

As Introduced

**125th General Assembly
Regular Session
2003-2004**

H. B. No. 411

**Representatives Seitz, Collier, Niehaus, McGregor, Aslanides, Schneider,
Webster, Gilb**

A B I L L

To amend sections 163.02, 163.09, 163.12, 163.21, 1
307.08, 307.79, 307.99, 719.01, 3709.41, 6117.012, 2
6117.39, and 6119.11 and to enact sections 3
6101.181 and 6115.221 of the Revised Code to allow 4
a county, municipal corporation, conservancy 5
district, sanitary district, county sewer 6
district, or regional water and sewer district to 7
appropriate land without a prior jury assessment 8
for the construction of sewers when the Director 9
of Environmental Protection or a local board of 10
health finds that unsanitary conditions compel the 11
immediate construction of the sewers for the 12
protection of the public health and welfare; to 13
revise the rulemaking authority of a board of 14
county commissioners that adopts rules governing 15
erosion control, sediment control, and water 16
management; to establish a penalty for violation 17
of those rules; to authorize a board of county 18
commissioners that has established a county sewer 19
district to adopt rules governing the prevention 20
of sewer back-ups; and to require health district 21
licensing councils to meet at least annually 22
rather than quarterly. 23

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

Section 1. That sections 163.02, 163.09, 163.12, 163.21, 24
307.08, 307.79, 307.99, 719.01, 3709.41, 6117.012, 6117.39, and 25
6119.11 be amended and sections 6101.181 and 6115.221 of the 26
Revised Code be enacted to read as follows: 27

Sec. 163.02. (A) Except as provided in divisions (B), (C), 28
~~and (D), (E), (F), (G), and (H)~~ of this section, all 29
appropriations of real property shall be made pursuant to sections 30
163.01 to 163.22 of the Revised Code. 31

(B) Subject to division ~~(E)~~(I) of this section, the director 32
of transportation may appropriate real property pursuant to 33
sections 163.01 to 163.22 of the Revised Code or as otherwise 34
provided by law. 35

(C) Subject to division (I) of this section, a county may 36
appropriate real property by procedures prescribed in Chapter 307. 37
of the Revised Code. 38

(D) Subject to division (I) of this section, a municipal 39
corporation may appropriate real property by procedures prescribed 40
in Chapter 719. of the Revised Code. 41

(E) Subject to division ~~(E)~~(I) of this section, a conservancy 42
district may appropriate real property by procedures prescribed in 43
Chapter 6101. of the Revised Code. 44

~~(D)~~(F) Subject to division ~~(E)~~(I) of this section, a sanitary 45
district may appropriate real property by procedures prescribed in 46
Chapter 6115. of the Revised Code. 47

~~(E)~~(G) Subject to division (I) of this section, a county 48
sewer district may appropriate real property by procedures 49
prescribed in Chapter 6117. of the Revised Code. 50

(H) Subject to division (I) of this section, a regional water and sewer district may appropriate real property by procedures prescribed in Chapter 6119. of the Revised Code. 51
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(I) When the director of transportation, a county, a municipal corporation, a conservancy district, ~~or~~ a sanitary district, a county sewer district, or a regional water and sewer district proceeds to appropriate real property other than under sections 163.01 to 163.22 of the Revised Code, the proceedings are subject to division (B) of section 163.21 of the Revised Code. 54
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~~(F)~~(J) Any instrument by which the state or an agency of the state acquires real property 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. 60
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Sec. 163.09. (A) If no answer is filed pursuant to section 163.08 of the Revised Code, nor approval ordered by the court to a settlement of the rights of all necessary parties, the court, on motion of a public agency, shall declare the value of the property taken and the damages, if any, to be as set forth in any document properly filed with the clerk of courts by the public agency. In all other cases, the court shall fix a time, within twenty days from the last date that such answer could have been filed, for the assessment of compensation by a jury. 65
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(B) When an answer is filed pursuant to section 163.08 of the Revised Code and any of the matters relating to the right to make the appropriation, the inability of the parties to agree, or the necessity for the appropriation are specifically denied in the manner provided in such section, the court shall set a day, not less than five or more than fifteen days from the date the answer was filed, to hear such questions. Upon such questions, the burden of proof is upon the owner. A resolution or ordinance of the 74
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governing or controlling body, council, or board of the agency 82
declaring the necessity for the appropriation shall be prima-facie 83
evidence of such necessity in the absence of proof showing an 84
abuse of discretion by the agency in determining such necessity. 85
If, as to any or all the property or other interests sought to be 86
appropriated, the court determines the questions in favor of the 87
agency, the court shall set a time for the assessment of 88
compensation by the jury within twenty days from the date of the 89
journalization of such determination. An order of the court in 90
favor of the agency on any of such questions or on qualification 91
under section 163.06 of the Revised Code, shall not be a final 92
order for purposes of appeal. An order of the court against the 93
agency on any of such questions, or on the question of 94
qualification under section 163.06 of the Revised Code, shall be a 95
final order for purposes of appeal. If a public agency has taken 96
possession prior to such order and such order, after any appeal, 97
is against the agency on any of such questions, the agency shall 98
restore the property to the owner in its original condition or 99
respond in damages, which may include the items set forth in 100
division (A)(2) of section 163.21 of the Revised Code, recoverable 101
by civil action, to which the state consents. 102

