



**GREATER  
LAWRENCE COUNTY  
AREA**

**LAWRENCE ECONOMIC DEVELOPMENT CORP.**

P.O. Box 488  
South Point, Ohio 45680-0488  
740-377-4550 800-408-1334  
FAX 740-377-2091

**NARRATIVE INFORMATION SHEET  
LAWRENCE ECONOMIC DEVELOPMENT CORPORATION (LEDC)  
FY2020 U.S. EPA BROWNFIELDS HAZARDOUS SUBSTANCES ASSESSMENT  
GRANT APPLICATION**

1. Applicant Identification:

Lawrence Economic Development Corporation (LEDC)  
216 Collins Avenue  
South Point, Ohio 45680-0488

2. Funding Requested:

- a) Assessment Grant type: Assessment Coalition
- b) Federal Funds Requested: \$600,000
- c) Contamination: (\$600,000) Hazardous Substances

3. Location: Lawrence County, Ohio

4. Property information for site specific proposal: N/A

5. Contacts:

a) Project Director:

Jeremy Clay, Associate Executive Director  
216 Collins Avenue, South Point, Ohio 45680-0488  
Phone: 740.377.4550, Email: [jeremy@ledcorp.org](mailto:jeremy@ledcorp.org)

b) Chief Executive:

Bill Dingus, Ph.D., Executive Director  
216 Collins Avenue, South Point, Ohio 45680-0488  
Phone: 740.377.4550, Email: [dingus@ohio.edu](mailto:dingus@ohio.edu)

6. Population: 59,866 (*U.S. Census Bureau, census.gov, Population estimates, July 1, 2019, [V2018]*)

7. Other Factors Checklist:

<b>Other Factors</b>	<b>Page #</b>
Community population is 10,000 or less.	1
The applicant is, or will assist, a federally recognized Indian tribe or United States territory.	N/A
The priority brownfield site(s) is impacted by mine-scarred land.	2
The priority site(s) is adjacent to a body of water (i.e., the border of the priority site(s) is contiguous or partially contiguous to the body of water, or would be contiguous or partially contiguous with a body of water but for a street, road, or other public thoroughfare separating them).	1
The priority site(s) is in a federally designated flood plain.	2
The reuse of the priority site(s) will facilitate renewable energy from wind, solar, or geothermal energy; or will incorporate energy efficiency measures.	N/A
30% or more of the overall project budget will be spent on eligible reuse planning activities for priority brownfield site(s) within the target area.	N/A

8. Letter from State or Tribal Environmental Authority: Attached

**SUPPORT LETTER FROM OHIO ENVIRONMENTAL PROTECTION AGENCY**



**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor  
**Laurie A. Stevenson**, Director

November 19, 2019

U.S. Environmental Protection Agency, Region 5  
ATTN: Matt Didier  
77 West Jackson Boulevard  
Mail Code SB-5J  
Chicago, IL 60604-3507

**RE: Lawrence Economic Development Corporation and Coalition Community Wide Assessment Grant Proposal**

Dear Mr. Didier:

I am pleased to offer Ohio EPA's support for the Lawrence Economic Development Corporation (LEDC) and its coalition partner's Community Wide Assessment Grant Proposal. The coalition partners are the Ironton-Lawrence County Community Action Organization (ILCAO) and the Lawrence County Port Authority. The Coalition is applying for a community wide assessment grant with a waiver for additional funding totaling \$600,000. We have worked with the LEDC and Lawrence County Port Authority in the past and hope to provide support under the Assessment, Cleanup and Revolving Loan Fund Grant program established by the Small Business Liability Relief and Brownfield Revitalization Act (P.L. 107-118).

The funding the Coalition is requesting under their community wide assessment grant proposal will be used to continue its groundbreaking work in revitalizing Lawrence County and returning properties that are the legacy of the County's rich manufacturing past to productive use in our 21<sup>st</sup> century economy. Three target areas for the assessment grant were identified due to their economic development potential. The former heavily industrialized "3<sup>rd</sup> Street/Ohio River Corridor" in Ironton is essentially a four mile stretch of "industrial brownfields" that are vastly underutilized. The other two target areas are "The District" in Hanging Rock and "The Point" in South Point.

Funds will be used to conduct inventorying, environmental assessments and cleanup planning, and will be leveraged with funding from other sources such as JobsOhio and the Ohio Abandoned Gas Station Fund, as well as other federal and private sources, to advance toward Ready for Anticipated Use (RAU) status per US EPA's objectives.

We look forward to working with the Coalition in Lawrence County and the U.S. EPA on this project. If you have any questions, please do not hesitate to contact me at 614-644-2295 or via e-mail at [Lisa.Shook@epa.ohio.gov](mailto:Lisa.Shook@epa.ohio.gov).

Sincerely,

A handwritten signature in blue ink that reads "Lisa Shook". The signature is fluid and cursive, written over a light blue horizontal line.

Lisa Shook, Manager  
Ohio Environmental Protection Agency  
Voluntary Action Program

cc: Colin Flaherty, CP, Senior Consultant, SME  
Kristy Hunt, Ohio EPA, DERR/SEDO

## NARRATIVE/RANKING CRITERIA FOR LAWRENCE COUNTY ASSESSMENT GRANT

### NARRATIVE/RANKING CRITERIA FOR LAWRENCE COUNTY ASSESSMENT GRANT 1. PROJECT AREA DESCRIPTION AND PLANS FOR REVITALIZATION

#### a. Target Area and Brownfields

*(i) Background and Description of Target Area:* Lawrence County (the County), the southernmost county in Ohio, is in the heart of Appalachia. As the centerpoint of the Hanging Rock Iron region in Ohio, the County's early development at the turn of the 19<sup>th</sup> century revolved around heavy industry, and specifically the production of iron. Mining in the area was lucrative due to the rich iron ore and the proximity to the Ohio River for transport. By the mid-1800s the region, primarily Ironton, produced the majority of iron used in the United States, and local foundries were responsible for most of the ordnance used by the Union Army during the Civil War. However, steel rapidly replaced iron in the 20<sup>th</sup> century, consequently leaving Ironton and Lawrence County with little commerce to replace the once booming iron industry.

The 2018 population of Lawrence County is 59,866<sup>1</sup> and with a population of 10,635 people<sup>1</sup>, Ironton is the county seat and only city in the County; the remaining communities in the County villages or townships with populations well less than 10,000. Lawrence County has experienced a steady decline in population over the past several decades, with Ironton having lost over 34% of its population since its 1950 peak. The long heavy manufacturing history has left this small county with three Superfund sites along with numerous underutilized former industrial sites.

The Lawrence County Economic Development Corporation (LEDC), Ironton-Lawrence County Community Action Organization (ILCAO), and the Lawrence County Port Authority have formed a Coalition to promote redevelopment of underutilized properties within Lawrence County. This coalition has been active since the mid-1990s. The LEDC will be the lead agency for the Coalition because of its specific focus on and experience with redevelopment and jobs creation in the region, but the Port Authority is granted statutory capabilities that augment those of LEDC in the redevelopment process, and ILCAO has broad community assistance responsibilities and federal legislative authority that allow it to leverage funding such as Community Services Block Grants (CSBG) and Community Development Block Grants (CDBG) for use in revitalization and redevelopment. Together these agencies have an established track record in revitalization and redevelopment projects in Lawrence County that will be enhanced by this Grant. However, revitalization of these formerly industrialized communities proves difficult given the limited funding sources in this economically depressed part of Appalachia.

Two Target Areas for the assessment grant were identified due to their economic development potential. The former heavily industrialized "3<sup>rd</sup> Street/Ohio River Corridor" (The Corridor) in Ironton which is essentially a four mile stretch of "industrial brownfields" from the heart of downtown south to the Village of Coal Grove (portions of Census Tracts [CTs] 501-503). This Corridor is prime for redevelopment given the number of abandoned industrial/commercial sites along this stretch. In addition, these industrial sites in The Corridor are adjoined by low-income residences directly impacted by the multitude of brownfields essentially in their backyards (both environmentally and economically). Ironton is a rivertown; however, the riverfront is entirely occupied by blighted properties. With the mix of larger scale properties along the river and the density of properties along 3<sup>rd</sup> Street, coupled with the availability of existing infrastructure, environmental assessment of properties in this area can springboard reinvestment and revitalization of the area and connect these parts of Ironton to the Central Business District.

The second Target Area is "Southern Ohio's Industrial District" (The District) in Hanging Rock, which is a large brownfield-turned-industrial park that is in its infancy, and given its location and existing infrastructure, is a focus of LEDC to spur on economic redevelopment in the County. The District is the result of a joint venture between JobsOhio and LEDC which has brought together 400 acres of land that includes eight vacant industrial buildings. The District was created due to the closing of a Dow Styrofoam plant. The area is rich in logistics and accessibility, with over one half mile of frontage on the Ohio River on the south end and an equal amount of frontage on Norfolk Southern's Heartland Corridor rail line on the north end with three lanes and multiple spurs to support industry. The District lies within a designated Opportunity Zone (OZ; CT 507) and is a key vantage point for businesses seeking an optimal location for expansion or

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<sup>1</sup> Census.gov, population estimates, July 1, 2018.

## NARRATIVE/RANKING CRITERIA FOR LAWRENCE COUNTY ASSESSMENT GRANT

relocation. Likely environmental impacts include volatile organic compounds (VOCs), a direct result of historical operations at the Dow Styrofoam facility, and impacts from the adjoining mine-scarred land to the west<sup>2</sup>. The jobs created already at The District are crucially important to the economically distressed residents in the area; however, in order for LEDC to continue and expand upon its demonstrated redevelopment expertise, more assessment resources are needed.

**(ii) Description of the Priority Brownfield Sites(s):** As noted above, The Corridor was heavily industrialized and was long the epicenter of industry in Lawrence County. Some industry included the New York and Ohio Iron and Steel Works in the north, Kelly Nail & Iron Co. in central Ironton, The Dayton Malleable Iron Co. in southern Ironton, to The Carlyle Tile Co. further south in Coal Grove; however, the Priority Site is the former Ironton Steel site. This 4.7-acre site along the Ohio River (and within the floodplain) has a history of industrial development dating back to the early 20<sup>th</sup> century, with the Ironton Engine Company and the Wayne Pump Company both operating foundries on the site before the now-defunct Ironton Steel Corporation operated there. LEDC has demolished the decrepit former headquarters office to avert public safety concerns, but the former foundry and machine shop building, with an additional 32,000 square feet under roof, was constructed in 1903<sup>3</sup> and poses its own safety concerns. Environmental impacts of past industrial processes operated on the site have not yet been assessed, and the site may also have received contamination from off-site sources such as the coke oven batteries and massive foundries operated by other parties. Its redevelopment is especially critical as it lies at the southern entrance to the Central Business District, and its revitalization will leverage additional improvements in the Ironton downtown area.

The second Priority Site is the former Dow Chemical site that is part of The District in Hanging Rock (within CT 507 which is an OZ). Environmental impacts (notably VOCs) are likely as a result of historical polystyrene production at the site dating from 1968. Although the site is situated approximately 1,000 feet away from Ohio River barge loading infrastructure, portions of the site are within the floodplain. Since recent redevelopment activities were initiated by LEDC, several new companies have established operations at The District; however, additional development to support the highest and best use of The District threatens to be stalled lacking assessments to characterize environmental and human health risks at other portions of this Priority Site. LEDC is not the cause of, nor liable for, contamination at either Priority Site.

### **b. Revitalization of the Target Area**

#### **(i) Reuse Strategy and Alignment with Revitalization Plans:**

The City of Ironton's 2016 Central Business District (CBD) Plan incorporates a vision, purpose and scope that emphasizes: 1) a downtown community that is clean, convenient, safe and a fun place in which to shop, work, live and play, 2) development that capitalizes on unique River Town attributes such as river valley topography, linear development configurations, and juxtaposition of water and land transportation methods, 3) preservation of historical structures with industrial legacy to be included in preservation to the extent feasible, and 4) revitalization following the four forces of real estate value: political, physical, economic and social. Participants in creating the plan included business leaders, community leaders and residents.

Once Priority Sites have been assessed using grant funds and, if required, remediated, LEDC and its Coalition partners will market them aggressively and effectively similarly to The Point, with customized incentives tailored to job creation and real estate tax revenue enhancement. With **60% of the U.S. population, 80% of U.S. corporate headquarters and 61% of U.S. manufacturing capacity within a day's drive**, coupled with its many modes of existing transportation infrastructure, Lawrence County has a compelling story to tell in marketing its developable land to new industry.

**(ii) Outcomes and Benefits of Reuse Strategy:** Two OZs have been designated in Lawrence County: CT502 in Ironton (which falls within The Corridor Target Area) and CT507 in the western portion of the County (in which The District Target Area is situated). Using this grant to remove the stigma of actual or suspected environmental contamination from the Priority Sites that lie in these OZs, and from additional sites in the targeted area, they too can blossom with new investment, development, and jobs.

Assessment of The Corridor Target Area will not only help revitalize the multitude of blighted properties, it will aim to support the community's desire for bicycle/pedestrian-friendly corridor along S 3<sup>rd</sup> Street in Ironton

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<sup>2</sup> <https://gis.ohiodnr.gov/MapViewer/?config=OhioMines>

<sup>3</sup> Lawrence County Auditor records

## NARRATIVE/RANKING CRITERIA FOR LAWRENCE COUNTY ASSESSMENT GRANT

and the Oakley Clark Collins Bridge which would further connect the community to neighboring Kentucky. Additionally, revitalization of The Corridor will help create access to the riverfront that is currently hindered by blighted brownfields.

LEDC's proven approach to redevelopment and marketing of Brownfield sites (e.g., The Point) will be employed to expound upon the initial success at The District Target Area to attract new business and jobs to the County. This will also be extended to other additional sites as they are identified and assessed through the grant project. Although many communities can produce flowery prose to describe their plans for economic stimulation and revitalization, Coalition members **LEDC and the Lawrence County Port Authority have a demonstrated, objective track record proving their competency and expertise in leveraging a variety of funding sources and bringing tangible redevelopment results** to the community.

### c. Strategy for Leveraging Resources

**(i) Resources Needed for Site Reuse:** Consistent with the CBD Plan and its recognition of the importance of unique River Town resources and assets, LEDC and the Port Authority have obtained Foreign Trade Zone status for The Point industrial park, affording its businesses a competitive advantage. Similar status is planned for Dow Chemical Priority Site/The District Target Area and the former Ironton Steel Priority Site located within The Corridor, and may be sought for other brownfield redevelopments as appropriate to secure tenants and/or purchasers with job-creating end uses. Other incentives provided by Lawrence County include grants for infrastructure and partial real estate tax abatement. These County incentives are complemented by state incentive packages through JobsOhio or the Ohio Development Services Agency (ODSA), including low-interest loans, training grants, access road support, and job creation tax credits.

Ohio has several State grants to support brownfield revitalization. Petroleum brownfield sites in Ohio can be assessed and, in most cases, remediated using ODSA's Ohio Abandoned Gas Station Fund. This program is available for use with any petroleum tank from which a Class C release has occurred – one without a viable responsible owner or operator (three known Class C sites are currently identified in The Corridor). **Because of the availability of this fund, the Coalition is not seeking petroleum-related assessment funding in this grant application.** The Ohio EPA's Site Assistance and Brownfield Revitalization (SABR) division offers two grant-funded programs; Targeted Brownfield Assessment (TBA) Program and Technical Assistance (TA) for the Voluntary Action Program (VAP). LEDC and the Coalition members work closely with JobsOhio, and the local partner entity Appalachian Partnership for Economic Growth (APEG). JobsOhio maintains a Revitalization Program Loan and Grant Fund that provides moneys for assessment and cleanup of selected Brownfield sites, with a high priority placed on projects that support *near term* job creation opportunities for Ohioans.

In short, this grant will provide strategic assessments **to complement the tactical cleanup and infrastructure funding available to the Coalition from the ODSA, Ohio EPA, and JobsOhio.**

**(ii) Use of Existing Infrastructure:** Lawrence County has access to every key mode of transportation – river, road, rail, and air. The Ohio River adjoins the two Target Areas and rail is either on or adjoining each Priority Site. US Route 52, which in many stretches meets Interstate Highway design criteria, adjoins The District and is accessible by numerous exit ramps within ½-mile of The Corridor Target Area. Three airports are located less than 10 miles from the Target Areas.

The Target Areas/Priority Sites have excellent access to existing utilities. All sites have access to electricity, natural gas, and water. LEDC does not anticipate the need for additional infrastructure improvements in the Target Areas beyond the standard tie-ins for new construction. Water availability throughout the Target Areas is ample to support industrial and commercial growth. Between the two major water utilities in the area, capacity is 7.2 million gallons per day (MGD), while average consumption currently is 3.58 MGD – less than 50% of capacity. Lawrence County and the AEP Ohio grid are well-positioned with respect to current electric power use and capacity, which will be enhanced by several new nearby generating facilities. In July 2016 AEP Ohio relocated a major transformer from its former location in Huntington, WV to its substation near Proctorville, further enhancing distribution capacity within the project area. Finally, in regard to natural gas, distribution systems in the county were designed to satisfy the demanding fuel gas requirements of the iron foundry industry, and that now largely-unused capacity remains available throughout the project area so that fuel supply will not constrain future industrial development.

## NARRATIVE/RANKING CRITERIA FOR LAWRENCE COUNTY ASSESSMENT GRANT

### 2. COMMUNITY NEED AND COMMUNITY ENGAGEMENT

#### a. Community Need

**(i) The Community's Need for Funding:** Lawrence County, with a 2018 population of 59,866, is a small county in Ohio. Median household income in the county is \$45,466, 13% below Ohio and 21% below national medians<sup>4</sup>. Additionally, the sad economic state of the county is further exemplified by the 18.6% of incomes falling below the poverty rate; the state and national averages are 14.9% and 14.6%, respectively<sup>5</sup>.

Although the unemployment rate for the County is on par with the state and national average (~6.5%), several CTs have higher rates, including CT507 (in which The District Target Area lies) which is 8.7%<sup>6</sup>. Additionally, the County is losing residents (>4% decrease since 2010\*). Although we do not know if these are directly related issues, but coupled with the statistics in section 2a.(ii), they are all likely contributing factors. Using this grant to remove the stigma of environmental issues associated with brownfields will aid in attracting new investment, development, and revitalization in the Target Areas and the County as a whole.

#### **(ii) Threats to Sensitive Populations:**

**(1) Health or Welfare of Sensitive Populations:** From 2015 to 2018, infant mortality rates in the County were nearly twice that of the national average; additionally, low birth weights were observed 50% more frequently in the County<sup>7</sup>. Teen births in Lawrence County are 200% higher than the national average and 57% higher than the state.

27% of children in Lawrence County live in poverty, compared to the state rate of 20%<sup>7</sup>. Given the proximity of low-income housing to the brownfields in The Corridor Target Area, childhood exposure to contamination is likely a contributing factor to the overall poor health in the County.

From 2014 to 2017, Ohio has had the highest number of opioid-involved overdose deaths per year for any state. Additionally, the death rates have increased 29%, 33%, and 19% per year during this time. From 2015-2017, Lawrence County, in addition to having some of the highest overdose death rates in the state (51.1 per 100,000), has also had less than \$3.00 per capita of federal funding in FY2017, putting it in the lowest 25 percent of funding in the state<sup>8</sup>.

**(2) Greater Than Normal Incidence of Disease and Adverse Health Conditions:** Although data are not available for health-related metrics on a Target Area basis, Lawrence County is broadly ranked near the bottom (83<sup>rd</sup> of the 88 counties) in Ohio for health outcomes<sup>7</sup> and length of life (81<sup>st</sup>)<sup>7</sup>; the premature death rate is double that of the national average and 35% higher than the state<sup>9</sup>.

Ohio is the 10<sup>th</sup>-most obese state in the US and Lawrence County obesity statistics are 46% higher than the Ohio rate<sup>7</sup>; this is likely correlated with limited physical activity (the County rate is 39% higher than the state rate<sup>7</sup>). Currently, the infrastructure for a more-active lifestyle is lacking and limited access to locations for physical activity (the County rate is 37% lower than the state and 41% lower than the national rate<sup>7</sup>). Assessment of the Ironton Steel Priority Site and The Corridor Target Area will support the community's desire for bicycle/pedestrian-friendly corridor along S 3<sup>rd</sup> Street in Ironton and will help create access to the riverfront that is currently hindered by blighted brownfields<sup>10</sup>.

**(3) Disproportionately Impacted Populations:** According to National-Scale Air Toxics Assessment data, the cancer risk in CT501 and CT502, which are part of The Corridor Target Area, are in the 99<sup>th</sup> percentile for the state<sup>11</sup>. Additionally, the Ironton Steel Priority Site is in CT501. This ranking is not surprising, given that an average of 384 new invasive cancer cases occurred each year among Lawrence County residents from 2010-2016<sup>12</sup>. Reduction of carcinogenic contaminants such as those in the Target Areas should reduce the incidence of these diseases in the county. The above-referenced census tracts also rank in the ≥90<sup>th</sup> percentile in the nation for lead paint (due to the aging housing stock), ≥94<sup>th</sup> national percentile for superfund

<sup>4</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_16\\_5YR\\_DP03&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_16_5YR_DP03&prodType=table)

<sup>5</sup> [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC\\_00\\_SF4\\_QTP34&prodType=table](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_00_SF4_QTP34&prodType=table)

<sup>6</sup> <https://www.census.gov/quickfacts/fact/table/lawrencecountyohio/PST120218>

<sup>7</sup> <https://www.countyhealthrankings.org/app/ohio/2018/rankings/lawrence/county/outcomes/overall/snapshot>

<sup>8</sup> Tracking Federal Funding to Combat the Opioid Crisis, Bipartisan Policy Center, March 2019

<sup>9</sup> <http://www.countyhealthrankings.org/app/ohio/2016/rankings/lawrence/county/factors/overall/snapshot>

<sup>10</sup> Activate Ironton, Ironton Bicycle and Pedestrian Master Plan, Burton Planning Services, April 2018

<sup>11</sup> <https://www.epa.gov/ejscreen>

<sup>12</sup> <http://publicapps.odh.ohio.gov/EDW/DataBrowser/Browse/StateLayoutLockdownCancers>

## NARRATIVE/RANKING CRITERIA FOR LAWRENCE COUNTY ASSESSMENT GRANT

proximity, and 93<sup>rd</sup> percentile in the nation for wastewater discharge<sup>13</sup>. This data correlates with high rates of cancer incidence/mortality rates.

