district shall submit a quarterly report to the 1355  
electric distribution utility that includes, but is not limited 1356  
to, both of the following: 1357

(1) The total number and a description of each new and 1358  
ongoing special energy improvement project located within the 1359  
energy special improvement district that produces energy 1360  
efficiency savings or reduction in demand; 1361

(2) Any additional information that the electric 1362  
distribution utility needs in order to obtain credit under 1363  
section 4928.66 of the Revised Code for energy efficiency 1364  
savings or reduction in demand from such projects. 1365

**Sec. 4582.06.** (A) A port authority created in accordance 1366  
with section 4582.02 of the Revised Code may: 1367

(1) Acquire, construct, furnish, equip, maintain, repair, 1368  
sell, exchange, lease to or from, lease with an option to 1369  
purchase, convey other interests in, or operate real or personal 1370  
property, or any combination thereof, related to, useful for, or 1371  
in furtherance of any authorized purpose, and make charges for 1372  
the use of any port authority facility, which shall be not less 1373  
than the charges established for the same services furnished by 1374  
a public utility or common carrier in the jurisdiction of the 1375  
particular port authority; 1376

(2) Straigten, deepen, and improve any canal, channel, 1377  
river, stream, or other water course or way that may be 1378  
necessary or proper in the development of the facilities of the 1379  
port authority; 1380

(3) Issue bonds or notes for the acquisition, 1381  
construction, furnishing, or equipping of any real or personal 1382  
property, or any combination thereof, related to, useful for, or 1383  
in furtherance of any authorized purpose, in compliance with 1384  
Chapter 133. of the Revised Code, except that the bonds or notes 1385  
only may be issued pursuant to a vote of the electors residing 1386  
within the territory of the port authority. The net indebtedness 1387  
incurred by a port authority shall never exceed two per cent of 1388  
the total value of all property within the territory comprising 1389  
the authority as listed and assessed for taxation. 1390

(4) By resolution of its board of directors, issue revenue 1391  
bonds beyond the limit of bonded indebtedness provided by law, 1392  
for the acquisition, construction, furnishing, or equipping of 1393  
any real or personal property, or any combination thereof, 1394  
related to, useful for, or in furtherance of any authorized 1395  
purpose, including all costs in connection with or incidental 1396  
thereto. 1397

The revenue bonds of the port authority shall be secured 1398  
only by a pledge of and a lien on the revenues of the port 1399  
authority derived from those loan payments, rentals, fees, 1400  
charges, or other revenues that are designated in the 1401  
resolution, including, but not limited to, any property to be 1402  
acquired, constructed, furnished, or equipped with the proceeds 1403  
of the bond issue, after provision only for the reasonable cost 1404  
of operating, maintaining, and repairing the property of the 1405  
port authority so designated. The bonds may further be secured 1406  
by the covenant of the port authority to maintain rates or 1407  
charges that will produce revenues sufficient to meet the costs 1408  
of operating, maintaining, and repairing such property and to 1409  
meet the interest and principal requirements of the bonds and to 1410  
establish and maintain reserves for the foregoing purposes. The 1411



board of directors, by resolution, may provide for the issuance 1412  
of additional revenue bonds from time to time, to be secured 1413  
equally and ratably, without preference, priority, or 1414  
distinction, with outstanding revenue bonds, but subject to the 1415  
terms and limitations of any trust agreement described in this 1416  
section, and of any resolution authorizing bonds then 1417  
outstanding. The board of directors, by resolution, may 1418  
designate additional property of the port authority, the 1419  
revenues of which shall be pledged and be subject to a lien for 1420  
the payment of the debt charges on revenue bonds theretofore 1421  
authorized by resolution of the board of directors, to the same 1422  
extent as the revenues above described. 1423

In the discretion of the board of directors, the revenue 1424  
bonds of the port authority may be secured by a trust agreement 1425  
between the board of directors on behalf of the port authority 1426  
and a corporate trustee, that may be any trust company or bank 1427  
having powers of a trust company, within or without the state. 1428