(C) When an answer is filed pursuant to section 163.08 of the 103
Revised Code, and none of the matters set forth in division (B) of 104
this section is specifically denied, the court shall fix a time 105
within twenty days from the date the answer was filed for the 106
assessment of compensation by a jury. 107

(D) If answers are filed pursuant to divisions (B) and (C) of 108
this section, or an answer is filed on behalf of fewer than all 109
the named owners, the court shall set the hearing or hearings at 110
such times as are reasonable under all the circumstances, but in 111
no event later than twenty days after the issues are joined as to 112
all necessary parties or twenty days after rule therefor, 113

whichever is earlier. 114

(E) The court, with the consent of the parties, may order two 115
or more cases to be consolidated and tried together, but the 116
rights of each owner to compensation, damages, or both shall be 117
separately determined by the jury in its verdict. 118

(F) If an answer is filed under section 163.08 of the Revised 119
Code with respect to the value of property appropriated under 120
section 307.08, 719.01, 6101.181, 6115.221, 6117.39, or 6119.11 of 121
the Revised Code as the result of a public exigency, the burden of 122
proof is not on the owner, but is on the other party or parties to 123
the appropriation. 124

Sec. 163.12. (A) A view of the premises to be appropriated 125
shall be ordered by the court when demanded by a party to the 126
proceedings. The owners shall open and close the case. However, if 127
the premises are to be appropriated under section 307.08, 719.01, 128
6101.181, 6115.221, 6117.39, or 6119.11 of the Revised Code as the 129
result of a public exigency, the party or parties other than the 130
owners shall open and close the case. 131

(B) The court may amend any defect or informality in 132
proceedings under sections 163.01 to 163.22, ~~inclusive,~~ of the 133
Revised Code. The court may cause new parties to be added, and 134
direct such further notice to be given to a party in interest as 135
the court deems proper. 136

(C) No part of the pleadings, other than the petition, shall 137
be read or exhibited to the jury. 138

Sec. 163.21. (A)(1) If it has not taken possession of 139
property that is appropriated, an agency may abandon appropriation 140
proceedings under sections 163.01 to 163.22 of the Revised Code at 141
any time after the proceedings are commenced, but not later than 142
ninety days after the final determination of the cause. 143

(2) In all cases of abandonment as described in division 144
(A)(1) of this section, the court shall enter a judgment against 145
the agency for costs, including jury fees, and shall enter a 146
judgment in favor of each affected owner, in amounts that the 147
court considers to be just, for each of the following that the 148
owner incurred: 149

(a) Witness fees, including expert witness fees; 150

(b) Attorney's fees; 151

(c) Other actual expenses. 152

(B)(1) Except as provided in division (B)(2) of this section, 153
if in appropriation proceedings under sections 163.01 to 163.22 of 154
the Revised Code or, as authorized by divisions (B), (C), ~~and~~ (D), 155
(E), (F), (G), and (H) of section 163.02 of the Revised Code, in 156
appropriation proceedings under other sections of the Revised 157
Code, the court determines that an agency is not entitled to 158
appropriate particular property, the court shall enter both of the 159
following: 160

(a) A judgment against the agency for costs, including jury 161
fees; 162

(b) A judgment in favor of each affected owner, in amounts 163
that the court considers to be just, for witness fees, including 164
expert witness fees, for attorney's fees, and for other actual 165
expenses that the owner incurred in connection with the 166
proceedings. 167

(2) This division does not apply to a state agency that is 168
subject to section 163.62 of the Revised Code in connection with 169
condemnation proceedings. 170

Sec. 307.08. ~~When~~ (A) Except as provided in division (B) of 171
this section, when, in the opinion of the board of county 172
commissioners, it is necessary to procure real estate, a 173

right-of-way, or an easement for a courthouse, jail, or public 174
offices, or for a bridge and the approaches thereto, or other 175
structure, or public market place or market house, proceedings 176
shall be had in accordance with sections 163.01 to 163.22~~7~~ 177
~~inclusive~~, of the Revised Code. 178

(B)(1) For the purposes of division (B) of this section, 179
either of the following constitutes a public exigency: 180

(a) A finding by the director of environmental protection 181
that a public health nuisance caused by an occasion of unavoidable 182
urgency and suddenness due to unsanitary conditions compels the 183
immediate construction of sewers for the protection of the public 184
health and welfare; 185

(b) The issuance of an order by the board of health of a 186
health district to mitigate or abate a public health nuisance 187
caused by an occasion of unavoidable urgency and suddenness due to 188
unsanitary conditions that compels the immediate construction of 189
sewers for the protection of the public health and welfare. 190

(2) If the board of county commissioners is unable to 191
purchase property for the purpose of the construction of sewers to 192
mitigate or abate the public health nuisance that is the subject 193
of a finding of the director or an order of the board of health, 194
the board of county commissioners may adopt a resolution finding 195
that it is necessary for the protection of the public health and 196
welfare to appropriate property that the board of county 197
commissioners considers needed for that purpose. The resolution 198
shall contain a definite, accurate, and detailed description of 199
the property and the name and place of residence, if known or with 200
reasonable diligence ascertainable, of the owner of the property 201
appropriated. 202

The board of county commissioners shall fix in the resolution 203
what the board considers to be the value of the property 204

appropriated, which shall be supported by an independent appraisal, together with damages to the residue, and shall deposit the value of it, together with the damages, with the probate court or the court of common pleas of the county in which the property, or a part of it, is situated. The power to appropriate property for the purposes of division (B) of this section shall be exercised in the manner provided in sections 163.01 to 163.22 of the Revised Code.

