

# As Passed by the House

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**SENATORS Hottinger, Wachtmann, Nein, Johnson**

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**Buehrer, Hagan, Seitz, Olman, Carmichael, Faber, Collier, Clancy, Evans,**

**Gilb, Lendrum**

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## A BILL

To amend sections 723.01, 1533.18, 2744.01, 2744.02, 1  
2744.03, 2744.04, 2744.05, 2744.06, 2744.07, 2  
4582.27, 5511.01, 5591.36, and 5591.37 of the 3  
Revised Code to include as governmental functions 4  
under the Political Subdivision Sovereign Immunity 5  
Law the design, construction, reconstruction, 6  
renovation, repair, maintenance, and operation of 7  
any school athletic facility, school auditorium, or 8  
gymnasium and the designation, establishment, 9  
design, construction, implementation, operation, 10  
repair, or maintenance of railroad quiet zones; to 11  
expand the motor vehicle operation liability of 12  
political subdivisions to include liability for 13  
harm caused by negligent operation other than upon 14  
public roads; to provide a procedure to determine 15  
when a political subdivision is obliged to defend 16  
an employee during a civil action; to make changes 17  
proposed by Am. Sub. H.B. 350 of the 121st General 18  
Assembly to the Political Subdivision Sovereign 19  
Immunity Law; and to specify that the operation of 20  
a snowmobile or all-purpose vehicle is a 21

recreational activity subject to a landowner's 22  
immunity from liability for a recreational user's 23  
injuries. 24

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

**Section 1.** That sections 723.01, 1533.18, 2744.01, 2744.02, 25  
2744.03, 2744.04, 2744.05, 2744.06, 2744.07, 4582.27, 5511.01, 26  
5591.36, and 5591.37 of the Revised Code be amended to read as 27  
follows: 28

**Sec. 723.01.** Municipal corporations shall have special power 29  
to regulate the use of the streets. Except as provided in section 30  
5501.49 of the Revised Code, the legislative authority of a 31  
municipal corporation shall have the care, supervision, and 32  
control of the public highways, streets, avenues, alleys, 33  
sidewalks, public grounds, bridges, aqueducts, and viaducts within 34  
the municipal corporation, ~~and the municipal corporation shall~~ 35  
~~cause them to be kept open, in repair, and free from nuisance. The~~ 36  
liability or immunity from liability of a municipal corporation 37  
for injury, death, or loss to person or property allegedly caused 38  
by a failure to perform the responsibilities imposed by this 39  
section shall be determined pursuant to divisions (A) and (B)(3) 40  
of section 2744.02 of the Revised Code. 41

**Sec. 1533.18.** As used in sections 1533.18 and 1533.181 of the 42  
Revised Code: 43

(A) "Premises" means all privately-owned lands, ways, and 44  
waters, and any buildings and structures thereon, and all 45  
state-owned lands, ways, and waters leased to a private person, 46  
firm, or organization, ~~or corporation~~, including any buildings and 47  
structures thereon. 48

(B) "Recreational user" means a person to whom permission has been granted, without the payment of a fee or consideration to the owner, lessee, or occupant of premises, other than a fee or consideration paid to the state or any agency ~~thereof~~ of the state, to enter upon premises to hunt, fish, trap, camp, hike, swim, operate a snowmobile or all-purpose vehicle, or engage in other recreational pursuits.

(C) "All-purpose vehicle" has the same meaning as in section 4519.01 of the Revised Code.

**Sec. 2744.01.** As used in this chapter:

(A) "Emergency call" means a call to duty, including, but not limited to, communications from citizens, police dispatches, and personal observations by peace officers of inherently dangerous situations that demand an immediate response on the part of a peace officer.

(B) "Employee" means an officer, agent, employee, or servant, whether or not compensated or full-time or part-time, who is authorized to act and is acting within the scope of the officer's, agent's, employee's, or servant's employment for a political subdivision. "Employee" does not include an independent contractor and does not include any individual engaged by a school district pursuant to section 3319.301 of the Revised Code. "Employee" includes any elected or appointed official of a political subdivision. "Employee" also includes a person who has been convicted of or pleaded guilty to a criminal offense and who has been sentenced to perform community service work in a political subdivision whether pursuant to section 2951.02 of the Revised Code or otherwise, and a child who is found to be a delinquent child and who is ordered by a juvenile court pursuant to section 2152.19 or 2152.20 of the Revised Code to perform community service or community work in a political subdivision.

(C)(1) "Governmental function" means a function of a political subdivision that is specified in division (C)(2) of this section or that satisfies any of the following:

(a) A function that is imposed upon the state as an obligation of sovereignty and that is performed by a political subdivision voluntarily or pursuant to legislative requirement;

(b) A function that is for the common good of all citizens of the state;

(c) A function that promotes or preserves the public peace, health, safety, or welfare; that involves activities that are not engaged in or not customarily engaged in by nongovernmental persons; and that is not specified in division (G)(2) of this section as a proprietary function.

(2) A "governmental function" includes, but is not limited to, the following:

(a) The provision or nonprovision of police, fire, emergency medical, ambulance, and rescue services or protection;

(b) The power to preserve the peace; to prevent and suppress riots, disturbances, and disorderly assemblages; to prevent, mitigate, and clean up releases of oil and hazardous and extremely hazardous substances as defined in section 3750.01 of the Revised Code; and to protect persons and property;

(c) The provision of a system of public education;

(d) The provision of a free public library system;

(e) The regulation of the use of, and the maintenance and repair of, roads, highways, streets, avenues, alleys, sidewalks, bridges, aqueducts, viaducts, and public grounds;

(f) Judicial, quasi-judicial, prosecutorial, legislative, and quasi-legislative functions;