The trust agreement may provide for the pledge or 1429  
assignment of the revenues to be received, but shall not pledge 1430  
the general credit and taxing power of the port authority. A 1431  
trust agreement securing revenue bonds issued to acquire, 1432  
construct, furnish, or equip real property, plants, factories, 1433  
offices, and other structures and facilities for authorized 1434  
purposes consistent with Section 13 or 16 of Article VIII, Ohio 1435  
Constitution, may mortgage the real or personal property, or a 1436  
combination thereof, to be acquired, constructed, furnished, or 1437  
equipped from the proceeds of such revenue bonds, as further 1438  
security for the bonds. The trust agreement or the resolution 1439  
providing for the issuance of revenue bonds may set forth the 1440  
rights and remedies of the bondholders and trustee, and may 1441  
contain other provisions for protecting and enforcing their 1442

rights and remedies that are determined in the discretion of the 1443  
board of directors to be reasonable and proper. The agreement or 1444  
resolution may provide for the custody, investment, and 1445  
disbursement of all moneys derived from the sale of such bonds, 1446  
or from the revenues of the port authority, other than those 1447  
moneys received from taxes levied pursuant to section 4582.14 of 1448  
the Revised Code, and may provide for the deposit of such funds 1449  
without regard to section 4582.15 of the Revised Code. 1450

All bonds issued under authority of this chapter, 1451  
regardless of form or terms and regardless of any other law to 1452  
the contrary, shall have all qualities and incidents of 1453  
negotiable instruments, subject to provisions for registration, 1454  
and may be issued in coupon, fully registered, or other form, or 1455  
any combination thereof, as the board of directors determines. 1456  
Provision may be made for the registration of any coupon bonds 1457  
as to principal alone or as to both principal and interest, and 1458  
for the conversion into coupon bonds of any fully registered 1459  
bonds or bonds registered as to both principal and interest. 1460

The revenue bonds shall bear interest at such rate or 1461  
rates, shall bear such date or dates, and shall mature within 1462  
forty-five years following the date of issuance and in such 1463  
amount, at such time or times, and in such number of 1464  
installments, as may be provided in or pursuant to the 1465  
resolution authorizing their issuance. The final maturity of any 1466  
original issue of revenue bonds shall not be later than forty- 1467  
five years from their date of issue. Such resolution also shall 1468  
provide for the execution of the bonds, which may be by 1469  
facsimile signatures unless prohibited by the resolution, and 1470  
the manner of sale of the bonds. The resolution shall provide 1471  
for, or provide for the determination of, any other terms and 1472  
conditions relative to the issuance, sale, and retirement of the 1473

bonds that the board of directors in its discretion determines 1474  
to be reasonable and proper. 1475

Whenever a port authority considers it expedient, it may 1476  
issue renewal notes and refund any bonds, whether the bonds to 1477  
be refunded have or have not matured. The final maturity of any 1478  
notes, including any renewal notes, shall not be later than five 1479  
years from the date of issue of the original issue of notes. The 1480  
final maturity of any refunding bonds shall not be later than 1481  
the later of forty-five years from the date of issue of the 1482  
original issue of bonds. The refunding bonds shall be sold and 1483  
the proceeds applied to the purchase, redemption, or payment of 1484  
the bonds to be refunded and the costs of issuance of the 1485  
refunding bonds. The bonds and notes issued under this chapter, 1486  
their transfer, and the income therefrom, shall at all times be 1487  
free from taxation within the state. 1488

(5) Do any of the following, in regard to any interests in 1489  
any real or personal property, or any combination thereof, 1490  
including, without limitation, machinery, equipment, plants, 1491  
factories, offices, and other structures and facilities related 1492  
to, useful for, or in furtherance of any authorized purpose, for 1493  
such consideration and in such manner, consistent with Article 1494  
VIII, Ohio Constitution, as the board in its sole discretion may 1495  
determine: 1496

(a) Loan moneys to any person or governmental entity for 1497  
the acquisition, construction, furnishing, and equipping of the 1498  
property; 1499

(b) Acquire, construct, maintain, repair, furnish, and 1500  
equip the property; 1501

(c) Sell to, exchange with, lease, convey other interests 1502

in, or lease with an option to purchase the same or any lesser interest in the property to the same or any other person or governmental entity;

(d) Guarantee the obligations of any person or governmental entity.