LEDC and the Coalition partners will be empowered through the strategic funding of this grant project to provide employment opportunities and healthy, active lifestyle infrastructure for the economically disadvantaged and impoverished CTs targeted for this grant project.

### b. Community Engagement

**(i) Project Partners:** The partners listed below represent over 50 entities who will be engaged in eligible grant activities. Coalition Members, in particular ILCAO, have long collaborated with these partners. ILCAO will be responsible for outreach coordination.

Partner Name	Point of contact (name, email & phone)	Specific role in the project
Lawrence County Chamber of Commerce	Bill Dingus Executive Director: (740) 377-4550 dingus@ohio.edu	Outreach to business community (existing and potential) on availability of grant funds and educate on cleanup and redevelopment potential of brownfield sites.
Lawrence County Commissioners	Freddie Hayes, Jr. President (740) 533-4300 lawcorecorder@cloh.net	Interface with general public; outreach and information support through the County Commissioners' Facebook page; assist in identifying and securing leverage funding for cleanup.
City of Ironton	Mayor Katrina Keith (740) 532-3833 mayor@ironton-ohio.com	Support prioritization of assessment activities at The Corridor Target Area; interface with general public; outreach and information support; assist in identifying and securing leverage funding for cleanup.
OhioMeansJobs-Lawrence County	Jewell K. Hackworth Director (740) 532-3140 jewell@wdrc.net	Support site reuse by interfacing with employers and job seekers, and on opportunities for development and/or employment in Target Areas/Priority Sites.

Input into the most recent CBD plan update was provided by, among others, the Huntington (WV) Ironton Empowerment Zone (EZ), the Greater Lawrence County Area Convention and Visitors Bureau (CVB) the Friends of Ironton (Friends) and the Ironton Business Association (IBA). These entities will also be engaged in the grant project in addition to the specific involvement outlined above.

**(ii) Incorporating Community Input:** The Coalition members are committed to an open and active public outreach effort to support the grant project. The Coalition will seek input from the community as to their concerns relative to Brownfield sites, sites that the public wishes to have assessed in addition to the Target Areas, and provide general information on the project and on area Brownfields. Solicitation of public input will be initiated with a public information meeting in each of the Target Areas. Announcements publicizing the meeting(s) will be published in the local daily newspaper the Ironton Tribune, along with notices on Coalition Members' websites. Media kits will also be prepared and distributed to television/radio outlets that serve Lawrence County. Finally, an executive summary presentation of the grant project goals, work plan and budget breakdown will be made to the Lawrence County Commission at their regularly scheduled meetings, at which input will also be sought from commission and council members and the general public. Meetings of these legislative entities are broadcast live on their Facebook pages, providing the public ongoing opportunities to educate themselves on the progress of the grant project. Following the public meeting(s), outreach will continue via the ILCAO website and, especially its Facebook page, as well as the LEDC website, coupled with Tweets from @ilcao and PSAs distributed to the media outlets serving the county.

Gathering strong community input at the commencement of the grant implementation is crucial in order to maximize its influence. The intention will be to identify a common goal(s) that resonates with the community,

<sup>13</sup> <https://www.epa.gov/ejscreen>

## NARRATIVE/RANKING CRITERIA FOR LAWRENCE COUNTY ASSESSMENT GRANT

then the assessment grant will be evaluated in hopes it can help springboard the desires to fruition (e.g., recreational path, riverfront park, etc.). Routine public input forums will be held to maintain a direct connection with the community to continue gathering thoughts and ideas in addition to feedback on implementation.

### **3. TASK DESCRIPTIONS, COST ESTIMATES, AND MEASURING PROGRESS**

**a. Description of Tasks/Activities and Outputs:** The Coalition’s plan is to use the grant to assess at least 5 sites, including Priority Sites in the Target Areas and other high-risk or developable sites identified during the grant period and support the remediation and redevelopment of these brownfields. To accomplish this plan, the Coalition has identified the following five tasks that will be implemented as part of the grant project. Tasks 1 through 3 are associated with overall grant operations, while Tasks 4 and 5 will apply directly to Priority Sites and other sites identified during the grant.

<p><b>Task 1 – Programmatic</b></p> <p><b><u>i. Project Implementation</u></b></p> <ul style="list-style-type: none"> <li>• The Work Plan will be prepared.</li> <li>• The Cooperative Agreement (CA) will be executed.</li> <li>• A Qualified Environmental Professional(s) (QEP) will be retained in compliance with applicable federal procurement regulations.</li> <li>• A project “kick-off” meeting will be hosted by LEDC.</li> <li>• LEDC will complete all required quarterly reports; the Assessment, Cleanup, and Redevelopment Exchange System (ACRES) will be updated; and final project closeout documentation will be submitted.</li> <li>• Staff will attend brownfields training programs.</li> </ul> <p><b><u>ii. Anticipated Project Schedule</u></b></p> <ul style="list-style-type: none"> <li>• The Work Plan will be prepared within one month of receiving notification of the grant award.</li> <li>• The CA will be executed within three months of award.</li> <li>• A QEP will be retained within three months of award.</li> <li>• Quarterly reports will be submitted within 30 days of the end of the quarterly reporting period and ACRES will be updated as Priority and non-Priority Sites are assessed. ACRES will subsequently be updated with cleanup and/or redevelopment information during and/or after the performance period. Final project closeout documentation will be submitted as required once the performance period ends.</li> <li>• A “kick-off” meeting will be held within 1 month of receiving notification of the award.</li> </ul> <p><b><u>iii. Task/Activity Lead</u></b></p> <p>LEDC will be the lead for the day-to-day coordination of grant activities, required performance reporting, and ongoing training of staff.</p> <p><b><u>iv. Outputs</u></b></p> <p>Satisfaction of administrative requirements of the grant including the Work Plan, CA, quarterly reports (12); ACRES updates; final project closeout documentation; staff training; public meetings and development of outreach materials.</p>
<p><b>Task 2 – Community Outreach</b></p> <p><b><u>i. Project Implementation</u></b></p> <ul style="list-style-type: none"> <li>• Notifying the impacted residents about assessments at priority and other sites will continue.</li> <li>• Assistance will be requested from the County health department as appropriate throughout the performance period to understand and prioritize health risks at brownfield sites identified for assessment.</li> </ul> <p><b><u>ii. Anticipated Project Schedule</u></b></p> <ul style="list-style-type: none"> <li>• An initial public information and input meeting within one month of grant finalization.</li> <li>• Community outreach activities will continue throughout the performance period.</li> </ul> <p><b><u>iii. Task/Activity Lead</u></b></p> <p>LEDC has delegated to ILCAO the responsibility to coordinate/conduct community meetings and community outreach activities in conjunction with the QEP.</p>

## NARRATIVE/RANKING CRITERIA FOR LAWRENCE COUNTY ASSESSMENT GRANT

<p><b><u>iv. Outputs</u></b> Facebook and website posts, fact sheets, meeting minutes and, more generally, effective communication to the public and stakeholders regarding the objectives and progress of the project.</p>
<p><b>Task 3 – Site Inventory</b></p>
<p><b><u>i. Project Implementation</u></b></p> <ul style="list-style-type: none"> <li>• A selection system for assessments will be developed to identify and prioritize sites in addition to the target sites based on: 1) sites where evident threat to public welfare or the environment exists; 2) sites with major potential development interest; and 3) sites identified and prioritized by the community.</li> <li>• Non-Priority Sites will be added to the inventory.</li> <li>• In-kind Coalition Member staff time and travel will be contributed for amounts over those accounted for in 3.b.</li> </ul>
<p><b><u>ii. Anticipated Project Schedule</u></b></p> <ul style="list-style-type: none"> <li>• The prioritization system will be developed within three months of grant award.</li> <li>• Non-Priority Sites will be added to the inventory throughout the 3-year performance period.</li> </ul>
<p><b><u>iii. Task/Activity Lead</u></b> LEDC will be the lead and work with the QEP to update and maintain an inventory of brownfield sites.</p>
<p><b><u>iv. Outputs</u></b> A more complete and comprehensive inventory of Brownfield sites in Lawrence County.</p>
<p><b>Task 4 – Site Assessment</b></p>
<p><b><u>i. Project Implementation</u></b></p> <ul style="list-style-type: none"> <li>• The selected QEP will prepare a Quality Assurance Project Plan (QAPP) and submit it to the U.S. EPA for approval.</li> <li>• Priority Sites and additional sites identified during the grant period will be evaluated through performance of Phase I and/or Phase II ESAs, conducted in accordance with All Appropriate Inquiry (ASTM Standard E1527-13) or Ohio Voluntary Action Program (VAP) protocols. Health &amp; Safety Plans (HASPs) will be prepared prior to each assessment.</li> <li>• Assessments on both priority and other sites following securing site access will continue.</li> <li>• The Coalition and QEP will meet to ensure required site access has been secured, individual assessments are progressing, and the overall project schedule is met.</li> <li>• In-kind Coalition staff time will be contributed for site access and assessment scheduling coordination.</li> </ul>
<p><b><u>ii. Anticipated Project Schedule</u></b></p> <ul style="list-style-type: none"> <li>• Phase I and/or Phase II assessments will continue throughout the performance period.</li> <li>• Assessments will begin once the selected QEP receives U.S. EPA approval of their QAPP (this depends on EPA timing but is anticipated to be accomplished within three months of QEP selection).</li> <li>• Assessments on both priority and other sites following securing site access will continue throughout the performance period.</li> <li>• The Coalition and QEP will meet monthly to ensure required site access have been secured, individual projects are progressing, and the overall project schedule is met.</li> </ul>
<p><b><u>iii. Task/Activity Lead</u></b> The QEP will lead this task.</p>
<p><b><u>iv. Outputs</u></b> QAPP, 20 site eligibility determinations, 10 site-specific sampling and analysis plans, up to 10 property access agreements, 20 health-and-safety plans, 20 Phase I and 10 Phase II ESA reports.</p>
<p><b>Task 5 – Cleanup Planning</b></p>
<p><b><u>i. Project Implementation</u></b></p> <ul style="list-style-type: none"> <li>• Cleanup/redevelopment planning as required by various state of Ohio programs for sites where redevelopment is imminent. Assessment of brownfields cleanup/redevelopment alternatives, evaluation of needed institutional and engineering controls, and preparation of cleanup and reuse plans.</li> </ul>
<p><b><u>ii. Anticipated Project Schedule</u></b></p>

## NARRATIVE/RANKING CRITERIA FOR LAWRENCE COUNTY ASSESSMENT GRANT

Cleanup planning will be conducted at Priority Sites and other sites following completion of the associated assessment activities and will continue throughout the performance period.
<b>iii. <u>Task/Activity Lead</u></b> The QEP will lead this task.
<b>iv. <u>Outputs</u></b> Based on the Site Assessments, outputs for this task include at least 16 cleanup planning documents (e.g., risk assessments, remediation work plans, evaluation of institutional/engineering controls).

### b. Cost Estimates

**Task 1 Programmatic:** Programmatic costs are \$16,000. Labor costs of \$6,000 (120 hours at \$50/hour) are included for programmatic activities. Contractual costs include \$5,000 for updating/maintaining brownfields information in ACRES and assisting with progress and closeout reporting. The grant also includes costs for Coalition member attendance at one U.S. EPA Brownfields Conference and an additional brownfield conference (\$2,500/trip/2 trips).

**Task 2 Community Outreach:** Community outreach costs are \$13,000. Included is \$1,000 for printing and mailing project information and documents to citizens and community stakeholders and contractual costs of \$4,500 and Coalition member personnel costs of \$7,500 (150 hours at \$50/hr).

**Task 3 Site Inventory:** The Coalition has included \$7,500 in the budget for inventory development and maintenance costs, which includes Coalition member personnel costs of \$1,500 (30 hours at \$50/hr) and travel costs of \$1,000 for identifying and confirming new sites and showing sites to interested parties. The environmental consultant will assist in compiling the inventory list throughout the project at a cost of \$5,000. Output for this task will be a more complete and comprehensive inventory of Brownfield sites in the County.

**Task 4 Site Assessment:** The majority of the site assessment task budget will be used to conduct ESAs (hazardous substances only; no petroleum funds are being requested). The costs for completing Phase I and Phase II ESAs will vary depending on the complexity and whether VAP compliance is required. Based on past experience, the Coalition estimates Phase I ESAs will cost \$3,000 to \$6,000, VAP Phase I ESAs will cost \$7,000 to \$9,000, and Phase II ESAs will cost \$15,000 to \$60,000. The grant budget includes contractual costs of \$465,000 based on a QAPP at estimated cost of \$5,000; 20 Phase I ESAs at \$5,000 each (\$100,000 total), and 10 Phase II ESAs, including site-specific health-and-safety plans (HASPs) and sampling and analysis plans (SAPs), at \$36,000 each (\$360,000 total). Phase I ESAs will take 3-4 weeks and Phase II ESAs will take 4-6 weeks on average. These are averaged costs and timelines used for budgeting; actual costs and timelines will vary. Priority Sites will be assessed as a preliminary step towards redevelopment.

**Task 5 Cleanup Planning:** Contractual costs for this task are estimated at \$98,500 based on completing eight risk assessments at \$7,500 each and eight total RWPs at \$4,000 each; Coalition personnel costs are estimated at \$6,500 (130 hours at \$50/hr) and will be expended in identifying land use scenarios appropriate to likely redevelopment of sites (i.e., residential, recreational, commercial or industrial) based upon the development experience of LEDC and the Port Authority.

### Budget Table

Budget Categories	Project Tasks (\$)					Total
	Task 1 Programmatic	Task 2 Community Outreach	Task 3 Site Inventory	Task 4 Site Assessments	Task 5 Cleanup Planning	
Personnel	\$6,000	\$7,500	\$1,500		\$6,500	\$21,500
Travel	\$5,000		\$1,000			\$6,000
Supplies		\$1,000				\$1,000
Contractual	\$5,000	\$4,500	\$5,000	\$465,000	\$92,000	\$571,500
<b>Total</b>	<b>\$16,000</b>	<b>\$13,000</b>	<b>\$7,500</b>	<b>\$465,000</b>	<b>\$98,500</b>	<b>\$600,000</b>

## NARRATIVE/RANKING CRITERIA FOR LAWRENCE COUNTY ASSESSMENT GRANT

### c. Measuring Environmental Results

The Coalition will diligently track, measure, and report on the success of the project utilizing ACRES to track the following outputs: number of Phase I and II ESAs completed and number of cleanup planning documents. The actual outputs will be compared to the estimated number of outputs listed in Section 3.b. The Coalition will track, measure, and report the following outcomes in ACRES: acres of land assessed; land remediated and redeveloped; acres of parks and greenspace preserved or created; number of jobs created or retained; tax revenue generated; redevelopment investment value; and other funding leveraged. The Coalition will report outcomes/outputs that cannot be easily entered into ACRES (i.e., website updates, staff training, community outreach/meetings, and brownfields) in quarterly reports. The Coalition will also evaluate the extent to which site assessments, cleanup planning, and future redevelopment result in the protection of human health and the environment. The Coalition will evaluate the project progress semi-annually against the goals in Section 3.b and, if goals are not being met or are off-schedule, will meet with local stakeholders and the environmental consultant to discuss the shortcomings and adjust the project approach and schedule, as needed.

## **4. PROGRAMMATIC CAPABILITY AND PAST PERFORMANCE**

### **a. Programmatic Capability**

*(i) Organizational Structure:* The Lawrence County Port Authority is a partnership of governmental organizations organized by resolution of the Lawrence County Commissioners and is a quasi-governmental entity per Ohio Revised Code Chapter 4582. Its service area is Lawrence County, and it has forged a long term relationship between LEDC and the ILCAO to provide a vehicle to implement programs most appropriate to a port authority. Ralph Kline, the Fiscal Secretary of the Port Authority, is also Assistant Executive Director of ILCAO.

The LEDC is a non-profit Community Improvement Corporation (CIC) formed under Chapter 1724, Ohio Revised Code and organized under Section 501(c)(3) of the Internal Revenue Code. It was formed in 1983 and was designated the economic development agent for the City of Ironton and Lawrence County. The goal of the agency is job creation and retention as well as to provide assistance in community enhancement projects such as the construction of parks and community centers throughout the county to help the citizens of Lawrence County. The LEDC is the lead agency for the Intermodal River Port Facility project and the owner of The Point Industrial Park. It collaborates closely with state and local officials in Ohio, Kentucky, and West Virginia on this and many other projects.

The LEDC administers a city and county-wide revolving loan fund, as well as a Regional revolving loan fund which supports economic development projects in the area. Its experience with environmentally challenged properties began with its effective administration of the EPA Superfund Redevelopment Initiative Program grant awarded in 2002 to spur redevelopment at the South Point Superfund site, and has continued with its state grant and loan administration most recently through JobsOhio. The LEDC is directed by a Board of Trustees composed of local elected officials and local business leaders. LEDC is also in charge of marketing, construction of infrastructure, and development of The Point Industrial Park at the South Point Superfund site and The District Target Area in Hanging Rock.

ILCAO is a Community Action Organization established in 1965 and organized under Section 501(c)(3) of the Internal Revenue Code. It carries out the Community Action Program (CAP), which was founded by the 1964 Economic Opportunity Act to fight poverty by empowering the poor as part of the War on Poverty. Its mission is to "measurably improve the well-being of the residents of Lawrence County, Ohio by providing opportunities for those in need." Programs administered by ILCAO include Community Services Block Grants (CSBG), Community Development Block Grant (CDBG), Family Medical Centers, Workforce Development, and Child Development within the ILCAO service area, Home Energy Assistance Program (HEAP), affordable housing projects and many other programs aimed at improving the lives of less fortunate citizens of Lawrence County.

*(ii) Description of Key Staff:* Mr. Jeremy Clay, Associate Executive Director of LEDC, will be the project manager. Mr. Clay has an engineering background and has experience in developing and constructing industrial property within the Project area as well as the nearby Point Industrial Park. He will work along with the chief assessment team on each of the locations providing community oversight.

## NARRATIVE/RANKING CRITERIA FOR LAWRENCE COUNTY ASSESSMENT GRANT

Dr. Bill Dingus, PhD., Executive Director of LEDC, will serve as the Chief Executive. He will work closely with Mr. Clay and the remaining team to ensure requisite grant compliance. Dr. Dingus and his LEDC organization have many years of experience in identifying and recruiting new and expanding industry in the area, which is key to developing viable re-use of these sites.

Mr. Ralph Kline, has over 35 years of grants management and community development for both Lawrence County and the City of Ironton. Mr. Kline oversees a community development staff that will provide grants management and daily oversight to the grant, including all draws, payments, reporting to EPA and appropriate agencies. Mr. Kline and staff also are certified in Business Development Financing and will be working in conjunction with LEDC to bring together financing and resources to assure the re-use and development of sites cleaned and cleared under the program.

Ms. Cindy Anderson, currently serves as the Community Development Director for Lawrence County and the City of Ironton. She has served a major role in public financing, including being a former Finance Director for the City of Ironton. Ms. Anderson will oversee all day to day procurement, financial management, and reporting associated with this initiative.

**(iii) Acquiring Additional Resources:** Using a Qualifications-Based Selection Process that complies with federal procurement regulations (40 CFR §31.36 and 2 CFR §200.318), the Coalition will retain a highly competent environmental consultant to conduct the assessments and assist with project tracking.

### **b. Past Performance and Accomplishments**

#### **(ii) Has Not Received an EPA Brownfields Grant but has Received Other Federal or Non-Federal Assistance Agreements:**

**(1) Purpose and Accomplishments:** The most directly applicable grant award to the grant program is the SRIP grant awarded to LEDC in 2002 to support development of The Point industrial park on the South Point Superfund Site. The success of LEDC in implementing that development grant led U.S. EPA to report that, as of December 2017, it “had data on 25 on-site businesses. These businesses employed 680 people and generated an estimated \$251,951,193 in annual sales revenue.”<sup>14</sup> The financing savvy and ability to leverage funding sources was documented in EPA’s “Cleanup and Industrial Revitalization in the Tri-State Region,” in which EPA noted that “LEDC’s activities led to three major outcomes. First, in 1999, The Point was designated as an Ohio Enterprise Zone and a non-contiguous developable site within the Huntington-Ironton Empowerment Zone (EZ), state and federal designations that provided the LEDC with \$2.2 million in acquisition funds and a range of incentives to attract businesses to locate at The Point. During his interactions with the LEDC, Ohio EPA Project Manager Kevin O’Hara has noticed several reasons why the organization may have been so successful in attracting interest in The Point. ‘Having a dedicated agency like the LEDC managing The Point is a major plus in the first place.’”<sup>15</sup> LEDC has also received JobsOhio Revitalization Fund grants totaling nearly \$3 million for targeted activities at the Priority Dow Hanging Rock site including structural demolition and site infrastructure improvements specific to new industries with job creation commitments.