(3) As used in division (B) of this section:

(a) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code.

(b) "Health district" means a city or general health district as created by or under the authority of Chapter 3709. of the Revised Code.

Sec. 307.79. The board of county commissioners may adopt, amend, and rescind rules establishing technically feasible and economically reasonable standards to achieve a level of management and conservation practices ~~which~~ that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by soil sediment in conjunction with land grading, excavating, filling, or other soil disturbing activities on land used or being developed for nonfarm commercial, industrial, residential, or other nonfarm purposes, and establish criteria for determination of the acceptability of such management and conservation practices. The rules shall be designed to implement the applicable areawide waste treatment management plan prepared under section 208 of the "Federal Water Pollution Control Act," 86 Stat. 816 (1972), 33 U.S.C.A. 1228, as amended, and to implement phase II of the storm water program of the national pollutant

discharge elimination system established in 40 C.F.R. Part 122. 236
~~Such~~ The rules shall not apply to lands being used in a strip mine 237
operation as defined in section 1513.01 of the Revised Code or 238
land being used in a surface mine operation as defined in section 239
1514.01 of the Revised Code. 240

The rules may require persons to file plans governing erosion 241
control, sediment control, and water management ~~plans incident~~ 242
~~thereto~~, before clearing, grading, excavating, filling, or 243
otherwise wholly or partially disturbing ~~five~~ one or more 244
contiguous acres of land owned by one person or operated as one 245
development unit for the construction of nonfarm buildings, 246
structures, utilities, recreational areas, or other similar 247
nonfarm uses. ~~Areas~~ If the rules require plans to be filed, the 248
rules shall do all of the following: 249

(A) Designate the board itself, its employees, or another 250
agency or official to review and approve or disapprove the plans; 251

(B) Establish procedures and criteria for the review and 252
approval or disapproval of the plans; 253

(C) Require the designated entity to issue a permit to a 254
person for the clearing, grading, excavating, filling, or other 255
project for which plans are approved and to deny a permit to a 256
person whose plans have been disapproved; 257

(D) Establish procedures for the issuance of the permits; 258

(E) Establish procedures under which a person may appeal the 259
denial of a permit. 260

Areas of less than ~~five~~ one contiguous ~~acres~~ acre shall not 261
be exempt from compliance with other provisions of this section or 262
rules adopted pursuant to this section. The rules may impose 263
reasonable filing fees for plan review, permit processing, and 264
field inspections. 265

No permit or plan shall be required for a public highway, 266
transportation, or drainage improvement or maintenance thereof 267
undertaken by a government agency or political subdivision in 268
accordance with a statement of its standard sediment control 269
policies that is approved by the board or the chief of the 270
division of soil and water ~~districts~~ conservation in the 271
department of natural resources. 272

The rules shall not apply inside the limits of municipal 273
corporations. 274

Rules or amendments may be adopted under this section only 275
after public hearing at not fewer than two regular sessions of the 276
board. The board shall cause to be published, in a newspaper of 277
general circulation in the county, notice of the public hearings, 278
including time, date, and place, once a week for two weeks 279
immediately preceding the hearings. The proposed rules or 280
amendments shall be made available by the board to the public at 281
the board office or other location indicated in the notice. The 282
rules or amendments shall take effect on the thirty-first day 283
following the date of their adoption. 284

The board may employ personnel, to assist in the 285
administration of this section and rules adopted under it. The 286
board also, if the action does not conflict with the rules, may 287
delegate duties to review sediment control and water management 288
plans to its employees, and may enter into agreements with one or 289
more political subdivisions, other county officials, or other 290
government agencies, in any combination, in order to obtain 291
reviews and comments on ~~such~~ plans governing erosion control, 292
sediment control, and water management or to obtain other services 293
for the administration of the rules adopted under this section. 294

The board or any duly authorized representative of the board 295
may, upon identification to the owner or person in charge, enter 296

any land upon obtaining agreement with the owner, tenant, or 297
manager thereof in order to determine whether there is compliance 298
with the rules. If the board or its duly authorized representative 299
is unable to obtain such an agreement, the board or representative 300
may apply for and a judge of the court of common pleas for the 301
county where the land is located may issue an appropriate 302
inspection warrant as necessary to achieve the purposes of this 303
chapter. 304

If the board or its duly authorized representative determines 305
that a violation exists ~~and requests, the board or representative~~ 306
shall authorize the issuance of a notice of violation. If, after a 307
period of not less than fourteen days has elapsed following the 308
issuance of a notice of violation, the violation continues, the 309
board or its duly authorized representative may issue a stop work 310
order and shall then request in writing the prosecuting attorney 311
of the county ~~in writing, the prosecuting attorney shall to~~ seek 312
an injunction or other appropriate relief to abate excessive 313
erosion or sedimentation and secure compliance with the rules. In 314
granting relief the court may order the construction of sediment 315
control improvements or implementation of other control measures 316
and shall assess a fine under section 307.99 of the Revised Code 317
if the person to whom a notice of violation was issued under this 318
section is convicted of or pleads guilty to the violation. The 319
person to whom a stop-work order is issued under this section may 320
appeal the order to the court of common pleas of the county in 321
which it was issued. 322

