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Am. Sub. H. B. No. 123

Representatives Fraizer, Cross

**Cosponsors: Representatives Carfagna, Riedel, Merrin, Wiggam, Carruthers,
Cutrona, Hillyer, Lanese, Seitz, Young, B., Young, T.**

A BILL

To amend sections 3735.65, 3735.66, 3735.671, 1
3735.672, 3735.68, 3735.69, 5709.631, 5709.82, 2
and 5709.85 and to repeal section 3735.673 of 3
the Revised Code to modify the law governing 4
community reinvestment areas and the terms under 5
which property may be exempted in such areas. 6

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

Section 1. That sections 3735.65, 3735.66, 3735.671, 7
3735.672, 3735.68, 3735.69, 5709.631, 5709.82, and 5709.85 of 8
the Revised Code be amended to read as follows: 9

Sec. 3735.65. As used in sections 3735.65 to 3735.70 of 10
the Revised Code: 11

(A) "Housing officer" means an officer or agency of a 12
~~municipal corporation or county political subdivision~~ designated 13
by the legislative authority of the ~~municipal corporation or~~ 14
~~county political subdivision~~, pursuant to section 3735.66 of the 15
Revised Code, for each community reinvestment area to administer 16
sections 3735.65 to 3735.69 of the Revised Code. One officer or 17
agency may be designated as the housing officer for more than 18

one community reinvestment area.

(B) "Community reinvestment area" means an area ~~within a~~
~~municipal corporation or unincorporated area of a county for~~
which the legislative authority of ~~the municipal corporation or,~~
~~for the unincorporated area, of the county,~~ a political
subdivision has adopted a resolution under section 3735.66 of
the Revised Code describing the boundaries of the area and
containing a statement of finding that the area included in the
description is one in which housing facilities or structures of
historical significance are located and new housing construction
and repair of existing facilities or structures are discouraged.

(C) "Remodeling" means any change made in a structure for
the purpose of making it structurally more sound, more
habitable, or for the purpose of improving its appearance.

(D) "Structure of historical or architectural
significance" means those designated as such by resolution of
the legislative authority of a ~~municipal corporation, for those~~
~~located in a municipal corporation, or the county, for those~~
~~located in the unincorporated area of the county~~ political
subdivision based on age, rarity, architectural quality, or
because of a previous designation by a historical society,
association, or agency.

(E) "Political subdivision" means a county, a municipal
corporation, or a limited home rule township.

(F) "Legislative authority" means a board of county
commissioners of a county, a legislative authority of a
municipal corporation, or a board of trustees of a limited home
rule township.

(G) "Limited home rule township" means a township that has

adopted a limited home rule government under Chapter 504. of the 48
Revised Code. 49

Sec. 3735.66. The legislative ~~authorities~~ authority of 50
~~municipal corporations and counties~~ a political subdivision may 51
survey the housing within ~~their jurisdictions~~ the municipal 52
corporation in the case of a municipal corporation, the 53
unincorporated area of the township in the case of a limited 54
home rule township, and, after the unincorporated area of the 55
county in the case of a county. After the survey, the 56
legislative authority may adopt ~~resolutions~~ a resolution 57
describing the boundaries of community reinvestment areas which 58
contain the conditions required for the finding under division 59
(B) of section 3735.65 of the Revised Code. The findings 60
resulting from the survey shall be incorporated in the 61
resolution describing the boundaries of an area. The legislative 62
authority may stipulate in the resolution that only new 63
structures or remodeling classified as to use as commercial, 64
industrial, or residential, or some combination thereof, and 65
otherwise satisfying the requirements of section 3735.67 of the 66
Revised Code are eligible for exemption from taxation under that 67
section. If the resolution does not include such a stipulation, 68
all new structures and remodeling satisfying the requirements of 69
section 3735.67 of the Revised Code are eligible for exemption 70
from taxation regardless of classification. Whether or not the 71
resolution includes such a stipulation, the classification of 72
the structures or remodeling eligible for exemption in the area 73
shall at all times be consistent with zoning restrictions 74
applicable to the area. For the purposes of sections 3735.65 to 75
3735.70 of the Revised Code, whether a structure or remodeling 76
composed of multiple units is classified as commercial or 77
residential shall be determined by resolution or ordinance of 78

the legislative authority or, in the absence of such a 79
determination, by the classification of the use of the structure 80
or remodeling under the applicable zoning regulations. 81

If construction or remodeling classified as residential is 82
eligible for exemption from taxation, the resolution shall 83
specify a percentage, not to exceed one hundred per cent, of the 84
assessed valuation of such property to be exempted. The 85
percentage specified shall apply to all residential construction 86
or remodeling for which exemption is granted. 87

Territory of a community reinvestment area designated by a 88
municipal corporation shall include only territory of the 89
municipal corporation. Territory of an area designated by a 90
limited home rule township shall include only unincorporated 91
territory of the township that is not already included in an 92
area designated by a county. Territory of an area designated by 93
a county shall include only unincorporated territory of the 94
county that is not already included in an area designated by a 95
limited home rule township. 96

Upon the adoption of the resolution, the legislative 97
authority shall send, by certified mail, one copy of the 98
resolution and a map of the community reinvestment area in 99
sufficient detail to denote the specific boundaries of the area, 100
to the director of development services. 101

The resolution adopted pursuant to this section shall be 102
published in a newspaper of general circulation in the ~~municipal-~~ 103
~~corporation, if the resolution is adopted by the legislative~~ 104
~~authority of a municipal corporation, or in a newspaper of~~ 105
~~general circulation in the county, if the resolution is adopted~~ 106
~~by the legislative authority of the county, political~~ 107
subdivision that adopted the resolution once a week for two 108

consecutive weeks or as provided in section 7.16 of the Revised 109
Code, immediately following its adoption. 110

Each legislative authority adopting a resolution pursuant 111
to this section shall designate a housing officer. ~~In addition,~~ 112
~~each such legislative authority, not later than sixty days after~~ 113
~~the adoption of the resolution, shall petition the director of~~ 114
~~development services for the director to confirm the findings~~ 115
~~described in the resolution. The petition shall be accompanied~~ 116
~~by a copy of the resolution and by a map of the community~~ 117
~~reinvestment area in sufficient detail to denote the specific~~ 118
~~boundaries of the area and to indicate zoning restrictions~~ 119
~~applicable to the area. The director shall determine whether the~~ 120
~~findings contained in the resolution are valid, and whether the~~ 121
~~classification of structures or remodeling eligible for~~ 122
~~exemption under the resolution is consistent with zoning~~ 123
~~restrictions applicable to the area as indicated on the map.~~ 124
~~Within thirty days of receiving the petition, the director shall~~ 125
~~forward the director's determination to the legislative~~ 126
~~authority.~~ The legislative authority or housing officer shall 127
not grant any exemption from taxation under section 3735.67 of 128
the Revised Code until the director ~~forwards the director's~~ 129
~~determination to the legislative authority. The director shall~~ 130
~~assign~~ assigns to each community reinvestment area a unique 131
designation by which the area shall be identified for purposes 132
of sections 3735.65 to 3735.70 of the Revised Code. 133

~~If zoning restrictions in any part of a community~~ 134
~~reinvestment area are changed at any time after the legislative~~ 135
~~authority petitions the director under this section, the~~ 136
~~legislative authority shall notify the director and shall submit~~ 137
~~a map of the area indicating the new zoning restrictions in the~~ 138
~~area.~~ 139

Sec. 3735.671. (A) If construction or remodeling of 140
commercial or industrial property is to be exempted from 141
taxation pursuant to section 3735.67 of the Revised Code, the 142
legislative authority and the owner of the property, prior to 143
the commencement of construction or remodeling, shall enter into 144
a written agreement, binding on both parties for a period of 145
time that does not end prior to the end of the period of the 146
exemption, that includes all of the information and statements 147
~~prescribed by described in divisions (B)(1) to (7) of this~~ 148
section. Agreements may include terms not ~~prescribed by this~~ 149
~~section described in those divisions or otherwise prescribed by~~ 150
the model agreement adopted by the director of development 151
services under division (B) of this section, but such terms 152
shall in no way derogate from the information and statements 153
~~prescribed by described in divisions (B)(1) to (7) of this~~ 154
section. 155