A port authority may accept and hold as consideration for the conveyance of property or any interest therein such property or interests therein as the board in its discretion may determine, notwithstanding any restrictions that apply to the investment of funds by a port authority.

(6) Construct, maintain, repair, furnish, equip, sell, exchange, lease, or lease with an option to purchase, any property that it is authorized to acquire. A port authority that is subject to this section also may operate any property in connection with transportation, recreational, governmental operations, or cultural activities.

(a) Any purchase, exchange, sale, lease, lease with an option to purchase, conveyance of other interests in, or other contract with a person or governmental entity that pertains to the acquisition, construction, maintenance, repair, furnishing, equipping, or operation of any real or personal property, or any combination thereof, related to, useful for, or in furtherance of an activity contemplated by Section 13 or 16 of Article VIII, Ohio Constitution, shall be made in such manner and subject to such terms and conditions as may be determined by the board of directors in its discretion.

(b) Division (A) (6) (a) of this section applies to all contracts that are subject to the division, notwithstanding any other provision of law that might otherwise apply, including,

without limitation, any requirement of notice, any requirement 1532  
of competitive bidding or selection, or any requirement for the 1533  
provision of security. 1534

(c) Divisions (A) (6) (a) and (b) of this section do not 1535  
apply to either of the following: 1536

(i) Any contract secured by or to be paid from moneys 1537  
raised by taxation or the proceeds of obligations secured by a 1538  
pledge of moneys raised by taxation; 1539

(ii) Any contract secured exclusively by or to be paid 1540  
exclusively from the general revenues of the port authority. For 1541  
the purposes of this section, any revenues derived by the port 1542  
authority under a lease or other agreement that, by its terms, 1543  
contemplates the use of amounts payable under the agreement 1544  
either to pay the costs of the improvement that is the subject 1545  
of the contract or to secure obligations of the port authority 1546  
issued to finance costs of such improvement, are excluded from 1547  
general revenues. 1548

(7) Apply to the proper authorities of the United States 1549  
pursuant to appropriate law for the right to establish, operate, 1550  
and maintain foreign trade zones and to establish, operate, and 1551  
maintain foreign trade zones; and to acquire land or property 1552  
therefor, in a manner consistent with section 4582.17 of the 1553  
Revised Code; 1554

(8) Exercise the right of eminent domain to appropriate 1555  
any land, rights, rights-of-way, franchises, easements, or other 1556  
property, necessary or proper for any authorized purpose, 1557  
pursuant to the procedure provided in sections 163.01 to 163.22 1558  
of the Revised Code, if funds equal to the appraised value of 1559  
the property to be acquired as a result of such proceedings are 1560

available for that purpose, except that nothing contained in 1561  
sections 4582.01 to 4582.20 of the Revised Code shall authorize 1562  
a port authority to take or disturb property or facilities 1563  
belonging to any agency or political subdivision of this state, 1564  
public utility, or common carrier, which property or facilities 1565  
are necessary and convenient in the operation of the agency or 1566  
political subdivision, public utility, or common carrier, unless 1567  
provision is made for the restoration, relocation, or 1568  
duplication of the property or facilities, or upon the election 1569  
of the agency or political subdivision, public utility, or 1570  
common carrier, for the payment of compensation, if any, at the 1571  
sole cost of the port authority, provided that: 1572