Additional grant experience includes ILCAO’s receipt of over \$230,000 in Moving Ohio Forward Demolition grants in 2013-14 and continuing administration of approximately \$13 million annually in federal grants from a variety of community assistance programs including HUD and DHHS.

**(2) Compliance with Grant Requirements:** No grant noncompliance has been noted for any federal or state program grant for any Coalition member agency over the past five years. Audits for FY 2017 for all three member agencies found no irregularities and concluded that the agencies’ financial statements fairly presented, in all material aspects, the financial position of each.

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<sup>14</sup> <https://www.epa.gov/superfund-redevelopment-initiative/superfund-sites-reuse-ohio#ssp>

<sup>15</sup> <https://semspub.epa.gov/work/05/633305.pdf>

## **THRESHOLD CRITERA**

**THRESHOLD CRITERIA**  
**LAWRENCE ECONOMIC DEVELOPMENT CORPORATION (LEDC)**  
**FY2020 U.S. EPA BROWNFIELDS HAZARDOUS SUBSTANCES ASSESSMENT**  
**GRANT APPLICATION**

**THRESHOLD CRITERIA**

- 1. Applicant Eligibility:** The Lawrence Economic Development Corporation (LEDC) is a non-profit Community Improvement Corporation (CIC) formed under Chapter 1724, Ohio Revised Code and organized under Section 501(c)(3) of the Internal Revenue Code. Coalition partner members are the Ironton-Lawrence County Community Action Organization (ILCAO), a Community Action Organization established in 1965 and organized under Section 501(c)(3) of the Internal Revenue Code, and the Lawrence County Port Authority, a partnership of governmental organizations organized by resolution of the Lawrence County Commissioners and a quasi-governmental entity per Ohio Revised Code Chapter 4582. Documentation of the 501(c)(3) status of LEDC and ILCAO are provided by the attached excerpts from FY2017 audits; ORC Section 4582.02, Creation of port authority states that: “Any municipal corporation, township, county, or any combination of a municipal corporation, municipal corporations, township, townships, county, or counties, none of which was included in a port authority in existence on December 16, 1964, may create a port authority. A municipal corporation shall act by ordinance, a township shall act by resolution of the township trustees, and a county shall act by resolution of the county commissioners, in authorizing the creation of a port authority. A port authority created pursuant to this section is a body corporate and politic that may sue and be sued, plead and be impleaded, and has the powers and jurisdiction enumerated in sections 4582.01 to 4582.20 of the Revised Code. The exercise by the port authority of the powers conferred upon it shall be considered to be essential governmental functions of this state, but no port authority is immune from liability by reason thereof.”
  
- 2. Community Involvement:** The LEDC was formed in 1983 and was designated the economic development agent for the City of Ironton and Lawrence County. The goal of the agency is job creation and retention as well as to provide assistance in community enhancement projects such as the construction of parks and community centers throughout the county to help the citizens of Lawrence County. The LEDC is the lead agency for the Intermodal River Port Facility project and the owner of The Point Industrial Park. It collaborates closely with state and local officials in Ohio, Kentucky, and West Virginia on this and many other projects.

The main stakeholders in this grant project will be Lawrence County citizens and employees, employer companies, business organizations, lenders and developers. Upon grant award, we will issue a press release about the funded initiative in local newspapers throughout our region, to [bizjournals.com](http://bizjournals.com) (publishers of Columbus Business First and Cincinnati Business Courier) and through the Facebook pages of the Lawrence County Commissioners and the City of Ironton, the primary information media used by County residents to stay current on local government actions. Reporting progress to stakeholders will be conducted through the websites of LEDC, Coalition member the Ironton-Lawrence County Community Action Organization (ILCAO), and the Facebook pages of the County Commissioners and City of Ironton. The quarterly progress report describing grant activities and projects will also be available through a link on the LEDC website. Our community based organizations and leveraging partners will also be provided quarterly reports and notices of meetings in their service areas to inform and encourage their constituencies to participate. English is our primary language of communication, but

translators, sign language interpreters, and translated documents will be made available upon request to assist non-English speaking or hearing-impaired residents. Local dialogue and public input will continue throughout the project.

3. **Expenditure of Assessment Grant Funds:** Neither LEDC nor either of its Coalition Partner members have an active EPA Assessment or Cleanup Grant.

## **APPLICANT ELIGIBILITY**

**In-kind contributions**

In-kind contributions for space and services are recorded in the statement of activities as revenue and expenses in the period they are received. During the year ended December 31, 2017, the Organization received \$1,721,479 of such contributions, primarily for its Head Start program.

**Nonconsolidated interests in partnerships**

The Organization, through its wholly-owned entities, owns less than 1% interest in six limited partnerships which operate eight low income housing projects. Based on various provisions in the partnership agreements, the general partner does not have exclusive control, therefore, the general partner's interest are accounted for under the cost method of accounting. Additionally, see the commitments and contingencies footnote for disclosures regarding potential unanticipated obligations related to these partnerships. The Organization's initial investment in these limited partnerships is insignificant.

**Income taxes and uncertain tax positions**

Ironton-Lawrence County Area Community Action Organization, Inc. is exempt from Federal income taxes under Section 501(c)(3) of the Internal Revenue Code. However, income from certain activities not directly related to the Organization's tax-exempt purpose is subject to taxation as unrelated business income. The Organization's reporting returns are subject to audit by federal and state taxing authorities. No income tax provision has been included in the financial statements as the Organization has determined it does not have unrelated business income subject to taxation.

**Cost allocation**

Joint costs are allocated to benefitting programs using various allocation methods, depending on the type of joint cost being allocated. Joint costs are those costs incurred for the common benefit of all organization programs, which cannot be readily identified with a final cost objective.

**Subsequent events**

The Organization evaluates events and transactions occurring subsequent to the date of the financial statements for matters requiring recognition or disclosure in the financial statements. The accompanying financial statements consider events through July 9, 2018, the date which the financial statements were available to be issued.

**2. Concentration of Credit Risk**

The Organization maintains cash balances at several banks. Balances in the bank accounts are insured by Federal Deposit Insurance Corporation (FDIC) coverage up to \$250,000. At times during the year, balances in the banks may exceed insurance limits. Management believes the financial institutions have strong credit ratings and credit risk related to these deposits is minimal.

LAWRENCE ECONOMIC DEVELOPMENT CORPORATION  
LAWRENCE COUNTY

NOTES TO THE FINANCIAL STATEMENTS  
DECEMBER 31, 2017  
(Continued)

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

G. PROPERTY, PLANT & EQUIPMENT

Fixed assets acquired for the general use of the Lawrence Economic Development Corporation in providing service are recorded at cost. Depreciation of fixed assets of the Lawrence Economic Development Corporation is calculated utilizing the straight line method. All assets reported in the financial statements are at cost less accumulated depreciation. Fixed asset purchases or construction are capitalized with a cost of \$2,500 or more and with a useful life of more than one year.

The estimated useful lives by major fixed asset class are as follows:

Buildings	40 years
Buildings and Leasehold improvements	40 years
Land Improvements	40 years
Equipment	5 years
Furniture & Fixtures	5 years
Vehicles	5 years

H. INCOME TAXES

Lawrence Economic Development Corporation is exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code. However, income from certain activities not directly related to the Organization's tax exempt purpose is subject to taxation as unrelated business income. In addition, the Organization's qualified for the charitable contribution deduction under Section 170(b)(1)(A) and has been classified as an organization that is not a private foundation under Section 509(a)(1).

The Financial Accounting Standards Board (FASB) has issued ASC 740-10, Income Taxes (formerly FIN 48, Accounting for Uncertainty in Income Taxes), which requires entities to disclose knowingly or anticipated position of income tax uncertainty. The Organization is not aware of any uncertain income tax positions as of . The Organization could be subject to examination by the Internal Revenue Service or other applicable tax jurisdictions.

## Chapter 4582: PORT AUTHORITIES

### **4582.01 Port authority definitions.**

As used in sections [4582.02](#) to [4582.20](#) of the Revised Code:

(A) "Port authority" means a body corporate and politic created pursuant to the authority of section [4582.02](#) of the Revised Code.

(B) "Authorized purposes" or "purpose" means either of the following:

(1) Activities that enhance, foster, aid, provide, or promote transportation, economic development, housing, recreation, education, governmental operations, culture, or research within the jurisdiction of the port authority;

(2) Activities authorized by Sections 13 and 16 of Article VIII, Ohio Constitution.

(C) "Cost," as applied to a port authority facility, means the cost of acquisition or construction of the facility, and the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights, and interests required for that acquisition or construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved, the cost of acquiring or constructing and equipping a principal office of the port authority, the cost of diverting highways, interchange of highways and access roads to private property, including the cost of land or easements for the access roads, the cost of public utility and common carrier relocation or duplication, the cost of all machinery, furnishings, and equipment, financing charges, interest prior to and during construction and for no more than eighteen months after the completion of construction, engineering, expenses of research and development with respect to port authority facilities, legal expenses, plans, specifications, surveys, studies, estimates of cost and revenues, other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing the facility, administrative expense, and any other expenses necessary or incident to acquiring or constructing the facility, the financing of such acquisition or construction, including the amount authorized in the resolution of the port authority providing for the issuance of port authority revenue bonds to be paid into any special funds from the proceeds of the bonds and the financing of the placing of the facility in operation. Any obligation, cost, or expense incurred by any governmental agency or person for surveys, borings, the preparation of plans and specifications, and other engineering services, or any other cost described above, in connection with the acquisition or construction of a facility may be regarded as part of the cost of the facility and may be reimbursed out of the proceeds of port authority revenue bonds as authorized by this chapter.

(D) "Port authority facilities" means real or personal property, or any combination thereof, that is owned, leased, or otherwise controlled or financed by a port authority and is related to, useful for, or in furtherance of, one or more authorized purposes.

(E) "Bonds" means bonds, notes, or other forms or evidences of obligation issued in temporary or definitive form, including notes issued in anticipation of the issuance of bonds and renewal notes.

(F) "Construction," unless the context indicates a different meaning or intent, includes alteration, construction, creation, development, enlargement, improvement, installation, reconstruction, remodeling, and renovation.

(G) "Person" means any individual, firm, partnership, or corporation, or any combination thereof.

(H) "Contracting subdivision" means any governmental subdivision or taxing district of the state that, by action of its legislative authority, enters into an agreement with a port authority or a port authority and one or more other governmental subdivisions or taxing districts of the state. "Contracting subdivision" does not mean a transportation improvement district.

(I) "Governmental subdivision" includes, but is not limited to, any county, municipal corporation, township, port authority, water or sewer district, solid waste management district, school district, health district, park district, soil and water conservation district, water conservancy district, regional transit authority, airport authority, or other district, authority, or commission created pursuant to the laws of this state. "Governmental subdivision" does not include a transportation improvement district.

Effective Date: 05-17-2000.

## **4582.02 Creation of port authority.**

Any municipal corporation, township, county, or any combination of a municipal corporation, municipal corporations, township, townships, county, or counties, none of which was included in a port authority in existence on December 16, 1964, may create a port authority. A municipal corporation shall act by ordinance, a township shall act by resolution of the township trustees, and a county shall act by resolution of the county commissioners, in authorizing the creation of a port authority. A port authority created pursuant to this section is a body corporate and politic that may sue and be sued, plead and be impleaded, and has the powers and jurisdiction enumerated in sections [4582.01](#) to [4582.20](#) of the Revised Code. The exercise by the port authority of the powers conferred upon it shall be considered to be essential governmental functions of this state, but no port authority is immune from liability by reason thereof.

Effective Date: 05-17-2000.

## **4582.021 Contracting with county prosecuting attorney for legal services.**

The board of directors of a port authority created under section [4582.02](#) of the Revised Code may contract with the prosecuting attorney of a county, as provided in section [309.09](#) of the Revised Code, to obtain legal services from the prosecuting attorney.

Added by 132nd General Assembly File No. TBD, HB 34, §1, eff. 11/2/2018.

## **4582.023 Appropriation and expenditure of public funds for port authority.**

Any political subdivision within the jurisdiction of a port authority may appropriate and expend public funds not otherwise appropriated to finance or subsidize the operation and authorized purposes of the port authority so created.

Subject to making due provisions for payment and performance of its obligations, a port authority may be dissolved by the subdivision or subdivisions creating it, and in that event the properties of the port authority shall be transferred to the subdivision creating it or, if created by more than one subdivision, to the subdivisions creating it in such manner as may be agreed upon between the subdivisions prior to the dissolution of the port authority.

Effective Date: 05-17-2000.

## **4582.024 Contiguous political subdivision may join port authority.**

After a port authority has been created, any municipal corporation, township, or county, acting by ordinance, resolution of the township trustees, or resolution of the county commissioners, respectively, which is contiguous to such port authority, or to any municipal corporation, township, or county which proposes to join such port authority at the same time and is contiguous to such port authority, or any county within which such port authority is situated, may join such port authority and thereupon the jurisdiction and territory of such port authority shall include such municipal corporation, county, or township. If more than one such political subdivision is to be joined to the port authority at the same time, then each such ordinance or resolution shall designate the political subdivisions which are to be so joined. Any territory or municipal corporation not included in a port authority and which is annexed to a municipal corporation included within the jurisdiction and territory of a port authority shall, on such annexation and without further proceedings, be annexed to and be included in the jurisdiction and territory of such port authority. Before such political subdivision or subdivisions are joined to a port authority, other than by annexation to a municipality, the political subdivision or subdivisions theretofore comprising such port authority shall agree upon the terms and conditions pursuant to which such political subdivision or subdivisions are to be joined. For all purposes of sections [4582.01](#) to [4582.20](#), inclusive, of the Revised Code, such political subdivision or subdivisions shall be considered to have participated in the creation of such port authority, except that the initial term of any director of the port authority appointed by such a political subdivision shall be four years. After each ordinance or resolution proposing joinder to the port authority has become effective and the terms and conditions of joinder have been agreed to, the board of directors of the port authority shall by resolution either accept or reject such joinder. Such joinder shall be effective on adoption of the resolution accepting such joinder, unless the port authority to which a political subdivision or subdivisions including a county within which such port authority is located, are to be joined has authority under

section 4582.14 of the Revised Code to levy a tax on property within its jurisdiction, then such joinder shall not be effective until approved by the affirmative vote of a majority of the electors voting on the question of such joinder. If more than one political subdivision is to be joined to the port authority, then the electors of such subdivision shall vote as a district and the majority affirmative vote shall be determined by the vote cast in such district as a whole. Such election shall be called by the board of directors of the port authority and shall be held, canvassed, and certified in the manner provided for the submission of tax levies under section 5705.191 of the Revised Code except that the question appearing on the ballot shall read:

"Shall \_\_\_\_\_ (name or names of political subdivisions to be joined) be joined to \_\_\_\_\_ port authority and the existing tax levy (levies) of such (name) port authority (aggregating) \_\_\_ mill per dollar of valuation be authorized to be levied against properties within \_\_\_\_\_."

(name or names of political subdivision to be joined).

If the question is approved such joinder shall be immediately effective and the port authority shall be authorized to extend the levy of such tax against all the taxable property within the political subdivision or political subdivisions which have been joined. If such question is approved at a general election then the port authority may amend its budget and resolution adopted pursuant to section 5705.34 of the Revised Code and such levy shall be placed on the current tax list and duplicate and collected as other taxes are collected from all taxable property within the port authority including the political subdivision or political subdivisions joined as a result of such election.

Effective Date: 02-21-1967.

### **4582.03 Organization of board of directors.**

(A) A port authority created in accordance with section 4582.02 of the Revised Code shall be governed by a board of directors. Members of a board of directors of a port authority created by the exclusive action of a municipal corporation shall consist of the number of members it considers necessary and shall be appointed by the mayor with the advice and consent of the council. Members of a board of directors of a port authority created by the exclusive action of a township shall consist of such members as it considers necessary and shall be appointed by the township trustees of the township. Members of a board of directors of a port authority created by the exclusive action of a county shall consist of such members as it considers necessary and shall be appointed by the county commissioners of the county. Members of a board of directors of a port authority created by a combination of political subdivisions shall be divided among the political subdivisions in such proportions as the political subdivisions may agree and shall be appointed by the participating political subdivisions in the same manner as this section provides for the appointment of members by a political subdivision creating its own port authority. When a port authority is created by a combination of political subdivisions, the number of directors comprising the board shall be determined by agreement between the political subdivisions, which number from time to time may be changed by amendment of the agreement. The appointing body may at any time remove a director appointed by it for misfeasance, nonfeasance, or malfeasance in office.

A majority of the directors shall have been qualified electors of, or shall have had their businesses or places of employment in, one or more political subdivisions within the area of the jurisdiction of the port authority, for a period of at least three years next preceding their appointment.

The directors of any port authority first appointed shall serve staggered terms. Thereafter each successor shall serve for a term of four years, except that any person appointed to fill a vacancy shall be appointed to only the unexpired term and any director is eligible for reappointment.

The board of directors by rule may provide for the removal of a director who fails to attend three consecutive regular meetings of the board. If a director is so removed, a successor shall be appointed for the remaining term of the removed director in the same manner provided for the original appointment.

The directors shall elect one of their membership as chairperson and another as vice-chairperson and shall designate their terms of office, and shall appoint a secretary who need not be a director. A majority of the members of the board of directors shall constitute a quorum for purposes of holding a meeting of the board. The affirmative vote of a majority of a quorum shall be necessary for any action taken by the port authority unless the board of directors determines by rule to require a greater number of affirmative votes for particular actions to be taken by the port authority. No vacancy in the membership of the board shall impair the rights of a quorum

to exercise all the rights and perform all the duties of the port authority. The board of directors may hold a meeting by interactive video conference or teleconference as provided in section 4582.60 of Revised Code.

Each member of the board of directors of a port authority shall be entitled to receive from the port authority such sum of money as the board of directors may determine as compensation for services as director and reimbursement for reasonable expenses in the performance of official duties.

(B) Except for civil actions that arise out of the operation of a motor vehicle and civil actions in which the port authority is the plaintiff, no director, officer, or employee of a port authority shall be liable in any civil action that arises under the law of this state for damage or injury caused in the performance of official duties, unless the director's, officer's, or employee's actions were manifestly outside the scope of the director's, officer's, or employee's employment or official responsibilities, or unless the director, officer, or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

This section does not eliminate, limit, or reduce any immunity from civil liability that is conferred upon a director, officer, or employee by any other provision of the Revised Code or by case law.

(C)

(1) A port authority, except as provided in division (B) of this section, shall indemnify a director, officer, or employee from liability incurred in the performance of official duties by paying any judgment in, or amount negotiated in settlement of, any civil action arising under federal law, the law of another state, or the law of a foreign jurisdiction. The reasonableness of the amount of any consent judgment or settlement is subject to the review and approval of the board of directors of the port authority. The maximum aggregate amount of indemnification paid directly from funds to or on behalf of any director, officer, or employee pursuant to this division shall be one million dollars per occurrence, regardless of the number of persons who suffer damage, injury, or death as a result of the occurrence.

(2) A port authority shall not indemnify a director, officer, or employee under any of the following circumstances:

(a) To the extent the director, officer, or employee is covered by a policy of insurance for civil liability purchased by the port authority;

(b) When the director, officer, or employee acts manifestly outside the scope of the director's, officer's, or employee's employment or official responsibilities, with malicious purpose, in bad faith, or in a wanton or reckless manner;

(c) For any portion of a judgment that represents punitive or exemplary damages;

(d) For any portion of a consent judgment or settlement that is unreasonable.

(3) The port authority may purchase a policy or policies of insurance on behalf of directors, officers, and employees of the port authority from an insurer or insurers licensed to do business in this state providing coverage for damages in connection with any civil action, demand, or claim against the director, officer, or employee by reason of an act or omission by the director, officer, or employee occurring in the performance of official duties and not coming within the terms of division (C)(2)(b) of this section.

(4) This section does not affect any of the following:

(a) Any defense that would otherwise be available in an action alleging personal liability of a director, officer, or employee;

(b) The operation of section [9.83](#) of the Revised Code.

Amended by 131st General Assembly File No. TBD, HB 455, §1, eff. 4/6/2017.

Effective Date: 03-14-2003.

### **4582.031 Civil immunity.**

In addition to any immunity from civil liability that is conferred upon a director by any other provision of the Revised Code or by decisions of Ohio or federal courts, no member of the board of directors of a port authority shall be personally liable for any monetary damages that arise from actions taken in the performance of his

official duties, except for acts or omissions that are not in good faith or that involve intentional misconduct or a knowing violation of law, or any transaction from which the director derived an improper personal benefit.

Effective Date: 06-10-1987.

### **4582.04 Port authority employees.**

(A) A port authority created in accordance with section [4582.02](#) of the Revised Code shall employ and fix the qualifications, duties, and compensation of any employees and professional help it may require to conduct the business of the port and may appoint an advisory board, which shall serve without compensation. Any employee may be suspended or dismissed, and the services of professional help may be terminated at any time by the port authority.

(B) A port authority may provide for the administration and enforcement of the laws of the state by employing special police officers and may seek the assistance of other appropriate law enforcement officers to enforce its regulations and maintain order.

(C) Special police officers employed by a port authority shall serve as police officers with respect to the property, grounds, buildings, equipment, and facilities under the control of the port authority, to prevent hijacking of aircraft or watercraft, protect the property of the authority and the property of others located thereon, suppress nuisances and disturbances and breaches of the peace, and enforce laws and the rules of the port authority for the preservation of good order. In performing their duties, special police officers are vested with the same powers of arrest as police officers under section [2935.03](#) of the Revised Code.