(1) Except as otherwise provided in division (A)(2) or (3) 156
of this section, an agreement entered into under this section 157
shall not be approved by the legislative authority unless the 158
board of education of the city, local, or exempted village 159
school district within the territory of which the property is or 160
will be located approves the agreement. For the purpose of 161
obtaining such approval, the legislative authority shall certify 162
a copy of the agreement to the board of education not later than 163
forty-five days prior to approving the agreement, excluding 164
Saturday, Sunday, and a legal holiday as defined in section 1.14 165
of the Revised Code. The board of education, by resolution 166
adopted by a majority of the board, shall approve or disapprove 167
the agreement and certify a copy of the resolution ~~to the~~ 168
legislative authority not later than fourteen days prior to the 169
date stipulated by the legislative authority as the date upon 170

which approval of the agreement is to be formally considered by 171
the legislative authority. The board of education may include in 172
the resolution conditions under which the board would approve 173
the agreement. The legislative authority may approve an 174
agreement at any time after the board of education certifies its 175
resolution approving the agreement to the legislative authority, 176
or, if the board approves the agreement conditionally, at any 177
time after the conditions are agreed to by the board and the 178
legislative authority. 179

(2) Approval of an agreement by the board of education is 180
not required under division (A)(1) of this section if, for each 181
tax year the real property is exempted from taxation, the sum of 182
the following quantities, as estimated at or prior to the time 183
the agreement is formally approved by the legislative authority, 184
equals or exceeds ~~fifty-twenty-five~~ per cent of the amount of 185
taxes, as estimated at or prior to that time, that would have 186
been charged and payable that year upon the real property had 187
that property not been exempted from taxation: 188

(a) The amount of taxes charged and payable on any portion 189
of the assessed valuation of the new structure or of the 190
increased assessed valuation of an existing structure after 191
remodeling began that will not be exempted from taxation under 192
the agreement; 193

(b) The amount of taxes charged and payable on tangible 194
personal property located on the premises of the new structure 195
or of the structure to be remodeled under the agreement, whether 196
payable by the owner of the structure or by a related member, as 197
defined in section 5733.042 of the Revised Code without regard 198
to division (B) of that section. 199

(c) The amount of any cash payment by the owner of the new 200

structure or structure to be remodeled to the school district, 201
the dollar value, as mutually agreed to by the owner and the 202
board of education, of any property or services provided by the 203
owner of the property to the school district, whether by gift, 204
loan, or otherwise, and any payment by the legislative authority 205
to the school district pursuant to section 5709.82 of the 206
Revised Code. 207

The estimates of quantities used for purposes of division 208
(A) (2) of this section shall be estimated by the legislative 209
authority. The legislative authority shall certify to the board 210
of education that the estimates have been made in good faith. 211
Departures of the actual quantities from the estimates 212
subsequent to approval of the agreement by the board of 213
education do not invalidate the agreement. 214

(3) If a board of education has adopted a resolution 215
waiving its right to approve agreements and the resolution 216
remains in effect, approval of an agreement by the board is not 217
required under ~~this division~~ (A) (1) of this section. If a board 218
of education has adopted a resolution allowing a legislative 219
authority to deliver the notice required under this division 220
fewer than forty-five business days prior to the legislative 221
authority's execution of the agreement, the legislative 222
authority shall deliver the notice to the board not later than 223
the number of days prior to such execution as prescribed by the 224
board in its resolution. If a board of education adopts a 225
resolution waiving its right to approve agreements or shortening 226
the notification period, the board shall certify a copy of the 227
resolution to the legislative authority. If the board of 228
education rescinds such a resolution, it shall certify notice of 229
the rescission to the legislative authority. 230

(B) ~~Each agreement shall include the following~~ 231
~~information:~~ 232

~~(1) The names of all parties to the agreement;~~ 233

~~(2) A description of the remodeling or construction,~~ 234
~~whether or not to be exempted from taxation, including existing~~ 235
~~or new structure size and cost thereof; the value of machinery,~~ 236
~~equipment, furniture, and fixtures, including an itemization of~~ 237
~~the value of machinery, equipment, furniture, and fixtures used~~ 238
~~at another location in this state prior to the agreement and~~ 239
~~relocated or to be relocated from that location to the property,~~ 240
~~and the value of machinery, equipment, furniture, and fixtures~~ 241
~~at the facility prior to the execution of the agreement; the~~ 242
~~value of inventory at the property, including an itemization of~~ 243
~~the value of inventory held at another location in this state~~ 244
~~prior to the agreement and relocated or to be relocated from~~ 245
~~that location to the property, and the value of inventory held~~ 246
~~at the property prior to the execution of the agreement;~~ 247

~~(3) The scheduled starting and completion dates of~~ 248
~~remodeling or construction of real property or of investments~~ 249
~~made in machinery, equipment, furniture, fixtures, and~~ 250
~~inventory;~~ 251

~~(4) Estimates of the number of employee positions to be~~ 252
~~created each year of the agreement and of the number of employee~~ 253
~~positions retained by the owner due to the remodeling or~~ 254
~~construction, itemized as to the number of full time, part time,~~ 255
~~permanent, and temporary positions;~~ 256

~~(5) Estimates of the dollar amount of payroll attributable~~ 257
~~to the positions set forth in division (B)(4) of this section,~~ 258
~~similarly itemized;~~ 259

~~(6) The number of employee positions, if any, at the~~ 260
~~property and at any other location in this state at the time the~~ 261
~~agreement is executed, itemized as to the number of full-time,~~ 262
~~part-time, permanent, and temporary positions.~~ 263

~~(C) Each agreement shall set forth the following~~ 264
~~information and incorporate the following statements:~~ 265

~~(1) A description of real property to be exempted from~~ 266
~~taxation under the agreement, the percentage of the assessed~~ 267
~~valuation of the real property exempted from taxation, and the~~ 268
~~period for which the exemption is granted, accompanied by the~~ 269
~~statement: "The exemption commences the first year for which the~~ 270
~~real property would first be taxable were that property not~~ 271
~~exempted from taxation. No exemption shall commence after~~ 272
~~_____ (insert date) nor extend beyond _____ (insert~~ 273
~~date)."~~ 274

~~(2) "_____ (insert name of owner) shall pay such real~~ 275
~~property taxes as are not exempted under this agreement and are~~ 276
~~charged against such property and shall file all tax reports and~~ 277
~~returns as required by law. If _____ (insert name of owner)~~ 278
~~fails to pay such taxes or file such returns and reports,~~ 279
~~exemptions from taxation granted under this agreement are~~ 280
~~rescinded beginning with the year for which such taxes are~~ 281
~~charged or such reports or returns are required to be filed and~~ 282
~~thereafter."~~ 283

~~(3) "_____ (insert name of owner) hereby certifies~~ 284
~~that at the time this agreement is executed, _____ (insert~~ 285
~~name of owner) does not owe any delinquent real or tangible~~ 286
~~personal property taxes to any taxing authority of the State of~~ 287
~~Ohio, and does not owe delinquent taxes for which _____~~ 288
~~(insert name of owner) is liable under Chapter 5733., 5735.,~~ 289