(a) If any restoration or duplication proposed to be made 1573  
pursuant to this section involves a relocation of such property 1574  
or facilities, the new facilities and location shall be of at 1575  
least comparable utilitarian value and effectiveness, and the 1576  
relocation shall not impair the ability of the public utility or 1577  
common carrier to compete in its original area of operation. 1578

(b) If any restoration or duplication made pursuant to 1579  
this section involves a relocation of such property or 1580  
facilities, the port authority shall acquire no interest or 1581  
right in or to the appropriated property or facilities, except 1582  
as provided in division (A)(11) of this section, until the 1583  
relocated property or facilities are available for use and until 1584  
marketable title thereto has been transferred to the public 1585  
utility or common carrier. 1586

(c) Provisions for restoration or duplication shall be 1587  
described in detail in the resolution for appropriation passed 1588  
by the port authority. 1589

(9) Enjoy and possess the same rights, privileges, and 1590

powers granted municipal corporations under sections 721.04 to 1591  
721.11 of the Revised Code; 1592

(10) Maintain such funds as it considers necessary; 1593

(11) Direct its agents or employees, when properly 1594  
identified in writing, and after at least five days' written 1595  
notice, to enter upon lands within the confines of its 1596  
jurisdiction in order to make surveys and examinations 1597  
preliminary to location and construction of works for the 1598  
purposes of the port authority, without liability of the port 1599  
authority or its agents or employees except for actual damage 1600  
done; 1601

(12) Sell, lease, or convey other interests in real and 1602  
personal property and grant easements or rights-of-way over 1603  
property of the port authority. The board of directors shall 1604  
specify the consideration and any terms thereof for the sale, 1605  
lease, or conveyance of other interests in real and personal 1606  
property. Any determinations made by the board of directors 1607  
under this division shall be conclusive. The sale, lease, or 1608  
conveyance may be made without advertising and the receipt of 1609  
bids. 1610

(13) Promote, advertise, and publicize the port authority 1611  
facilities and its authorized purposes, provide information to 1612  
persons with an interest in transportation and other port 1613  
authority activities, and appear before rate-making authorities 1614  
to represent and promote the interests of the port authority and 1615  
its authorized purposes; 1616

(14) Adopt rules, not in conflict with general law, 1617  
governing the use of and the safeguarding of its property, 1618  
grounds, buildings, equipment, and facilities, safeguarding 1619

persons and their property located on or in port authority 1620  
property, and governing the conduct of its employees and the 1621  
public, in order to promote the public safety and convenience in 1622  
and about its terminals and grounds, and to maintain order. Any 1623  
such regulation shall be posted at no less than five public 1624  
places in the port authority, as determined by the board of 1625  
directors, for a period of not fewer than fifteen days, and 1626  
shall be available for public inspection at the principal office 1627  
of the port authority during regular business hours. No person 1628  
shall violate any lawful regulation adopted and posted as 1629  
provided in this division. 1630

(15) Do all acts necessary or appropriate to carry out its 1631  
authorized purposes. The port authority shall have the powers 1632  
and rights granted to other subdivisions under section 9.20 of 1633  
the Revised Code. 1634

(16) Cooperate with energy special improvement districts 1635  
formed under sections 1710.20 to 1710.28 of the Revised Code and 1636  
with the owners of real property who have developed and 1637  
implemented special energy improvement projects under sections 1638  
1710.30 to 1710.34 of the Revised Code to provide financing by 1639  
making loans or grants, issuing bonds, notes, or other 1640  
obligations, or providing other financial assistance to the 1641  
districts or property owners to pay the costs of the special 1642  
energy improvement projects and, in the case of an energy 1643  
special improvement district, to pay the costs of administering 1644  
the district. This cooperation shall be an authorized purpose of 1645  
the port authority. 1646

(B) Any instrument by which real property is acquired 1647  
pursuant to this section shall identify the agency of the state 1648  
that has the use and benefit of the real property as specified 1649



in section 5301.012 of the Revised Code. 1650

(C) Whoever violates division (A) (14) of this section is 1651  
guilty of a minor misdemeanor. 1652

**Sec. 4582.31.** (A) A port authority created in accordance 1653  
with section 4582.22 of the Revised Code may: 1654

(1) Adopt bylaws for the regulation of its affairs and the 1655  
conduct of its business; 1656

(2) Adopt an official seal; 1657

(3) Maintain a principal office within its jurisdiction, 1658  
and maintain such branch offices as it may require; 1659

(4) Acquire, construct, furnish, equip, maintain, repair, 1660  
sell, exchange, lease to or from, or lease with an option to 1661  
purchase, convey other interests in real or personal property, 1662  
or any combination thereof, related to, useful for, or in 1663  
furtherance of any authorized purpose and operate any property 1664  
in connection with transportation, recreational, governmental 1665  
operations, or cultural activities; 1666

(5) Straighten, deepen, and improve any channel, river, 1667  
stream, or other water course or way which may be necessary or 1668  
proper in the development of the facilities of a port authority; 1669

(6) Make available the use or services of any port 1670  
authority facility to one or more persons, one or more 1671  
governmental agencies, or any combination thereof; 1672

(7) Issue bonds or notes for the acquisition, 1673  
construction, furnishing, or equipping of any port authority 1674  
facility or other permanent improvement that a port authority is 1675  
authorized to acquire, construct, furnish, or equip, in 1676  
compliance with Chapter 133. of the Revised Code, except that 1677

such bonds or notes may only be issued pursuant to a vote of the electors residing within the area of jurisdiction of the port authority. The net indebtedness incurred by a port authority shall never exceed two per cent of the total value of all property within the territory comprising the port authority as listed and assessed for taxation.

(8) Issue port authority revenue bonds beyond the limit of bonded indebtedness provided by law, payable solely from revenues as provided in section 4582.48 of the Revised Code, for the purpose of providing funds to pay the costs of any port authority facility or facilities or parts thereof;

(9) Apply to the proper authorities of the United States pursuant to appropriate law for the right to establish, operate, and maintain foreign trade zones and establish, operate, and maintain foreign trade zones and to acquire, exchange, sell, lease to or from, lease with an option to purchase, or operate facilities, land, or property therefor in accordance with the "Foreign Trade Zones Act," 48 Stat. 998 (1934), 19 U.S.C. 81a to 81u;

(10) Enjoy and possess the same rights, privileges, and powers granted municipal corporations under sections 721.04 to 721.11 of the Revised Code;

(11) Maintain such funds as it considers necessary;

(12) Direct its agents or employees, when properly identified in writing, and after at least five days' written notice, to enter upon lands within the confines of its jurisdiction in order to make surveys and examinations preliminary to location and construction of works for the purposes of the port authority, without liability of the port

authority or its agents or employees except for actual damage 1707  
done; 1708

(13) Promote, advertise, and publicize the port authority 1709  
and its facilities; provide information to shippers and other 1710  
commercial interests; and appear before rate-making authorities 1711  
to represent and promote the interests of the port authority; 1712

(14) Adopt rules, not in conflict with general law, it 1713  
finds necessary or incidental to the performance of its duties 1714  
and the execution of its powers under sections 4582.21 to 1715  
4582.54 of the Revised Code. Any such rule shall be posted at no 1716  
less than five public places in the port authority, as 1717  
determined by the board of directors, for a period of not fewer 1718  
than fifteen days, and shall be available for public inspection 1719  
at the principal office of the port authority during regular 1720  
business hours. No person shall violate any lawful rule adopted 1721  
and posted as provided in this division. 1722

(15) Do any of the following, in regard to any interests 1723  
in any real or personal property, or any combination thereof, 1724  
including, without limitation, machinery, equipment, plants, 1725  
factories, offices, and other structures and facilities related 1726  
to, useful for, or in furtherance of any authorized purpose, for 1727  
such consideration and in such manner, consistent with Article 1728  
VIII of the Ohio Constitution, as the board in its sole 1729  
discretion may determine: 1730