Any person employed as a special police officer by a port authority is a "public employee" as defined in section [145.01](#) of the Revised Code and is not a "member of a police department" as defined in section [742.01](#) of the Revised Code.

Effective Date: 05-17-2000.

### **4582.041 Group medical and life insurance.**

(A) A port authority created under section [4582.02](#) of the Revised Code may procure and pay all or any part of the cost of group hospitalization, surgical, major medical, sickness and accident insurance, or group life insurance, or a combination of any of the foregoing types of insurance or coverage for employees and their families, issued by an insurance company duly authorized to do business in this state.

(B) A port authority also may procure and pay all or any part of the cost of a plan of group hospitalization, surgical, major medical, or sickness and accident insurance with a health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code, provided that each employee shall be permitted to:

(1) Exercise an option between a plan offered by an insurance company as provided in division (A) of this section and a plan offered by a health insuring corporation under this division, on the condition that the employee shall pay any amount by which the cost of the plan offered in this division exceeds the cost of the plan offered under division (A) of this section; and

(2) Change from one of the two plans to the other at a time each year as determined by the port authority.

(C) A port authority may procure or contract for any type of insurance authorized by division (A) or (B) of this section on its own or jointly as part of a group with one or more other governmental units or agencies to provide that insurance for the employees of the members of the group and their families. A port authority also may establish and maintain an individual or joint self-insurance program for hospitalization, surgical, major medical, or sickness and accident insurance.

Effective Date: 05-17-2000.

### **4582.05 Jurisdiction.**

The area of jurisdiction of a port authority created in accordance with section [4582.02](#) of the Revised Code shall include all of the territory of the political subdivision or subdivisions creating it, provided that in no case other than as may result from the determination of a port authority under division (C) of section [4582.201](#) of the

Revised Code to change the provisions of Chapter 4582. of the Revised Code that govern its operation, shall the same area be included in more than one port authority.

Effective Date: 05-17-2000.

### **4582.06 Port authority powers and duties.**

(A) A port authority created in accordance with section [4582.02](#) of the Revised Code may:

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

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

(3) Issue bonds or notes for the acquisition, construction, furnishing, or equipping of any real or personal property, or any combination thereof, related to, useful for, or in furtherance of any authorized purpose, in compliance with Chapter 133. of the Revised Code, except that the bonds or notes only may be issued pursuant to a vote of the electors residing within the territory 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 authority as listed and assessed for taxation.

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

The revenue bonds of the port authority shall be secured only by a pledge of and a lien on the revenues of the port authority derived from those loan payments, rentals, fees, charges, or other revenues that are designated in the resolution, including, but not limited to, any property to be acquired, constructed, furnished, or equipped with the proceeds of the bond issue, after provision only for the reasonable cost of operating, maintaining, and repairing the property of the port authority so designated. The bonds may further be secured by the covenant of the port authority to maintain rates or charges that will produce revenues sufficient to meet the costs of operating, maintaining, and repairing such property and to meet the interest and principal requirements of the bonds and to establish and maintain reserves for the foregoing purposes. The board of directors, by resolution, may provide for the issuance of additional revenue bonds from time to time, to be secured equally and ratably, without preference, priority, or distinction, with outstanding revenue bonds, but subject to the terms and limitations of any trust agreement described in this section, and of any resolution authorizing bonds then outstanding. The board of directors, by resolution, may designate additional property of the port authority, the revenues of which shall be pledged and be subject to a lien for the payment of the debt charges on revenue bonds theretofore authorized by resolution of the board of directors, to the same extent as the revenues above described.

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

The trust agreement may provide for the pledge or assignment of the revenues to be received, but shall not pledge the general credit and taxing power of the port authority. A trust agreement securing revenue bonds issued to acquire, construct, furnish, or equip real property, plants, factories, offices, and other structures and facilities for authorized purposes consistent with Section 13 or 16 of Article VIII, Ohio Constitution, may mortgage the real or personal property, or a combination thereof, to be acquired, constructed, furnished, or equipped from the proceeds of such revenue bonds, as further security for the bonds. The trust agreement or the resolution providing for the issuance of revenue bonds may set forth the rights and remedies of the bondholders and trustee, and may contain other provisions for protecting and enforcing their rights and remedies that are determined in the discretion of the board of directors to be reasonable and proper. The agreement or resolution may provide for the custody, investment, and disbursement of all moneys derived from the sale of such bonds, or from the revenues of the port authority, other than those moneys received from taxes levied

pursuant to section [4582.14](#) of the Revised Code, and may provide for the deposit of such funds without regard to section [4582.15](#) of the Revised Code.

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

The revenue bonds shall bear interest at such rate or rates, shall bear such date or dates, and shall mature within forty-five years following the date of issuance and in such amount, at such time or times, and in such number of installments, as may be provided in or pursuant to the resolution authorizing their issuance. The final maturity of any original issue of revenue bonds shall not be later than forty-five years from their date of issue. Such resolution also shall provide for the execution of the bonds, which may be by facsimile signatures unless prohibited by the resolution, and the manner of sale of the bonds. The resolution shall provide for, or provide for the determination of, any other terms and conditions relative to the issuance, sale, and retirement of the bonds that the board of directors in its discretion determines to be reasonable and proper.

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

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

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

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

(c) Sell to, exchange with, lease, convey other interests 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 of competitive bidding or selection, or any requirement for the provision of security.

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

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

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

(7) 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 to establish, operate, and maintain foreign trade zones; and to acquire land or property therefor, in a manner consistent with section [4582.17](#) of the Revised Code;

(8) Exercise the right of eminent domain to appropriate any land, rights, rights-of-way, franchises, easements, or other property, necessary or proper for any authorized purpose, pursuant to the procedure provided in sections [163.01](#) to [163.22](#) of the Revised Code, if funds equal to the appraised value of the property to be acquired as a result of such proceedings are available for that purpose, except that nothing contained in sections [4582.01](#) to [4582.20](#) of the Revised Code shall authorize a port authority to take or disturb property or facilities belonging to any agency or political subdivision of this state, public utility, or common carrier, which property or facilities are necessary and convenient in the operation of the agency or political subdivision, public utility, or common carrier, unless provision is made for the restoration, relocation, or duplication of the property or facilities, or upon the election of the agency or political subdivision, public utility, or common carrier, for the payment of compensation, if any, at the sole cost of the port authority, provided that:

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

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

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

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

(10) Maintain such funds as it considers necessary;

(11) 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 done;

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

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

(14) Adopt rules, not in conflict with general law, governing the use of and the safeguarding of its property, grounds, buildings, equipment, and facilities, safeguarding persons and their property located on or in port authority property, and governing the conduct of its employees and the public, in order to promote the public safety and convenience in and about its terminals and grounds, and to maintain order. Any such regulation shall be posted at no less than five public places in the port authority, as determined by the board of directors, for a period of not fewer than fifteen days, and shall be available for public inspection at the principal office of the port

authority during regular business hours. No person shall violate any lawful regulation adopted and posted as provided in this division.

(15) Establish and administer one or more payment card programs for purposes of paying expenses related to port authority business. Any obligation incurred as a result of the use of such a payment card shall be paid from port authority funds.

(16) Do all acts necessary or appropriate to carry out its authorized purposes. The port authority shall have the powers and rights granted to other subdivisions under section [9.20](#) of the Revised Code.

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

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

Amended by 131st General Assembly File No. TBD, HB 53, §101.01, eff. 7/1/2015.

Amended by 130th General Assembly File No. 7, HB 51, §101.01, eff. 7/1/2013.

Amended by 128th General Assembly File No.26, SB 155, §1, eff. 3/31/2010.

Effective Date: 01-01-2004 .

### **4582.07 Plan for development of port.**

(A) The board of directors of a port authority shall prepare or cause to be prepared a plan for any future development, construction, and improvement of the maritime facilities of the port authority, including such maps, profiles, and other data and descriptions as may be necessary to set forth the location and character of the work to be undertaken by the port authority and a then-current good faith estimate of the cost of the proposed facilities. The plan also shall contain the port authority's proposal for payment of the cost of such facilities, including revenues, grants, subsidies, loans, and financing; provided, that the plan and any such proposal and the contents thereof, and anything contained or not contained therein, shall not affect the legality, validity, or enforceability of any bonds, notes, leases, certificates, or other financing instruments, any real estate, operating or management contracts or instruments or any taxes, tax abatements or exemptions, tax credits, tax increment financing, assessments, or other financial participation related to maritime facilities or such plan . Upon the completion of such plan the board of directors shall cause notice by publication to be given as to each county in which there is a political subdivision that participated in the creation of the port authority, and shall permit the inspection of the plan at the port authority office by all persons interested. The notice shall fix the time and place for the hearing of all comments on the plan, which shall be not less than thirty nor more than sixty days after the completion of the notice . Any interested person may file written comments on the plan, provided the comments are filed with the secretary of the board of directors at the secretary's office not less than five days prior to the date fixed for the hearing. After the hearing the board of directors may adopt the plan with any modifications or amendments to it as the official plan for the maritime facilities of the port authority.

(B) For purposes of this section and section [4582.08](#) of the Revised Code:

(1) "Maritime facilities" means docks, wharves, warehouses, piers, and other terminal and transportation buildings or structures used in connection with the transport, storage, or distribution of commercial goods on, over, or across the waterways or shorelines of this state, or buildings or structures for the construction, rehabilitation, maintenance, or repair of commercial vessels used for such purposes, which facilities are or are expected to be owned or leased by a port authority, operated by or on behalf of a port authority, or publicly owned and financed by a port authority.

(2) "Notice by publication" means publication once in a newspaper of general circulation in the county or counties where such publication is required and the posting of the notice on the web site, if any, of the port authority. Notice is complete on the later of the date of posting or the date of newspaper publication.

Amended by 128th General Assembly File No.9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 2008 SB353 04-07-2009

### **4582.08 Modification of port development plan.**

The board of directors, from time to time after the adoption of an official plan for the maritime facilities of the port authority, shall have the power to modify, amend, or extend the plan; provided, that prior to the making of any modification, amendment or extension of the plan, the board shall cause notice by publication to be given and shall conduct a hearing, all as provided in section [4582.07](#) of the Revised Code, and shall not adopt any such modification, amendment, or extension until the notice has been given and the hearing held as provided in that section. The board, from time to time after the adoption of an official plan under section [4582.07](#) of the Revised Code, also shall have the power to modify, amend, or supplement any proposal for any type of financing related to the plan and shall do so prior to undertaking any financing not identified in the plan as then in effect; provided, that the board shall first cause notice to be given and shall conduct a hearing on that proposal, all as provided in section [4582.07](#) of the Revised Code, and provided further that the plan, and any such proposal and the contents thereof, and anything contained or not contained therein, shall not affect the legality, validity, or enforceability of any bonds, notes, leases, certificates, or other financing instruments, any real estate, operating or management contracts or instruments or any taxes, tax abatements or exemptions, tax credits, tax increment financing, assessments, or other financial participation related to maritime facilities, the plan, or such proposal. Nothing in this section or in section [4582.07](#) of the Revised Code shall require a port authority to amend a plan, publish a notice, or hold a public hearing except to add or delete maritime facilities to the plan, to describe changes or deletions in the location or character of the maritime facilities covered by the plan, or to add, change, or delete financings not previously identified in the plan or cost projection changes not previously identified in the plan.

Amended by 128th General Assembly File No.9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 2008 SB353 04-07-2009

### **4582.09 Port development plan final.**

The plan and any modification, amendment or extension of the plan, when adopted by the board of directors after notice and hearing shall be final and conclusive and its validity shall be conclusively presumed.

Effective Date: 2008 SB353 04-07-2009.

### **4582.091 Confidential information.**

(A) Financial and proprietary information, including trade secrets, submitted by or on behalf of an employer to a port authority or to a nonprofit corporation engaged by contract to provide economic development services for a port authority, in connection with the relocation, location, expansion, improvement, or preservation of the business of that employer is not a public record subject to section [149.43](#) of the Revised Code. Any other information submitted by such an employer under such circumstances is not a public record subject to section [149.43](#) of the Revised Code until that employer commits in writing to proceed with the relocation, location, expansion, improvement, or preservation.

(B) Notwithstanding section [121.22](#) of the Revised Code, the board of directors of a port authority and the board of trustees of a nonprofit corporation described in division (A) of this section, and any committee or subcommittee of either, when considering information that is not a public record under this section, may close any meeting during the consideration of that information pursuant to a vote of a majority of the members present on a motion stating that such information is to be considered. No other matters shall be considered during the closed session.

Effective Date: 05-17-2000.

### **4582.10 Private enterprise participation.**

The port authority shall foster and encourage the participation of private enterprise in the development of port authority facilities to the fullest extent it considers practicable in the interest of limiting the necessity of construction and operation of those facilities by the port authority.

Effective Date: 05-17-2000.

### **4582.11 Effect on other laws.**

Nothing contained in sections [4582.01](#) to [4582.16](#) of the Revised Code shall:

(A) Impair the provisions of law or ordinance directing the payment of revenues derived from public property into sinking funds or dedicating those revenues to specific purposes;

(B) Impair the powers of any county, township, or municipal corporation to develop or improve port and terminal facilities except as restricted by section [4582.16](#) of the Revised Code;

(C) Enlarge, alter, diminish, or affect in any way, any lease or conveyance made, or action taken prior to the creation of a port authority in accordance with section [4582.02](#) of the Revised Code by any municipal corporation under the provisions of sections [721.04](#) to [721.11](#) of the Revised Code, or by any county under the provisions of section [307.65](#) of the Revised Code;

(D) Impair or interfere with the exercise of any permit for the removal of sand or gravel, or other similar permits issued by this state or the United States;

(E) Impair or contravene applicable federal regulations.

Effective Date: 05-17-2000.

## **4582.12 Procedure for bidding and contracts.**

(A)

(1) Except as otherwise provided in division (E) of section [307.671](#) of the Revised Code, division (A) of this section does not apply to a port authority educational and cultural facility acquired, constructed, and equipped pursuant to a cooperative agreement entered into under section [307.671](#) of the Revised Code.

(2) Except as provided in division (C) of this section or except when the port authority elects to construct a building, structure, or other improvement pursuant to a contract made with a construction manager at risk under sections [9.33](#) to [9.335](#) of the Revised Code or with a design-build firm under sections [153.65](#) to [153.73](#) of the Revised Code, when the cost of a contract for the construction of any building, structure, or other improvement undertaken by a port authority involves an expenditure exceeding one hundred fifty thousand dollars and the port authority is the contracting entity, the port authority shall make a written contract after notice calling for bids for the award of the contract has been given by publication twice, with at least seven days between publications, in a newspaper of general circulation in the area of the jurisdiction of the port authority. Each such contract shall be let to the lowest responsive and responsible bidder in accordance with section [9.312](#) of the Revised Code. Every contract let shall be in writing and if the contract involves work or construction, it shall be accompanied by or shall refer to plans and specifications for the work to be done, prepared for and approved by the port authority, signed by an authorized officer of the port authority and by the contractor, and shall be executed in triplicate.

Each bid shall be awarded in accordance with sections [153.54](#), [153.57](#), and [153.571](#) of the Revised Code.

The port authority may reject any and all bids.

(B) The board of directors of a port authority 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, structure, or other improvement under any of the following circumstances:

(1) 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.

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

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

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

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

(C)

(1) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in division (B)(2) of this section, the port authority shall publish a notice calling for technical proposals at least twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority. 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.

(2) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in division (B)(4) 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.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Amended by 129th General Assembly File No. 7, HB 114, §101.01, eff. 6/29/2011.

Effective Date: 05-17-2000; 12-30-2004

### **4582.121 Conveyance or exchange of property with political subdivision.**

The legislative authority of any municipal corporation, county, township, school district, or other political subdivision or taxing district, may convey or lease to, or exchange with, any port authority or any port authority may convey or lease to, or exchange with, a municipal corporation, county, township, school district, or other political subdivision or taxing district, without competitive bidding and on mutually agreeable terms, any personal property or real property, or any interest therein, which is not needed for the purposes of the grantor, or lessor, to be used by the recipient or lessee for its purposes.

Effective Date: 10-30-1965.

### **4582.13 Budget - surplus rent and charges.**

The board of directors of a port authority created in accordance with section [4582.02](#) of the Revised Code shall annually prepare a budget for the port authority.

Rents and charges received by the port authority shall be used for the general expenses of the port authority and to pay interest, amortization, and retirement charges on money borrowed. If there remains, at the end of any calendar year, any surplus of such funds after providing for the above uses, the board of directors may pay such surplus into the general funds of the political subdivisions creating and comprising the port authority in proportion to the taxable value of all property within the port authority which shall be listed on the general tax lists for the respective subdivisions.

Effective Date: 06-30-1955.

### **4582.14 Levying taxes.**

Upon the affirmative vote of at least a majority of the qualified electors in a primary or general election, within the port authority voting at an election held for the purpose of authorizing same, the port authority may levy upon the property within its jurisdiction a tax, for all purposes including bond debt charges, not in excess of one mill annually on the total value of all property as listed and assessed for taxation for any period not exceeding five years, except that when the tax is for the payment of bond debt charges, such tax shall be for the life of the bond indebtedness. On approval of such a levy, notes may be issued in anticipation of the collection of the proceeds thereof, other than the proceeds to be received for the payment of bond debt charges, in the amount and manner and at the times as are provided in section [5705.193](#) of the Revised Code, for the issuance of notes by a county in anticipation of the proceeds of a tax levy. The port authority may borrow money in anticipation of the collection of current revenues as provided in section [133.10](#) of the Revised Code.

The board of directors of a port authority shall be the taxing authority within sections [5705.01](#) and [133.10](#) of the Revised Code.

Such tax shall be for the purpose of providing funds necessary for the port authority budget and shall be certified annually to the taxing authorities of the political subdivision or subdivisions within the port authority. The

collection of such tax levy shall conform in all matters to the provisions of the Revised Code governing the collection of taxes and assessments levied by local taxing districts and the same provisions concerning the nonpayment of taxes shall apply to taxes levied pursuant to this section.

Effective Date: 10-30-1989.

### **4582.15 Secretary's bond - care of funds.**

Before receiving any moneys, the secretary of a port authority created in accordance with section [4582.02](#) of the Revised Code shall furnish bond in such amount as shall be determined by the port authority, with sureties satisfactory to it, and all funds coming into the hands of said secretary shall be deposited by him to the account of the port authority in one or more such depositories as shall be qualified to receive deposits of county funds, which deposits shall be secured in the same manner as county funds are required to be secured. No disbursements shall be made from such funds except in accordance with rules and regulations adopted by the port authority.

Effective Date: 06-30-1955.

### **4582.16 Restricting powers of municipal corporations and counties.**

No municipal corporation or county, respectively, creating or participating in the creation of a port authority in accordance with section [4582.02](#) of the Revised Code shall during the time said port authority is in existence have the right to exercise the rights and powers as provided in sections [721.04](#) to [721.11](#), inclusive, or section [307.65](#) of the Revised Code, respectively.

Effective Date: 06-30-1955.

### **4582.17 Contract powers - acquiring property.**

(A) A port authority created in accordance with section [4582.02](#) of the Revised Code may enter into such contracts or other arrangements with the United States government, or any department thereof, with persons, railroads, or other corporations, with public corporations, with public utilities, and with the state government of this or other states, with governments of foreign countries, with counties, municipalities, townships, or other governmental agencies created by or under the authority of the laws of this state, other states, or governments of foreign countries, including sewerage, drainage, conservation, conservancy, or other improvement districts in this or other states as may be necessary or convenient for the exercise of powers granted by sections [4582.01](#) to [4582.16](#) of the Revised Code, including the making of surveys, investigations, or reports thereon; provided that the contracts or arrangements shall not be in violation of Article VIII of the Ohio Constitution. The port authority may purchase, lease, or acquire land or other property in any county of this state and in adjoining states for the accomplishment of authorized purposes of the port authority, or for the improvement of the harbor and port facilities over which the port authority may have jurisdiction, and may let contracts or spend money for those purposes, including the development of port facilities in adjoining states. The authority granted in this section to enter into contracts or other arrangements with the United States government or any department thereof, includes the power to enter into any contracts, arrangements, or agreements as may be necessary to hold and save harmless the United States from damages due to the construction and maintenance by the United States of works the United States undertakes.

Any political subdivision that has participated in the creation of a port authority pursuant to section [4582.02](#) of the Revised Code, or is within or adjacent to, the jurisdiction of the port authority, may enter into an agreement, which may be amended or supplemented, with the port authority to accomplish any of the authorized purposes of the port authority. The agreement may set forth the extent to which the port authority shall act as the agent of the political subdivision.

(B) A port authority may enter into an agreement with one or more contracting subdivisions, whereby the port authority or any contracting subdivision undertakes, and is authorized by the port authority or any contracting subdivision, to exercise any power, perform any function, or render any service, on behalf of the port authority or a contracting subdivision, which the port authority or the contracting subdivision is authorized to exercise, perform, or render.

Upon the execution of such an agreement, and within the limitations prescribed by the agreement, the port authority and any contracting subdivision shall possess and may exercise the same powers and may perform the same functions and render the same services, as are possessed and are authorized to be exercised, or to be

performed or rendered by the port authority or any contracting subdivision that is a party to the agreement, which, by such agreement, the port authority or a contracting subdivision undertakes to exercise, perform, or render, and all powers necessary or incidental thereto, as amply as such powers may be possessed and are authorized to be exercised, or those functions are authorized to be performed or those services are authorized to be rendered, by the port authority or any contracting subdivision directly. The exercise of those powers, performance of those functions, and rendering of those services by the port authority or any contracting subdivision shall be governed by any procedures applicable to the port authority or contracting subdivision on behalf of which the powers are being exercised, the functions are being performed, or the services are being rendered. Any such agreement shall not suspend the possession by the port authority or a contracting subdivision of, or its authority to exercise, any powers, or its authority to perform any function or render any service. A port authority or any contracting subdivision shall not acquire by virtue of any agreement entered into under this section any power to levy or exempt taxes or any power to exercise eminent domain within, and on behalf of, any other subdivision unless approved by a majority of the electors of that contracting subdivision.