~~5739., 5741., 5743., 5747., or 5753. of the Ohio Revised Code,~~ 290
~~or, if such delinquent taxes are owed, _____ (insert name~~ 291
~~of owner) currently is paying the delinquent taxes pursuant to~~ 292
~~an undertaking enforceable by the State of Ohio or an agent or~~ 293
~~instrumentality thereof, has filed a petition in bankruptcy~~ 294
~~under 11 U.S.C.A. 101, et seq., or such a petition has been~~ 295
~~filed against _____ (insert name of owner). For the~~ 296
~~purposes of this certification, delinquent taxes are taxes that~~ 297
~~remain unpaid on the latest day prescribed for payment without~~ 298
~~penalty under the chapter of the Revised Code governing payment~~ 299
~~of those taxes."~~ 300

~~(4) " _____ (insert name of municipal corporation or~~ 301
~~county) shall perform such acts as are reasonably necessary or~~ 302
~~appropriate to effect, claim, reserve, and maintain exemptions~~ 303
~~from taxation granted under this agreement including, without~~ 304
~~limitation, joining in the execution of all documentation and~~ 305
~~providing any necessary certificates required in connection with~~ 306
~~such exemptions."~~ 307

~~(5) "If for any reason _____ (insert name of~~ 308
~~municipal corporation or county) revokes the designation of the~~ 309
~~area, entitlements granted under this agreement shall continue~~ 310
~~for the number of years specified under this agreement, unless~~ 311
~~_____ (insert name of owner) materially fails to fulfill~~ 312
~~its obligations under this agreement and _____~~ 313
~~(insert name of municipal corporation or county) terminates or~~ 314
~~modifies the exemptions from taxation pursuant to this~~ 315
~~agreement."~~ 316

~~(6) "If _____ (insert name of owner) materially fails~~ 317
~~to fulfill its obligations under this agreement, or if~~ 318
~~_____ (insert name of municipal corporation or county)~~ 319

determines that the certification as to delinquent taxes— 320
required by this agreement is fraudulent, _____ (insert— 321
name of municipal corporation or county) may terminate or modify— 322
the exemptions from taxation granted under this agreement." 323

(7) " _____ (insert name of owner) shall provide to— 324
the proper tax incentive review council any information— 325
reasonably required by the council to evaluate the applicant's— 326
compliance with the agreement, including returns filed pursuant— 327
to section 5711.02 of the Ohio Revised Code if requested by the— 328
council." 329

(8) "This agreement is not transferable or assignable— 330
without the express, written approval of _____ (insert name— 331
of municipal corporation or county)." 332

(9) "Exemptions from taxation granted under this agreement— 333
shall be revoked if it is determined that _____ (insert— 334
name of owner), any successor to that person, or any related— 335
member (as those terms are defined in division (E) of section— 336
3735.671 of the Ohio Revised Code) has violated the prohibition— 337
against entering into this agreement under division (E) of— 338
section 3735.671 or section 5709.62 or 5709.63 of the Ohio— 339
Revised Code prior to the time prescribed by that division or— 340
either of those sections." 341

(10) " _____ (insert name of owner) and _____ 342
(insert name of municipal corporation or county) acknowledge— 343
that this agreement must be approved by formal action of the— 344
legislative authority of _____ (insert name of municipal— 345
corporation or county) as a condition for the agreement to take— 346
effect. This agreement takes effect upon such approval." 347

The statement described in division (C) (6) of this section— 348

~~may include the following statement, appended at the end of the~~ 349
~~statement: ", and may require the repayment of the amount of~~ 350
~~taxes that would have been payable had the property not been~~ 351
~~exempted from taxation under this agreement." If the agreement~~ 352
~~includes a statement requiring repayment of exempted taxes, it~~ 353
~~also may authorize the legislative authority to secure repayment~~ 354
~~of such taxes by a lien on the exempted property in the amount~~ 355
~~required to be repaid. Such a lien shall attach, and may be~~ 356
~~perfected, collected, and enforced, in the same manner as a~~ 357
~~mortgage lien on real property, and shall otherwise have the~~ 358
~~same force and effect as a mortgage lien on real property.~~ 359

~~(D) Except as otherwise provided in this division, an~~ 360
~~agreement entered into under this section shall require that the~~ 361
~~owner pay an annual fee equal to the greater of one per cent of~~ 362
~~the amount of taxes exempted under the agreement or five hundred~~ 363
~~dollars; provided, however, that if the value of the incentives~~ 364
~~exceeds two hundred fifty thousand dollars, the fee shall not~~ 365
~~exceed two thousand five hundred dollars. The fee shall be~~ 366
~~payable to the legislative authority once per year for each year~~ 367
~~the agreement is effective on the days and in the form specified~~ 368
~~in the agreement. Fees paid shall be deposited in a special fund~~ 369
~~created for such purpose by the legislative authority and shall~~ 370
~~be used by the legislative authority exclusively for the purpose~~ 371
~~of complying with section 3735.672 of the Revised Code and by~~ 372
~~the tax incentive review council created under section 5709.85~~ 373
~~of the Revised Code exclusively for the purposes of performing~~ 374
~~the duties prescribed under that section. The legislative~~ 375
~~authority may waive or reduce the amount of the fee, but such~~ 376
~~waiver or reduction does not affect the obligations of the~~ 377
~~legislative authority or the tax incentive review council to~~ 378
~~comply with section 3735.672 or 5709.85 of the Revised Code.~~ 379

~~(E)~~ The director of development services shall adopt rules 380
in accordance with Chapter 119. of the Revised Code prescribing 381
the form of a model agreement that a legislative authority may, 382
in its discretion, use as the basis for an agreement to be 383
executed under this section. The model agreement may include any 384
term necessary for the administration and enforcement of such 385
agreements by the director and legislative authority, but must 386
include all of the following: 387

(1) A space to include the description of real property to 388
be exempted from taxation under the agreement and to identify 389
the property's owners; 390

(2) A space to denote the percentage of the assessed 391
valuation of real property exempted from taxation and the period 392
for which the exemption is granted; 393

(3) A statement requiring the owner to pay real property 394
taxes not exempted under the agreement, as required by law, and 395
requiring rescission of the agreement if the owner fails to pay 396
those taxes beginning in and after the year any such taxes are 397
charged; 398

(4) A statement that the owner certifies, at the time the 399
agreement is executed, that the owner does not owe any 400
delinquent property taxes or taxes for which the owner is liable 401
under Chapter 5735., 5739., 5741., 5743., 5747., or 5753. of the 402
Revised Code, or, if such delinquent taxes are owed, that the 403
owner is paying the delinquent taxes pursuant to an undertaking 404
enforceable by the state or an agent or instrumentality thereof, 405
has filed a petition in bankruptcy, or has had a bankruptcy 406
petition filed against the owner; 407

(5) A statement requiring the owner to provide to the 408

property tax incentive review council any information reasonably 409
required by the council to evaluate the applicant's compliance 410
with the agreement; 411

(6) A statement that the agreement is not transferable or 412
assignable without the approval of the local authority; 413

(7) A statement describing the circumstances under which 414
an agreement may be revoked by the local authority for 415
noncompliance and the manner by which already-received benefits 416
may be recovered. 417

Once the director adopts rules prescribing a model 418
agreement under this division, the model agreement may not be 419
changed unless the director adopts, amends, or rescinds those 420
rules in accordance with Chapter 119. of the Revised Code. 421

(C) If any person that is party to an agreement granting 422
an exemption from taxation discontinues operations at the 423
structure to which that exemption applies prior to the 424
expiration of the term of the agreement, that person, any 425
successor to that person, and any related member shall not enter 426
into an agreement under this section or section 5709.62, 427
5709.63, or 5709.632 of the Revised Code, and no legislative 428
authority shall enter into such an agreement with such a person, 429
successor, or related member, prior to the expiration of ~~five~~ 430
two years after the person's discontinuation of operations. As 431
used in this division, "successor" means a person to which the 432
assets or equity of another person has been transferred, which 433
transfer resulted in the full or partial nonrecognition of gain 434
or loss, or resulted in a carryover basis, both as determined by 435
rule adopted by the tax commissioner. "Related member" has the 436
same meaning as defined in section 5733.042 of the Revised Code 437
without regard to division (B) of that section. 438