(g) The construction, reconstruction, repair, renovation,	109
maintenance, and operation of buildings that are used in	110
connection with the performance of a governmental function,	111
including, but not limited to, office buildings and courthouses;	112
(h) The design, construction, reconstruction, renovation,	113
repair, maintenance, and operation of jails, places of juvenile	114
detention, workhouses, or any other detention facility, as defined	115
in section 2921.01 of the Revised Code;	116
(i) The enforcement or nonperformance of any law;	117
(j) The regulation of traffic, and the erection or	118
nonerection of traffic signs, signals, or control devices;	119
(k) The collection and disposal of solid wastes, as defined	120
in section 3734.01 of the Revised Code, including, but not limited	121
to, the operation of solid waste disposal facilities, as	122
"facilities" is defined in that section, and the collection and	123
management of hazardous waste generated by households. As used in	124
division (C)(2)(k) of this section, "hazardous waste generated by	125
households" means solid waste originally generated by individual	126
households that is listed specifically as hazardous waste in or	127
exhibits one or more characteristics of hazardous waste as defined	128
by rules adopted under section 3734.12 of the Revised Code, but	129
that is excluded from regulation as a hazardous waste by those	130
rules.	131
(l) The provision or nonprovision, planning or design,	132
construction, or reconstruction of a public improvement,	133
including, but not limited to, a sewer system;	134
(m) The operation of a job and family services department or	135
agency, including, but not limited to, the provision of assistance	136
to aged and infirm persons and to persons who are indigent;	137
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(n) The operation of a health board, department, or agency,	139

including, but not limited to, any statutorily required or 140  
permissive program for the provision of immunizations or other 141  
inoculations to all or some members of the public, provided that a 142  
"governmental function" does not include the supply, manufacture, 143  
distribution, or development of any drug or vaccine employed in 144  
any such immunization or inoculation program by any supplier, 145  
manufacturer, distributor, or developer of the drug or vaccine; 146

(o) The operation of mental health facilities, mental 147  
retardation or developmental disabilities facilities, alcohol 148  
treatment and control centers, and children's homes or agencies; 149

(p) The provision or nonprovision of inspection services of 150  
all types, including, but not limited to, inspections in 151  
connection with building, zoning, sanitation, fire, plumbing, and 152  
electrical codes, and the taking of actions in connection with 153  
those types of codes, including, but not limited to, the approval 154  
of plans for the construction of buildings or structures and the 155  
issuance or revocation of building permits or stop work orders in 156  
connection with buildings or structures; 157

(q) Urban renewal projects and the elimination of slum 158  
conditions; 159

(r) Flood control measures; 160

(s) The design, construction, reconstruction, renovation, 161  
operation, care, repair, and maintenance of a township cemetery; 162

(t) The issuance of revenue obligations under section 140.06 163  
of the Revised Code; 164

(u) The design, construction, reconstruction, renovation, 165  
repair, maintenance, and operation of any school athletic 166  
facility, school auditorium, or gymnasium or any recreational area 167  
or facility, including, but not limited to, any of the following: 168

(i) A park, playground, or playfield; 169

(ii) An indoor recreational facility;	170
(iii) A zoo or zoological park;	171
(iv) A bath, swimming pool, pond, water park, wading pool, wave pool, water slide, or other type of aquatic facility;	172 173
(v) A golf course;	174
(vi) A bicycle motocross facility or other type of recreational area or facility in which bicycling, skating, skate boarding, or scooter riding is engaged;	175 176 177
(vii) A rope course or climbing walls;	178
(viii) An all-purpose vehicle facility in which all-purpose vehicles, as defined in section 4519.01 of the Revised Code, are contained, maintained, or operated for recreational activities.	179 180 181
(v) The provision of public defender services by a county or joint county public defender's office pursuant to Chapter 120. of the Revised Code;	182 183 184
<u>(w)(i) At any time before regulations prescribed pursuant to 49 U.S.C.A 20153 become effective, the designation, establishment, design, construction, implementation, operation, repair, or maintenance of a public road rail crossing in a zone within a municipal corporation in which, by ordinance, the legislative authority of the municipal corporation regulates the sounding of locomotive horns, whistles, or bells;</u>	185 186 187 188 189 190 191
<u>(ii) On and after the effective date of regulations prescribed pursuant to 49 U.S.C.A. 20153, the designation, establishment, design, construction, implementation, operation, repair, or maintenance of a public road rail crossing in such a zone or of a supplementary safety measure, as defined in 49 U.S.C.A 20153, at or for a public road rail crossing, if and to the extent that the public road rail crossing is excepted, pursuant to subsection (c) of that section, from the requirement</u>	192 193 194 195 196 197 198 199

of the regulations prescribed under subsection (b) of that 200  
section. 201

(x) A function that the general assembly mandates a political 202  
subdivision to perform. 203

(D) "Law" means any provision of the constitution, statutes, 204  
or rules of the United States or of this state; provisions of 205  
charters, ordinances, resolutions, and rules of political 206  
subdivisions; and written policies adopted by boards of education. 207  
When used in connection with the "common law," this definition 208  
does not apply. 209

(E) "Motor vehicle" has the same meaning as in section 210  
4511.01 of the Revised Code. 211

(F) "Political subdivision" or "subdivision" means a 212  
municipal corporation, township, county, school district, or other 213  
body corporate and politic responsible for governmental activities 214  
in a geographic area smaller than that of the state. "Political 215  
subdivision" includes, but is not limited to, a county hospital 216  
commission appointed under section 339.14 of the Revised Code, 217  
regional planning commission created pursuant to section 713.21 of 218  
the Revised Code, county planning commission created pursuant to 219  
section 713.22 of the Revised Code, joint planning council created 220  
pursuant to section 713.231 of the Revised Code, interstate 221  
regional planning commission created pursuant to section 713.30 of 222  
the Revised Code, port authority created pursuant to section 223  
4582.02 or 4582.26 of the Revised Code or in existence on December 224  
16, 1964, regional council established by political subdivisions 225  
pursuant to Chapter 167. of the Revised Code, emergency planning 226  
district and joint emergency planning district designated under 227  
section 3750.03 of the Revised Code, joint emergency medical 228  
services district created pursuant to section 307.052 of the 229  
Revised Code, fire and ambulance district created pursuant to 230  
section 505.375 of the Revised Code, joint interstate emergency 231

planning district established by an agreement entered into under 232  
that section, county solid waste management district and joint 233  
solid waste management district established under section 343.01 234  
or 343.012 of the Revised Code, and community school established 235  
under Chapter 3314. of the Revised Code. 236

(G)(1) "Proprietary function" means a function of a political 237  
subdivision that is specified in division (G)(2) of this section 238  
or that satisfies both of the following: 239

(a) The function is not one described in division (C)(1)(a) 240  
or (b) of this section and is not one specified in division (C)(2) 241  
of this section; 242

(b) The function is one that promotes or preserves the public 243  
peace, health, safety, or welfare and that involves activities 244  
that are customarily engaged in by nongovernmental persons. 245

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(2) A "proprietary function" includes, but is not limited to, 247  
the following: 248

(a) The operation of a hospital by one or more political 249  
subdivisions; 250

(b) The design, construction, reconstruction, renovation, 251  
repair, maintenance, and operation of a public cemetery other than 252  
a township cemetery; 253

(c) The establishment, maintenance, and operation of a 254  
utility, including, but not limited to, a light, gas, power, or 255  
heat plant, a railroad, a busline or other transit company, an 256  
airport, and a municipal corporation water supply system; 257

(d) The maintenance, destruction, operation, and upkeep of a 258  
sewer system; 259

(e) The operation and control of a public stadium, 260  
auditorium, civic or social center, exhibition hall, arts and 261

crafts center, band or orchestra, or off-street parking facility. 262

(H) "Public roads" means public roads, highways, streets, 263  
avenues, alleys, and bridges within a political subdivision. 264  
"Public roads" does not include berms, shoulders, rights-of-way, 265  
or traffic control devices unless the traffic control devices are 266  
mandated by the Ohio manual of uniform traffic control devices. 267

(I) "State" means the state of Ohio, including, but not 268  
limited to, the general assembly, the supreme court, the offices 269  
of all elected state officers, and all departments, boards, 270  
offices, commissions, agencies, colleges and universities, 271  
institutions, and other instrumentalities of the state of Ohio. 272  
"State" does not include political subdivisions. 273

**Sec. 2744.02.** (A)(1) For the purposes of this chapter, the 274  
functions of political subdivisions are hereby classified as 275  
governmental functions and proprietary functions. Except as 276  
provided in division (B) of this section, a political subdivision 277  
is not liable in damages in a civil action for injury, death, or 278  
loss to person or property allegedly caused by any act or omission 279  
of the political subdivision or an employee of the political 280  
subdivision in connection with a governmental or proprietary 281  
function. 282

(2) Subject to statutory limitations upon their monetary 283  
jurisdiction, the courts of common pleas, the municipal courts, 284  
and the county courts have jurisdiction to hear and determine 285  
civil actions governed by or brought pursuant to this chapter. 286

(B) Subject to sections 2744.03 and 2744.05 of the Revised 287  
Code, a political subdivision is liable in damages in a civil 288  
action for injury, death, or loss to person or property allegedly 289  
caused by an act or omission of the political subdivision or of 290  
any of its employees in connection with a governmental or 291  
proprietary function, as follows: 292

(1) Except as otherwise provided in this division, political subdivisions are liable for injury, death, or loss to person or property caused by the negligent operation of any motor vehicle by their employees ~~upon the public roads, highways, or streets~~ when the employees are engaged within the scope of their employment and authority. The following are full defenses to that liability:

(a) A member of a municipal corporation police department or any other police agency was operating a motor vehicle while responding to an emergency call and the operation of the vehicle did not constitute willful or wanton misconduct;

(b) A member of a municipal corporation fire department or any other firefighting agency was operating a motor vehicle while engaged in duty at a fire, proceeding toward a place where a fire is in progress or is believed to be in progress, or answering any other emergency alarm and the operation of the vehicle did not constitute willful or wanton misconduct;

(c) A member of an emergency medical service owned or operated by a political subdivision was operating a motor vehicle while responding to or completing a call for emergency medical care or treatment, the member was holding a valid commercial driver's license issued pursuant to Chapter 4506. or a driver's license issued pursuant to Chapter 4507. of the Revised Code, the operation of the vehicle did not constitute willful or wanton misconduct, and the operation complies with the precautions of section 4511.03 of the Revised Code.

(2) Except as otherwise provided in sections 3314.07 and 3746.24 of the Revised Code, political subdivisions are liable for injury, death, or loss to person or property caused by the negligent performance of acts by their employees with respect to proprietary functions of the political subdivisions.

(3) Except as otherwise provided in section 3746.24 of the

Revised Code, political subdivisions are liable for injury, death,  
or loss to person or property caused by their negligent failure to  
keep public roads, ~~highways, streets, avenues, alleys, sidewalks,~~  
~~bridges, aqueducts, viaducts, or public grounds within the~~  
~~political subdivisions open, in repair, and free from nuisance and~~  
other negligent failure to remove obstructions from public roads,  
except that it is a full defense to that liability, when a bridge  
within a municipal corporation is involved, that the municipal  
corporation does not have the responsibility for maintaining or  
inspecting the bridge.

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(4) Except as otherwise provided in section 3746.24 of the  
Revised Code, political subdivisions are liable for injury, death,  
or loss to person or property that is caused by the negligence of  
their employees and that occurs within or on the grounds of, and  
is due to physical defects within or on the grounds of, buildings  
that are used in connection with the performance of a governmental  
function, including, but not limited to, office buildings and  
courthouses, but not including jails, places of juvenile  
detention, workhouses, or any other detention facility, as defined  
in section 2921.01 of the Revised Code.

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(5) In addition to the circumstances described in divisions  
(B)(1) to (4) of this section, a political subdivision is liable  
for injury, death, or loss to person or property when civil  
liability is expressly imposed upon the political subdivision by a  
section of the Revised Code, including, but not limited to,  
sections 2743.02 and 5591.37 of the Revised Code. ~~Liability~~ Civil  
liability shall not be construed to exist under another section of  
the Revised Code merely because that section imposes a  
responsibility ~~is imposed or mandatory duty~~ upon a political  
subdivision ~~or, because that section provides for a criminal~~  
penalty, because of a general authorization in that section that a  
political subdivision may sue and be sued, or because that section

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uses the term "shall" in a provision pertaining to a political subdivision. 356  
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(C) An order that denies a political subdivision or an employee of a political subdivision the benefit of an alleged immunity from liability as provided in this chapter or any other provision of the law is a final order. 358  
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**Sec. 2744.03.** (A) In a civil action brought against a 362  
political subdivision or an employee of a political subdivision to 363  
recover damages for injury, death, or loss to ~~persons~~ person or 364  
property allegedly caused by any act or omission in connection 365  
with a governmental or proprietary function, the following 366  
defenses or immunities may be asserted to establish nonliability: 367

(1) The political subdivision is immune from liability if the 368  
employee involved was engaged in the performance of a judicial, 369  
quasi-judicial, prosecutorial, legislative, or quasi-legislative 370  
function. 371

(2) The political subdivision is immune from liability if the 372  
conduct of the employee involved, other than negligent conduct, 373  
that gave rise to the claim of liability was required by law or 374  
authorized by law, or if the conduct of the employee involved that 375  
gave rise to the claim of liability was necessary or essential to 376  
the exercise of powers of the political subdivision or employee. 377  
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(3) The political subdivision is immune from liability if the 379  
action or failure to act by the employee involved that gave rise 380  
to the claim of liability was within the discretion of the 381  
employee with respect to policy-making, planning, or enforcement 382  
powers by virtue of the duties and responsibilities of the office 383  
or position of the employee. 384

(4) The political subdivision is immune from liability if the 385  
action or failure to act by the political subdivision or employee 386

involved that gave rise to the claim of liability resulted in  
injury or death to a person who had been convicted of or pleaded  
guilty to a criminal offense and who, at the time of the injury or  
death, was serving any portion of the person's sentence by  
performing community service work for or in the political  
subdivision whether pursuant to section 2951.02 of the Revised  
Code or otherwise, or resulted in injury or death to a child who  
was found to be a delinquent child and who, at the time of the  
injury or death, was performing community service or community  
work for or in a political subdivision in accordance with the  
order of a juvenile court entered pursuant to section 2152.19 or  
2152.20 of the Revised Code, and if, at the time of the person's  
or child's injury or death, the person or child was covered for  
purposes of Chapter 4123. of the Revised Code in connection with  
the community service or community work for or in the political  
subdivision.

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(5) The political subdivision is immune from liability if the  
injury, death, or loss to ~~persons~~ person or property resulted from  
the exercise of judgment or discretion in determining whether to  
acquire, or how to use, equipment, supplies, materials, personnel,  
facilities, and other resources unless the judgment or discretion  
was exercised with malicious purpose, in bad faith, or in a wanton  
or reckless manner.

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(6) In addition to any immunity or defense referred to in  
division (A)(7) of this section and in circumstances not covered  
by that division or sections 3314.07 and 3746.24 of the Revised  
Code, the employee is immune from liability unless one of the  
following applies:

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(a) The employee's acts or omissions were manifestly outside  
the scope of the employee's employment or official  
responsibilities;

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(b) The employee's acts or omissions were with malicious

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purpose, in bad faith, or in a wanton or reckless manner;

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(c) ~~Liability~~ Civil liability is expressly imposed upon the employee by a section of the Revised Code. Civil liability shall not be construed to exist under another section of the Revised Code merely because that section imposes a responsibility or mandatory duty upon an employee, because that section provides for a criminal penalty, because of a general authorization in that section that an employee may sue and be sued, or because the section uses the term "shall" in a provision pertaining to an employee.

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(7) The political subdivision, and an employee who is a county prosecuting attorney, city director of law, village solicitor, or similar chief legal officer of a political subdivision, an assistant of any such person, or a judge of a court of this state is entitled to any defense or immunity available at common law or established by the Revised Code.

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(B) Any immunity or defense conferred upon, or referred to in connection with, an employee by division (A)(6) or (7) of this section does not affect or limit any liability of a political subdivision for an act or omission of the employee as provided in section 2744.02 of the Revised Code.

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**Sec. 2744.04.** (A) An action against a political subdivision to recover damages for injury, death, or loss to ~~persons~~ person or property allegedly caused by any act or omission in connection with a governmental or proprietary function, whether brought as an original action, cross-claim, counterclaim, third-party claim, or claim for subrogation, shall be brought within two years after the cause of action ~~arose~~ accrues, or within any applicable shorter period of time for bringing the action provided by the Revised Code. The period of limitation contained in this division shall be tolled pursuant to section 2305.16 of the Revised Code. This

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division applies to actions brought against political subdivisions 450  
by all persons, governmental entities, and the state. 451

(B) In the complaint filed in a civil action against a 452  
political subdivision or an employee of a political subdivision to 453  
recover damages for injury, death, or loss to ~~persons~~ person or 454  
property allegedly caused by an act or omission in connection with 455  
a governmental or proprietary function, whether filed in an 456  
original action, cross-claim, counterclaim, third-party claim, or 457  
claim for subrogation, the complainant shall include a demand for 458  
a judgment for the damages that the judge in a nonjury trial or 459  
the jury in a jury trial finds that the complainant is entitled to 460  
be awarded, but shall not specify in that demand any monetary 461  
amount for damages sought. 462

**Sec. 2744.05.** Notwithstanding any other provisions of the 463  
Revised Code or rules of a court to the contrary, in an action 464  
against a political subdivision to recover damages for injury, 465  
death, or loss to person or property caused by an act or omission 466  
in connection with a governmental or proprietary function: 467

(A) Punitive or exemplary damages shall not be awarded. 468

(B)(1) If a claimant receives or is entitled to receive 469  
benefits for injuries or loss allegedly incurred from a policy or 470  
policies of insurance or any other source, the benefits shall be 471  
disclosed to the court, and the amount of the benefits shall be 472  
deducted from any award against a political subdivision recovered 473  
by that claimant. No insurer or other person is entitled to bring 474  
an action under a subrogation provision in an insurance or other 475  
contract against a political subdivision with respect to those 476  
benefits. 477

The amount of the benefits shall be deducted from an award 478  
against a political subdivision under division (B)(1) of this 479

section regardless of whether the claimant may be under an 480  
obligation to pay back the benefits upon recovery, in whole or in 481  
part, for the claim. A claimant whose benefits have been deducted 482  
from an award under division (B)(1) of this section is not 483  
considered fully compensated and shall not be required to 484  
reimburse a subrogated claim for benefits deducted from an award 485  
pursuant to division (B)(1) of this section. 486

(2) Nothing in ~~this~~ division (B)(1) of this section shall be 487  
construed to do either of the following: 488

~~(1)~~(a) Limit the rights of a beneficiary under a life 489  
insurance policy or the rights of sureties under fidelity or 490  
surety bonds; 491

~~(2)~~(b) Prohibit the department of job and family services 492  
from recovering from the political subdivision, pursuant to 493  
section 5101.58 of the Revised Code, the cost of medical 494  
assistance benefits provided under Chapter 5107., 5111., or 5115. 495  
of the Revised Code. 496

(C)(1) There shall not be any limitation on compensatory 497  
damages that represent the actual loss of the person who is 498  
awarded the damages. However, except in wrongful death actions 499  
brought pursuant to Chapter 2125. of the Revised Code, damages 500  
that arise from the same cause of action, transaction or 501  
occurrence, or series of transactions or occurrences and that do 502  
not represent the actual loss of the person who is awarded the 503  
damages shall not exceed two hundred fifty thousand dollars in 504  
favor of any one person. The limitation on damages that do not 505  
represent the actual loss of the person who is awarded the damages 506  
provided in this division does not apply to court costs that are 507  
awarded to a plaintiff, or to interest on a judgment rendered in 508  
favor of a plaintiff, in an action against a political 509  
subdivision. 510

(2) As used in this division, "the actual loss of the person who is awarded the damages" includes all of the following:

(a) All wages, salaries, or other compensation lost by the person injured as a result of the injury, including wages, salaries, or other compensation lost as of the date of a judgment and future expected lost earnings of the person injured;

(b) All expenditures of the person injured or another person on behalf of the person injured for medical care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations that were necessary because of the injury;

(c) All expenditures to be incurred in the future, as determined by the court, by the person injured or another person on behalf of the person injured for medical care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations that will be necessary because of the injury;

(d) All expenditures of a person whose property was injured or destroyed or of another person on behalf of the person whose property was injured or destroyed in order to repair or replace the property that was injured or destroyed;

(e) All expenditures of the person injured or of the person whose property was injured or destroyed or of another person on behalf of the person injured or of the person whose property was injured or destroyed in relation to the actual preparation or presentation of the claim involved;

(f) Any other expenditures of the person injured or of the person whose property was injured or destroyed or of another person on behalf of the person injured or of the person whose property was injured or destroyed that the court determines represent an actual loss experienced because of the personal or

property injury or property loss. 542

"The actual loss of the person who is awarded the damages" 543  
does not include any fees paid or owed to an attorney for any 544  
services rendered in relation to a personal or property injury or 545  
property loss, and does not include any damages awarded for pain 546  
and suffering, for the loss of society, consortium, companionship, 547  
care, assistance, attention, protection, advice, guidance, 548  
counsel, instruction, training, or education of the person 549  
injured, for mental anguish, or for any other intangible loss. 550

**Sec. 2744.06.** (A) Real or personal property, and moneys, 551  
accounts, deposits, or investments of a political subdivision are 552  
not subject to execution, judicial sale, garnishment, or 553  
attachment to satisfy a judgment rendered against a political 554  
subdivision in a civil action to recover damages for injury, 555  
death, or loss to person or property caused by an act or omission 556  
of the political subdivision or any of its employees in connection 557  
with a governmental or proprietary function. ~~Such~~ Those judgments 558  
shall be paid from funds of the political subdivisions that have 559  
been appropriated for that purpose, but, if sufficient funds are 560  
not currently appropriated for the payment of judgments, the 561  
fiscal officer of a political subdivision shall certify the amount 562  
of any unpaid judgments to the taxing authority of the political 563  
subdivision for inclusion in the next succeeding budget and annual 564  
appropriation measure and payment in the next succeeding fiscal 565  
year as provided by section 5705.08 of the Revised Code, unless 566  
any ~~such~~ judgment is to be paid from the proceeds of bonds issued 567  
pursuant to section 133.14 of the Revised Code or pursuant to 568  
annual installments authorized by division (B) or (C) of this 569  
section. 570

(B)(1)(a) As used in this division, "the actual loss of the 571  
person who is awarded the damages" includes all of the following: 572

(i) All wages, salaries, or other compensation lost by the person injured as a result of the injury, as of the date of the judgment;

(ii) All expenditures of the person injured or of another person on behalf of the person injured for medical care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations that were necessary because of the injury;

(iii) All expenditures of a person whose property was injured or destroyed or of another person on behalf of the person whose property was injured or destroyed in order to repair or replace the property that was injured or destroyed;

(iv) All expenditures of the person injured or whose property was injured or destroyed or of another person on behalf of the person injured or whose property was injured or destroyed in relation to the actual preparation or presentation of the person's claim;

(v) Any other expenditures of the person injured or whose property was injured or destroyed or of another person on behalf of the person injured or whose property was injured or destroyed that the court determines represent an actual loss experienced because of the personal or property injury or property loss.

(b) As used in this division, "the actual loss of the person who is awarded the damages" does not include any of the following:

(i) Wages, salaries, or other compensation lost by the person injured as a result of the injury, that are future expected earnings of ~~such a~~ that person;

(ii) Expenditures to be incurred in the future, as determined by the court, by the person injured or by another person on behalf of the person injured for medical care or treatment, for rehabilitation services, or for other care, treatment, services,

products, or accommodations that will be necessary because of the  
injury;

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(iii) Any fees paid or owed to an attorney for any services  
rendered in relation to a personal or property injury or property  
loss;

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(iv) Any damages awarded for pain and suffering, for the loss  
of society, consortium, companionship, care, assistance,  
attention, protection, advice, guidance, counsel, instruction,  
training, or education of the person injured, for mental anguish,  
or for any other intangible loss.

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(2) Except as specifically provided to the contrary in this  
division, a court that renders a judgment against a political  
subdivision as described in division (A) of this section and that  
is not in favor of the state may authorize the political  
subdivision, upon the motion of the political subdivision, to pay  
the judgment or a specified portion of the judgment in annual  
installments over a period not to exceed ten years, subject to the  
payment of interest at the rate specified in division (A) of  
section 1343.03 of the Revised Code. A court shall not authorize  
the payment in installments under this division of any portion of  
a judgment or entire judgment that represents the actual loss of  
the person who is awarded the damages.

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Additionally, a court shall not authorize the payment in  
installments under this division of any portion of a judgment or  
entire judgment that does not represent the actual loss of the  
person who is awarded the damages unless the court, after  
balancing the interests of the political subdivision and of the  
person in whose favor the judgment was rendered, determines that  
installment payments would be appropriate under the circumstances  
and would not be unjust to the person in whose favor the judgment  
was rendered. If a court makes ~~such a~~ that determination, it shall  
fix the amount of the installment payments in ~~such a manner as to~~

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~~achieve that achieves~~ for the person in whose favor the judgment 636  
was rendered, the same economic result over the period as that 637  
person would have received if the judgment or portion of the 638  
judgment subject to the installment payments had been paid in a 639  
lump sum payment. 640

(C) At the option of a political subdivision, a judgment as 641  
described in division (A) of this section and that is rendered in 642  
favor of the state may be paid in equal annual installments over a 643  
period not to exceed ten years, without the payment of interest. 644

**Sec. 2744.07.** (A)(1) Except as otherwise provided in this 645  
division, a political subdivision shall provide for the defense of 646  
an employee, in any state or federal court, in any civil action or 647  
proceeding ~~to recover~~ which contains an allegation for damages for 648  
injury, death, or loss to ~~persons~~ person or property ~~allegedly~~ 649  
caused by an act or omission of the employee in connection with a 650  
governmental or proprietary function. The political subdivision 651  
has the duty to defend the employee if the act or omission 652  
occurred ~~or is alleged to have occurred~~ while the employee was 653  
acting both in good faith and not manifestly outside the scope of 654  
~~his~~ employment or official responsibilities. Amounts expended by a 655  
political subdivision in the defense of its employees shall be 656  
from funds appropriated for this purpose or from proceeds of 657  
insurance. The duty to provide for the defense of an employee 658  
specified in this division does not apply in a civil action or 659  
proceeding that is commenced by or on behalf of a political 660  
subdivision. 661

(2) Except as otherwise provided in this division, a 662  
political subdivision shall indemnify and hold harmless an 663  
employee in the amount of any judgment, other than a judgment for 664  
punitive or exemplary damages, that is obtained against the 665  
employee in a state or federal court or as a result of a law of a 666  
foreign jurisdiction and that is for damages for injury, death, or 667

loss to ~~persons~~ person or property caused by an act or omission in  
connection with a governmental or proprietary function, if at the  
time of the act or omission the employee was acting in good faith  
and within the scope of ~~his~~ employment or official  
responsibilities.

(B)(1) A political subdivision may enter into a consent  
judgment or settlement and may secure releases from liability for  
itself or an employee, with respect to any claim for injury,  
death, or loss to ~~persons~~ person or property caused by an act or  
omission in connection with a governmental or proprietary  
function.

(2) No action or appeal of any kind shall be brought by any  
person, including any employee or a taxpayer, with respect to the  
decision of a political subdivision pursuant to division (B)(1) of  
this section whether to enter into a consent judgment or  
settlement or to secure releases, or concerning the amount and  
circumstances of a consent judgment or settlement. Amounts  
expended for any settlement shall be from funds appropriated for  
this purpose.

(C) If a political subdivision refuses to provide an employee  
with a defense in a civil action or proceeding as described in  
division (A)(1) of this section, ~~the employee may file, in the  
court of common pleas of the county in which the political  
subdivision is located, an action seeking a determination as to  
the appropriateness of the refusal of the political subdivision to  
provide him with a defense under that division. upon the motion of  
the political subdivision, the court shall conduct a hearing  
regarding the political subdivision's duty to defend the employee  
in that civil action. The political subdivision shall file the  
motion within thirty days of the close of discovery in the action.  
After the motion is filed, the employee shall have not less than  
thirty days to respond to the motion.~~

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At the request of the political subdivision or the employee, 701  
the court shall order the motion to be heard at an oral hearing. 702  
At the hearing on the motion, the court shall consider all 703  
evidence and arguments submitted by the parties. In determining 704  
whether a political subdivision has a duty to defend the employee 705  
in the action, the court shall determine whether the employee was 706  
acting both in good faith and not manifestly outside the scope of 707  
employment or official responsibilities. The pleadings shall not 708  
be determinative of whether the employee acted in good faith or 709  
was manifestly outside the scope of employment or official 710  
responsibilities. 711

If the court determines that the employee was acting both in 712  
good faith and not manifestly outside the scope of employment or 713  
official responsibilities, the court shall order the political 714  
subdivision to defend the employee in the action. 715

**Sec. 4582.27.** (A) A port authority created in accordance with 717  
section 4582.22 of the Revised Code shall be governed by a board 718  
of directors. Members of a board of directors of a port authority 719  
created by the exclusive action of a municipal corporation shall 720  
consist of the number of members it considers necessary and shall 721  
be appointed by the mayor with the advice and consent of the 722  
council. Members of a board of directors of a port authority 723  
created by the exclusive action of a township shall consist of 724  
such members as it considers necessary and shall be appointed by 725  
the township trustees of the township. Members of a board of 726  
directors of a port authority created by the exclusive action of a 727  
county shall consist of such members as it considers necessary and 728  
shall be appointed by the board of county commissioners of the 729  
county. Members of a board of directors of a port authority 730  
created by a combination of political subdivisions shall be 731  
divided among the political subdivisions in such proportions as 732

the political subdivisions may agree and shall be appointed by the 733  
participating political subdivisions in the same manner as this 734  
section provides for the appointment of members by a political 735  
subdivision creating its own port authority. If a participating 736  
political subdivision is not authorized by section 4582.22 of the 737  
Revised Code to create its own port authority, the political 738  
subdivision's elected legislative body, if the political 739  
subdivision has an elected legislative body, or the political 740  
subdivision's elected official or officials who appoint the 741  
legislative body of the political subdivision shall appoint the 742  
members of a board of directors of a port authority that are to be 743  
appointed by that political subdivision. If the electors of a 744  
participating political subdivision do not elect either the 745  
legislative body of the political subdivision or the official or 746  
officials who appoint the legislative body of the political 747  
subdivision, the participating political subdivision may not 748  
appoint any member of a board of directors of a port authority. 749  
When a port authority is created by a combination of political 750  
subdivisions, the number of directors comprising the board shall 751  
be determined by agreement between the political subdivisions, 752  
which number may be changed from time to time by amendment of the 753  
agreement. The appointing body may at any time remove a director 754  
appointed by it for misfeasance, nonfeasance, or malfeasance in 755  
office. 756

A majority of the directors shall have been qualified 757  
electors of, or shall have had their businesses or places of 758  
employment in, one or more political subdivisions within the area 759  
of the jurisdiction of the port authority, for a period of at 760  
least three years next preceding their appointment. 761

The directors of any port authority first appointed shall 762  
serve staggered terms. Thereafter each successor shall serve for a 763  
term of four years, except that any person appointed to fill a 764

vacancy shall be appointed to only the unexpired term and any  
director is eligible for reappointment.

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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.

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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 board of directors shall  
constitute a quorum, the affirmative vote of which shall be  
necessary for any action 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.

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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.

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~~(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 his duties, unless the director's, officer's, or  
employee's actions were manifestly outside the scope of his  
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.~~

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~~This division 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 shall, except as provided in division (B) of this section, indemnify a director, officer, or employee from liability incurred in the performance of his 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 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 his 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 his duties  
and not coming within the terms of division (C)(2)(b) of this  
section.~~

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

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

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~~(b) The operation of section 9.83 of the Revised Code.~~

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**Sec. 5511.01.** All state highways established by law shall  
continue to be known as state highways, and the state highway  
system established by law shall continue to be known as the state  
highway system.

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Before establishing any additional highways as part of the  
state highway system, or making any significant changes in  
existing highways comprising the system, the director of  
transportation shall notify the general community of the project  
and offer an opportunity for appropriate public involvement in the  
project process.

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The opportunity for public involvement shall satisfy the  
requirements of the "National Environmental Policy Act of 1969,"  
83 Stat. 852, 42 U.S.C.A. 4321 et seq., as amended, and may  
consist of activities including public meetings or hearings, small  
group meetings with local officials, individual meetings, news  
releases, public notices, workshops, newsletters, electronic  
communications, radio announcements, mail notification, and other

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activities considered appropriate for the exchange of information. 857  
The director or the director's designee shall provide the public 858  
involvement activities in each of the counties in which the 859  
highway proposed to be established is to be located or in which it 860  
is proposed to make ~~such~~ those changes. 861

Any changes made in existing highways by the director or any 862  
additional highways established by the director following the 863  
public involvement activities shall be certified to the following 864  
authorities interested ~~therein~~ in them: the legislative authority 865  
of municipalities, the board of county commissioners, the board of 866  
township trustees, the municipal, county, and regional planning 867  
commissions, and the municipal, township, or county officer 868  
authorized to issue land use or building permits. Before any 869  
zoning change or subdivision plat is approved and before any 870  
permit for land use or the erection, alteration, or moving of a 871  
building is granted affecting any land within three hundred feet 872  
of the center line of a proposed new highway or highway for which 873  
changes are proposed, as described in the certification by the 874  
director, or within a radius of five hundred feet from the point 875  
of intersection of that center line with any public road or 876  
highway, the authority authorized to approve the zoning change or 877  
subdivision plat or the authority authorized to grant the permit 878  
for land use or the erection, alteration, or moving of the 879  
building shall give notice, by certified mail, to the director, 880  
and shall not approve a zoning change or subdivision plat or grant 881  
a permit for land use or the erection, alteration, or moving of a 882  
building for one hundred twenty days from date notice is received 883  
by the director. During the one hundred twenty-day period and any 884  
extension of it as may be agreed to between the director and any 885  
property owner, notice of which has been given to the authority to 886  
which the application has been made, the director shall proceed to 887  
acquire any land needed by purchase or gift, or by initiating 888

proceedings to appropriate, or make a finding that acquisition at 889  
such time is not in the public interest. Upon purchase, initiation 890  
of appropriation proceedings, or a finding that acquisition is not 891  
in the public interest, the director shall notify the authority 892  
from which notice was received of that action. Upon being notified 893  
that the director has purchased or initiated proceedings to 894  
appropriate the land that authority shall refuse to rezone land or 895  
to approve any subdivision plat that includes the land which the 896  
director has purchased or has initiated proceedings to 897  
appropriate, and that authority shall refuse to grant a permit for 898  
land use or the erection, alteration, or moving of a building on 899  
the land which the director has purchased or initiated proceedings 900  
to appropriate. Upon notification that the director has found 901  
acquisition at that time not to be in the public interest, or upon 902  
the expiration of the one hundred twenty-day period or any 903  
extension ~~thereof~~ of it, if no notice has been received from the 904  
director, that authority shall proceed in accordance with law. 905

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A report of the change or addition shall be filed in the 907  
office of the director, and the report of the director making the 908  
change or establishing the highway shall be placed on file in the 909  
office of the department of transportation. 910

In no event shall the total mileage of the state highway 911  
system be increased under this section to exceed two hundred miles 912  
in one year. 913

The director, upon petition of the boards of the counties 914  
traversed ~~thereby~~ by a highway or of citizens of ~~such~~ those 915  
counties, may officially assign to a highway of the state highway 916  
system a distinctive name, commemorative of a historical event or 917  
personage, or officially assign ~~thereto~~ to a highway of the state 918  
highway system a commonly accepted and appropriate name by which 919  
the highway is known. 920

The director may, upon giving appropriate notice and offering 921  
the opportunity for public involvement and comment, abandon a 922  
highway on the state highway system or part ~~thereof~~ of such a 923  
highway which the director determines is of minor importance or 924  
which traverses territory adequately served by another state 925  
highway, and the abandoned highway shall revert to a county or 926  
township road or municipal street. A report covering ~~such that~~ 927  
action shall be filed in the office of the director, and the 928  
director shall certify the action to the board of the county in 929  
which the highway or portion ~~thereof~~ of the highway so abandoned 930  
is situated. 931

The director shall make a map showing ~~thereon~~, by appropriate 932  
numbering or other designation, all the state highways. The map 933  
shall be kept on file in the director's office, and the director 934  
shall cause the ~~same~~ map to be corrected and revised to show all 935  
changes and additions to the date of ~~such the~~ correction. A copy 936  
of the map, certified by the director as a correct copy of the map 937  
on file in the director's office, shall be admissible as evidence 938  
in any court to prove the existence and location of the several 939  
highways and roads of the state highway system. 940

The state highway routes into or through municipal 941  
corporations, as designated or indicated by state highway route 942  
markers erected ~~thereon~~ on the routes, are state highways and a 943  
part of the state highway system. The director may erect state 944  
highway route markers and ~~such~~ other signs directing traffic as 945  
the director thinks proper upon those portions of the state 946  
highway system lying within municipal corporations, and the 947  
consent of the municipal corporations to ~~such that~~ erection and 948  
marking shall not be necessary. However, the director may erect 949  
traffic signs in villages in accordance with section 5521.01 of 950  
the Revised Code. No change in the route of any highway through a 951  
municipal corporation shall be made except after providing public 952

involvement activities. 953

Except as provided in sections 5501.49 and 5517.04 of the 954  
Revised Code, no duty of constructing, reconstructing, 955  
maintaining, and repairing such state highways within municipal 956  
corporations shall attach to or rest upon the director. The 957  
director may enter upon such state highways within any municipal 958  
corporation and construct, reconstruct, widen, improve, maintain, 959  
and repair them, provided the municipal corporation first consents 960  
~~thereto~~ by resolution of its legislative authority, except that 961  
the director need not obtain the consent of the municipal 962  
corporation if the existing highway being changed or the location 963  
of an additional highway being established was not within the 964  
corporate limits of the municipal corporation at the time ~~such~~ the 965  
establishment or change is approved by the director, or if the 966  
director is acting pursuant to section 5501.49 of the Revised 967  
Code. 968

The director shall place in the files of the department a 969  
record of the routes of all such state highways within municipal 970  
corporations, and shall cause them to be corrected and revised to 971  
show all changes and additions to the date of the correction. A 972  
copy of the record or any pertinent part ~~thereof~~ of it, certified 973  
by the director to be a true and correct copy, shall be admissible 974  
in evidence in any court of the state for the purpose of proving 975  
the existence and location of any state highway within a municipal 976  
corporation. 977

When the director proposes to change an existing state 978  
highway and there exists upon the highway a separated railroad 979  
crossing, the director shall mail to the interested railroad 980  
company a copy of the notice, which shall be mailed by first-class 981  
mail, postage prepaid, and certified with return receipt 982  
requested, at least two weeks before the time fixed for any public 983  
involvement activity. When the director proposes to change an 984

existing state highway within a municipal corporation, the 985  
director shall mail to the mayor or other chief executive officer 986  
of the municipal corporation a copy of the notice, which shall be 987  
mailed by first-class mail, postage prepaid, and certified with 988  
return receipt requested, at least two weeks before the time fixed 989  
for any public involvement activity. 990

Nothing in this section shall be construed to require 991  
providing public involvement activities before the construction, 992  
reconstruction, maintenance, improvement, or widening of an 993  
existing highway where no relocation is involved. 994

With the exception of the authority conferred upon the 995  
director by this section, to erect state highway route markers and 996  
signs directing traffic, and by section 5501.49 of the Revised 997  
Code, Chapters 5501., 5503., 5511., 5513., 5515., 5516., 5517., 998  
5519., 5521., 5523., 5525., 5527., 5528., 5529., 5531., 5533., and 999  
5535. of the Revised Code, shall not in any way modify, limit, or 1000  
restrict the authority conferred by section 723.01 of the Revised 1001  
Code upon municipal corporations to regulate the use of streets 1002  
and to have the care, supervision, and control of the public 1003  
highways, streets, avenues, alleys, sidewalks, public grounds, 1004  
bridges, aqueducts, and viaducts within the municipal corporations 1005  
and, or the liability imposed upon municipal corporations by 1006  
division (B)(3) of section 2744.02 of the Revised Code for 1007  
negligent failure to keep them, subject to division (B)(3) of 1008  
section 2744.02 of the Revised Code, open, public roads in repair, 1009  
and free from nuisance other negligent failure to remove 1010  
obstructions from public roads. 1011

**Sec. 5591.36.** The board of county commissioners shall erect 1012  
and maintain on county roads, where not already done, one or more 1013  
guardrails on each end of a county bridge, viaduct, or culvert 1014  
more than five feet high ~~and on each side of every approach to a~~ 1015  
~~county bridge, viaduct, or culvert, if the approach or embankment~~ 1016

~~is more than six feet high. The board also shall also protect, by~~ 1017  
~~suitable guardrails, all perpendicular wash banks embankments with~~ 1018  
~~a rise of more than eight feet in height and with a downward slope~~ 1019  
~~of greater than seventy degrees, where such banks the embankments~~ 1020  
~~have an immediate connection with a public highway other than~~ 1021  
~~state highways, or are adjacent thereto in an unprotected~~ 1022  
~~condition county road.~~ 1023

~~It shall be a sufficient compliance with this section, if the~~ 1024  
~~board causes to be erected and maintained a good stockproof hedge~~ 1025  
~~fence where a guardrail is required. Such guardrails or hedge~~ 1026  
~~fences shall be erected in a substantial manner, having sufficient~~ 1027  
~~strength to protect life and property, the The expense thereof to~~ 1028  
~~for a guardrail required under this section shall be paid out of~~ 1029  
~~the county bridge fund.~~ 1030

**Sec. 5591.37. Failure Negligent failure to comply with** 1031  
section 5591.36 of the Revised Code shall render the county liable 1032  
for all accidents or damages ~~as a result of such~~ resulting from 1033  
that failure. 1034

**Section 2.** That existing sections 723.01, 1533.18, 2744.01, 1035  
2744.02, 2744.03, 2744.04, 2744.05, 2744.06, 2744.07, 4582.27, 1036  
5511.01, 5591.36, and 5591.37 of the Revised Code are hereby 1037  
repealed. 1038

**Section 3.** Sections 723.01, 1533.18, 2744.01, 2744.02, 1039  
2744.03, 2744.04, 2744.05, 2744.06, 2744.07, 4582.27, 5511.01, 1040  
5591.36, and 5591.37 of the Revised Code, as amended by this act, 1041  
apply only to causes of action that accrue on or after the 1042  
effective date of this act. Any cause of action that accrues prior 1043  
to the effective date of this act is governed by the law in effect 1044  
when the cause of action accrued. 1045

**Section 4.** Section 2744.01 of the Revised Code is presented 1046  
in this act as a composite of the section as amended by both Sub. 1047  
S.B. 24 and Sub. S.B. 108 of the 124th General Assembly. The 1048  
General Assembly, applying the principle stated in division (B) of 1049  
section 1.52 of the Revised Code that amendments are to be 1050  
harmonized if reasonably capable of simultaneous operation, finds 1051  
that the composite is the resulting version of the section in 1052  
effect prior to the effective date of the section as presented in 1053  
this act. 1054