Effective Date: 05-17-2000.

### **4582.171 Rental of port authority facilities.**

A port authority may charge, alter, and collect rentals or other charges for the use or services of any port authority facility and contract in the manner provided by this section with one or more persons, one or more governmental agencies, or any combination thereof, desiring the use or services of the facility, and fix the terms, conditions, rentals, or other charges for the use or services. If the services are furnished in the jurisdiction of the port authority by a public utility or a common carrier, charges by the port authority for the services shall not be less than the charges established for the same services furnished by a public utility or common carrier in the port authority jurisdiction. The rentals or other charges shall not be subject to supervision or regulation by any other authority, commission, board, bureau, or agency of the state and the contract may provide for acquisition by the person or governmental agency of all or any part of the port authority facility for such consideration payable over the period of the contract or otherwise as the port authority in its sole discretion determines to be appropriate, but subject to the provisions of any resolution authorizing the issuance of port authority revenue bonds or any trust agreement securing the bonds. Any governmental agency that has power to construct, operate, and maintain port authority facilities may enter into a contract or lease with a port authority whereby the use or services of any port authority facility will be made available to the governmental agency, and may pay for the use or services rentals or other charges as may be agreed to by the port authority and the governmental agency.

Any governmental agency or combination of governmental agencies may cooperate with the port authority in the acquisition or construction of port authority facilities and shall enter into such agreements with the port authority as may be appropriate, with a view to effective cooperative action and safeguarding of the respective interests of the parties thereto, which agreements shall provide for contributions by the parties thereto in a proportion as may be agreed upon and other terms as may be mutually satisfactory to the parties including, without limitation, the authorization of the construction of the facility by one of the parties acting as agent for all of the parties and the ownership and control of the facility by the port authority to the extent necessary or appropriate. Any governmental agency may provide the funds for the payment of any contribution required under such agreements by the levy of taxes or assessments if otherwise authorized by the laws governing the governmental agency in the construction of the type of port authority facility provided for in the agreements, and may pay the proceeds from the collection of the taxes or assessments; or the governmental agency may issue bonds or notes, if authorized by those laws, in anticipation of the collection of the taxes or assessments, and may pay the proceeds of the bonds or notes to the port authority pursuant to such agreements. In addition, any governmental agency may provide the funds for the payment of a contribution by the appropriation of money or, if otherwise authorized by law, by the issuance of bonds or notes and may pay the appropriated money or the proceeds of the bonds or notes to the port authority pursuant to such agreements. The agreement by the governmental agency to provide a contribution, whether from appropriated money or from the proceeds of taxes or assessments, or bonds or notes, or any combination thereof, shall not be subject to Chapter 133. of the Revised Code or any rules or limitations contained therein. The proceeds from the collection of taxes or assessments, and any interest earned thereon, shall be paid into a special fund immediately upon the collection thereof by the governmental agency for the purpose of providing the contribution at the times required under such agreements.

When the contribution of any governmental agency is to be made over a period of time from the proceeds of the collection of special assessments, the interest accrued and to accrue before the first installment of the assessments is collected, which is payable by the governmental agency on the contribution under the terms and provisions of the agreements, shall be treated as part of the cost of the improvement for which the assessments

are levied, and that portion of the assessments that is collected in installments shall bear interest at the same rate as the governmental agency is obligated to pay on the contribution under the terms and provisions of the agreements and for the same period of time as the contribution is to be made under the agreements. If the assessment or any installment thereof is not paid when due, it shall bear interest until the payment thereof at the same rate as the contribution and the county auditor shall annually place on the tax list and duplicate the interest applicable to the assessment and the penalty thereon as otherwise authorized by law.

As used in this section, the term "governmental agency" has the meaning defined in section 4582.21 of the Revised Code.

Added by 130th General Assembly File No. 7, HB 51, §101.01, eff. 7/1/2013.

### **4582.18 Bonds are lawful investments.**

Bonds of a port authority issued pursuant to sections [4582.01](#) to [4582.17](#) of the Revised Code are lawful investments of banks and trust companies with approval of the superintendent of banks, of savings and loan associations, of the bond retirement funds or the sinking funds of municipal corporations, boards of education, port authorities, and counties, of the administrator of workers' compensation, of the retirement board of the state teachers retirement system, of the retirement board of the state public school employees retirement system, of the retirement board of the public employees retirement system, and of domestic life insurance companies and domestic insurance companies other than life, and shall be acceptable as security for the deposit of public moneys.

Effective Date: 09-01-1995.

### **4582.19 Notice of street change proceedings.**

Whenever any action is proposed with respect to the vacation, dedication, narrowing, or widening of any street, avenue, alley, road, or highway, which is located within one-half mile of any navigable waters within the jurisdiction of a port authority, created in accordance with the provisions of Chapter 4582. of the Revised Code, notice of the pendency of any such proceeding shall be given to such port authority. Such notice shall be given by the municipal corporation, county, or other authority initiating or having jurisdiction over the action so proposed, which notice shall designate a time and place for a public hearing, at which the port authority shall have an opportunity to be heard.

Effective Date: 10-05-1961.

### **4582.20 Port authority property exempted from taxes.**

A port authority shall be exempt from and shall not be required to pay any taxes on property, both real and personal, or any combination thereof, belonging to any port authority that is used exclusively for any authorized purpose. This exemption shall not apply to any property occupied and used during a tax year by a person who is a lessee of the property as of the tax lien date for that tax year under a written lease with a remaining term longer than one year. The immediately preceding sentence shall not apply to real or personal property, or any combination thereof, leased to a lessee, which property would be exempt from taxes under Chapter 5709. of the Revised Code if such property belonged to that lessee. Nothing in this section eliminates the lessor's or the lessee's obligation to comply with other provisions of the Revised Code to obtain an exemption for such property.

Effective Date: 03-14-2003.

### **4582.201 Application of provisions before and after 7-9-82.**

(A) Sections [4582.01](#) to [4582.20](#) of the Revised Code apply exclusively to a port authority in existence on July 9, 1982, unless the subdivision or subdivisions that created the port authority act pursuant to division (B) of this section.

(B) The subdivision or subdivisions that created a port authority in existence on July 9, 1982, may adopt a resolution or ordinance to permit the port authority to operate under sections [4582.21](#) to [4582.59](#) of the Revised Code. Subject to division (C) of this section, upon adoption of such a resolution or ordinance, sections [4582.01](#) to [4582.20](#) of the Revised Code no longer apply. At the time the resolution or ordinance is adopted, the subdivision or subdivisions that created the port authority also may act pursuant to division (B) of section [4582.22](#) of the Revised Code to restrict the powers of the port authority.

(C) The subdivision or subdivisions that have adopted a resolution or ordinance under division (B) of this section may adopt a resolution or ordinance to permit the port authority to resume operating under sections [4582.01](#) to [4582.20](#) of the Revised Code. Upon adoption of such a resolution or ordinance and adoption of a similar resolution by the board of directors of the affected port authority, sections [4582.21](#) to [4582.59](#) of the Revised Code shall not apply and sections [4582.01](#) to [4582.20](#) of the Revised Code shall apply from and after the time the last such resolution or ordinance is adopted. A subdivision or subdivisions that act under division (C) of this section may not thereafter adopt a resolution or ordinance under division (B) of this section.

Effective Date: 05-17-2000.

### **4582.202 New provisions prevail if no action taken.**

Sections [4582.21](#) to [4582.59](#) of the Revised Code apply exclusively to a port authority created after July 9, 1982, and to a port authority in existence on July 9, 1982, if the subdivision or subdivisions that created the port authority adopt a resolution or ordinance permitted under division (B) of section [4582.201](#) of the Revised Code but have not adopted a resolution or ordinance under division (C) of that section to resume operating under sections [4582.01](#) to [4582.20](#) of the Revised Code.

Effective Date: 05-17-2000.

### **4582.21 Newly created or adopting port authority definitions.**

As used in sections [4582.22](#) to [4582.59](#) of the Revised Code:

(A) "Port authority" means a body corporate and politic created pursuant to the authority of section [4582.22](#) of the Revised Code.

(B) "Authorized purposes" or "purpose" means either of the following:

- (1) Activities that enhance, foster, aid, provide, or promote transportation, economic development, housing, recreation, education, governmental operations, culture, or research within the jurisdiction of the port authority;
- (2) Activities authorized by Sections 13 and 16 of Article VIII, Ohio Constitution.

(C) "Governmental agency" means a department, division, or other unit of state government of this state or any other state, a municipal corporation, county, township, or other political subdivision, or any other public corporation or agency created under the laws of this state, any other state, the United States, or any department or agency thereof, and any agency, commission, or authority established pursuant to an interstate compact or agreement.

(D) "Person" means any individual, firm, partnership, association, or corporation, or any combination thereof.

(E) "Port authority facility" or "facility" means real or personal property, or any combination thereof owned, leased, or otherwise controlled or financed by a port authority and related to, useful for, or in furtherance of, one or more authorized purposes.

(F) "Cost" as applied to a port authority facility means the cost of acquisition or construction of the facility, and the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights, and interests required for that acquisition or construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved, the cost of acquiring or constructing and equipping a principal office of the port authority, the cost of diverting highways, interchange of highways, and access roads to private property, including the cost of land or easements for the access roads, the cost of public utility and common carrier relocation or duplication, the cost of all machinery, furnishings, and equipment, financing charges, interest prior to and during construction and for no more than eighteen months after completion of construction, engineering, expenses of research and development with respect to port authority facilities, legal expenses, plans, specifications, surveys, studies, estimates of cost and revenues, other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing the facility, administrative expense, and other expenses as may be necessary or incident to the acquisition or construction of the facility, the financing of the acquisition or construction, including the amount authorized in the resolution of the port authority providing for the issuance of port authority revenue bonds to be paid into any special funds from the proceeds of such bonds and the financing of the placing of the facility in operation. Any obligation, cost, or expense incurred by any governmental agency or person for surveys, borings, preparation of plans and specifications, and other

engineering services, or any other cost described above, in connection with the acquisition or construction of a facility may be regarded as part of the cost of the facility and may be reimbursed out of the proceeds of port authority revenue bonds as authorized by this chapter.

(G) "Revenues" means all rentals and other charges received by the port authority for the use or services of any port authority facility, any gift or grant received with respect to any port authority facility, any moneys received with respect to the lease, sublease, sale, including installment sale or conditional sale, or other disposition of a port authority facility, moneys received in repayment of and for interest on any loans made by the port authority to a person or governmental agency, whether from the United States or any department, administration, or agency thereof, or otherwise, proceeds of port authority revenue bonds to the extent the use thereof for payment of principal or of premium, if any, or interest on the bonds is authorized by the port authority, proceeds from any insurance, condemnation, or guaranty pertaining to a facility or property mortgaged to secure bonds or pertaining to the financing of the facility, and income and profit from the investment of the proceeds of port authority revenue bonds or of any revenues.

(H) "Public roads" includes all public highways, roads, and streets in the state, whether maintained by the state or by a county, township, municipal corporation, or other political subdivision.

(I) "Construction," unless the context indicates a different meaning or intent, includes alteration, construction, creation, development, enlargement, improvement, installation, reconstruction, remodeling, and renovation.

(J) "Port authority revenue bonds," unless the context indicates a different meaning or intent, includes revenue notes, revenue renewal notes, and revenue refunding bonds.

(K) "Contracting subdivision" means any governmental subdivision or taxing district of the state that, by action of its legislative authority, enters into an agreement with a port authority or a port authority and one or more other governmental subdivisions or taxing districts of the state. "Contracting subdivision" does not mean a transportation improvement district.

(L) "Governmental subdivision" includes, but is not limited to, any county, municipal corporation, township, port authority, water or sewer district, solid waste management district, school district, health district, park district, soil and water conservation district, water conservancy district, regional transit authority, airport authority, or other district, authority, or commission created pursuant to the laws of this state. "Governmental subdivision" does not include a transportation improvement district.

Effective Date: 05-17-2000.

## **4582.22 Creation of new port authority.**

(A) Any municipal corporation, township, or county not included in a port authority in existence on December 16, 1964, may create, or any combination of a municipal corporation, municipal corporations, township, townships, county, or counties, no one of which has been included in a port authority in existence on December 16, 1964, may create, and any of the foregoing together with any other political subdivision or subdivisions may create a port authority. A municipal corporation shall act by ordinance, a township shall act by resolution of the township trustees, a county shall act by resolution of the county commissioners, and any other political subdivision shall act by resolution of its legislative authority, in authorizing the creation of a port authority. A port authority created pursuant to this section is a body corporate and politic which may sue and be sued, plead and be impleaded, and has the powers and jurisdiction enumerated in sections [4582.21](#) to [4582.59](#) of the Revised Code. The exercise by such port authority of the powers conferred upon it shall be deemed to be essential governmental functions of this state, but no port authority is immune from liability by reason thereof.

(B) At the time a port authority is created pursuant to division (A) of section 4582.22 of the Revised Code or, in the case of a port authority in existence on July 9, 1982, at the time the subdivision or subdivisions which created such authority act pursuant to division (B) of section [4582.201](#) of the Revised Code, the subdivision or subdivisions which create the port authority may restrict the powers granted the port authority pursuant to this chapter by specifically setting forth such restrictions in the resolution or ordinance creating the port authority or in the resolution or ordinance adopted pursuant to division (B) of section [4582.201](#) of the Revised Code.

(C) The subdivision or subdivisions which created a port authority whose powers have been restricted pursuant to division (B) of this section may, at any time, adopt a resolution or ordinance to grant additional powers, so long as the powers so granted do not exceed the powers permitted pursuant to this chapter.

Effective Date: 05-17-2000.

**4582.23 Contracting with county prosecuting attorney for legal services.**

The board of directors of a port authority created under section 4582.22 of the Revised Code may contract with the prosecuting attorney of a county, as provided in section 309.09 of the Revised Code, to obtain legal services from the prosecuting attorney.

Added by 132nd General Assembly File No. TBD, HB 34, §1, eff. 11/2/2018.

**4582.25 Appropriation and expenditure of public funds for port authority.**

(A) Any municipal corporation, township, county, or other political subdivision creating or participating in the creation of a port authority in accordance with section 4582.22 of the Revised Code may appropriate and expend public funds to finance or subsidize the operation and authorized purposes of the port authority.

(B) Subject to making due provisions for payment and performance of its obligations, a port authority may be dissolved by the subdivision or subdivisions creating it, and in such event the properties of the port authority shall be transferred to the subdivision creating it or, if created by more than one subdivision, to the subdivisions creating it in a manner agreed upon between the subdivisions prior to the dissolution of the port authority.

Effective Date: 05-17-2000.

**4582.26 Contiguous political subdivision may join port authority.**

After a port authority has been created, any municipal corporation, township, county, or other political subdivision, acting by ordinance or resolution, which is contiguous to any municipal corporation, township, county, or other political subdivision which participated in the creation of such port authority or to any municipal corporation, township, county, or other political subdivision which proposes to join the port authority at the same time and is contiguous to any municipal corporation, township, county, or other political subdivision which participated in the creation of such port authority, may join such port authority, and thereupon the jurisdiction and territory of the port authority includes the municipal corporation, county, township, or other political subdivision so joining. If more than one such political subdivision is to be joined to the port authority at the same time, then each such ordinance or resolution shall designate the political subdivisions which are to be so joined. Any territory or municipal corporation not included in a port authority and which is annexed to a municipal corporation included within the jurisdiction and territory of a port authority shall, on such annexation and without further proceedings, be annexed to and be included in the jurisdiction and territory of the port authority. Before such political subdivision or subdivisions are joined to a port authority, other than by annexation to a municipal corporation, the political subdivision or subdivisions theretofore comprising such port authority shall agree upon the terms and conditions pursuant to which such political subdivision or subdivisions are to be joined. For all purposes of sections 4582.21 to 4582.59 of the Revised Code, such political subdivision or subdivisions shall be considered to have participated in the creation of such port authority, except that the initial term of any director of the port authority appointed by such a political subdivision shall be four years. After each ordinance or resolution proposing joinder to the port authority has become effective and the terms and conditions of joinder have been agreed to, the board of directors of the port authority shall by resolution either accept or reject such joinder. Such joinder shall be effective upon adoption of the resolution accepting such joinder, unless the port authority to which a political subdivision or subdivisions, including a county within which such port authority is located, are to be joined, has authority under section 4582.40 of the Revised Code to levy a tax on property within its jurisdiction, then such joinder shall not be effective until approved by the affirmative vote of a majority of the electors voting on the question of the joinder. If more than one political subdivision is to be joined to the port authority, then the electors of such subdivisions shall vote as a district and the majority affirmative vote shall be determined by the vote cast in such district as a whole. The election shall be called by the board of directors of the port authority and shall be held, canvassed, and certified in the manner provided for the submission of tax levies under section 5705.191 of the Revised Code except that the question appearing on the ballot shall read:

"Shall ..... (Name or names of political subdivisions to be joined) be joined to ..... port authority (Name) and the existing tax levy (levies) of such port authority (aggregating) .....mill per dollar of valuation be authorized to be levied against properties within

....." (Name or names of political subdivisions to be joined)

If the question is approved the joinder becomes immediately effective and the port authority is authorized to extend the levy of such tax against all the taxable property within the political subdivision or political subdivisions which have been joined. If such question is approved at a general election, then the port authority may amend its budget and resolution adopted pursuant to section 5705.34 of the Revised Code and such levy shall be placed on the current tax list and duplicate and collected as other taxes are collected from all taxable property within the port authority including the political subdivision or political subdivisions joined as a result of the election.

Effective Date: 05-17-2000.

### **4582.27 Organization of board of directors.**

A port authority created in accordance with section 4582.22 of the Revised Code shall be governed by a board of directors. Members of a board of directors of a port authority created by the exclusive action of a municipal corporation shall consist of the number of members it considers necessary and shall be appointed by the mayor with the advice and consent of the council. Members of a board of directors of a port authority created by the exclusive action of a township shall consist of such members as it considers necessary and shall be appointed by the township trustees of the township. Members of a board of directors of a port authority created by the exclusive action of a county shall consist of such members as it considers necessary and shall be appointed by the board of county commissioners of the county. Members of a board of directors of a port authority created by a combination of political subdivisions shall be divided among the political subdivisions in such proportions as the political subdivisions may agree and shall be appointed by the participating political subdivisions in the same manner as this section provides for the appointment of members by a political subdivision creating its own port authority. If a participating political subdivision is not authorized by section 4582.22 of the Revised Code to create its own port authority, the political subdivision's elected legislative body, if the political subdivision has an elected legislative body, or the political subdivision's elected official or officials who appoint the legislative body of the political subdivision shall appoint the members of a board of directors of a port authority that are to be appointed by that political subdivision. If the electors of a participating political subdivision do not elect either the legislative body of the political subdivision or the official or officials who appoint the legislative body of the political subdivision, the participating political subdivision may not appoint any member of a board of directors of a port authority. When a port authority is created by a combination of political subdivisions, the number of directors comprising the board shall be determined by agreement between the political subdivisions, which number may be changed from time to time by amendment of the agreement. The appointing body may at any time remove a director appointed by it for misfeasance, nonfeasance, or malfeasance in office.

A majority of the directors shall have been qualified electors of, or shall have had their businesses or places of employment in, one or more political subdivisions within the area of the jurisdiction of the port authority, for a period of at least three years next preceding their appointment.

The directors of any port authority first appointed shall serve staggered terms. Thereafter each successor shall serve for a term of four years, except that any person appointed to fill a vacancy shall be appointed to only the unexpired term and any director is eligible for reappointment.

The board of directors by rule may provide for the removal of a director who fails to attend three consecutive regular meetings of the board. If a director is so removed, a successor shall be appointed for the remaining term of the removed director in the same manner provided for the original appointment.

The directors shall elect one of their membership as chairperson and another as vice-chairperson, and shall designate their terms of office, and shall appoint a secretary who need not be a director. A majority of the members of the board of directors shall constitute a quorum for purposes of holding a meeting of the board. The affirmative vote of a majority of a quorum shall be necessary for any action taken by the port authority unless the board of directors determines by rule to require a greater number of affirmative votes for particular actions to be taken by the port authority. No vacancy in the membership of the board shall impair the rights of a quorum to exercise all the rights and perform all the duties of the port authority. The board of directors may hold a meeting by interactive video conference or teleconference as provided in section 4582.60 of the Revised Code.

Each member of the board of directors of a port authority shall be entitled to receive from the port authority such sum of money as the board of directors may determine as compensation for services as director and reimbursement for reasonable expenses in the performance of official duties.

Amended by 131st General Assembly File No. TBD, HB 455, §1, eff. 4/6/2017.

Effective Date: 04-09-2003.

### **4582.271 Civil immunity.**

In addition to any immunity from civil liability that is conferred upon a director by any other provision of the Revised Code or by decisions of Ohio or federal courts, no member of the board of directors of a port authority shall be personally liable for any monetary damages that arise from actions taken in the performance of his official duties, except for acts or omissions that are not in good faith or that involve intentional misconduct or a knowing violation of law, or any transaction from which the director derived an improper personal benefit.

Effective Date: 06-10-1987.