The director of development services shall review all 439
agreements submitted to the director ~~under division (F) of this~~ 440
~~section under~~ section 3735.672 of the Revised Code for the 441
purpose of enforcing this division. If the director determines 442
there has been a violation of this division, the director shall 443
notify the legislative authority of such violation, and the 444
legislative authority immediately shall revoke the exemption 445
granted under the agreement. 446

~~(F) When an agreement is entered into under this section,~~ 447
~~the legislative authority authorizing the agreement shall~~ 448
~~forward a copy of the agreement to the director of development~~ 449
~~services within fifteen days after the agreement is entered~~ 450
~~into.~~ 451

Sec. 3735.672. (A) On or before the thirty-first day of 452
March each year, a legislative authority that has entered into 453
an agreement with a party under section 3735.671 of the Revised 454
Code shall submit to the director of development services ~~and~~ 455
~~the board of education of each school district of which a~~ 456
~~municipal corporation or township to which such an agreement~~ 457
~~applies is a part~~ a report on all such agreements in effect 458
during the preceding calendar year. The report shall include the 459
following ~~information:~~ 460

(1) The ~~designation, assigned by the director of~~ 461
~~development services, of each~~ total number of community 462
~~reinvestment area within~~ areas designated by the municipal 463
~~corporation or county~~ political subdivision, and the total 464
population of each area according to the most recent data 465
available; 466

(2) The total number of agreements ~~and the number of full-~~ 467
~~time employees subject to those agreements within each area,~~ 468

~~each according to the most recent data available and identified~~ 469
~~and categorized by the appropriate standard industrial code, and~~ 470
~~the rate of unemployment in the municipal corporation or county~~ 471
~~in which the area is located for each year since the area was~~ 472
~~certified;~~ 473

(3) The number of agreements approved and executed during 474
the calendar year for which the report is submitted, the total 475
number of agreements in effect on the thirty-first day of 476
December of the preceding calendar year, the number of 477
agreements that expired during the calendar year for which the 478
report is submitted, and the number of agreements scheduled to 479
expire during the calendar year in which the report is 480
submitted. For each agreement that expired during the calendar 481
year for which the report is submitted, the legislative 482
authority shall include the amount of taxes exempted under the 483
agreement. 484

~~(4) The number of agreements receiving compliance reviews~~ 485
~~by the tax incentive review council in the municipal corporation~~ 486
~~or county during the calendar year for which the report is~~ 487
~~submitted, including all of the following information:~~ 488

~~(a) The number of agreements the terms of which the party~~ 489
~~has complied with, indicating separately for each such agreement~~ 490
~~the value of the real property exempted pursuant to the~~ 491
~~agreement and a comparison of the stipulated and actual~~ 492
~~schedules for hiring new employees, for retaining existing~~ 493
~~employees, and for the amount of payroll of the party~~ 494
~~attributable to these employees;~~ 495

~~(b) The number of agreements the terms of which a party~~ 496
has failed to comply with, indicating separately for each such 497
agreement the value of the real ~~and personal~~ property exempted 498

pursuant to the agreement and, as may be applicable to the 499
agreement's terms, a comparison of the stipulated and actual 500
schedules for hiring new employees, for retaining existing 501
employees, and for the amount of payroll of the enterprise 502
attributable to these employees; 503

~~(c) The number of agreements about which the tax incentive~~ 504
~~review council made recommendations to the legislative~~ 505
~~authority, and the number of such recommendations that have not~~ 506
~~been followed;~~ 507

~~(d) The number of agreements rescinded during the calendar~~ 508
~~year for which the report is submitted.~~ 509

~~(5) The number of parties subject to agreements that~~ 510
~~expanded within each area, including the number of new employees~~ 511
~~hired and existing employees retained by that party, and the~~ 512
~~number of new parties subject to agreements that established~~ 513
~~within each area, including the number of new employees hired by~~ 514
~~each party;~~ 515

~~(6) For each agreement in effect during any part of the~~ 516
~~preceding year, the number of employees employed by the party at~~ 517
~~the property that is the subject of the agreement immediately~~ 518
~~prior to formal approval of the agreement, the number of~~ 519
~~employees employed by the party at that property on the thirty-~~ 520
~~first day of December of the preceding year, the payroll of the~~ 521
~~party for the preceding year, the amount of taxes paid on real~~ 522
~~property that was exempted under the agreement, and the amount~~ 523
~~of such taxes that were not paid because of the exemption~~ 524
Any 524
changes to zoning restrictions in any part of a community 525
reinvestment area, including a map of the area indicating the 526
new zoning restrictions in the area; 527

(6) A copy of any agreement approved and executed or 528
amended during the calendar year for which the report is 529
submitted. 530

(B) Upon the failure of a ~~municipal corporation or county~~ 531
political subdivision to comply with division (A) of this 532
section: 533

(1) Beginning on the first day of April of the calendar 534
year in which the ~~municipal corporation or county~~ political 535
subdivision fails to comply with that division, the ~~municipal~~ 536
~~corporation or county~~ political subdivision shall not enter into 537
any agreements under section 3735.671 of the Revised Code until 538
the ~~municipal corporation or county~~ political subdivision has 539
complied with division (A) of this section. 540

(2) On the first day of each ensuing calendar month until 541
the ~~municipal corporation or county~~ political subdivision 542
complies with that division, the director of development 543
services shall either order the proper county auditor to deduct 544
from the next succeeding payment of taxes to the ~~municipal~~ 545
~~corporation or county~~ political subdivision under section 546
321.31, 321.32, 321.33, or 321.34 of the Revised Code an amount 547
equal to five hundred dollars for each calendar month the 548
~~municipal corporation or county~~ political subdivision fails to 549
comply with that division, or order the county auditor to deduct 550
such an amount from the next succeeding payment to the ~~municipal~~ 551
~~corporation or county~~ political subdivision from the undivided 552
local government fund under section 5747.51 of the Revised Code. 553
At the time such a payment is made, the county auditor shall 554
comply with the director's order by issuing a warrant, drawn on 555
the fund from which such money would have been paid, to the 556
director of development services, who shall deposit the warrant 557

into the ~~state community reinvestment area program~~ 558
~~administration tax incentives operating fund created in division~~ 559
~~(C) of this by section 122.174 of the Revised Code.~~ 560

(C) ~~The director, by rule, shall establish the state's~~ 561
~~application fee for applications submitted to a municipal~~ 562
~~corporation or county to enter into an agreement under section~~ 563
~~3735.671 of the Revised Code. In establishing the amount of the~~ 564
~~fee, the director shall consider the state's cost of~~ 565
~~administering the community reinvestment area program, including~~ 566
~~the cost of reviewing the reports required under division (A) of~~ 567
~~this section. The director may change the amount of the fee at~~ 568
~~such times and in such increments as the director considers~~ 569
~~necessary. Any municipal corporation or county that receives an~~ 570
~~application shall collect the application fee and remit the fee~~ 571
~~for deposit in the state treasury to the credit of the tax~~ 572
~~incentives operating fund created in section 122.174 of the~~ 573
~~Revised Code.~~ The development services agency shall publish on 574
its web site a list of all community reinvestment areas within 575
the state, with an accompanying display of their geographical 576
boundaries within each political subdivision. The list shall 577
also include, for each community reinvestment area, a copy of 578
the resolution governing that area and any agreement entered 579
into under section 3735.671 of the Revised Code for any 580
commercial or industrial property within the area. This list 581
shall be updated annually. 582

Sec. 3735.68. The housing officer shall make annual 583
inspections of the properties within the community reinvestment 584
area upon which are located structures or remodeling for which 585
an exemption has been granted under section 3735.67 of the 586
Revised Code. If the housing officer finds that the property has 587
not been properly maintained or repaired due to the neglect of 588

the owner, the housing officer may revoke the exemption at any 589
time after the first year of exemption. If the owner of 590
commercial or industrial property exempted from taxation under 591
section 3735.67 of the Revised Code has materially failed to 592
fulfill its obligations under the written agreement entered into 593
under section 3735.671 of the Revised Code, or if the owner is 594
determined to have violated division ~~(E)~~ (C) of that section, 595
the legislative authority, subject to the terms of the 596
agreement, may revoke the exemption at any time after the first 597
year of exemption. The housing officer or legislative authority 598
shall notify the county auditor and the owner of the property 599
that the tax exemption no longer applies. If the housing officer 600
or legislative authority revokes a tax exemption, the housing 601
officer shall send a report of the revocation to the community 602
reinvestment area housing council and to the tax incentive 603
review council established pursuant to section 3735.69 or 604
5709.85 of the Revised Code, containing a statement of the 605
findings as to the maintenance and repair of the property, 606
failure to fulfill obligations under the written agreement, or 607
violation of division ~~(E)~~ (C) of section 3735.671 of the Revised 608
Code, and the reason for revoking the exemption. 609

If the agreement entered into under section 3735.671 of 610
the Revised Code so provides, the legislative authority of a 611
~~municipal corporation or county~~ political subdivision may 612
require the owner of property whose exemption has been revoked 613
to reimburse the taxing authorities within whose taxing 614
jurisdiction the exempted property is located for the amount of 615
real property taxes that would have been payable to those 616
authorities had the property not been exempted from taxation. 617

Sec. 3735.69. (A) A community reinvestment area housing 618
council shall be appointed for each community reinvestment 619

area, ~~as follows:~~

(1) When the area is located within a designated by a
municipal corporation, the council shall be composed of two
members appointed by the mayor of the municipal corporation, two
members appointed by the legislative authority of the municipal
corporation, and one member appointed by the planning commission
of the municipal corporation. The majority of the foregoing
members shall then appoint two additional members who shall be
residents of the ~~political subdivision~~ municipal corporation.

~~When~~

(2) When the area is designated by a limited home rule
township, the council shall be composed of two members appointed
by the board of trustees of the township, one member appointed
by the township law director, one member appointed by the
township zoning commission or, if the township has not
established such a commission, the county planning commission,
and one member appointed by the board of county commissioners of
the county where the area is located.

(3) When the area is located within an unincorporated area
~~of designated by a county,~~ the council shall be composed of one
member appointed by each member of the board of county
commissioners of the county where the area is located and two
members appointed by the county planning commission. The
majority of the foregoing members shall then appoint two
additional members who shall be residents of the ~~political~~
~~subdivision~~ county. Terms of the members of the council shall be
for three years. ~~An~~

An unexpired term resulting from a vacancy in the council
shall be filled in the same manner as the initial appointment
was made.

The council shall make an annual inspection of the 650
properties within the community reinvestment area for which an 651
exemption has been granted under section 3735.67 of the Revised 652
Code. The council shall also hear appeals under section 3735.70 653
of the Revised Code. 654

(B) On or before the thirty-first day of March each year, 655
any ~~municipal corporation or county~~ political subdivision that 656
has created a community reinvestment area under section 3735.66 657
of the Revised Code shall submit to the director of development 658
a status report summarizing the activities and projects for 659
which an exemption has been granted in that area. 660

Sec. 5709.631. Each agreement entered into under sections 661
5709.62, 5709.63, and 5709.632 of the Revised Code on or after 662
April 1, 1994, shall be in writing and shall include all of the 663
information and statements prescribed by this section. 664
Agreements may include terms not prescribed by this section, but 665
such terms shall in no way derogate from the information and 666
statements prescribed by this section. 667

(A) Each agreement shall include the following 668
information: 669

(1) The names of all parties to the agreement; 670

(2) A description of the investments to be made by the 671
applicant enterprise or by another party at the facility whether 672
or not the investments are exempted from taxation, including 673
existing or new building size and cost thereof; the value of 674
machinery, equipment, furniture, and fixtures, including an 675
itemization of the value of machinery, equipment, furniture, and 676
fixtures used at another location in this state prior to the 677
agreement and relocated or to be relocated from that location to 678

the facility and the value of machinery, equipment, furniture, 679
and fixtures at the facility prior to the execution of the 680
agreement that will not be exempted from taxation; the value of 681
inventory at the facility, including an itemization of the value 682
of inventory held at another location in this state prior to the 683
agreement and relocated or to be relocated from that location to 684
the facility, and the value of inventory held at the facility 685
prior to the execution of the agreement that will not be 686
exempted from taxation; 687

(3) The scheduled starting and completion dates of 688
investments made in building, machinery, equipment, furniture, 689
fixtures, and inventory; 690

(4) Estimates of the number of employee positions to be 691
created each year of the agreement and of the number of employee 692
positions retained by the applicant enterprise due to the 693
project, itemized as to the number of full-time, part-time, 694
permanent, and temporary positions; 695

(5) Estimates of the dollar amount of payroll attributable 696
to the positions set forth in division (A) (4) of this section, 697
similarly itemized; 698

(6) The number of employee positions, if any, at the 699
project site and at any other location in the state at the time 700
the agreement is executed, itemized as to the number of full- 701
time, part-time, permanent, and temporary positions. 702

(B) Each agreement shall set forth the following 703
information and incorporate the following statements: 704

(1) A description of real property to be exempted from 705
taxation under the agreement, the percentage of the assessed 706
valuation of the real property exempted from taxation, and the 707

period for which the exemption is granted, accompanied by the 708
statement: "The exemption commences the first year for which the 709
real property would first be taxable were that property not 710
exempted from taxation. No exemption shall commence after 711
_____ (insert date) nor extend beyond _____ (insert 712
date)." The tax commissioner shall adopt rules prescribing the 713
form the description of such property shall assume to ensure 714
that the property to be exempted from taxation under the 715
agreement is distinguishable from property that is not to be 716
exempted under that agreement. 717

(2) A description of tangible personal property to be 718
exempted from taxation under the agreement, the percentage of 719
the assessed value of the tangible personal property exempted 720
from taxation, and the period for which the exemption is 721
granted, accompanied by the statement: "The minimum investment 722
for tangible personal property to qualify for the exemption is 723
\$_____ (insert dollar amount) to purchase machinery and 724
equipment first used in business at the facility as a result of 725
the project, \$_____ (insert dollar amount) for furniture 726
and fixtures and other noninventory personal property first used 727
in business at the facility as a result of the project, and 728
\$_____ (insert dollar amount) for new inventory. The 729
maximum investment for tangible personal property to qualify for 730
the exemption is \$_____ (insert dollar amount) to purchase 731
machinery and equipment first used in business at the facility 732
as a result of the project, \$_____ (insert dollar amount) 733
for furniture and fixtures and other noninventory personal 734
property first used in business at the facility as a result of 735
the project, and \$_____ (insert dollar amount) for new 736
inventory. The exemption commences the first year for which the 737
tangible personal property would first be taxable were that 738

property not exempted from taxation. No exemption shall commence 739
after tax return year _____ (insert year) nor extend beyond 740
tax return year _____ (insert year). In no instance shall 741
any tangible personal property be exempted from taxation for 742
more than ten return years unless, under division (D) (2) of 743
section 5709.62 or under division (C) (1) (b) of section 5709.63 744
of the Revised Code, the board of education approves exemption 745
for a number of years in excess of ten, in which case the 746
tangible personal property may be exempted from taxation for 747
that number of years, not to exceed fifteen return years." No 748
exemption shall be allowed for any type of tangible personal 749
property if the total investment is less than the minimum dollar 750
amount specified for that type of property. If, for a type of 751
tangible personal property, there are no minimum or maximum 752
investment dollar amounts specified in the statement or the 753
dollar amounts are designated in the statement as not 754
applicable, the exemption shall apply to the total cost of that 755
type of tangible personal property first used in business at the 756
facility as a result of the project. The tax commissioner shall 757
adopt rules prescribing the form the description of such 758
property shall assume to ensure that the property to be exempted 759
from taxation under the agreement is distinguishable from 760
property that is not to be exempted under that agreement. 761