No person shall violate any rule adopted or order issued 323
under this section. For purposes of any penalty that is 324
established for violation of a rule or order, each day of 325
continued violation is a separate offense. 326

Sec. 307.99. (A) Whoever violates section 307.42 of the 327

Revised Code shall be fined not less than twenty-five nor more 328
than one hundred dollars for each offense. 329

(B) Whoever violates section 307.43 of the Revised Code shall 330
be fined not less than twenty-five nor more than two hundred 331
dollars, and imprisoned not less than ten nor more than sixty 332
days. 333

(C) Whoever violates section 307.37 of the Revised Code 334
shall be fined not more than three hundred dollars. 335

(D) Whoever violates division (C)(5) of section 307.97 of the 336
Revised Code shall be fined not less than one hundred nor more 337
than five hundred dollars. 338

(E) Whoever violates any other subdivision of division (C) of 339
section 307.97 of the Revised Code shall be imprisoned not more 340
than six months or fined not more than one thousand dollars, or 341
both. 342

(F) Whoever violates section 307.79 of the Revised Code shall 343
be fined not less than one hundred nor more than five hundred 344
dollars. Each day of violation is a separate offense. The 345
sentencing court may issue a cease and desist order if warranted 346
by the violation. 347

Sec. 719.01. Any municipal corporation may appropriate, enter 348
upon, and hold real estate within its corporate limits: 349

(A) For opening, widening, straightening, changing the grade 350
of, and extending streets, and all other public places, and for 351
this purpose, the municipal corporation may appropriate the 352
right_of_way across railway tracks and lands held by railway 353
companies, where such appropriation will not unnecessarily 354
interfere with the reasonable use of such property, and for 355
obtaining material for the improvement of streets and other public 356
places; 357

(B) For parks, park entrances, boulevards, market places, and children's playgrounds;	358 359
(C) For public halls and offices, and for all buildings and structures required for the use of any municipal department;	360 361
(D) For prisons, workhouses, houses of refuge and correction, and farm schools;	362 363
(E) For hospitals, pesthouses, reformatories, crematories, and cemeteries;	364 365
(F) For levees, wharves, and landings;	366
(G) For bridges, aqueducts, viaducts, and approaches thereto;	367
(H) For libraries, university sites, and grounds therefor;	368
(I) For constructing, opening, excavating, improving, or extending any canal or watercourse, located in whole or in part within the limits of the municipal corporation or adjacent and contiguous thereto, and which <u>that</u> is not owned in whole or in part by the state, or by a company or individual authorized by law to make such improvement;	369 370 371 372 373 374
(J) For sewers, drains, ditches, public urinals, bathhouses, water closets, and sewage and garbage disposal plants and farms+.	375 376
<u>(1) For the purposes of division (J) of this section, either of the following constitutes a public exigency:</u>	377 378
<u>(a) A finding by the director of environmental protection that a public health nuisance caused by an occasion of unavoidable urgency and suddenness due to unsanitary conditions compels the immediate construction of sewers for the protection of the public health and welfare;</u>	379 380 381 382 383
<u>(b) The issuance of an order by the board of health of a health district to mitigate or abate a public health nuisance caused by an occasion of unavoidable urgency and suddenness due to</u>	384 385 386

unsanitary conditions that compels the immediate construction of 387
sewers for the protection of the public health and welfare. 388

(2) If the legislative authority of a municipal corporation 389
is unable to purchase property for the purpose of the construction 390
of sewers to mitigate or abate the public health nuisance that is 391
the subject of a finding of the director or an order of the board 392
of health, the legislative authority of the municipal corporation 393
may enact an ordinance finding that it is necessary for the 394
protection of the public health and welfare to appropriate 395
property that the legislative authority considers needed for that 396
purpose. The ordinance shall contain a definite, accurate, and 397
detailed description of the property and the name and place of 398
residence, if known or with reasonable diligence ascertainable, of 399
the owner of the property appropriated. 400

The legislative authority of the municipal corporation shall 401
fix in the ordinance what it considers to be the value of the 402
property appropriated, which shall be supported by an independent 403
appraisal, together with damages to the residue, and shall deposit 404
the value of it, together with the damages, with the probate court 405
or the court of common pleas of the county in which the property, 406
or a part of it, is situated. The power to appropriate property 407
for the purposes of division (J) of this section shall be 408
exercised in the manner provided in sections 163.01 to 163.22 of 409
the Revised Code. 410

(3) As used in division (J) of this section: 411

(a) "Board of health" means the board of health of a city or 412
general health district or the authority having the duties of a 413
board of health in any city as authorized by section 3709.05 of 414
the Revised Code. 415

(b) "Health district" means a city or general health district 416
as created by or under the authority of Chapter 3709. of the 417

<u>Revised Code.</u>	418
(K) For natural and artificial gas, electric lighting, heating, and power plants, and for supplying the product thereof;	419 420
(L) For establishing esplanades, boulevards, parkways, park grounds, and public reservations in, around, and leading to public buildings, and for the purpose of reselling such land with reservations in the deeds as to the future use of such lands, so as to protect public buildings and their environs, and to preserve the view, appearance, light, air, and usefulness of public grounds occupied by public buildings and esplanades and parkways leading thereto;	421 422 423 424 425 426 427 428
(M) For providing a water supply for itself and its inhabitants by the construction of wells, pumps, cisterns, aqueducts, water pipes, dams, reservoirs, reservoir sites, and water works, and for the protection thereof; and to provide for a supply of water for itself and its inhabitants, any municipal corporation may appropriate property within or without its limits; and for such purpose and <u>any</u> such municipal corporation may appropriate, in the manner provided in sections 163.01 to 163.22 7 inclusive , of the Revised Code, any property or right or interest therein, previously acquired by any private corporation for any purpose by appropriation proceedings or otherwise, and either party to such appropriation proceedings shall have the same right to change of venue as is given in the trial of civil actions;	429 430 431 432 433 434 435 436 437 438 439 440 441
(N) For the construction or operation of street, interurban, suburban, or other railways or terminals and the necessary tracks, way stations, depots, terminals, workshops, conduits, elevated structures, subways, tunnels, offices, sidetracks, turnouts, machine shops, bridges, and other appurtenances for the transportation of persons, packages, express matter, freight, and other matter, in, from, into, or through the municipal	442 443 444 445 446 447 448

corporation; and for such purpose any municipal corporation may 449
appropriate any property within or without its corporate limits; 450
and any municipal corporation may appropriate any property, right, 451
or interest therein previously acquired by any private or public 452
utility corporation for any purpose by appropriate proceedings, as 453
well as the right to cross on, over, or under any street, avenue, 454
alley, way, or public place or part thereof of any other municipal 455
corporation, township, or county; 456

(O) For establishing airports, landing fields, or other air 457
navigation facilities, either within or without the limits of a 458
municipal corporation for aircraft and transportation terminals, 459
with power to impose restrictions on any part thereof and leasing 460
such part thereof as is desired for purposes associated with or 461
incident to such airports, landing fields, or other air navigation 462
facilities and transportation terminals, including the right to 463
appropriate a right_of_way for highways, electric, steam, and 464
interurban railroads leading from such airport or landing field to 465
the main highways or the main line of such steam, electric, or 466
interurban railroads, as are desired; all of which are hereby 467
declared to be public purposes. 468

Division (O) of this section does not authorize a municipal 469
corporation to take or disturb property or facilities belonging to 470
any public utility or to a common carrier engaged in interstate 471
commerce, which property or facilities are required for the proper 472
and convenient operation of such utility or carrier, unless 473
provision is made for the restoration, relocation, or duplication 474
of such property or facilities elsewhere, at the sole cost of the 475
municipal corporation. 476

The Except as provided in division (J) of this section, the 477
powers conferred upon municipal corporations by this section shall 478
be exercised for the purposes and in the manner provided in 479
sections 163.01 to 163.22, ~~inclusive,~~ of the Revised Code. 480

"Airport," "landing field," and "air navigation facility," as 481
defined in section 4561.01 of the Revised Code, apply to division 482
(O) of this section. 483

Sec. 3709.41. (A) There is hereby created in each city and in 484
each general health district a health district licensing council, 485
to be appointed by the entity that has responsibility for 486
appointing the board of health in the health district. The members 487
of the health district licensing council shall consist of one 488
representative of each business activity for which the board of 489
health operates a licensing program. To be appointed and remain a 490
member, an individual ~~must~~ shall be a resident of the health 491
district for which the council was created. 492

The appointing authority shall make initial appointments to 493
the council not later than thirty days after ~~the effective date of~~ 494
~~this section~~ November 21, 2001. Of the initial appointments to the 495
council, one-third of the members, rounded to the nearest whole 496
number, shall serve for a term ending three years after ~~the~~ 497
~~effective date of this section~~ November 21, 2001; one-third, 498
rounded to the nearest whole number, shall serve for a term ending 499
four years after ~~the effective date of this section~~ November 21, 500
2001; and the remaining members shall serve for a term ending five 501
years after ~~the effective date of this section~~ November 21, 2001. 502
Thereafter, terms of office shall be five years, with each term 503
ending on the same day of the same month as did the term that it 504
succeeds. 505

Each member shall hold office from the date of the member's 506
appointment until the end of the term for which the member was 507
appointed. Members may be reappointed. 508

Vacancies shall be filled in the manner provided for original 509
appointments. Any member appointed to fill a vacancy occurring 510
prior to the expiration of the term for which the member's 511

predecessor was appointed shall hold office as a member for the 512
remainder of that term. A member shall continue in office 513
subsequent to the expiration date of the member's term until the 514
member's successor takes office or until a period of sixty days 515
has elapsed, whichever occurs first. 516

Members of a health district licensing council shall serve 517
without compensation, except to the extent that serving on the 518
council is part of their regular duties of employment. 519