### **4582.28 Port authority employees.**

(A) A port authority created in accordance with section [4582.22](#) of the Revised Code shall employ and fix the qualifications, duties, and compensation of any employees and enter into contracts for any professional services it may require to conduct the business of the port authority and may appoint an advisory board, which shall serve without compensation. Any employee may be suspended or dismissed, and any contract for professional services may be terminated at any time by the port authority.

(B) A port authority may provide for the administration and enforcement of the laws of the state by employing special police officers, and may seek the assistance of other appropriate law enforcement officers to enforce its rules and maintain order.

(C) Special police officers employed by a port authority shall serve as a police force with respect to the property, grounds, buildings, equipment, and facilities under the control of the port authority, to prevent hijacking of aircraft or watercraft, protect the property of the authority and the property of others located thereon, suppress nuisances and disturbances and breaches of the peace, and enforce laws and the rules of the port authority for the preservation of good order. In performing their duties, special police officers are vested with the same powers of arrest as police officers under section [2935.03](#) of the Revised Code.

Any person employed as a special police officer by a port authority is a "public employee" as defined in section [145.01](#) of the Revised Code and is not a "member of a police department" as defined in section [742.01](#) of the Revised Code.

Effective Date: 05-17-2000.

### **4582.29 Group medical and life insurance.**

(A) A port authority created under section [4582.22](#) of the Revised Code may procure and pay all or any part of the cost of group hospitalization, surgical, major medical, sickness and accident insurance, or group life insurance, or a combination of any of the foregoing types of insurance or coverage for employees and their families, issued by an insurance company duly authorized to do business in this state.

(B) A port authority also may procure and pay all or any part of the cost of a plan of group hospitalization, surgical, major medical, or sickness and accident insurance with a health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code, provided that each employee shall be permitted to:

(1) Exercise an option between a plan offered by an insurance company as provided in division (A) of this section and a plan offered by a health insuring corporation under this division, on the condition that the employee shall pay any amount by which the cost of the plan offered in this division exceeds the cost of the plan offered under division (A) of this section; and

(2) Change from one of the two plans to the other at a time each year as determined by the port authority.

(C) A port authority may procure or contract for any type of insurance authorized by division (A) or (B) of this section on its own or jointly as part of a group with one or more other governmental units or agencies to provide that insurance for the employees of the members of the group and their families. A port authority also may establish and maintain an individual or joint self-insurance program for hospitalization, surgical, major medical, or sickness and accident insurance.

Effective Date: 05-17-2000.

### **4582.30 Area of jurisdiction.**

(A)

(1) Except as otherwise provided in division (A)(2) or (3) of this section, the area of jurisdiction of a port authority created in accordance with section [4582.22](#) of the Revised Code shall include all of the territory of the political subdivision or subdivisions creating it and, if the port authority owns or leases a railroad line or airport, the territory on which the railroad's line, terminals, and related facilities or the airport's runways, terminals, and related facilities are located, regardless of whether the territory is located in the political subdivision or subdivisions creating the port authority.

(2) A municipal corporation with a population of at least one hundred thousand according to the most recent federal decennial census may create a port authority within a county that previously created an existing port authority, if the municipal corporation did not join with the county in creating the port authority or thereafter join that port authority. The newly created port authority and the previously created and existing port authority shall possess concurrent jurisdiction over any territory within the jurisdiction of both.

(3) A county may create a port authority the area of jurisdiction of which excludes any territory that is located in that county and is in the area of jurisdiction of any port authority created in accordance with section [4582.02](#) or [4582.22](#) of the Revised Code that is then existing in the county.

(B)

(1) Except as provided in division (B)(2) or (3) of this section, a political subdivision that has created a port authority or joined an existing port authority shall not be included in any other port authority.

(2) A municipal corporation with a population of less than one hundred thousand according to the most recent federal decennial census that has joined an existing port authority in a county with a population of five hundred thousand or less may create a port authority within the territorial jurisdiction of the municipal corporation.

(3) A municipal corporation and a county jointly may create a new port authority if both of the following apply:

(a) The municipal corporation created a port authority after July 9, 1982, and that port authority operates an airport;

(b) The county joined a port authority after July 9, 1982, and that port authority operated an airport.

Effective Date: 03-14-2003.

### **4582.31 Powers of port authority.**

(A) A port authority created in accordance with section [4582.22](#) of the Revised Code may:

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

(2) Adopt an official seal;

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

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

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

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

(7) Issue bonds or notes for the acquisition, construction, furnishing, or equipping of any port authority facility or other permanent improvement that a port authority is authorized to acquire, construct, furnish, or equip, in

compliance with Chapter 133. of the Revised Code, except that 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 done;

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

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

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

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

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

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

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

(17) Exercise the right of eminent domain to appropriate any land, rights, rights-of-way, franchises, easements, or other property, necessary or proper for any authorized purpose, pursuant to the procedure provided in sections [163.01](#) to [163.22](#) of the Revised Code, if funds equal to the appraised value of the property to be acquired as a result of such proceedings are available for that purpose. However, nothing contained in

sections [4582.201](#) to [4582.59](#) of the Revised Code shall authorize a port authority to take or disturb property or facilities belonging to any agency or political subdivision of this state, public utility, cable operator, or common carrier, which property or facilities are necessary and convenient in the operation of the agency or political subdivision, public utility, cable operator, or common carrier, unless provision is made for the restoration, relocation, or duplication of such property or facilities, or upon the election of the agency or political subdivision, public utility, cable operator, or common carrier, for the payment of compensation, if any, at the sole cost of the port authority, provided that:

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

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

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

(18)

(a) Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers under sections [4582.21](#) to [4582.59](#) of the Revised Code.

(b) Except as provided in division (A)(18)(c) of this section or except when the port authority elects to construct a building, structure, or other improvement pursuant to a contract made with a construction manager at risk under sections [9.33](#) to [9.335](#) of the Revised Code or with a design-build firm under section [153.65](#) to [153.73](#) of the Revised Code, when the cost of a contract for the construction of any building, structure, or other improvement undertaken by a port authority involves an expenditure exceeding one hundred fifty thousand dollars and the port authority is the contracting entity, the port authority shall make a written contract after notice calling for bids for the award of the contract has been given by publication 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. Each such contract shall be let to the lowest responsive and responsible bidder in accordance with section [9.312](#) of the Revised Code. Every contract shall be accompanied by or shall refer to plans and specifications for the work to be done, prepared for and approved by the port authority, signed by an authorized officer of the port authority and by the contractor, and shall be executed in triplicate.

Each bid shall be awarded in accordance with sections [153.54](#), [153.57](#), and [153.571](#) of the Revised Code. The port authority may reject any and all bids.

(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 directors in its discretion.

(ii) Division (A)(18)(e)(i) 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 of competitive bidding or selection, or any requirement for the provision of security.

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

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

(20) Receive and accept from any state or federal agency grants and loans for or in aid of the construction of any port authority facility or for research and development with respect to port authority facilities, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which the grants and contributions are made;

(21) Engage in research and development with respect to port authority facilities;

(22) Purchase fire and extended coverage and liability insurance for any port authority facility and for the principal office and branch offices of the port authority, insurance protecting the port authority and its officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the port authority may agree to provide under any resolution authorizing its port authority revenue bonds or in any trust agreement securing the same;

(23) Charge, alter, and collect rentals and other charges for the use or services of any port authority facility as provided in section [4582.43](#) of the Revised Code;

(24) Provide coverage for its employees under Chapters 145., 4123., and 4141. of the Revised Code;

(25) Establish and administer one or more payment card programs for purposes of paying expenses related to port authority business. Any obligation incurred as a result of the use of such a payment card shall be paid from port authority funds.

(26) Do all acts necessary or proper to carry out the powers expressly granted in sections [4582.21](#) to [4582.59](#) of the Revised Code.

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

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

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Amended by 131st General Assembly File No. TBD, HB 53, §101.01, eff. 7/1/2015.

Amended by 129th General Assembly File No.28, HB 153, §101.01, eff. 9/29/2011.

Amended by 129th General Assembly File No.7, HB 114, §101.01, eff. 6/29/2011.

Effective Date: 01-01-2004 .

### **4582.32 Plan for development of port authority.**

(A) The board of directors of a port authority shall prepare, or cause to be prepared, a plan for any future development, construction, and improvement of the maritime facilities of the port authority, including such maps, profiles, and other data and descriptions as may be necessary to set forth the location and character of the work to be undertaken by the port authority and a then-current good faith estimate of the cost of the proposed facilities. The plan also shall contain the port authority's proposal for payment of the cost of such facilities, including revenues, grants, subsidies, loans, and financing; provided, that the plan and any such proposal and the contents thereof, and anything contained or not contained therein, shall not affect the legality, validity, or enforceability of any bonds, notes, leases, certificates, or other financing instruments, any real estate, operating or management contracts or instruments or any taxes, tax abatements or exemptions, tax credits, tax increment financing, assessments, or other financial participation related to maritime facilities or such plan . Upon the completion of such plan the board of directors shall cause notice by publication to be given as to each county in which there is a political subdivision that participated in the creation of the port authority, and shall permit the inspection of the plan at the port authority office by all persons interested. The notice shall fix the time and place for the hearing of all comments on the plan, which shall be not less than thirty nor more than sixty days after the completion of the notice . Any interested person may file written comments on the plan, provided the comments are filed with the secretary of the board of directors at the secretary's office not less than five days prior to the date fixed for the hearing. After the hearing the board of directors may adopt the plan with any modifications or amendments thereto as the official plan for the maritime facilities of the port authority.

(B) For purposes of this section and section [4582.33](#) of the Revised Code:

(1) "Maritime facilities" means docks, wharves, warehouses, piers, and other terminal and transportation buildings or structures used in connection with the transport, storage, or distribution of commercial goods on, over, or across the waterways or shorelines of this state, or buildings or structures for the construction, rehabilitation, maintenance, or repair of commercial vessels used for such purposes, which facilities are or are expected to be owned or leased by a port authority, operated by or on behalf of a port authority, or publicly owned and financed by a port authority.

(2) "Notice by publication" means publication once in a newspaper of general circulation in the county or counties where such publication is required and the posting of the notice on the web site, if any, of the port authority. Notice is complete on the later of the date of posting or the date of newspaper publication.

Amended by 128th General Assembly File No.9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 2008 SB353 04-07-2009

### **4582.33 Modification of port authority development plan.**

The board of directors, from time to time after the adoption of an official plan for the maritime facilities of the port authority, shall have the power to modify, amend, or extend the plan, provided that prior to the making of any modification, amendment, or extension of the plan, the board shall cause notice by publication to be given and shall conduct a hearing, all as provided in section [4582.32](#) of the Revised Code, and shall not adopt any such modification, amendment, or extension until the notice has been given and the hearing held as provided in that

section. The board, from time to time after the adoption of an official plan under section [4582.32](#) of the Revised Code, also shall have the power to modify, amend, or supplement any proposal for any type of financing related to the plan and shall do so prior to undertaking any financing not identified in or pursuant to the plan as then in effect; provided, that the board shall first cause notice to be given and shall conduct a hearing on that proposal, all as provided in section [4582.32](#) of the Revised Code, and provided further that the plan, and any such proposal and the contents thereof, and anything contained or not contained therein, shall not affect the legality, validity, or enforceability of any bonds, notes, leases, certificates, or other financing instruments, any real estate, operating or management contracts or instruments or any taxes, tax abatements or exemptions, tax credits, tax increment financing, assessments or other financial participation related to maritime facilities, the plan, or such proposal. Nothing in this section or in section [4582.32](#) of the Revised Code shall require a port authority to amend a plan, publish a notice, or hold a public hearing except to add or delete maritime facilities to the plan, to describe changes or deletions in the location or character of the maritime facilities covered by the plan, or to add, change, or delete financings not previously identified in the plan or cost projection changes not previously identified in the plan.

Amended by 128th General Assembly File No.9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 2008 SB353 04-07-2009

### **4582.34 Port authority development plan final.**

A plan and any modification, amendment or extension of the plan, when adopted by the board of directors after notice and hearing under section [4582.32](#) or [4582.33](#) of the Revised Code shall be final and conclusive and its validity shall be conclusively presumed.

Effective Date: 2008 SB353 04-07-2009.

### **4582.35 Private enterprise participation.**

The port authority shall foster and encourage the participation of private enterprise in the development of the port facilities to the fullest extent it considers practicable in the interest of limiting the necessity of construction and operation of the facilities by the port authority.

Effective Date: 05-17-2000.

### **4582.36 Effect on other laws.**

Nothing contained in sections [4582.25](#) to [4582.59](#) of the Revised Code shall:

- (A) Impair the provisions of law or ordinance directing the payment of revenues derived from public property into sinking funds or dedicating those revenues to specific purposes;
- (B) Impair the powers of any county, municipal corporation, or other political subdivision to develop or improve port and terminal facilities except as restricted by section [4582.42](#) of the Revised Code;
- (C) Enlarge, alter, diminish, or affect in any way, any lease or conveyance made, or action taken prior to the creation of a port authority in accordance with section [4582.22](#) of the Revised Code by any municipal corporation under the provisions of sections [721.04](#) to [721.11](#) of the Revised Code, or by any county under the provisions of section [307.65](#) of the Revised Code;
- (D) Impair or interfere with the exercise of any permit for the removal of sand or gravel, or other similar permits issued by this state or the United States;
- (E) Impair or contravene applicable federal regulations.

Effective Date: 05-17-2000.

### **4582.37 [Repealed].**

Repealed by 129th General Assembly File No.28, HB 153, §105.01, eff. 9/29/2011.

### **4582.38 Conveyance or exchange of property with political subdivision.**

The legislative authority of any municipal corporation, county, township, school district, or other political subdivision or taxing district, may convey or lease to or from, lease with an option to purchase, or exchange with, any port authority or any port authority may convey or lease to or from, lease with an option to purchase, or exchange with, a municipal corporation, county, township, school district, or other political subdivision or taxing district, without competitive bidding and on mutually agreeable terms, any personal property or real property, or any interest therein, that is not needed for the purposes of the grantor, or lessor, to be used by the recipient or lessee for its purposes.

Effective Date: 05-17-2000.

### **4582.39 Budget - surplus rent and charges.**

The board of directors of a port authority created in accordance with section [4582.22](#) of the Revised Code shall annually prepare a budget for the port authority.

Rents and charges received by the port authority shall be used for the general expenses of the port authority and to pay interest, amortization, and retirement charges on money borrowed. If there remains, at the end of any calendar year, any surplus of such funds after providing for the above uses, the board of directors may pay such surplus into the general funds of the political subdivisions creating and comprising the port authority in proportion to the taxable value of all property within the port authority which shall be listed on the general tax lists for the respective subdivisions.

Effective Date: 07-09-1982.

### **4582.40 Levying taxes.**

Upon the affirmative vote in a primary or general election of at least a majority of the qualified electors within the port authority voting at an election held for the purpose, the port authority may levy upon the property within its jurisdiction a tax, for all purposes including bond debt charges, not in excess of one mill annually on the total value of all property as listed and assessed for taxation for any period not exceeding five years, except that when the tax is for the payment of bond debt charges, such tax shall be for the life of the bond indebtedness. On approval of such a levy, notes may be issued in anticipation of the collection of the proceeds of the tax levy, other than the proceeds to be received for the payment of bond debt charges, in the amount and manner and at the times as are provided in section [5705.193](#) of the Revised Code, for the issuance of notes by a county in anticipation of the proceeds of a tax levy. The port authority may borrow money in anticipation of the collection of current revenues as provided in section [133.10](#) of the Revised Code.

The board of directors of a port authority shall be the taxing authority under sections [133.10](#) and [5701.01](#) of the Revised Code.

Such tax shall be for the purpose of providing funds necessary for the port authority budget and shall be certified annually to the taxing authorities of the political subdivision or subdivisions within the port authority. The collection of the tax levy shall conform in all matters to the provisions of the Revised Code governing the collection of taxes and assessments levied by local taxing districts and the same provisions concerning the nonpayment of taxes shall apply to taxes levied pursuant to this section.

Effective Date: 10-30-1989.

### **4582.401 Levying taxes by municipal port authority.**

A port authority that is created by the exclusive action of a municipal corporation and located within an existing port authority created by a county may levy a tax under section [4582.40](#) of the Revised Code only if the existing port authority created by the county has no such tax levy in effect. Unless the existing port authority created by the county subsequently levies a tax under section [4582.40](#) of the Revised Code, one-half of the proceeds, or such percentage as is agreed to by the boards of both port authorities, from any tax levied under the authority of this section by a municipal port authority shall be distributed to the existing port authority created by the county within which the municipal port authority is located, to be used by the existing port authority created by the county for the purposes established under section [4582.40](#) of the Revised Code.

Effective Date: 07-18-1990.

### **4582.41 Secretary's bond - care of funds.**

Before receiving any moneys, the secretary of a port authority created in accordance with section [4582.22](#) of the Revised Code shall furnish bond in such amount as shall be determined by the port authority, with sureties satisfactory to it, and all funds coming into the hands of said secretary shall be deposited by him to the account of the port authority in one or more such depositories as shall be qualified to receive deposits of county funds, which deposits shall be secured in the same manner as county funds are required to be secured. No disbursements shall be made from such funds except in accordance with rules adopted by the port authority.

Effective Date: 07-09-1982.

### **4582.42 Limitations on county and municipal powers as to harbor or waterfront improvements.**

No municipal corporation or county creating or participating in the creation of a port authority in accordance with section [4582.22](#) of the Revised Code may, during the time the port authority is in existence, exercise the rights and powers provided in sections [307.65](#) or [721.04](#) to [721.11](#) of the Revised Code.

Effective Date: 07-09-1982.

### **4582.43 Rentals or charges - cooperation for construction of facilities.**

A port authority may charge, alter, and collect rentals or other charges for the use or services of any port authority facility and contract in the manner provided by this section with one or more persons, one or more governmental agencies, or any combination thereof, desiring the use or services of the facility, and fix the terms, conditions, rentals, or other charges for the use or services. If the services are furnished in the jurisdiction of the port authority by a public utility or a common carrier, charges by the port authority for the services shall not be less than the charges established for the same services furnished by a public utility or common carrier in the port authority jurisdiction. The rentals or other charges shall not be subject to supervision or regulation by any other authority, commission, board, bureau, or agency of the state and the contract may provide for acquisition by the person or governmental agency of all or any part of the port authority facility for such consideration payable over the period of the contract or otherwise as the port authority in its sole discretion determines to be appropriate, but subject to the provisions of any resolution authorizing the issuance of port authority revenue bonds or any trust agreement securing the bonds. Any governmental agency that has power to construct, operate, and maintain port authority facilities may enter into a contract or lease with a port authority whereby the use or services of any port authority facility will be made available to the governmental agency, and may pay for the use or services rentals or other charges as may be agreed to by the port authority and the governmental agency.

Any governmental agency or combination of governmental agencies may cooperate with the port authority in the acquisition or construction of port authority facilities and shall enter into such agreements with the port authority as may be appropriate, with a view to effective cooperative action and safeguarding of the respective interests of the parties thereto, which agreements shall provide for contributions by the parties thereto in a proportion as may be agreed upon and other terms as may be mutually satisfactory to the parties including, without limitation, the authorization of the construction of the facility by one of the parties acting as agent for all of the parties and the ownership and control of the facility by the port authority to the extent necessary or appropriate. Any governmental agency may provide the funds for the payment of any contribution required under such agreements by the levy of taxes or assessments if otherwise authorized by the laws governing the governmental agency in the construction of the type of port authority facility provided for in the agreements, and may pay the proceeds from the collection of the taxes or assessments; or the governmental agency may issue bonds or notes, if authorized by those laws, in anticipation of the collection of the taxes or assessments, and may pay the proceeds of the bonds or notes to the port authority pursuant to such agreements. In addition, any governmental agency may provide the funds for the payment of a contribution by the appropriation of money or, if otherwise authorized by law, by the issuance of bonds or notes and may pay the appropriated money or the proceeds of the bonds or notes to the port authority pursuant to such agreements. The agreement by the governmental agency to provide a contribution, whether from appropriated money or from the proceeds of taxes or assessments, or bonds or notes, or any combination thereof, shall not be subject to Chapter 133. of the Revised Code or any rules or limitations contained therein. The proceeds from the collection of taxes or assessments, and any interest earned thereon, shall be paid into a special fund immediately upon the collection thereof by the governmental agency for the purpose of providing the contribution at the times required under such agreements.

When the contribution of any governmental agency is to be made over a period of time from the proceeds of the collection of special assessments, the interest accrued and to accrue before the first installment of the

assessments is collected, which is payable by the governmental agency on the contribution under the terms and provisions of the agreements, shall be treated as part of the cost of the improvement for which the assessments are levied, and that portion of the assessments that is collected in installments shall bear interest at the same rate as the governmental agency is obligated to pay on the contribution under the terms and provisions of the agreements and for the same period of time as the contribution is to be made under the agreements. If the assessment or any installment thereof is not paid when due, it shall bear interest until the payment thereof at the same rate as the contribution and the county auditor shall annually place on the tax list and duplicate the interest applicable to the assessment and the penalty thereon as otherwise authorized by law.

Any governmental agency, pursuant to a favorable vote of the electors in an election held before or after July 9, 1982, for the purpose of issuing bonds to provide funds to acquire, construct, or equip, or provide real estate and interests in real estate for, a port authority facility, whether or not the governmental agency, at the time of the election, had the authority to pay the proceeds from the bonds or notes issued in anticipation of the bonds to the port authority as provided in this section, may issue such bonds or notes in anticipation of the issuance of the bonds and pay the proceeds of the bonds or notes to the port authority in accordance with its agreement with the port authority; provided, that the legislative authority of the governmental agency finds and determines that the port authority facility to be acquired or constructed by the port authority in cooperation with the governmental agency will serve the same public purpose and meet substantially the same public need as the facility otherwise proposed to be acquired or constructed by the governmental agency with the proceeds of the bonds and notes.