(3) "_____ (insert name of enterprise) shall pay such 762
real and tangible personal property taxes as are not exempted 763
under this agreement and are charged against such property and 764
shall file all tax reports and returns as required by law. If 765
_____ (insert name of enterprise) fails to pay such taxes 766
or file such returns and reports, all incentives granted under 767
this agreement are rescinded beginning with the year for which 768
such taxes are charged or such reports or returns are required 769

to be filed and thereafter." 770

(4) "_____ (insert name of enterprise) hereby 771
certifies that at the time this agreement is executed, 772
_____ (insert name of enterprise) does not owe any 773
delinquent real or tangible personal property taxes to any 774
taxing authority of the State of Ohio, and does not owe 775
delinquent taxes for which _____ (insert name of 776
enterprise) is liable under Chapter 5727., 5733., 5735., 5739., 777
5741., 5743., 5747., or 5753. of the Revised Code, or, if such 778
delinquent taxes are owed, _____ (insert name of 779
enterprise) currently is paying the delinquent taxes pursuant to 780
a delinquent tax contract enforceable by the State of Ohio or an 781
agent or instrumentality thereof, has filed a petition in 782
bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition 783
has been filed against _____ (insert name of enterprise). 784
For the purposes of the certification, delinquent taxes are 785
taxes that remain unpaid on the latest day prescribed for 786
payment without penalty under the chapter of the Revised Code 787
governing payment of those taxes." 788

(5) "_____ (insert name of municipal corporation or 789
county) shall perform such acts as are reasonably necessary or 790
appropriate to effect, claim, reserve, and maintain exemptions 791
from taxation granted under this agreement including, without 792
limitation, joining in the execution of all documentation and 793
providing any necessary certificates required in connection with 794
such exemptions." 795

(6) "If for any reason the enterprise zone designation 796
expires, the Director of the Ohio ~~Department of Development~~ 797
Services Agency revokes certification of the zone, or _____ 798
(insert name of municipal corporation or county) revokes the 799

designation of the zone, entitlements granted under this 800
agreement shall continue for the number of years specified under 801
this agreement, unless _____ (insert name of enterprise) 802
materially fails to fulfill its obligations under this agreement 803
and _____ (insert name of municipal corporation or county) 804
terminates or modifies the exemptions from taxation granted 805
under this agreement." 806

(7) "If _____ (insert name of enterprise) materially 807
fails to fulfill its obligations under this agreement, other 808
than with respect to the number of employee positions estimated 809
to be created or retained under this agreement, or if _____ 810
(insert name of municipal corporation or county) determines that 811
the certification as to delinquent taxes required by this 812
agreement is fraudulent, _____ (insert name of municipal 813
corporation or county) may terminate or modify the exemptions 814
from taxation granted under this agreement." 815

(8) "_____ (insert name of enterprise) shall provide 816
to the proper tax incentive review council any information 817
reasonably required by the council to evaluate the enterprise's 818
compliance with the agreement, including returns or annual 819
reports filed pursuant to section 5711.02 or 5727.08 of the Ohio 820
Revised Code if requested by the council." 821

(9) "_____ (insert name of enterprise) and _____ 822
(insert name of municipal corporation or county) acknowledge 823
that this agreement must be approved by formal action of the 824
legislative authority of _____ (insert name of municipal 825
corporation or county) as a condition for the agreement to take 826
effect. This agreement takes effect upon such approval." 827

(10) "This agreement is not transferable or assignable 828
without the express, written approval of _____ (insert name 829

of municipal corporation or county)." 830

(11) "Exemptions from taxation granted under this 831
agreement shall be revoked if it is determined that 832
_____ (insert name of enterprise), any successor 833
enterprise, or any related member (as those terms are defined in 834
section 5709.61 of the Ohio Revised Code) has violated the 835
prohibition against entering into this agreement under division 836
~~(E)~~ (C) of section 3735.671 or section 5709.62, 5709.63, or 837
5709.632 of the Ohio Revised Code prior to the time prescribed 838
by that division or either of those sections." 839

(12) "In any three-year period during which this agreement 840
is in effect, if the actual number of employee positions created 841
or retained by (insert name of enterprise) is 842
not equal to or greater than seventy-five per cent of the number 843
of employee positions estimated to be created or retained under 844
this agreement during that three-year period, 845
(insert name of enterprise) shall repay the amount of taxes on 846
property that would have been payable had the property not been 847
exempted from taxation under this agreement during that three- 848
year period. In addition, the (insert name of 849
municipal corporation or county) may terminate or modify the 850
exemptions from taxation granted under this agreement." 851

The statement described in division (B) (7) of this section 852
may include the following statement, appended at the end of the 853
statement: "and may require the repayment of the amount of taxes 854
that would have been payable had the property not been exempted 855
from taxation under this agreement." If the agreement includes a 856
statement requiring repayment of exempted taxes, it also may 857
authorize the legislative authority to secure repayment of such 858
taxes by a lien on the exempted property in the amount required 859

to be repaid. Such a lien on exempted real property shall 860
attach, and may be perfected, collected, and enforced, in the 861
same manner as a mortgage lien on real property, and shall 862
otherwise have the same force and effect as a mortgage lien on 863
real property. Notwithstanding section 5719.01 of the Revised 864
Code, such a lien on exempted tangible personal property shall 865
attach, and may be perfected, collected, and enforced, in the 866
same manner as a security interest in goods under Chapter 1309. 867
of the Revised Code, and shall otherwise have the same force and 868
effect as such a security interest. 869

(C) If the director of development services had to issue a 870
waiver under section 5709.633 of the Revised Code as a condition 871
for the agreement to be executed, the agreement shall include 872
the following statement: 873

"Continuation of this agreement is subject to the validity 874
of the circumstance upon which _____ (insert name of 875
enterprise) applied for, and the Director of the Ohio ~~Department~~ 876
~~of Development~~ Services Agency issued, the waiver pursuant to 877
section 5709.633 of the Ohio Revised Code. If, after formal 878
approval of this agreement by _____ (insert name of 879
municipal corporation or county), the Director or _____ 880
(insert name of municipal corporation or county) discovers that 881
such a circumstance did not exist, _____ (insert name of 882
enterprise) shall be deemed to have materially failed to comply 883
with this agreement." 884

If the director issued a waiver on the basis of the 885
circumstance described in division (B) (3) of section 5709.633 of 886
the Ohio Revised Code, the conditions enumerated in divisions 887
(B) (3) (a) (i) and (ii) or divisions (B) (3) (b) (i) and (ii) of that 888
section shall be incorporated in the information described in 889

divisions (A) (2), (3), and (4) of this section. 890

Sec. 5709.82. (A) As used in this section: 891

(1) "New employee" means both of the following: 892

(a) Persons employed in the construction of real property 893
exempted from taxation under the chapters or sections of the 894
Revised Code enumerated in division (B) of this section; 895

(b) Persons not described by division (A) (1) (a) of this 896
section who are first employed at the site of such property and 897
who within the two previous years have not been subject, prior 898
to being employed at that site, to income taxation by the 899
municipal corporation within whose territory the site is located 900
on income derived from employment for the person's current 901
employer. "New employee" does not include any person who 902
replaces a person who is not a new employee under division (A) 903
(1) of this section. 904

(2) "Infrastructure costs" means costs incurred by a 905
municipal corporation in a calendar year to acquire, construct, 906
reconstruct, improve, plan, or equip real or tangible personal 907
property that directly benefits or will directly benefit the 908
exempted property. If the municipal corporation finances the 909
acquisition, construction, reconstruction, improvement, 910
planning, or equipping of real or tangible personal property 911
that directly benefits the exempted property by issuing debt, 912
"infrastructure costs" means the annual debt charges incurred by 913
the municipal corporation from the issuance of such debt. Real 914
or tangible personal property directly benefits exempted 915
property only if the exempted property places or will place 916
direct, additional demand on the real or tangible personal 917
property for which such costs were or will be incurred. 918

(3) "Taxing unit" has the same meaning as in division (H) 919
of section 5705.01 of the Revised Code. 920

(B) (1) Except as otherwise provided under division (C) of 921
this section, the legislative authority of any political 922
subdivision that has acted under the authority of Chapter 725. 923
or 1728., sections 3735.65 to 3735.70, or section 5709.40, 924
5709.41, 5709.45, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78, 925
5709.84, or 5709.88 of the Revised Code to grant an exemption 926
from taxation for real or tangible personal property may 927
negotiate with the board of education of each city, local, 928
exempted village, or joint vocational school district or other 929
taxing unit within the territory of which the exempted property 930
is located, and enter into an agreement whereby the school 931
district or taxing unit is compensated for tax revenue foregone 932
by the school district or taxing unit as a result of the 933
exemption. Except as otherwise provided in division (B) (1) of 934
this section, if a political subdivision enters into more than 935
one agreement under this section with respect to a tax 936
exemption, the political subdivision shall provide to each 937
school district or taxing unit with which it contracts the same 938
percentage of tax revenue foregone by the school district or 939
taxing unit, which may be based on a good faith projection made 940
at the time the exemption is granted. Such percentage shall be 941
calculated on the basis of amounts paid by the political 942
subdivision and any amounts paid by an owner under division (B) 943
(2) of this section. A political subdivision may provide a 944
school district or other taxing unit with a smaller percentage 945
of foregone tax revenue than that provided to other school 946
districts or taxing units only if the school district or taxing 947
unit expressly consents in the agreement to receiving a smaller 948
percentage. If a subdivision has acted under the authority of 949

section 5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 5709.632, 950
5709.73, or 5709.78 of the Revised Code and enters into a 951
compensation agreement with a city, local, or exempted village 952
school district, the subdivision shall provide compensation to 953
the joint vocational school district within the territory of 954
which the exempted property is located at the same rate and 955
under the same terms as received by the city, local, or exempted 956
village school district. 957

(2) An owner of property exempted from taxation under the 958
authority described in division (B) (1) of this section may, by 959
becoming a party to an agreement described in division (B) (1) of 960
this section or by entering into a separate agreement with a 961
school district or other taxing unit, agree to compensate the 962
school district or taxing unit by paying cash or by providing 963
property or services by gift, loan, or otherwise. If the owner's 964
property is exempted under the authority of section 5709.40, 965
5709.41, 5709.45, 5709.62, 5709.63, 5709.632, 5709.73, or 966
5709.78 of the Revised Code and the owner enters into a 967
compensation agreement with a city, local, or exempted village 968
school district, the owner shall provide compensation to the 969
joint vocational school district within the territory of which 970
the owner's property is located at the same rate and under the 971
same terms as received by the city, local, or exempted village 972
school district. 973

(C) This division does not apply to the following: 974

(1) The legislative authority of a municipal corporation 975
that has acted under the authority of division (H) of section 976
715.70 or division (U) of section 715.72 of the Revised Code to 977
consent to the granting of an exemption from taxation for real 978
or tangible personal property in a joint economic development 979

district. 980

(2) The legislative authority of a municipal corporation 981
that has specified in an ordinance adopted under section 982
5709.40, 5709.41, or 5709.45 of the Revised Code that payments 983
in lieu of taxes provided for under section 5709.42 or 5709.46 984
of the Revised Code shall be paid to the city, local, or 985
exempted village school district in which the improvements are 986
located in the amount of taxes that would have been payable to 987
the school district if the improvements had not been exempted 988
from taxation, as directed in the ordinance. 989

If the legislative authority of any municipal corporation 990
has acted under the authority of Chapter 725. or 1728. or 991
section 3735.671, 5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 992
5709.632, or 5709.88, or a housing officer under section 3735.67 993
of the Revised Code, to grant or consent to the granting of an 994
exemption from taxation for real or tangible personal property 995
on or after July 1, 1994, the municipal corporation imposes a 996
tax on incomes, and the payroll of new employees resulting from 997
the exercise of that authority equals or exceeds one million 998
dollars, or three million dollars, as adjusted under division 999
(E) of this section, in the case of the authority exercised 1000
under section 3735.67 or 3735.671 of the Revised Code, in any 1001
tax year for which such property is exempted, the legislative 1002
authority and the board of education of each city, local, or 1003
exempted village school district within the territory of which 1004
the exempted property is located shall attempt to negotiate an 1005
agreement providing for compensation to the school district for 1006
all or a portion of the tax revenue the school district would 1007
have received had the property not been exempted from taxation. 1008
The agreement may include as a party the owner of the property 1009
exempted or to be exempted from taxation and may include 1010

provisions obligating the owner to compensate the school 1011
district by paying cash or providing property or services by 1012
gift, loan, or otherwise. Such an obligation is enforceable by 1013
the board of education of the school district pursuant to the 1014
terms of the agreement. 1015

If the legislative authority and board of education fail 1016
to negotiate an agreement that is mutually acceptable within six 1017
months of formal approval by the legislative authority of the 1018
instrument granting the exemption, the legislative authority 1019
shall compensate the school district in the amount and manner 1020
prescribed by division (D) of this section. 1021

(D) Annually, the legislative authority of a municipal 1022
corporation subject to this division shall pay to the city, 1023
local, or exempted village school district within the territory 1024
of which the exempted property is located an amount equal to 1025
fifty per cent of the difference between the amount of taxes 1026
levied and collected by the municipal corporation on the incomes 1027
of new employees in the calendar year ending on the day the 1028
payment is required to be made, and the amount of any 1029
infrastructure costs incurred in that calendar year. For 1030
purposes of such computation, the amount of infrastructure costs 1031
shall not exceed thirty-five per cent of the amount of those 1032
taxes unless the board of education of the school district, by 1033
resolution adopted by a majority of the board, approves an 1034
amount in excess of that percentage. If the amount of those 1035
taxes or infrastructure costs must be estimated at the time the 1036
payment is made, payments in subsequent years shall be adjusted 1037
to compensate for any departure of those estimates from the 1038
actual amount of those taxes. 1039

A municipal corporation required to make a payment under 1040

this section shall make the payment from its general fund or a 1041
special fund established for the purpose. The payment is payable 1042
on the thirty-first day of December of the tax year for or in 1043
which the exemption from taxation commences and on that day for 1044
each subsequent tax year property is exempted and the 1045
legislative authority and board fail to negotiate an acceptable 1046
agreement under division (C) of this section. 1047

(E) (1) The director of development services shall adjust, 1048
in September of each year, the payroll threshold described in 1049
division (C) (2) of this section applicable to the exercise of 1050
authority under section 3735.67 or 3735.671 of the Revised Code 1051
by completing the following computations: 1052

(a) Determine the percentage increase in the gross 1053
domestic product deflator determined by the bureau of economic 1054
analysis of the United States department of commerce from the 1055
first day of January of the preceding calendar year to the last 1056
day of December of the preceding calendar year; 1057

(b) Multiply that percentage increase by the threshold 1058
applicable for the current year; 1059

(c) Add the resulting product to the threshold applicable 1060
for the current year; 1061

(d) Round the resulting sum to the nearest one thousand 1062
dollars. 1063

(2) The director shall certify the amount of the 1064
adjustment under division (E) (1) of this section to each 1065
legislative authority of a municipal corporation and housing 1066
officer designated by a municipal corporation exercising 1067
authority under section 3735.67 or 3735.671 of the Revised Code 1068
not later than the first day of December of the year the 1069

director computes the adjustment. The certified amount applies 1070
to the ensuing calendar year and each calendar year thereafter 1071
until the director makes a new adjustment. The director shall 1072
not calculate a new adjustment in any year in which the 1073
resulting threshold amount from the adjustment would be less 1074
than the threshold for the current year. 1075