(a) Loan moneys to any person or governmental entity for 1731  
the acquisition, construction, furnishing, and equipping of the 1732  
property; 1733

(b) Acquire, construct, maintain, repair, furnish, and 1734  
equip the property; 1735

(c) Sell to, exchange with, lease, convey other interests 1736  
in, or lease with an option to purchase the same or any lesser 1737  
interest in the property to the same or any other person or 1738  
governmental entity; 1739

(d) Guarantee the obligations of any person or 1740  
governmental entity. 1741

A port authority may accept and hold as consideration for 1742  
the conveyance of property or any interest therein such property 1743  
or interests therein as the board in its discretion may 1744  
determine, notwithstanding any restrictions that apply to the 1745  
investment of funds by a port authority. 1746

(16) Sell, lease, or convey other interests in real and 1747  
personal property, and grant easements or rights-of-way over 1748  
property of the port authority. The board of directors shall 1749  
specify the consideration and any terms for the sale, lease, or 1750  
conveyance of other interests in real and personal property. Any 1751  
determination made by the board under this division shall be 1752  
conclusive. The sale, lease, or conveyance may be made without 1753  
advertising and the receipt of bids. 1754

(17) Exercise the right of eminent domain to appropriate 1755  
any land, rights, rights-of-way, franchises, easements, or other 1756  
property, necessary or proper for any authorized purpose, 1757  
pursuant to the procedure provided in sections 163.01 to 163.22 1758  
of the Revised Code, if funds equal to the appraised value of 1759  
the property to be acquired as a result of such proceedings are 1760  
available for that purpose. However, nothing contained in 1761  
sections 4582.201 to 4582.59 of the Revised Code shall authorize 1762  
a port authority to take or disturb property or facilities 1763  
belonging to any agency or political subdivision of this state, 1764  
public utility, cable operator, or common carrier, which 1765

property or facilities are necessary and convenient in the 1766  
operation of the agency or political subdivision, public 1767  
utility, cable operator, or common carrier, unless provision is 1768  
made for the restoration, relocation, or duplication of such 1769  
property or facilities, or upon the election of the agency or 1770  
political subdivision, public utility, cable operator, or common 1771  
carrier, for the payment of compensation, if any, at the sole 1772  
cost of the port authority, provided that: 1773

(a) If any restoration or duplication proposed to be made 1774  
under this section involves a relocation of the property or 1775  
facilities, the new facilities and location shall be of at least 1776  
comparable utilitarian value and effectiveness and shall not 1777  
impair the ability of the public utility, cable operator, or 1778  
common carrier to compete in its original area of operation; 1779

(b) If any restoration or duplication made under this 1780  
section involves a relocation of the property or facilities, the 1781  
port authority shall acquire no interest or right in or to the 1782  
appropriated property or facilities, except as provided in 1783  
division (A) (15) of this section, until the relocated property 1784  
or facilities are available for use and until marketable title 1785  
thereto has been transferred to the public utility, cable 1786  
operator, or common carrier. 1787

As used in division (A) (17) of this section, "cable 1788  
operator" has the same meaning as in the "Cable Communications 1789  
Policy Act of 1984," Pub. L. No. 98-549, 98 Stat. 2780, 47 1790  
U.S.C. 522, as amended by the "Telecommunications Act of 1996," 1791  
Pub. L. No. 104-104, 110 Stat. 56. 1792

(18) (a) Make and enter into all contracts and agreements 1793  
and execute all instruments necessary or incidental to the 1794  
performance of its duties and the execution of its powers under 1795

sections 4582.21 to 4582.59 of the Revised Code. 1796

(b) (i) Except as provided in division (A) (18) (c) of this 1797  
section or except when the port authority elects to construct a 1798  
building, structure, or other improvement pursuant to a contract 1799  
made with a construction manager at risk under sections 9.33 to 1800  
9.335 of the Revised Code or with a design-build firm under 1801  
section 153.65 to 153.73 of the Revised Code, when the cost of a 1802  
contract for the construction of any building, structure, or 1803  
other improvement undertaken by a port authority involves an 1804  
expenditure exceeding the higher of one hundred thousand dollars 1805  
or the amount as adjusted under division (A) (18) (b) (ii) of this 1806  
section, and the port authority is the contracting entity, the 1807  
port authority shall make a written contract after notice 1808  
calling for bids for the award of the contract has been given by 1809  
publication twice, with at least seven days between 1810  
publications, in a newspaper of general circulation in the area 1811  
of the port authority or as provided in section 7.16 of the 1812  
Revised Code. Each such contract shall be let to the lowest 1813  
responsive and responsible bidder in accordance with section 1814  
9.312 of the Revised Code. Every contract shall be accompanied 1815  
by or shall refer to plans and specifications for the work to be 1816  
done, prepared for and approved by the port authority, signed by 1817  
an authorized officer of the port authority and by the 1818  
contractor, and shall be executed in triplicate. 1819

Each bid shall be awarded in accordance with sections 1820  
153.54, 153.57, and 153.571 of the Revised Code. The port 1821  
authority may reject any and all bids. 1822

(ii) On January 1, 2012, and the first day of January of 1823  
every even-numbered year thereafter, the director of commerce 1824  
shall adjust the threshold level for contracts subject to the 1825

bidding requirements contained in division (A) (18) (b) (i) of this section. The director shall adjust this amount according to the average increase for each of the two years immediately preceding the adjustment as set forth in the producer price index for material and supply inputs for new nonresidential construction as determined by the bureau of labor statistics of the United States department of labor or, if that index no longer is published, a generally available comparable index. If there is no resulting increase, the threshold shall remain the same until the next scheduled adjustment on the first day of January of the next even-numbered year.

(c) The board of directors by rule may provide criteria for the negotiation and award without competitive bidding of any contract as to which the port authority is the contracting entity for the construction of any building or structure or other improvement under any of the following circumstances:

(i) There exists a real and present emergency that threatens damage or injury to persons or property of the port authority or other persons, provided that a statement specifying the nature of the emergency that is the basis for the negotiation and award of a contract without competitive bidding shall be signed by the officer of the port authority that executes that contract at the time of the contract's execution and shall be attached to the contract.

(ii) A commonly recognized industry or other standard or specification does not exist and cannot objectively be articulated for the improvement.

(iii) The contract is for any energy conservation measure as defined in section 307.041 of the Revised Code.

(iv) With respect to material to be incorporated into the improvement, only a single source or supplier exists for the material.

(v) A single bid is received by the port authority after complying with the provisions of division (A) (18) (b) of this section.

(d) (i) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in division (A) (18) (c) (ii) of this section, the port authority shall publish a notice calling for technical proposals twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority or as provided in section 7.16 of the Revised Code. After receipt of the technical proposals, the port authority may negotiate with and award a contract for the improvement to the proposer making the proposal considered to be the most advantageous to the port authority.

(ii) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in division (A) (18) (c) (iv) of this section, any construction activities related to the incorporation of the material into the improvement also may be provided without competitive bidding by the source or supplier of that material.

(e) (i) Any purchase, exchange, sale, lease, lease with an option to purchase, conveyance of other interests in, or other contract with a person or governmental entity that pertains to the acquisition, construction, maintenance, repair, furnishing, equipping, or operation of any real or personal property, or any combination thereof, related to, useful for, or in furtherance of an activity contemplated by Section 13 or 16 of Article VIII, Ohio Constitution, shall be made in such manner and subject to



such terms and conditions as may be determined by the board of 1885  
directors in its discretion. 1886

(ii) Division (A) (18) (e) (i) of this section applies to all 1887  
contracts that are subject to the division, notwithstanding any 1888  
other provision of law that might otherwise apply, including, 1889  
without limitation, any requirement of notice, any requirement 1890  
of competitive bidding or selection, or any requirement for the 1891  
provision of security. 1892

(iii) Divisions (A) (18) (e) (i) and (ii) of this section do 1893  
not apply to either of the following: any contract secured by or 1894  
to be paid from moneys raised by taxation or the proceeds of 1895  
obligations secured by a pledge of moneys raised by taxation; or 1896  
any contract secured exclusively by or to be paid exclusively 1897  
from the general revenues of the port authority. For the 1898  
purposes of this section, any revenues derived by the port 1899  
authority under a lease or other agreement that, by its terms, 1900  
contemplates the use of amounts payable under the agreement 1901  
either to pay the costs of the improvement that is the subject 1902  
of the contract or to secure obligations of the port authority 1903  
issued to finance costs of such improvement, are excluded from 1904  
general revenues. 1905

(19) Employ managers, superintendents, and other employees 1906  
and retain or contract with consulting engineers, financial 1907  
consultants, accounting experts, architects, attorneys, and any 1908  
other consultants and independent contractors as are necessary 1909  
in its judgment to carry out this chapter, and fix the 1910  
compensation thereof. All expenses thereof shall be payable from 1911  
any available funds of the port authority or from funds 1912  
appropriated for that purpose by a political subdivision 1913  
creating or participating in the creation of the port authority. 1914

(20) Receive and accept from any state or federal agency	1915
grants and loans for or in aid of the construction of any port	1916
authority facility or for research and development with respect	1917
to port authority facilities, and receive and accept aid or	1918
contributions from any source of money, property, labor, or	1919
other things of value, to be held, used, and applied only for	1920
the purposes for which the grants and contributions are made;	1921
(21) Engage in research and development with respect to	1922
port authority facilities;	1923
(22) Purchase fire and extended coverage and liability	1924
insurance for any port authority facility and for the principal	1925
office and branch offices of the port authority, insurance	1926
protecting the port authority and its officers and employees	1927
against liability for damage to property or injury to or death	1928
of persons arising from its operations, and any other insurance	1929
the port authority may agree to provide under any resolution	1930
authorizing its port authority revenue bonds or in any trust	1931
agreement securing the same;	1932
(23) Charge, alter, and collect rentals and other charges	1933
for the use or services of any port authority facility as	1934
provided in section 4582.43 of the Revised Code;	1935
(24) Provide coverage for its employees under Chapters	1936
145., 4123., and 4141. of the Revised Code;	1937
(25) Do all acts necessary or proper to carry out the	1938
powers expressly granted in sections 4582.21 to 4582.59 of the	1939
Revised Code;	1940
<u>(26) Cooperate with energy special improvement districts</u>	1941
<u>formed under sections 1710.20 to 1710.28 of the Revised Code and</u>	1942
<u>with the owners of real property who have developed and</u>	1943

implemented special energy improvement projects under sections 1944  
1710.30 to 1710.34 of the Revised Code to provide financing by 1945  
making loans or grants, issuing bonds, notes, or other 1946  
obligations, or providing other financial assistance to the 1947  
districts or property owners to pay the costs of the special 1948  
energy improvement projects and, in the case of an energy 1949  
special improvement district, to pay the costs of administering 1950  
the district. This cooperation shall be an authorized purpose of 1951  
the port authority. 1952

(B) Any instrument by which real property is acquired 1953  
pursuant to this section shall identify the agency of the state 1954  
that has the use and benefit of the real property as specified 1955  
in section 5301.012 of the Revised Code. 1956

(C) Whoever violates division (A) (14) of this section is 1957  
guilty of a minor misdemeanor. 1958

**Section 2.** That existing sections 727.01, 1710.01, 1959  
1710.02, 1710.021, 1710.03, 1710.04, 1710.05, 1710.06, 1710.061, 1960  
1710.07, 1710.11, 1710.12, 1710.13, 4582.06, and 4582.31 of the 1961  
Revised Code are hereby repealed. 1962