(B) Each licensing council shall organize by selecting from 520
among its members a chairperson, secretary, and any other officers 521
it considers necessary. Each council shall adopt bylaws for the 522
regulation of its affairs and the conduct of its business. 523

Each council shall meet at least ~~quarterly~~ annually or at 524
more frequent intervals if specified in its bylaws. In addition to 525
the mandatory meetings, a council shall meet at the call of the 526
chairperson or the request of a majority of the council members. 527

(C) Pursuant to sections 3709.03, 3709.05, and 3709.07 of the 528
Revised Code, the health district licensing council shall appoint 529
one of its members to serve as a member of the board of health. 530
The council shall appoint one of its members to serve as an 531
alternate board of health member if for any reason the original 532
member is required to abstain from voting on a particular issue 533
being considered by the board of health. While serving on behalf 534
of the original member, the alternate member has the same powers 535
and duties as the original member. 536

Sec. 6101.181. (A) For the purposes of this section, either 537
of the following constitutes a public exigency: 538

(1) A finding by the director of environmental protection 539
that a public health nuisance caused by an occasion of unavoidable 540
urgency and suddenness due to unsanitary conditions compels the 541

immediate construction of sewers for the protection of the public 542
health and welfare; 543

(2) The issuance of an order by the board of health of a 544
health district to mitigate or abate a public health nuisance 545
caused by an occasion of unavoidable urgency and suddenness due to 546
unsanitary conditions that compels the immediate construction of 547
sewers for the protection of the public health and welfare. 548

(B) If the board of directors of a conservancy district is 549
unable to purchase property for the purpose of the construction of 550
sewers to mitigate or abate the public health nuisance that is the 551
subject of a finding of the director or an order of the board of 552
health, the board of directors may adopt a resolution finding that 553
it is necessary for the protection of the public health and 554
welfare to appropriate property that the board of directors 555
considers needed for that purpose. The resolution shall contain a 556
definite, accurate, and detailed description of the property and 557
the name and place of residence, if known or with reasonable 558
diligence ascertainable, of the owner of the property 559
appropriated. 560

The board of directors shall fix in the resolution what the 561
board considers to be the value of the property appropriated, 562
which shall be supported by an independent appraisal, together 563
with damages to the residue, and shall deposit the value of it, 564
together with the damages, with the probate court or the court of 565
common pleas of the county in which the property, or a part of it, 566
is situated. The power to appropriate property for the purposes of 567
this section shall be exercised in the manner provided in sections 568
163.01 to 163.22 of the Revised Code. 569

(C) As used in this section: 570

(1) "Board of health" means the board of health of a city or 571
general health district or the authority having the duties of a 572

board of health in any city as authorized by section 3709.05 of 573
the Revised Code. 574

(2) "Health district" means a city or general health district 575
as created by or under the authority of Chapter 3709. of the 576
Revised Code. 577

Sec. 6115.221. (A) For the purposes of this section, either 578
of the following constitutes a public exigency: 579

(1) A finding by the director of environmental protection 580
that a public health nuisance caused by an occasion of unavoidable 581
urgency and suddenness due to unsanitary conditions compels the 582
immediate construction of sewers for the protection of the public 583
health and welfare; 584

(2) The issuance of an order by the board of health of a 585
health district to mitigate or abate a public health nuisance 586
caused by an occasion of unavoidable urgency and suddenness due to 587
unsanitary conditions that compels the immediate construction of 588
sewers for the protection of the public health and welfare. 589

(B) If the board of directors of a sanitary district is 590
unable to purchase property for the purpose of the construction of 591
sewers to mitigate or abate the public health nuisance that is the 592
subject of a finding of the director or an order of the board of 593
health, the board of directors may adopt a resolution finding that 594
it is necessary for the protection of the public health and 595
welfare to appropriate property that the board of directors 596
considers needed for that purpose. The resolution shall contain a 597
definite, accurate, and detailed description of the property and 598
the name and place of residence, if known or with reasonable 599
diligence ascertainable, of the owner of the property 600
appropriated. 601

The board of directors shall fix in the resolution what the 602

board considers to be the value of the property appropriated,
which shall be supported by an independent appraisal, together
with damages to the residue, and shall deposit the value of it,
together with the damages, with the probate court or the court of
common pleas of the county in which the property, or a part of it,
is situated. The power to appropriate property for the purposes of
this section shall be exercised in the manner provided in sections
163.01 to 163.22 of the Revised Code.

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(C) As used in this section:

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(1) "Board of health" means the board of health of a city or
general health district or the authority having the duties of a
board of health in any city as authorized by section 3709.05 of
the Revised Code.

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(2) "Health district" means a city or general health district
as created by or under the authority of Chapter 3709. of the
Revised Code.

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Sec. 6117.012. (A) A board of county commissioners may adopt
rules requiring owners of property within the district whose
property is served by a connection to sewers maintained and
operated by the board or to sewers that are connected to
interceptor sewers maintained and operated by the board to:

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(1) Disconnect stormwater inflows to sanitary sewers
maintained and operated by the board and not operated as a
combined sewer, or to connections with such sewers;

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(2) Disconnect non-stormwater inflows to stormwater sewers
maintained and operated by the board and not operated as a
combined sewer, or to connections with such sewers;

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(3) Reconnect or relocate any such disconnected inflows in
compliance with board rules and applicable building codes, health
codes, or other relevant codes;

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(4) Prevent sewer back-ups into properties that have 633
experienced one or more overflows of sanitary or combined sewers 634
maintained and operated by the board. 635

(B) Any inflow required to be disconnected or any sewer 636
back-up required to be prevented under a rule adopted pursuant to 637
division (A) of this section constitutes a nuisance subject to 638
injunctive relief and abatement pursuant to Chapter 3767. of the 639
Revised Code or as otherwise permitted by law. 640

(C) A board of county commissioners may use sewer district 641
funds; county general fund moneys; and, to the extent permitted by 642
their terms, loans, grants, or other moneys from appropriate state 643
or federal funds, for either of the following: 644

(1) The cost of disconnections, reconnections, ~~or~~ 645
relocations, or sewer back-up prevention required by rules adopted 646
pursuant to division (A) of this section, performed by the county 647
or under contract with the county; 648

(2) Payments to the property owner or a contractor hired by 649
the property owner pursuant to a competitive process established 650
by district rules, for the cost of disconnections, reconnections, 651
~~or~~ relocations, or sewer back-up prevention required by rules 652
adopted pursuant to division (A) of this section after the board, 653
pursuant to its rules, has approved the work to be performed and 654
after the county has received from the property owner a statement 655
releasing the county from all liability in connection with the 656
disconnections, reconnections, ~~or~~ relocations, or sewer back-up 657
prevention. 658

(D) Except as provided in division (E) of this section, the 659
board of county commissioners shall require in its rules regarding 660
disconnections, reconnections, or relocations of sewers or sewer 661
back-up prevention the reimbursement of moneys expended pursuant 662
to division (C) of this section by either of the following 663

methods: 664

(1) A charge to the property owner in the amount of the 665
payment made pursuant to division (C) of this section for 666
immediate payment or payment in installments with interest as 667
determined by the board not to exceed ten per cent, which payments 668
may be billed as a separate item with the rents charged to that 669
owner for use of the sewers. The board may approve installment 670
payments for a period of not more than fifteen years. If charges 671
are to be paid in installments, the board shall certify to the 672
county auditor information sufficient to identify each subject 673
parcel of property, the total of the charges to be paid in 674
installments, and the total number of installments to be paid. The 675
auditor shall record the information in the sewer improvement 676
record until these charges are paid in full. Charges not paid when 677
due shall be certified to the county auditor, who shall place the 678
charges upon the real property tax list and duplicate against that 679
property. Such charges shall be a lien on the property from the 680
date they are placed on the tax list and duplicate and shall be 681
collected in the same manner as other taxes. 682

(2) A special assessment levied against the property, payable 683
in such number of years as the board determines, not to exceed 684
fifteen years, with interest as determined by the board not to 685
exceed ten per cent. The board of county commissioners shall 686
certify the assessments to the county auditor, stating the amount 687
and time of payment. The auditor shall record the information in 688
the county sewer improvement record, showing separately the 689
assessments to be collected, and shall place the assessments upon 690
the real property tax list and duplicate for collection. Such 691
assessment shall be a lien on the property from the date it is 692
placed on the tax list and duplicate and shall be collected in the 693
same manner as other taxes. 694

(E) The county may adopt a resolution specifying a maximum 695

amount of the cost of any disconnection, reconnection, ~~or~~ 696
relocation, or sewer back-up prevention required pursuant to 697
division (A) of this section that may be paid by the county for 698
each affected parcel of property without requiring reimbursement. 699
~~Such~~ That amount may be allowed only if there is a building code, 700
health code, or other relevant code, or a federally imposed or 701
state-imposed consent decree that is filed or otherwise recorded 702
in a court of competent jurisdiction, applicable to the affected 703
parcel that prohibits in the future any inflows or sewer back-ups 704
not allowed under rules adopted pursuant to division (A)(1) or (4) 705
of this section. The board, by rule, shall establish criteria for 706
determining how much of the maximum amount for each qualifying 707
parcel need not be reimbursed. 708

(F) Disconnections, reconnections, ~~or~~ relocations, or sewer 709
back-up prevention required under this section ~~that are and~~ 710
performed by a contractor under contract with the property owner 711
shall not be considered a "public improvement" and those performed 712
by the county shall be considered a "public improvement" as 713
defined in section 4115.03 of the Revised Code. 714

Disconnections, reconnections, ~~or~~ relocations, or sewer 715
back-up prevention required under this section performed by a 716
contractor under contract with the property owner shall not be 717
subject to competitive bidding or public bond laws. 718

(G) Property owners shall be responsible for maintaining any 719
improvements made on private property to reconnect or relocate 720
disconnected inflows or for sewer back-up prevention pursuant to 721
this section unless a public easement exists for the county to 722
maintain that improvement. 723

Sec. 6117.39. ~~Whenever~~ (A) Except as provided in division (B) 724
of this section, whenever, in the opinion of the board of county 725
commissioners, it is necessary to acquire real estate or any 726

interest in real estate for the acquisition, construction, 727
maintenance, or operation of any sewer, drainage, or other 728
improvement authorized by this chapter, or to acquire the right to 729
construct, maintain, and operate the sewer, drainage, or other 730
improvement in and upon any property within or outside of a county 731
sewer district, it may purchase the real estate, interest in real 732
estate, or right by negotiation. If the board and the owner of the 733
real estate, interest in real estate, or right are unable to agree 734
upon its purchase and sale, or the amount of damages to be awarded 735
for it, the board may appropriate the real estate, interest, or 736
right in accordance with sections 163.01 to 163.22 of the Revised 737
Code, except that the board, in the exercise of the powers granted 738
by this section or any other section of this chapter, may not 739
appropriate real estate or personal property owned by a municipal 740
corporation. 741

(B)(1) For the purposes of division (B) of this section, 742
either of the following constitutes a public exigency: 743

(a) A finding by the director of environmental protection 744
that a public health nuisance caused by an occasion of unavoidable 745
urgency and suddenness due to unsanitary conditions compels the 746
immediate construction of sewers for the protection of the public 747
health and welfare; 748

(b) The issuance of an order by the board of health of a 749
health district to mitigate or abate a public health nuisance 750
caused by an occasion of unavoidable urgency and suddenness due to 751
unsanitary conditions that compels the immediate construction of 752
sewers for the protection of the public health and welfare. 753

(2) If the board of county commissioners is unable to 754
purchase property for the purpose of the construction of sewers to 755
mitigate or abate the public health nuisance that is the subject 756
of a finding of the director or an order of the board of health, 757

the board of county commissioners may adopt a resolution finding 758
that it is necessary for the protection of the public health and 759
welfare to appropriate property that the board of county 760
commissioners considers needed for that purpose. The resolution 761
shall contain a definite, accurate, and detailed description of 762
the property and the name and place of residence, if known or with 763
reasonable diligence ascertainable, of the owner of the property 764
appropriated. 765

The board of county commissioners shall fix in the resolution 766
what the board considers to be the value of the property 767
appropriated, which shall be supported by an independent 768
appraisal, together with damages to the residue, and shall deposit 769
the value of it, together with the damages, with the probate court 770
or the court of common pleas of the county in which the property, 771
or a part of it, is situated. The power to appropriate property 772
for the purposes of division (B) of this section shall be 773
exercised in the manner provided in sections 163.01 to 163.22 of 774
the Revised Code. 775

(3) As used in division (B) of this section: 776

(a) "Board of health" means the board of health of a city or 777
general health district or the authority having the duties of a 778
board of health in any city as authorized by section 3709.05 of 779
the Revised Code. 780

(b) "Health district" means a city or general health district 781
as created by or under the authority of Chapter 3709. of the 782
Revised Code. 783

Sec. 6119.11. The (A) Except as provided in division (B) of 784
this section, the board of trustees of a regional water and sewer 785
district may condemn for the use of the district any public or 786
private land, easement, rights, rights_of_way, franchises, or 787

other property within or without the district required by it for 788
the accomplishment of its purposes according to the procedure set 789
forth in sections 163.01 to 163.22, ~~inclusive~~, of the Revised 790
Code. 791

(B)(1) For the purposes of division (B) of this section, 792
either of the following constitutes a public exigency: 793

(a) A finding by the director of environmental protection 794
that a public health nuisance caused by an occasion of unavoidable 795
urgency and suddenness due to unsanitary conditions compels the 796
immediate construction of sewers for the protection of the public 797
health and welfare; 798

(b) The issuance of an order by the board of health of a 799
health district to mitigate or abate a public health nuisance 800
caused by an occasion of unavoidable urgency and suddenness due to 801
unsanitary conditions that compels the immediate construction of 802
sewers for the protection of the public health and welfare. 803

(2) If the board of trustees of a regional water and sewer 804
district is unable to purchase property for the purpose of the 805
construction of sewers to mitigate or abate the public health 806
nuisance that is the subject of a finding of the director or an 807
order of the board of health, the board of trustees may adopt a 808
resolution finding that it is necessary for the protection of the 809
public health and welfare to appropriate property that the board 810
of trustees considers needed for that purpose. The resolution 811
shall contain a definite, accurate, and detailed description of 812
the property and the name and place of residence, if known or with 813
reasonable diligence ascertainable, of the owner of the property 814
appropriated. 815

The board of trustees shall fix in the resolution what the 816
board considers to be the value of the property appropriated, 817
which shall be supported by an independent appraisal, together 818

with damages to the residue, and shall deposit the value of it, 819
together with the damages, with the probate court or the court of 820
common pleas of the county in which the property, or a part of it, 821
is situated. The power to appropriate property for the purposes of 822
division (B) of this section shall be exercised in the manner 823
provided in sections 163.01 to 163.22 of the Revised Code. 824

(3) As used in division (B) of this section: 825

(a) "Board of health" means the board of health of a city or 826
general health district or the authority having the duties of a 827
board of health in any city as authorized by section 3709.05 of 828
the Revised Code. 829

(b) "Health district" means a city or general health district 830
as created by or under the authority of Chapter 3709. of the 831
Revised Code. 832

Section 2. That existing sections 163.02, 163.09, 163.12, 833
163.21, 307.08, 307.79, 307.99, 719.01, 3709.41, 6117.012, 834
6117.39, and 6119.11 of the Revised Code are hereby repealed. 835