Sec. 5709.85. (A) The legislative authority of a county, 1076
township, or municipal corporation that grants an exemption from 1077
taxation under Chapter 725. or 1728. or under section 3735.67, 1078
5709.28, 5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 5709.632, 1079
5709.73, or 5709.78 of the Revised Code shall create a tax 1080
incentive review council. The council shall consist of the 1081
following members: 1082

(1) In the case of a municipal corporation eligible to 1083
designate a zone under section 5709.62 or 5709.632 of the 1084
Revised Code, the chief executive officer or that officer's 1085
designee; a member of the legislative authority of the municipal 1086
corporation, appointed by the president of the legislative 1087
authority or, if the chief executive officer of the municipal 1088
corporation is the president, appointed by the president pro 1089
tempore of the legislative authority; the county auditor or the 1090
county auditor's designee; the chief financial officer of the 1091
municipal corporation or that officer's designee; an individual 1092
appointed by the board of education of each city, local, 1093
exempted village, and joint vocational school district to which 1094
the instrument granting the exemption applies; and two members 1095
of the public appointed by the chief executive officer of the 1096
municipal corporation with the concurrence of the legislative 1097
authority. At least four members of the council shall be 1098
residents of the municipal corporation, and at least one of the 1099
two public members appointed by the chief executive officer 1100

shall be a minority. As used in division (A) (1) of this section, 1101
a "minority" is an individual who is African-American, Hispanic, 1102
or Native American. 1103

(2) In the case of a county or a municipal corporation 1104
that is not eligible to designate a zone under section 5709.62 1105
or 5709.632 of the Revised Code, three members appointed by the 1106
board of county commissioners; two members from each municipal 1107
corporation to which the instrument granting the tax exemption 1108
applies, appointed by the chief executive officer with the 1109
concurrence of the legislative authority of the respective 1110
municipal corporations; two members of each township to which 1111
the instrument or agreement granting the tax exemption applies, 1112
appointed by the board of township trustees of the respective 1113
townships; the county auditor or the county auditor's designee; 1114
and an individual appointed by the board of education of each 1115
city, local, exempted village, and joint vocational school 1116
district to which the instrument or agreement granting the tax 1117
exemption applies. At least two members of the council shall be 1118
residents of the municipal corporations or townships to which 1119
the instrument or agreement granting the tax exemption applies. 1120

(3) In the case of a township ~~in which improvements are~~ 1121
~~declared a public purpose under section 5709.73 of the Revised~~ 1122
~~Code,~~ the board of township trustees; the county auditor or the 1123
county auditor's designee; and an individual appointed by the 1124
board of education of each city, local, exempted village, and 1125
joint vocational school district to which the instrument or 1126
agreement granting the exemption applies. 1127

(B) The county auditor or the county auditor's designee 1128
shall serve as the chairperson of the council. The council shall 1129
meet at the call of the chairperson. At the first meeting of the 1130

council, the council shall select a vice-chairperson. Attendance 1131
by a majority of the members of the council constitutes a quorum 1132
to conduct the business of the council. 1133

(C) (1) Annually, the tax incentive review council shall 1134
review all agreements granting exemptions from property taxation 1135
under Chapter 725. or 1728. or under section 3735.671, 5709.28, 1136
5709.62, 5709.63, or 5709.632 of the Revised Code, and any 1137
performance or audit reports required to be submitted pursuant 1138
to those agreements. The review shall include agreements 1139
granting such exemptions that were entered into prior to July 1140
22, 1994, that continue to be in force and applicable to the 1141
current year's property taxes. 1142

With respect to each agreement, other than an agreement 1143
entered into under section 5709.28 of the Revised Code, the 1144
council shall determine whether the owner of the exempted 1145
property has complied with the agreement, and may take into 1146
consideration any fluctuations in the business cycle unique to 1147
the owner's business. 1148

With respect to an agreement entered into under section 1149
5709.28 of the Revised Code, the council shall consist of the 1150
members described in division (A) (2) of this section and shall 1151
determine whether the agreement complies with the requirements 1152
of section 5709.28 of the Revised Code and whether a withdrawal, 1153
removal, or conversion of land from an agricultural security 1154
area established under Chapter 931. of the Revised Code has 1155
occurred in a manner that makes the exempted property no longer 1156
eligible for the exemption. 1157

On the basis of the determinations, on or before the first 1158
day of September of each year, the council shall submit to the 1159
legislative authority written recommendations for continuation, 1160

modification, or cancellation of each agreement. 1161

(2) Annually, the tax incentive review council shall 1162
review all exemptions from property taxation resulting from the 1163
declaration of public purpose improvements pursuant to section 1164
5709.40, 5709.41, 5709.45, 5709.73, or 5709.78 of the Revised 1165
Code. The review shall include such exemptions that were granted 1166
prior to July 22, 1994, that continue to be in force and 1167
applicable to the current year's property taxes. With respect to 1168
each improvement for which an exemption is granted, the council 1169
shall determine the increase in the true value of parcels of 1170
real property on which improvements have been undertaken as a 1171
result of the exemption; the value of improvements exempted from 1172
taxation as a result of the exemption; and the number of new 1173
employees or employees retained on the site of the improvement 1174
as a result of the exemption. 1175

Upon the request of a tax incentive review council, the 1176
county auditor, the housing officer appointed pursuant to 1177
section 3735.66 of the Revised Code, the owner of a new or 1178
remodeled structure or improvement, and the legislative 1179
authority of the county, township, or municipal corporation 1180
granting the exemption shall supply the council with any 1181
information reasonably necessary for the council to make the 1182
determinations required under division (C) of this section, 1183
including returns or reports filed pursuant to sections 5711.02, 1184
5711.13, and 5727.08 of the Revised Code. 1185

(D) Annually, the tax incentive review council shall 1186
review the compliance of each recipient of a tax exemption under 1187
Chapter 725. or 1728. or section 3735.67, 5709.40, 5709.41, 1188
5709.45, 5709.62, 5709.63, 5709.632, 5709.73, or 5709.78 of the 1189
Revised Code with the nondiscriminatory hiring policies 1190

developed by the county, township, or municipal corporation 1191
under section 5709.832 of the Revised Code. Upon the request of 1192
the council, the recipient shall provide the council any 1193
information necessary to perform its review. On the basis of its 1194
review, the council may submit to the legislative authority 1195
written recommendations for enhancing compliance with the 1196
nondiscriminatory hiring policies. 1197

(E) A legislative authority that receives from a tax 1198
incentive review council written recommendations under division 1199
(C) (1) or (D) of this section shall, within sixty days after 1200
receipt, hold a meeting and vote to accept, reject, or modify 1201
all or any portion of the recommendations. 1202

(F) A tax incentive review council may request from the 1203
recipient of a tax exemption under Chapter 725. or 1728. or 1204
section 3735.67, 5709.28, 5709.40, 5709.41, 5709.45, 5709.62, 1205
5709.63, 5709.632, 5709.73, or 5709.78 of the Revised Code any 1206
information reasonably necessary for the council to perform its 1207
review under this section. The request shall be in writing and 1208
shall be sent to the recipient by certified mail. Within ten 1209
days after receipt of the request, the recipient shall provide 1210
to the council the information requested. 1211

Section 2. That existing sections 3735.65, 3735.66, 1212
3735.671, 3735.672, 3735.68, 3735.69, 5709.631, 5709.82, and 1213
5709.85 of the Revised Code are hereby repealed. 1214

Section 3. That section 3735.673 of the Revised Code is 1215
hereby repealed. 1216