Effective Date: 05-17-2000.

### **4582.431 Contract powers - acquiring property.**

(A) A port authority may enter into any contracts or other arrangements with the United States government, or any department thereof, with persons, railroads, or other corporations, with public corporations, with public utilities, and with the state government of this or any other state, with counties, municipalities, townships, or other governmental agencies created by or under the authority of the laws of this state or other states, including sewerage, drainage, conservation, conservancy, or other improvement districts in this or other states or the governments or agencies of foreign countries as may be necessary or convenient for the exercise of the powers granted by sections [4582.21](#) to [4582.59](#) of the Revised Code, including the making of surveys, investigations, or reports thereon; provided that the contracts or arrangements shall not be in violation of Section 13 or 16 of Article VIII, Ohio Constitution. The port authority may purchase, lease, or acquire land or other property in any county of this state and in adjoining states for the accomplishment of authorized purposes of the port authority, or for the improvement of the harbor and port facilities over which the port authority may have jurisdiction, and may let contracts or spend money for those purposes, including development of port facilities in adjoining states. The authority granted in this section to enter into contracts or other arrangements with the United States government or any department thereof, includes the power to enter into any contracts, arrangements, or agreements that may be necessary to hold and save harmless the United States from damages due to the construction and maintenance by the United States of work the United States undertakes.

Any political subdivision that has participated in the creation of a port authority, or is within, or adjacent to a political subdivision that is within, the jurisdiction of a port authority, may enter into an agreement, which may be amended or supplemented, with the port authority to accomplish any of the authorized purposes of the port authority. The agreement may set forth the extent to which the port authority shall act as the agent of the political subdivision.

(B) A port authority may enter into an agreement with one or more contracting subdivisions, whereby the port authority or any contracting subdivision undertakes, and is authorized by the port authority or any contracting subdivision, to exercise any power, perform any function, or render any service, on behalf of the port authority or a contracting subdivision, which the port authority or the contracting subdivision is authorized to exercise, perform, or render.

Upon the execution of such an agreement, and within the limitations prescribed by the agreement, the port authority and any contracting subdivision shall possess and may exercise the same powers and may perform the same functions and render the same services, as are possessed and are authorized to be exercised, or to be performed or rendered by the port authority or any contracting subdivision that is a party to the agreement, which, by such agreement, the port authority or a contracting subdivision undertakes to exercise, perform, or render, and all powers necessary or incidental thereto, as amply as such powers may be possessed and are authorized to be exercised, or those functions are authorized to be performed or those services are authorized to be rendered, by the port authority or any contracting subdivision directly. The exercise of those powers,

performance of those functions, and rendering of those services by the port authority or any contracting subdivision shall be governed by any procedures applicable to the port authority or contracting subdivision on behalf of which the powers are being exercised, the functions are being performed, or the services are being rendered. Any such agreement shall not suspend the possession by the port authority or a contracting subdivision of, or its authority to exercise, any powers, or its authority to perform any function or render any service. A port authority or any contracting subdivision shall not acquire by virtue of any agreement entered into under this section any power to levy or exempt taxes or any power to exercise eminent domain within, and on behalf of, any other subdivision unless approved by a majority of the electors of that contracting subdivision.

Effective Date: 05-17-2000.

### **4582.44 Bonds are lawful investments.**

Bonds of a port authority and port authority revenue bonds issued pursuant to sections [4582.22](#) to [4582.59](#) of the Revised Code are lawful investments of banks, societies for savings, trust companies, savings and loan associations, deposit guaranty associations, trustees, fiduciaries, trustees or other officers having charge of the bond retirement funds or sinking funds of port authorities and political subdivisions, and taxing districts of this state, the commissioners of the sinking fund of this state, the administrator of workers' compensation, the state teachers retirement system, the school employees retirement system, the public employees retirement system, the Ohio police and fire pension fund, and insurance companies, including domestic life insurance companies and domestic insurance companies other than life, and are acceptable as security for the deposit of public moneys.

Effective Date: 11-02-1999.

### **4582.46 Port authority property exempted from taxes.**

A port authority shall be exempt from and shall not be required to pay any taxes on property, both real and personal, or any combination thereof, belonging to any port authority that is used exclusively for any authorized purpose. This exemption shall not apply to any property occupied and used during a tax year by a person who is a lessee of the property as of the tax lien date for that tax year under a written lease with a remaining term longer than one year. The immediately preceding sentence shall not apply to real or personal property, or any combination thereof, leased to a lessee, which property would be exempt from taxes under Chapter 5709. of the Revised Code if such property belonged to that lessee. Nothing in this section eliminates the lessor's or the lessee's obligation to comply with other provisions of the Revised Code to obtain an exemption for such property.

Effective Date: 03-14-2003.

### **4582.47 Loans for acquisition and construction of facilities.**

(A) With respect to facilities, and their financing, for authorized purposes, under agreements whereby the person to whom the facility is to be leased, subleased, or sold, or to whom a loan is to be made for the facility, is to make payments sufficient to pay all of the principal of, premium, if any, and interest on the port authority revenue bonds issued for the facility, the port authority, in addition to other powers under sections [4582.22](#) to [4582.59](#) of the Revised Code, may do any of the following:

(1) Make loans for the acquisition or construction of the facility to such person upon such terms as the port authority may determine or authorize including secured or unsecured loans, and, in connection therewith, enter into loan agreements and other agreements, accept notes and other forms of obligation to evidence such indebtedness and mortgages, liens, pledges, assignments, or other security interests to secure such indebtedness, which may be prior or subordinate to or on a parity with other indebtedness, obligations, mortgages, pledges, assignments, other security interests, or liens or encumbrances, and take actions it considers appropriate to protect such security and safeguard against losses, including, without limitation, foreclosure and the bidding upon and purchase of property upon foreclosure or other sale;

(2) Sell the facility under such terms as it may determine, including, without limitation, sale by conditional sale or installment sale, under which title may pass prior to or after completion of the facility or payment or provisions for payment of all principal of, premium, if any, and interest on the bonds, or at any other time provided in the agreement pertaining to the sale, and including sale under an option to purchase at a price which may be a nominal amount or less than true value at the time of purchase;

(3) Grant a mortgage, lien, or other encumbrance on, or pledge or assignment of, or other security interest with respect to, all or any part of the facility, revenues, reserve funds, or other funds established in connection with

the bonds, or on, of, or with respect to any lease, sublease, sale, conditional sale or installment sale agreement, loan agreement, or other agreement pertaining to the lease, sublease, sale, or other disposition of a facility or pertaining to a loan made for a facility, or any guaranty or insurance agreement made with respect thereto, or any interest of the port authority therein, or any other interest granted, assigned, or released to secure payments of the principal of, premium, if any, or interest on the bonds or to secure any other payments to be made by the port authority, which mortgage, lien, encumbrance, pledge, assignment, or other security interest may be prior or subordinate to or on a parity with any other mortgage, assignment, or other security interest, or lien or encumbrance;

(4) Provide that the interest on the bonds may be at a variable rate or rates changing from time to time in accordance with a base or formula as authorized by the port authority;

(5) Contract for the acquisition or construction of the facility or any part thereof and for the leasing, subleasing, sale, or other disposition of the facility in a manner determined by the port authority in its sole discretion, without necessity for competitive bidding or performance bonds;

(6) Make appropriate provision for adequate maintenance of the facility.

(B) With respect to the facilities referred to in this section, the authority granted by this section is cumulative and supplementary to all other authority granted in this chapter. The authority granted by this section does not alter or impair any similar authority granted elsewhere in this chapter for or with respect to other facilities.

Effective Date: 05-17-2000.

### **4582.48 Issuing revenue and refunding bonds.**

A port authority at any time may issue port authority revenue bonds in such principal amounts as, in the opinion of the port authority, are necessary for the purpose of paying the cost of one or more port authority facilities or parts thereof. A port authority at any time may issue renewal notes, issue bonds to retire its notes and whenever it considers refunding expedient, refund any bonds by the issuance of port authority revenue refunding bonds whether the bonds to be refunded have or have not matured, and issue port authority revenue bonds partly to refund outstanding bonds and partly for any other authorized purpose. The port authority revenue refunding bonds shall be sold and the proceeds applied to the purchase, redemption, or payment of the bonds to be refunded. Port authority revenue bonds shall be special obligations of the port authority payable out of the revenues of the port authority that are pledged for such payment. The pledge shall be valid and binding from the time the pledge is made and the revenues so pledged and thereafter received by the port authority immediately shall be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the port authority, irrespective of whether those parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the port authority.

Whether or not the port authority revenue bonds are of such form and character as to be negotiable instruments, the port authority revenue bonds shall have all the qualities and incidents of negotiable instruments, subject only to the provisions of the bonds for registration.

The port authority revenue bonds shall be authorized by resolution of the port authority, and shall bear interest at such rate or rates, shall bear such date or dates, and shall mature at such time or times, and in such number of installments as may be provided in or pursuant to that resolution. The final maturity of any port authority revenue bond in the form of a note and any renewals thereof shall not exceed five years from the date of issue of the original note. The final maturity of any issue of port authority revenue bonds shall not be later than forty-five years from the date of issue of the original issue of bonds. Any such bonds or notes shall be executed in a manner as the resolution or resolutions may provide. The port authority revenue bonds shall be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption as may be provided in or pursuant to the resolution authorizing their issuance. Port authority revenue bonds of the port authority may be sold by the port authority, at public or private sale, at or at not less than a price or prices as the port authority determines. In case any officer whose signature or a facsimile of whose signature appears on any bonds, notes, or coupons, ceases to be such officer before delivery of bonds or notes, the signature or facsimile shall nevertheless be sufficient for all purposes the same as if the officer had remained in office until such delivery, and in case the seal of the port authority has been changed after a facsimile has been imprinted on such bonds or notes, the facsimile seal will continue to be sufficient for all purposes.

Any resolution or resolutions authorizing any port authority revenue bonds or any issue of bonds may contain provisions, subject to any agreements with bondholders as may then exist, which provisions shall be a part of the contract with the holders of bonds, as to the pledging of all or any part of the revenues of the port authority to secure the payment of the port authority bonds or of any issue of the bonds; the use and disposition of revenues of the port authority; a covenant to fix, alter, and collect rentals and other charges so that pledged revenues will be sufficient to pay costs of operation, maintenance, and repairs, pay principal of and interest on bonds secured by the pledge of such revenues, and provide any reserves that may be required by the applicable resolution or trust agreement; the setting aside of reserve funds, sinking funds, or replacement and improvement funds and the regulation and disposition thereof; the crediting of the proceeds of the sale of bonds to and among the funds referred to or provided for in or pursuant to the resolution authorizing the issuance of the bonds or notes; the use, lease, sale, or other disposition of any port authority facility or any other assets of the port authority; limitations on the purpose to which the proceeds of sale of bonds may be applied and the pledging of those proceeds to secure the payment of the bonds or of any issue of the bonds; as to notes issued in anticipation of the issuance of bonds, the agreement of the port authority to do all things necessary for the authorization, issuance, and sale of the bonds in amounts that may be necessary for the timely retirement of the notes; limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding bonds; the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given; limitations on the amount of moneys to be expended by the port authority for operating, administrative, or other expenses of the port authority; securing any bonds or notes by a trust agreement in accordance with section [4582.50](#) of the Revised Code; and any other matters, of like or different character, that in any way affect the security or protection of the bonds or notes.

Neither the board of directors of the port authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

Amended by 128th General Assembly File No. 26, SB 155, §1, eff. 3/31/2010.

Effective Date: 05-17-2000 .

### **4582.49 Bond laws not applicable to port authority revenue bonds.**

The issuance of port authority revenue bonds under sections [4582.22](#) to [4582.59](#) of the Revised Code need not comply with any other law applicable to the issuance of bonds or notes.

Effective Date: 07-09-1982.

### **4582.50 Securing bonds by trust agreements.**

In the discretion of the port authority, any port authority revenue bonds issued under sections [4582.22](#) to [4582.59](#) of the Revised Code may be secured by a trust agreement between the port authority and a corporate trustee that may be any trust company or bank having the powers of a trust company within or without the state.

The trust agreement may pledge or assign revenues of the port authority to be received and may convey or mortgage any port authority facility or any part thereof. The trust agreement or any resolution providing for the issuance of such bonds may contain any provisions for protecting and enforcing the rights and remedies of the bondholders as are reasonable and proper and not in violation of law, including covenants setting forth the duties of the port authority in relation to the acquisition of property, the construction, improvement, maintenance, repair, operation, and insurance of the port authority facility in connection with which the bonds are authorized, the rentals or other charges to be imposed for the use or services of any port authority facility, the custody, safeguarding, and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of the port authority facility. Any bank or trust company incorporated under the laws of this state that may act as depository of the proceeds of bonds or of revenues may furnish any indemnifying bonds or may pledge any securities that are required by the port authority. The trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing similar bonds. The trust agreement may contain any other provisions that the port authority determines reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of the trust agreement may be treated as a part of the cost of the operation of the port authority facility.

Effective Date: 05-17-2000.

## **4582.51 Protection and enforcement of rights of bondholder and trustees.**

Any holder of port authority revenue bonds issued under sections [4582.22](#) to [4582.59](#) of the Revised Code, or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights given by such sections may be restricted by the applicable resolution or such trust agreement, may by suit, action, mandamus, or other proceedings, protect and enforce any rights under the laws of the state or granted under such sections, trust agreement, or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by such sections, or by the trust agreement or resolution, to be performed by the port authority or any officer of the port authority, including the fixing, charging, and collecting of rentals or other charges.

Effective Date: 07-09-1982.

## **4582.52 Bonds not a debt of state.**

Port authority revenue bonds issued under sections [4582.22](#) to [4582.59](#) of the Revised Code do not constitute a debt, or a pledge of the faith and credit, of the state or any political subdivision of the state, and the holders or owners of the bonds have no right to have taxes levied by the general assembly or taxing authority of any political subdivision of the state for the payment of the principal of or interest on the bonds, but the bonds are payable solely from the revenues and funds pledged for their payment as authorized by those sections, unless the notes are issued in anticipation of the issuance of bonds or the bonds are refunded by refunding bonds issued under those sections, which bonds or refunding bonds shall be payable solely from revenues and funds pledged for their payment as authorized by those sections. All the bonds shall contain on the face thereof a statement to the effect that the bonds, as to both principal and interest, are not debts of the state or any political subdivision of the state, but are payable solely from revenues and funds pledged for their payment.

Effective Date: 05-17-2000.

## **4582.53 Property and funds held in trust.**

All moneys, funds, properties, and assets acquired by the port authority under sections [4582.22](#) to [4582.59](#) of the Revised Code, whether as proceeds from the sale of port authority revenue bonds or as revenues, or otherwise, shall be held by it in trust for the purposes of carrying out its powers and duties, shall be used and reused as provided in such sections, and shall at no time be part of other public funds. Such funds, except as otherwise provided in any resolution authorizing its port authority revenue bonds or in any trust agreement securing the same, or except when invested pursuant to section [4582.54](#) of the Revised Code, shall be kept in depositories selected by the port authority in the manner provided in Chapter 135. of the Revised Code, and the deposits shall be secured as provided in that chapter. The resolution authorizing the issuance of such bonds of any issue or the trust agreement securing such bonds shall provide that any officer to whom, or any bank or trust company to which, such moneys are paid shall act as trustee of such moneys and hold and apply them for the purposes hereof, subject to such conditions as such chapter and such resolutions or trust agreement provide.

Effective Date: 07-09-1982.

## **4582.54 Investing excess funds.**

Moneys in the funds of the port authority, except as otherwise provided in any resolution authorizing the issuance of its port authority revenue bonds or in any trust agreement securing the same, in excess of current needs, may be invested as permitted by sections [135.01](#) to [135.21](#) of the Revised Code or invested in linked deposit programs established by resolution of the board of directors in accordance with section [135.80](#) of the Revised Code. Income from all investments of moneys in any fund shall be credited to funds as the port authority determines, subject to the provisions of any such resolution or trust agreement, and the investments may be sold at any time the port authority determines.

Effective Date: 05-17-2000; 07-01-2005.

## **4582.56 Agreements for lakeshore improvement projects.**

(A) As used in this section:

(1) "Eligible county" means a county whose territory includes a part of Lake Erie the shoreline of which represents at least fifty per cent of the linear length of the county's border with other counties of this state.

(2) "Lakeshore improvement project" means construction of a port authority facility within one mile of the Lake Erie shoreline in an eligible county.

(3) "Construction" includes acquisition, alteration, construction, creation, development, enlargement, equipment, improvement, installation, reconstruction, remodeling, renovation, or any combination thereof.

(B) The board of directors of a port authority may enter into an agreement with the board of county commissioners of an eligible county that created the port authority providing for all of the following, and any other terms mutually agreeable to the boards:

(1) The board of county commissioners levies an excise tax under division (M) of section [5739.09](#) of the Revised Code and pledges all the revenue from the tax to the port authority for the purpose of financing lakeshore improvement projects including the payment of debt charges on any securities issued under division (C) of this section.

(2) The port authority constructs or finances the construction of lakeshore improvements and pays the costs of such projects with revenue from the tax pledged under the agreement. Such construction or financing is an authorized purpose for the purposes of division (B) of section [4582.21](#) of the Revised Code.

(3) The port authority may not enter into any contract or other obligation regarding a lakeshore improvement project before obtaining the approval for the project by the board of county commissioners by a resolution of the board.

(C) The board of directors of a port authority that enters into an agreement under this section may issue port authority special obligation bonds, and notes anticipating the proceeds of the bonds, in the principal amount that, in the opinion of the board, are necessary for the purpose of paying the costs of one or more lakeshore improvement projects or parts of one or more projects and interest on the bonds payable over the term of the issue. The board may refund any special obligation bonds by the issuance of special obligation refunding bonds regardless of whether the bonds to be refunded have or have not matured. The refunding bonds shall be sold, and the proceeds needed for such purpose applied, in the manner provided in the bond proceedings.

Every issue of special obligation bonds issued under this section shall be payable from the revenue from the tax levied under division (M) of section [5739.09](#) of the Revised Code and pledged for such payment under the agreement. The pledge shall be valid and binding from the time the pledge is made, and the revenue so pledged and received by the port authority shall be subject to the lien of the pledge without any physical delivery of the revenue or any further act. The lien of any pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the port authority, whether or not such parties have notice of the lien. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the port authority's records.

Whether or not the bonds are of such form and character as to be negotiable instruments under Title XIII of the Revised Code, the bonds shall have all the qualities and incidents of negotiable instruments, subject only to their provisions for registration, if any.

Bonds issued under this section shall bear such date or dates, and shall mature at such time or times not exceeding thirty years from the date of issue of the original bonds and shall be executed in the manner that the resolution authorizing the bonds may provide. The bonds shall bear interest at such rates, or at variable rate or rates changing from time to time, in accordance with provisions provided in the authorizing resolution, shall be in such denominations and form, either coupon or registered, shall carry such registration privileges, shall be payable in such medium of payment and at such place or places, and be subject to such terms of redemption, as the board of directors of the port authority may authorize or provide. The bonds may be sold at public or private sale, and at, or at not less than, the price or prices as the board determines. If any officer whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be such officer before delivery of the bonds, the signature or facsimile shall nevertheless be sufficient for all purposes as if the officer had remained in office until delivery of the bonds, and in case the seal of the authority has been changed after a facsimile has been imprinted on the bonds, the facsimile seal will continue to be sufficient for all purposes.

Any resolution authorizing bonds under this section may contain provisions governing the use and disposition of revenue pledged under the agreement under division (B) of this section; the crediting of the proceeds of the sale of the bonds to and among the funds referred to or provided for in the resolution; limitations on the purpose to

which the proceeds of sale of the bonds may be applied and the pledging of portions of such proceeds to secure payment of the bonds; the issuance of notes in anticipation of the issuance of bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding bonds; the procedure, if any, by which the terms of any contract with bondholders may be amended, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given; securing any bonds by a trust agreement in accordance with division (D) of this section; and any other matters that may affect the security or protection of the bonds. The taxes anticipated by the bonds are not subject to diminution by initiative or referendum or by law while the bonds or notes remain outstanding in accordance with their terms, unless provision is made by law or by the board of county commissioners and board of directors of the port authority for an adequate substitute therefor reasonably satisfactory to the trustee, if a trust agreement secures the bonds.

Neither the members of the board of directors of the port authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance.

(D) In the discretion of the board of directors, the bonds issued under this section may be secured by a trust agreement between the board of directors on behalf of the port authority and a corporate trustee, which may be any trust company or bank having powers of a trust company, within or outside the state.

The trust agreement may provide for the pledge or assignment of the tax revenue to be received under the agreement entered into under division (B) of this section, but shall not pledge the general credit or other taxing power of the county or the general credit or taxing power of the port authority. The trust agreement or the resolution providing for the issuance of the bonds may set forth the rights and remedies of the bondholders and trustee, and may contain other provisions for protecting and enforcing their rights and remedies that are determined in the discretion of the board of directors to be reasonable and proper.

Amended by 131st General Assembly File No. TBD, HB 233, §1, eff. 8/5/2016.

Added by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 9/29/2015.

### **4582.57 Changing location of public road, state highway, railroad, or public utility facility.**

When a port authority finds it necessary to change the location of any portion of any public road, state highway, railroad, or public utility facility in connection with the construction of a port authority facility, it shall cause it to be reconstructed at such location as the division of government having jurisdiction over such road, highway, railroad, or public utility facility finds most favorable. Such construction shall be of substantially the same type and in as good condition as the original road, highway, railroad, or public utility facility. The cost of such reconstruction, relocation, or removal and any damage incurred in changing the location of any such road, highway, railroad, or public utility facility shall be paid by the port authority as a part of the cost of the port authority facility.

When the port authority finds it necessary that any public highway or portion of a public highway be vacated by reason of the acquisition or construction of a port authority facility, the port authority may request the director of transportation, in writing, to vacate such highway or portion in accordance with section [5511.07](#) of the Revised Code if the highway or portion to be vacated is on the state highway system, or, if the highway or portion to be vacated is under the jurisdiction of the county commissioners, the port authority shall request the director, in writing, to petition the board of county commissioners, in the manner provided in section [5553.041](#) of the Revised Code, to vacate such highway or portion. The port authority shall pay to the director or to the county, as a part of the cost of such port authority facility, any amounts required to be deposited with any court in connection with proceedings for the determination of compensation and damages and all amounts of compensation and damages finally determined to be payable as a result of such vacation.

The port authority may adopt reasonable rules for the installation, construction, maintenance, repair, renewal, relocation, and removal of railroad or public utility facilities in, on, over, or under any port authority facility. Whenever the port authority determines that it is necessary that any such facilities installed or constructed in, on, over, or under property of the port authority pursuant to such rules be relocated, the public utility owning or operating such facilities shall relocate or remove them in accordance with the order of the port authority. The cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location, the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, shall be paid by the port authority as a part of the cost of the port authority facility. In case of any such relocation or removal of such facilities, the railroad or public utility owning or operating them, its successors, or assigns may maintain and operate such facilities, with the necessary appurtenances, in the

new location in, on, over, or under the property of the port authority for as long a period and upon the same terms as it had the right to maintain and operate such facilities in their former location.

Effective Date: 07-09-1982.

### **4582.58 Journalization of final actions - public records.**

(A) All final actions of the port authority shall be journalized and the journal and the records of the port authority shall be open to public inspection at all reasonable times. Not later than the first day of April every year, every port authority shall submit a report to the director of development detailing the projects and activities of the port authority during the previous calendar year. The report shall include, but not be limited to, all aspects of those projects and activities, including the progress and status of the projects and their costs, and any other information the director determines should be included in the report.

(B) Financial and proprietary information, including trade secrets, submitted by or on behalf of an employer to a port authority or to a nonprofit corporation engaged by contract to provide economic development services for a port authority, in connection with the relocation, location, expansion, improvement, or preservation of the business of that employer is not a public record subject to section [149.43](#) of the Revised Code. Any other information submitted by such an employer under those circumstances is not a public record subject to section [149.43](#) of the Revised Code until that employer commits in writing to proceed with the relocation, location, expansion, improvement, or preservation.

(C) Notwithstanding section [121.22](#) of the Revised Code, the board of directors of a port authority and the board of trustees of a nonprofit corporation described in division (B) of this section, and any committee or subcommittee of either, when considering information that is not a public record under this section, may close any meeting during the consideration of that information pursuant to a vote of the majority of the members present on a motion stating that such information is to be considered. No other matters shall be considered during the closed session.

Effective Date: 05-17-2000.

### **4582.59 Liberal construction of chapter.**

Sections [4582.22](#) to 4582.59 of the Revised Code and division (C) of section [4582.06](#) of the Revised Code being necessary for the welfare of the state and its inhabitants shall be liberally construed to effect the purposes thereof.

Effective Date: 01-01-2004.

### **4582.60 Meeting by interactive video conference or teleconference.**

(A) The requirement in division (C) of section [121.22](#) of the Revised Code that a member of a public body be present in person at a meeting open to the public in order to be part of a quorum or to vote does not apply to the board of directors of a port authority if the board holds the meeting by interactive video conference or by teleconference in the following manner:

- (1) The board establishes a primary meeting location that is open and accessible to the public;
- (2) Meeting-related materials that are available before the meeting are sent via electronic mail, facsimile, hand-delivery, or United States postal service to each board member;
- (3) In the case of an interactive video conference, the board causes a clear video and audio connection to be established that enables all meeting participants at the primary meeting location to see and hear each board member;
- (4) In the case of a teleconference, the board causes a clear audio connection to be established that enables all meeting participants at the primary meeting location to hear each board member;
- (5) All board members have the capability to receive meeting-related materials that are distributed during a board meeting;
- (6) A roll call voice vote is recorded for each vote taken; and

(7) The minutes of the board meeting identify which board members remotely attended the meeting by interactive video conference or teleconference.

If the board proceeds under this division, use of an interactive video conference is preferred, but nothing in this section prohibits the board from conducting its meetings by teleconference or by a combination of interactive video conference and teleconference at the same meeting.

(B) A port authority board of directors shall adopt rules necessary to implement this section. At a minimum, the rules shall do all of the following:

(1) Authorize board members to remotely attend a board meeting by interactive video conference or teleconference, or by a combination thereof, in lieu of attending the meeting in person;

(2) Establish a minimum number of board members that must be physically present in person at the primary meeting location if the board conducts a meeting by interactive video conference or teleconference;

(3) Require that not more than one board member remotely attending a board meeting by teleconference is permitted to be physically present at the same remote location;

(4) Establish geographic restrictions for participation in meetings by interactive video conference and by teleconference;

(5) Establish a policy for distributing and circulating meeting-related materials to board members, the public, and the media in advance of or during a meeting at which board members are permitted to attend by interactive video conference or teleconference; and

(6) Establish a method for verifying the identity of a board member who remotely attends a meeting by teleconference.

Added by 131st General Assembly File No. TBD, HB 455, §1, eff. 4/6/2017.

## **4582.71 Program fund loans for research and development costs.**

(A) As used in this section:

(1) "Bond proceedings" means, with respect to obligations authorized under this section, the resolutions, certifications and agreements, including without limitation a venture capital agreement, the loan documents and any trust agreements, and any authorized credit enhancement facilities or swaps or other hedging instruments, and amendments or supplements thereto, or to any one or more or combination of them, authorizing, awarding, or providing for the terms and conditions applicable to or providing for the security or liquidity of, the particular obligations, and the provisions contained in those obligations.

(2) "Issuing authority" means a port authority that, pursuant to a venture capital agreement, issues or issued obligations to fund one or more loans to the program fund.

(3) "Loan" means an extension of credit to or in aid of the program fund in any form, including loans to lenders or the purchase of loans, including the purchase for cancellation of any loan, and evidenced in any manner including, without limitation, by a loan agreement, a promissory note, a bond, note, certificate of participation or other security, a letter of credit and reimbursement agreement or other credit facility, or a standby bond or note purchase agreement, line of credit or other liquidity facility, and including, in any event, any related swap or other hedging instrument.

(4) "Obligations" means, as applicable to the issuing authority, bonds, notes, or other forms or evidences of obligation constituting revenue bonds as that term is used in division (A)(4) of section [4582.06](#) of the Revised Code, or port authority revenue bonds as that term is used in section [4582.48](#) and division (A)(8) of section [4582.31](#) of the Revised Code, which obligations are issued by the issuing authority pursuant to the bond proceedings and this section.

(5) "Port authority" means a port authority organized and existing under Chapter 4582. of the Revised Code.

(6) "Research and development costs" means costs of or in support of or related to the implementation of research and development purposes including, without limitation, capital formation, direct operating costs, costs of research and facilities, including interests in real property therefor, and other support, and costs of making grants, loans, including loans to lenders or the purchase of loans, subsidies, contributions, advances or

guarantees, or direct investments in, or payment, or reimbursement from available moneys for, implementing research and development purposes consistent with Section 2p of Article VIII, Ohio Constitution, and the investment policy adopted by the venture capital authority pursuant to section [150.03](#) of the Revised Code, and includes financing charges, amounts necessary to establish the reserves required pursuant to the bond proceedings, interest on loans including loans purchased for cancellation, interest on the obligations from their date until the time determined in the bond proceedings when interest is to be paid from sources other than the proceeds of obligations, legal expenses and other costs of or related to the issuance of obligations, estimates of costs and revenues or other expenses necessary or incident to determining the feasibility or practicability of the financing of any research and development costs with proceeds of obligations or other sources, administrative expenses related to obligations, and the application of the proceeds of obligations, including fees of the issuing authority, any trustee, and any other costs and expenses reasonably necessary or incident thereto or to the financing of research and development costs, and costs described in this division incurred prior to the issuance of obligations and paid, advanced, or borrowed by an issuing authority, the venture capital authority, the program fund or other public or private person or entity, which costs may be reimbursed from the proceeds of such obligations. "Research and development costs" does not include any otherwise qualifying costs that are in support of the purposes provided for in Section 15 of Article VIII, Ohio Constitution.

(7) "Tax credits" means the refundable tax credits authorized by section [150.07](#) of the Revised Code and to be issued by the venture capital authority to any lender.

(8) "Venture capital agreement" means an agreement between the venture capital authority and an issuing authority entered into under division (E) of section [150.02](#) of the Revised Code.

(9) "Venture capital authority" means the Ohio venture capital authority established under section [150.02](#) of the Revised Code.

(10) "Lender," "program fund," and "research and development purposes" have the same meanings as in section [150.01](#) of the Revised Code.

(B) An issuing authority may issue obligations pursuant to this section and Section 2p of Article VIII, Ohio Constitution, to make loans to the program fund to provide for research and development costs. The proceeds of the obligations shall be used to make loans to provide for research and development costs and all such proceeds shall be so used in accordance with the bond proceedings. Activities authorized by Section 2p of Article VIII, Ohio Constitution, shall be authorized purposes of port authorities to the extent necessary for a port authority to act as an issuing authority under this section.

(C) Except to any extent inconsistent with this section, all terms, provisions, and authorizations in Chapter 4582. of the Revised Code as applicable to the issuing authority, and the terms, provisions, and authorizations of sections [9.96](#), [9.98](#), [9.981](#), [9.982](#), and [9.983](#) of the Revised Code apply to the obligations and the bond proceedings except as otherwise provided or provided for in those obligations and bond proceedings. The obligations shall be secured by a trust agreement between the issuing authority and a trustee, and such trust agreement, and the establishment, deposit, investment and application of special funds, and the safeguarding of moneys shall be governed by the bond proceedings and by Chapter 4582. of the Revised Code, as applicable to the issuing authority. Pursuant to the trust agreement and other bond proceedings, there shall be established, in addition to any other special funds in the custody of the trustee, one or more funds into which shall be deposited the proceeds of the obligations and the revenues pledged to the payment of the obligations, including a reserve fund in an amount established in, and to be funded as provided in, the bond proceedings.

(D) The trustee, for the benefit of the issuing authority, may be authorized under the venture capital agreement to receive and claim tax credits in accordance with division (E) of section [150.07](#) of the Revised Code. If the trustee is so authorized, the holders of the obligations, or any book-entry interests therein, shall have no rights with respect to the tax credits except any right established under the applicable trust agreement to direct the trustee to take the actions necessary to receive and claim any available tax credits. Upon receipt of any tax credit certificate issued by the venture capital authority, the trustee shall, within the times required by law, file an appropriate tax return to claim the applicable tax credits and, upon receipt of the proceeds of any such tax credits, shall promptly deposit the proceeds into the funds established in accordance with division (C) of this section.

(E) The obligations do not constitute a debt, or a pledge of the faith and credit, of the state, the issuing authority or any political subdivision of the state, and the holders or owners of the obligations have no right to have taxes levied by the general assembly or the taxing authority of the issuing authority or any political subdivision of the state for the payment of the principal of or interest or any premium on the obligations, but the obligations are

payable solely from the revenues and funds pledged for their payment as authorized in or pursuant to this section and the bond proceedings, and the obligations shall contain on the face thereof a statement to the effect that the obligations, as to principal and interest and any premium, are not debts of the state, the issuing authority, or any political subdivision of the state, but are payable solely from the revenues and funds pledged for their payment.

(F) This section is intended to implement Section 2p of Article VIII, Ohio Constitution, including provision for procedures for incurring and issuing obligations of local public entities and agencies authorized by that section, for the purpose of making loans to the program fund to provide for research and development costs, and shall be liberally construed to effect such purposes. The powers and authorizations granted in this section may be exercised jointly or separately by one or more issuing authorities and are in addition to and supplemental to the powers and authorizations otherwise granted to port authorities under applicable provisions of Chapter 4582. of the Revised Code and shall not be construed as a limitation on any such powers or authorizations.

Added by 128th General Assembly File No.9, HB 1, §101.01, eff. 10/16/2009. .

## **4582.99 [Repealed].**

Effective Date: 01-01-2004.

**BROWNFIELDS ASSESSMENT COALITON**

**MEMORANDUM OF AGREEMENT**

**BETWEEN THE FOLLOWING PARTIES:**

Lawrence County Economic Development Corporation (LEDC), Ironton-Lawrence Community Action Organization (ILCAO) and the Lawrence County Port Authority

This Memorandum of Agreement' documents the roles and responsibilities of the various parties involved in the LEDC Assessment Coalition with regard to an anticipated EPA Cooperative Agreement.

1. In anticipation of an EPA awarded Cooperative Agreement to LEDC, Lead Coalition Member for FY 2020, LEDC is responsible to EPA for management of the cooperative agreement and compliance with the statutes, regulations, and terms and conditions of the award, and ensuring that all members of the coalition are in compliance with the terms and conditions. The grant period is anticipated to be October 1, 2020 through September 30, 2023. LEDC's contact information is below:

Lawrence Economic Development Corporation  
216 Collins Avenue  
South Point, Ohio 45680-0488  
Tel: 740.377.4550  
Fax: 740.377.2091  
Attention: Jeremy Clay  
[Email: jeremy@ledcorp.org](mailto:jeremy@ledcorp.org)

2. It is the responsibility of LEDC to provide timely information to the other Coalition Partners regarding the management of the cooperative agreement and any changes that may be made to the cooperative agreement over the period of performance.
3. The Coalition Partners are LEDC, ILCAO and the Lawrence County Port Authority. The contact information for LEDC is above; contact information for the other Partners is as follows:

ILCAO  
Project Manager: Cindy Anderson  
305 North 5th Street  
Ironton, OH 45638  
(740) 532-3534 Ext 12031  
[canderson@ilcao.org](mailto:canderson@ilcao.org)

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PLEASE NOTE: The following eight items are the MINIMUM elements that must be included in an Assessment Coalition Memorandum of Agreement (MOA). Applicants are responsible for adhering to these elements and signing this MOA prior to the expenditure of any assessment funds. Members may choose to add elements to this MOA. The MOA is required per the Brownfields Assessment Grant Terms and Conditions and must be reviewed by the EPA Project Officer to ensure (1) all required MOA elements are included; (2) all coalition members have signed the MOA; and (3) any additional MOA elements are legal under the Brownfields Law and do not contradict Assessment Grant Terms & Conditions.

Lawrence County Port Authority  
Project Manager: Ralph Kline  
305 North 5th Street  
Ironton, OH 45638  
(740) 532-3534 ext.12033  
[rkline@ilcao.org](mailto:rkline@ilcao.org)

4. Activities funded through the cooperative agreement may include inventory preparation, site selection criteria development, assessments, planning (including cleanup planning) relating to brownfield sites, and outreach materials and implementation, and other eligible activities within Lawrence County, Ohio. The LEDC will procure the consultant(s) in compliance with applicable federal procurement regulations (2 C.F.R. 200 and EPA's rule at 2 C.F.R. 1500) to undertake various activities funded through the cooperative agreement.
5. LEDC, in consultation with the Coalition Partners, will work to develop a site selection process based on agreed upon factors and will ensure that a minimum of five sites are assessed over the life of the cooperative agreement. Selected sites will be submitted to EPA for prior approval to ensure eligibility<sup>1</sup>.
6. Upon designation of the specific sites, it will be the responsibility of LEDC to work with the coalition members to finalize the scope of work for the consultant or contractor. It will be the responsibility of LEDC to obtain all required permits, easements, and/or access agreements as may be necessary to undertake assessments at the selected site.
7. LEDC is responsible for ensuring that other activities as negotiated in the workplan, such as community outreach and involvement, are implemented in accordance with a schedule agreed upon by LEDC. The Coalition Partners are responsible for assistance with community and stakeholder outreach throughout the term of the grant.

Agreed:



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LEDC/Lead Coalition Member  
Bill Dingus, Ph.D., Executive Director

**11/27/2019**  
Date

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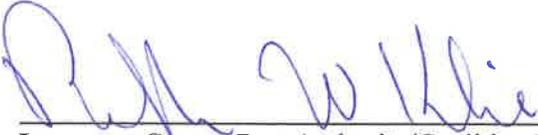
<sup>1</sup> Note: Lead Coalition member and each of the Coalition Partners may agree upon a minimum number of sites assessed per member at the start of the cooperative agreement to ensure equitable distribution of funds across all members' jurisdictions.



ILC AO/Coalition Member  
D.R. Gossett, Executive Director

11/27/19

Date



Lawrence County Port Authority/Coalition Member  
Ralph Kline, Fiscal Secretary

11/26/19

Date

Application for Federal Assistance SF-424		
* 1. Type of Submission: <input type="checkbox"/> Preapplication <input checked="" type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application	* 2. Type of Application: <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision	* If Revision, select appropriate letter(s): <input type="text"/> * Other (Specify): <input type="text"/>
* 3. Date Received: <input type="text" value="12/03/2019"/>	4. Applicant Identifier: <input type="text"/>	
5a. Federal Entity Identifier: <input type="text"/>	5b. Federal Award Identifier: <input type="text"/>	
<b>State Use Only:</b>		
6. Date Received by State: <input type="text"/>	7. State Application Identifier: <input type="text"/>	
<b>8. APPLICANT INFORMATION:</b>		
* a. Legal Name: <input type="text" value="Lawrence Economic Development Corporation"/>		
* b. Employer/Taxpayer Identification Number (EIN/TIN): <input type="text"/>	* c. Organizational DUNS: <input type="text" value="1472162380000"/>	
<b>d. Address:</b>		
* Street1: <input type="text" value="216 Collins Avenue"/>	Street2: <input type="text"/>	
* City: <input type="text" value="South Point"/>	County/Parish: <input type="text" value="Lawrence"/>	
* State: <input type="text" value="OH: Ohio"/>	Province: <input type="text"/>	
* Country: <input type="text" value="USA: UNITED STATES"/>	* Zip / Postal Code: <input type="text" value="45680-8501"/>	
<b>e. Organizational Unit:</b>		
Department Name: <input type="text"/>	Division Name: <input type="text"/>	
<b>f. Name and contact information of person to be contacted on matters involving this application:</b>		
Prefix: <input type="text" value="Mr."/>	* First Name: <input type="text" value="Jeremy"/>	
Middle Name: <input type="text"/>	* Last Name: <input type="text" value="Clay"/>	
Suffix: <input type="text"/>	Title: <input type="text" value="Asst. Director"/>	
Organizational Affiliation: <input type="text" value="Lawrence Economic Development Corporation"/>		
* Telephone Number: <input type="text" value="740-377-4550"/>	Fax Number: <input type="text" value="740-377-2091"/>	
* Email: <input type="text" value="jeremy@ledcorp.com"/>		

**Application for Federal Assistance SF-424**

**\* 9. Type of Applicant 1: Select Applicant Type:**

M: Nonprofit with 501C3 IRS Status (Other than Institution of Higher Education)

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

\* Other (specify):

**\* 10. Name of Federal Agency:**

Environmental Protection Agency

**11. Catalog of Federal Domestic Assistance Number:**

66.818

CFDA Title:

Brownfields Assessment and Cleanup Cooperative Agreements

**\* 12. Funding Opportunity Number:**

EPA-OLEM-OBLR-19-05

\* Title:

FY20 GUIDELINES FOR BROWNFIELD ASSESSMENT GRANTS

**13. Competition Identification Number:**

Title:

**14. Areas Affected by Project (Cities, Counties, States, etc.):**

Add Attachment

Delete Attachment

View Attachment

**\* 15. Descriptive Title of Applicant's Project:**

FY2020 Lawrence Economic Development Corporation Assessment Grant

Attach supporting documents as specified in agency instructions.

Add Attachments

Delete Attachments

View Attachments

**Application for Federal Assistance SF-424**

**16. Congressional Districts Of:**

\* a. Applicant

\* b. Program/Project

Attach an additional list of Program/Project Congressional Districts if needed.

Add Attachment

Delete Attachment

View Attachment

**17. Proposed Project:**

\* a. Start Date:

\* b. End Date:

**18. Estimated Funding (\$):**

* a. Federal	<input type="text" value="600,000.00"/>
* b. Applicant	<input type="text" value="0.00"/>
* c. State	<input type="text" value="0.00"/>
* d. Local	<input type="text" value="0.00"/>
* e. Other	<input type="text" value="0.00"/>
* f. Program Income	<input type="text" value="0.00"/>
* g. TOTAL	<input type="text" value="600,000.00"/>

**\* 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

a. This application was made available to the State under the Executive Order 12372 Process for review on

b. Program is subject to E.O. 12372 but has not been selected by the State for review.

c. Program is not covered by E.O. 12372.

**\* 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**

Yes  No

If "Yes", provide explanation and attach

Add Attachment

Delete Attachment

View Attachment

**21. \*By signing this application, I certify (1) to the statements contained in the list of certifications\*\* and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances\*\* and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

\*\* I AGREE

\*\* The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

**Authorized Representative:**

Prefix:  \* First Name:

Middle Name:

\* Last Name:

Suffix:

\* Title:

\* Telephone Number:  Fax Number:

\* Email:

\* Signature of Authorized Representative:  \* Date Signed: