

As Passed by the Senate

125th General Assembly

Regular Session

2003-2004

Sub. H. B. No. 411

**Representatives Seitz, Collier, Niehaus, McGregor, Aslanides, Schneider,
Webster, Gilb, Wolpert, Schlichter, Sferra, Daniels, Flowers, Barrett, Bocchieri,
Driehaus, C. Evans, Grendell, Otterman, Peterson, Raussen, Setzer, Ujvagi,
Yates**

Senators Jacobson, Robert Gardner

—

A BILL

To amend sections 163.02, 163.09, 163.12, 303.02, 1
307.08, 307.79, 504.04, 504.19, 505.07, 505.375, 2
519.02, 3709.41, 6117.012, 6117.39, 6117.51, and 3
6119.11 and to enact sections 307.561, 504.21, 4
6101.181, and 6115.221 of the Revised Code to 5
allow a county, township with a limited home rule 6
government, conservancy district, sanitary 7
district, county sewer district, or regional water 8
and sewer district to appropriate, without a prior 9
jury assessment of compensation for the taking, 10
land for the construction of sewers when the 11
Director of Environmental Protection or a local 12
board of health finds that unsanitary conditions 13
compel the immediate construction of the sewers 14
for the protection of the public health and 15
welfare; to revise the rulemaking authority of a 16
board of county commissioners that adopts rules 17
governing erosion control, sediment control, and 18
water management; to permit townships with a 19
limited home rule government to adopt certain 20

erosion control, sediment control, and water 21
management rules; to establish a potential civil 22
fine for violation of those rules; to authorize a 23
board of county commissioners that has established 24
a county sewer district to adopt rules governing 25
the prevention of sewer back-ups; to exempt 26
certain farm dwellings from certain sewer 27
connections; to authorize the settlement of 28
county-related court actions by consent decrees or 29
court-approved settlement agreements that may 30
include specified rezoning or development 31
agreements; to make changes to the procedures 32
relating to township consent decrees or 33
court-approved settlement agreements; to permit 34
fire and ambulance districts to enter into lease 35
contracts with an option to purchase; to remove a 36
reference to the Oil and Gas Law from the county 37
and township zoning laws; and to require health 38
district licensing councils to meet at least 39
annually rather than quarterly. 40

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

Section 1. That sections 163.02, 163.09, 163.12, 303.02, 41
307.08, 307.79, 504.04, 504.19, 505.07, 505.375, 519.02, 3709.41, 42
6117.012, 6117.39, 6117.51, and 6119.11 be amended and sections 43
307.561, 504.21, 6101.181, and 6115.221 of the Revised Code be 44
enacted to read as follows: 45

Sec. 163.02. (A) Except as provided in divisions (B), (C), 46
~~and~~ (D), and (F) of this section, all appropriations of real 47
property shall be made pursuant to sections 163.01 to 163.22 of 48
the Revised Code. 49

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

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

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

(E) When the director of transportation, a conservancy district, or a sanitary 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.

(F) A county, township that has adopted a limited home rule government, conservancy district, sanitary district, county sewer district, or a regional water and sewer district also may appropriate real property in the manner prescribed in division (B) of section 307.08, 6101.181, 6115.221, 6117.39, or 6119.11 or division (D) of section 504.19 of the Revised Code, as applicable.

(G) 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.

Sec. 163.09. (A) If no answer is filed pursuant to section 163.08 of the Revised Code, ~~nor~~ and no 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 the residue to be 80
as set forth in any document properly filed with the clerk of 81
~~courts~~ the court of common pleas by the public agency. In all 82
other cases, the court shall fix a time, within twenty days from 83
the last date that ~~such~~ the answer could have been filed, for the 84
assessment of compensation by a jury. 85

(B) When an answer is filed pursuant to section 163.08 of the 86
Revised Code and any of the matters relating to the right to make 87
the appropriation, the inability of the parties to agree, or the 88
necessity for the appropriation are specifically denied in the 89
manner provided in ~~such~~ that section, the court shall set a day, 90
not less than five or more than fifteen days from the date the 91
answer was filed, to hear ~~such questions~~ those matters. Upon ~~such~~ 92
~~questions~~ those matters, the burden of proof is upon the owner. A 93
resolution or ordinance of the governing or controlling body, 94
council, or board of the agency declaring the necessity for the 95
appropriation shall be prima-facie evidence of ~~such~~ that necessity 96
in the absence of proof showing an abuse of discretion by the 97
agency in determining ~~such~~ that necessity. If, as to any or all of 98
the property or other interests sought to be appropriated, the 99
court determines the ~~questions~~ matters in favor of the agency, the 100
court shall set a time for the assessment of compensation by the 101
jury within twenty days from the date of the journalization of 102
~~such~~ that determination. An order of the court in favor of the 103
agency on any of ~~such questions~~ the matters or on qualification 104
under section 163.06 of the Revised Code, shall not be a final 105
order for purposes of appeal. An order of the court against the 106
agency on any of ~~such questions~~, the matters or on the question of 107
qualification under section 163.06 of the Revised Code, shall be a 108
final order for purposes of appeal. If a public agency has taken 109
possession prior to such an order and such an order, after any 110
appeal, is against the agency on any of ~~such questions~~ the 111
matters, the agency shall restore the property to the owner in its 112

original condition or respond in damages, which may include the 113
items set forth in division (A)(2) of section 163.21 of the 114
Revised Code, recoverable by civil action, to which the state 115
consents. 116

(C) When an answer is filed pursuant to section 163.08 of the 117
Revised Code, and none of the matters set forth in division (B) of 118
this section is specifically denied, the court shall fix a time 119
within twenty days from the date the answer was filed for the 120
assessment of compensation by a jury. 121

(D) If answers are filed pursuant to divisions (B) and (C) of 122
this section, or an answer is filed on behalf of fewer than all 123
the named owners, the court shall set the hearing or hearings at 124
such times as are reasonable under all the circumstances, but in 125
no event later than twenty days after the issues are joined as to 126
all necessary parties or twenty days after rule therefor, 127
whichever is earlier. 128

(E) The court, with the consent of the parties, may order two 129
or more cases to be consolidated and tried together, but the 130
rights of each owner to compensation, damages, or both shall be 131
separately determined by the jury in its verdict. 132

(F) If an answer is filed under section 163.08 of the Revised 133
Code with respect to the value of property appropriated under 134
section 307.08, 504.19, 6101.181, 6115.221, 6117.39, or 6119.11 of 135
the Revised Code as the result of a public exigency, the burden of 136
proof with respect to that value is on the party or parties to the 137
appropriation other than the property owners. 138

Sec. 163.12. (A) A view of the premises to be appropriated or 139
of premises appropriated shall be ordered by the court when 140
demanded by a party to the proceedings. ~~The~~ 141

(B) The property owners shall open and close the case except 142

that, if the premises are appropriated under section 307.08, 143
504.19, 6101.181, 6115.221, 6117.39, or 6119.11 of the Revised 144
Code as the result of a public exigency, the party or parties 145
other than the owners shall open and close the case. 146

(C) The court may amend any defect or informality in 147
proceedings under sections 163.01 to 163.22~~, inclusive,~~ of the 148
Revised Code. The court may cause new parties to be added, and 149
direct ~~such~~ further notice to be given to a party in interest as 150
the court ~~deems~~ considers proper. 151

(D) No part of the pleadings, other than the petition, shall 152
be read or exhibited to the jury. 153

Sec. 303.02. Except as otherwise provided in this section, in 154
the interest of the public health, safety, convenience, comfort, 155
prosperity, or general welfare, the board of county commissioners 156
may, in accordance with a comprehensive plan, regulate by 157
resolution the location, height, bulk, number of stories, and size 158
of buildings and other structures, including tents, cabins, and 159
trailer coaches, percentages of lot areas that may be occupied, 160
set back building lines, sizes of yards, courts, and other open 161
spaces, the density of population, the uses of buildings and other 162
structures, including tents, cabins, and trailer coaches, and the 163
uses of land for trade, industry, residence, recreation, or other 164
purposes in the unincorporated territory of the county, and 165
establish reasonable residential landscaping standards and 166
residential architectural standards, excluding exterior building 167
materials, for the unincorporated territory of the county and, for 168
all these purposes, the board may divide all or any part of the 169
unincorporated territory of the county into districts or zones of 170
such number, shape, and area as the board determines. All such 171
regulations shall be uniform for each class or kind of building or 172
other structure or use throughout any district or zone, but the 173

regulations in one district or zone may differ from those in other 174
districts or zones. 175

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For any activities permitted and regulated under Chapter 177
~~1509.~~ 1513. or 1514. of the Revised Code and any related 178
processing activities, the board of county commissioners may 179
regulate under the authority conferred by this section only in the 180
interest of public health or safety. 181

Sec. 307.08. ~~When~~ (A) Except as provided in division (B) of 182
this section, when, in the opinion of the board of county 183
commissioners, it is necessary to procure real estate, a 184
right-of-way, or an easement for a courthouse, a jail, or public 185
offices, ~~or~~ for a bridge and the approaches ~~thereto~~ to it, or 186
~~either for another~~ structure, ~~or~~ public market place, or market 187
house, proceedings shall be had in accordance with sections 163.01 188
to 163.22, ~~inclusive,~~ of the Revised Code. 189

(B)(1) For the purposes of division (B) of this section, 190
either of the following constitutes a public exigency: 191

(a) A finding by the director of environmental protection 192
that a public health nuisance caused by an occasion of unavoidable 193
urgency and suddenness due to unsanitary conditions compels the 194
immediate construction of sewers for the protection of the public 195
health and welfare; 196

(b) The issuance of an order by the board of health of a 197
health district to mitigate or abate a public health nuisance that 198
is caused by an occasion of unavoidable urgency and suddenness due 199
to unsanitary conditions and compels the immediate construction of 200
sewers for the protection of the public health and welfare. 201

(2) If the board of county commissioners is unable to 202
purchase property for the purpose of the construction of sewers to 203

mitigate or abate the public health nuisance that is the subject 204
of a finding of the director or an order of the board of health, 205
the board of county commissioners may adopt a resolution finding 206
that it is necessary for the protection of the public health and 207
welfare to appropriate property that the board of county 208
commissioners considers needed for that purpose. The resolution 209
shall contain a definite, accurate, and detailed description of 210
the property and the name and place of residence, if known or with 211
reasonable diligence ascertainable, of the owners of the property 212
to be appropriated. 213

The board of county commissioners shall fix in its resolution 214
what it considers to be the value of the property to be 215
appropriated, which shall be the board's determination of the 216
compensation for the property and shall be supported by an 217
independent appraisal, together with any damages to the residue. 218
The board shall deposit the compensation so determined, together 219
with an amount for the damages to the residue, with the probate 220
court or the court of common pleas of the county in which the 221
property, or a part of it, is situated. Except as otherwise 222
provided in this division, the power to appropriate property for 223
the purposes of this division shall be exercised in the manner 224
provided in sections 163.01 to 163.22 of the Revised Code for an 225
appropriation in time of public exigency. The board's resolution 226
and a written copy of the independent appraisal shall accompany 227
the petition filed under section 163.05 of the Revised Code. 228

Sec. 307.561. Notwithstanding any contrary provision in 229
another section of the Revised Code, section 303.12 of the Revised 230
Code, or any vote of the electors on a petition for zoning 231
referendum, a county may settle any court action by a consent 232
decree or court-approved settlement agreement which may include an 233
agreement to rezone any property involved in the action as 234

provided in the decree or court-approved settlement agreement 235
without following the procedures in section 303.12 of the Revised 236
Code and also may include county approval of a development plan 237
for any property involved in the action as provided in the decree 238
or court-approved settlement agreement, provided that the court 239
makes specific findings of fact that notice has been properly made 240
pursuant to this section and the consent decree or court-approved 241
settlement agreement is fair and reasonable. 242

If the subject of the consent decree or court-approved 243
settlement agreement involves a zoning issue subject to referendum 244
under section 303.12 of the Revised Code, the board of county 245
commissioners shall publish notice of their intent to meet and 246
consider and take action on the decree or court-approved 247
settlement agreement and the date and time of the meeting in a 248
newspaper of general circulation in the county at least fifteen 249
days before the meeting. The board shall permit members of the 250
public to express their objections to the consent decree or 251
court-approved settlement agreement at the meeting. Copies of the 252
proposed consent decree or court-approved settlement agreement 253
shall be available to the public at the board's office during 254
normal business hours. 255

At least ten days prior to the submission of a proposed 256
consent decree or settlement agreement to the court for its review 257
and consideration, the plaintiff in the action involving the 258
consent decree or settlement agreement shall publish a notice that 259
shall include the caption of the case, the case number, and the 260
court in which the consent decree or settlement agreement will be 261
filed, the intention of the parties in the action to file a 262
consent decree or settlement agreement, and, when applicable, a 263
description of the real property involved and the proposed change 264
in zoning or permitted use, in a newspaper of general circulation 265
in the county. 266

Sec. 307.79. (A) The board of county commissioners may adopt, 267
amend, and rescind rules establishing technically feasible and 268
economically reasonable standards to achieve a level of management 269
and conservation practices ~~which that~~ will abate wind or water 270
erosion of the soil or abate the degradation of the waters of the 271
state by soil sediment in conjunction with land grading, 272
excavating, filling, or other soil disturbing activities on land 273
used or being developed for nonfarm commercial, industrial, 274
residential, or other nonfarm purposes, and establish criteria for 275
determination of the acceptability of ~~such~~ those management and 276
conservation practices. The rules shall be designed to implement 277
the applicable areawide waste treatment management plan prepared 278
under section 208 of the "Federal Water Pollution Control Act," 86 279
Stat. 816 (1972), 33 U.S.C.A. 1228, as amended, and to implement 280
phase II of the storm water program of the national pollutant 281
discharge elimination system established in 40 C.F.R. Part 122. 282
The rules to implement phase II of the storm water program of the 283
national pollutant discharge elimination system shall not be 284
inconsistent with, more stringent than, or broader in scope than 285
the rules or regulations adopted by the environmental protection 286
agency under 40 C.F.R. Part 122. ~~Such~~ The rules adopted under this 287
section shall not apply inside the limits of municipal 288
corporations or the limits of townships with a limited home rule 289
government that have adopted rules under section 504.21 of the 290
Revised Code, to lands being used in a strip mine operation as 291
defined in section 1513.01 of the Revised Code, or to land being 292
used in a surface mine operation as defined in section 1514.01 of 293
the Revised Code. 294

The rules adopted under this section may require persons to 295
file plans governing erosion control, sediment control, and water 296
management ~~plans incident thereto,~~ before clearing, grading, 297
excavating, filling, or otherwise wholly or partially disturbing 298

~~five one~~ or more contiguous acres of land owned by one person or
operated as one development unit for the construction of nonfarm
buildings, structures, utilities, recreational areas, or other
similar nonfarm uses. ~~Areas~~ If the rules require plans to be
filed, the rules shall do all of the following:

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

(2) Establish procedures and criteria for the review and
approval or disapproval of the plans;

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

(4) Establish procedures for the issuance of the permits;

(5) Establish procedures under which a person may appeal the
denial of a permit.

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

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

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

(B) Rules or amendments may be adopted under this section 329
only after public ~~hearing~~ hearings at not fewer than two regular 330
sessions of the board. The board of county commissioners shall 331
cause to be published, in a newspaper of general circulation in 332
the county, notice of the public hearings, including time, date, 333
and place, once a week for two weeks immediately preceding the 334
hearings. The proposed rules or amendments shall be made available 335
by the board to the public at the board office or other location 336
indicated in the notice. The rules or amendments shall take effect 337
on the thirty-first day following the date of their adoption. 338

(C) The board of county commissioners may employ personnel, 339
to assist in the administration of this section and the rules 340
adopted under it. The board also, if the action does not conflict 341
with the rules, may delegate duties to review sediment control and 342
water management plans to its employees, and may enter into 343
agreements with one or more political subdivisions, other county 344
officials, or other government agencies, in any combination, in 345
order to obtain reviews and comments on ~~such~~ plans governing 346
erosion control, sediment control, and water management or to 347
obtain other services for the administration of the rules adopted 348
under this section. 349

(D) The board of county commissioners or any duly authorized 350
representative of the board may, upon identification to the owner 351
or person in charge, enter any land upon obtaining agreement with 352
the owner, tenant, or manager ~~thereof~~ of the land in order to 353
determine whether there is compliance with the rules adopted under 354
this section. If the board or its duly authorized representative 355
is unable to obtain such an agreement, the board or representative 356
may apply for, and a judge of the court of common pleas for the 357
county where the land is located may issue, an appropriate 358
inspection warrant as necessary to achieve the purposes of this 359
chapter. 360

(E)(1) If the board of county commissioners or its duly authorized representative determines that a violation of the rules adopted under this section exists and requests, the board or representative may issue an immediate stop work order if the violator failed to obtain any federal, state, or local permit necessary for sediment and erosion control, earth movement, clearing, or cut and fill activity. In addition, if the board or representative determines such a rule violation exists, regardless of whether or not the violator has obtained the proper permits, the board or representative may authorize the issuance of a notice of violation. If, after a period of not less than thirty days has elapsed following the issuance of the notice of violation, the violation continues, the board or its duly authorized representative shall issue a second notice of violation. Except as provided in division (E)(3) of this section, if, after a period of not less than fifteen days has elapsed following the issuance of the second notice of violation, the violation continues, the board or its duly authorized representative may issue a stop work order after first obtaining the written approval of the prosecuting attorney of the county if, in the opinion of the prosecuting attorney, the violation is egregious.

Once a stop work order is issued, the board or its duly authorize representative shall request, in writing, the prosecuting attorney of the county in writing, the prosecuting attorney shall to seek an injunction or other appropriate relief in the court of common pleas to abate excessive erosion or sedimentation and secure compliance with the rules adopted under this section. If the prosecuting attorney seeks an injunction or other appropriate relief, then, in granting relief, the court of common pleas may order the construction of sediment control improvements or implementation of other control measures and may assess a civil fine of not less than one hundred or more than five

hundred dollars. Each day of violation of a rule or stop work order issued under this section shall be considered a separate violation subject to a civil fine. 393
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(2) The person to whom a stop work order is issued under this section may appeal the order to the court of common pleas of the county in which it was issued, seeking any equitable or other appropriate relief from that order. 396
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(3) No stop work order shall be issued under this section against any public highway, transportation, or drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the board or the chief of the division of soil and water conservation in the department of natural resources. 400
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(F) No person shall violate any rule adopted or order issued under this section. Notwithstanding division (E) of this section, if the board of county commissioners determines that a violation of any rule adopted or administrative order issued under this section exists, the board may request, in writing, the prosecuting attorney of the county to seek an injunction or other appropriate relief in the court of common pleas to abate excessive erosion or sedimentation and secure compliance with the rules or order. In granting relief, the court of common pleas may order the construction of sediment control improvements or implementation of other control measures and may assess a civil fine of not less than one hundred or more than five hundred dollars. Each day of violation of a rule adopted or administrative order issued under this section shall be considered a separate violation subject to a civil fine. 407
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Sec. 504.04. (A) A township that adopts a limited home rule government may do all of the following by resolution, provided 422
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that any of these resolutions, other than a resolution to supply 424
water or sewer services in accordance with sections 504.18 to 425
504.20 of the Revised Code, may be enforced only by the imposition 426
of civil fines as authorized in this chapter: 427

(1) Exercise all powers of local self-government within the 428
unincorporated area of the township, other than powers that are in 429
conflict with general laws, except that the township shall comply 430
with the requirements and prohibitions of this chapter, and shall 431
enact no taxes other than those authorized by general law, and 432
except that no resolution adopted pursuant to this chapter shall 433
encroach upon the powers, duties, and privileges of elected 434
township officers or change, alter, combine, eliminate, or 435
otherwise modify the form or structure of the township government 436
unless the change is required or permitted by this chapter; 437

(2) Adopt and enforce within the unincorporated area of the 438
township local police, sanitary, and other similar regulations 439
that are not in conflict with general laws or otherwise prohibited 440
by division (B) of this section; 441

(3) Supply water and sewer services to users within the 442
unincorporated area of the township in accordance with sections 443
504.18 to 504.20 of the Revised Code. 444

(B) No resolution adopted pursuant to this chapter shall do 445
any of the following: 446

(1) Create a criminal offense or impose criminal penalties, 447
except as authorized by division (A) of this section; 448

(2) Impose civil fines other than as authorized by this 449
chapter; 450

(3) Establish or revise subdivision regulations, road 451
construction standards, urban sediment rules, or storm water and 452
drainage regulations, except as provided in section 504.21 of the 453
Revised Code; 454

(4) Establish or revise building standards, building codes, 455
and other standard codes except as provided in section 504.13 of 456
the Revised Code; 457

(5) Increase, decrease, or otherwise alter the powers or 458
duties of a township under any other chapter of the Revised Code 459
pertaining to agriculture or the conservation or development of 460
natural resources; 461

(6) Establish regulations affecting hunting, trapping, 462
fishing, or the possession, use, or sale of firearms; 463

(7) Establish or revise water or sewer regulations, except in 464
accordance with ~~sections~~ section 504.18 ~~and~~, 504.19, or 504.21 of 465
the Revised Code. 466

Nothing in this chapter shall be construed as affecting the 467
powers of counties with regard to the subjects listed in divisions 468
(B)(3) to (5) of this section. 469

(C) Under a limited home rule government, all officers shall 470
have the qualifications, and be nominated, elected, or appointed, 471
as provided in Chapter 505. of the Revised Code, except that the 472
board of township trustees shall appoint a full-time or part-time 473
law director pursuant to section 504.15 of the Revised Code, and 474
except that a five-member board of township trustees approved for 475
the township before ~~the effective date of this amendment~~ September 476
26, 2003, shall continue to serve as the legislative authority 477
with successive members serving for four-year terms of office 478
until a termination of a limited home rule government under 479
section 504.03 of the Revised Code. 480

(D) In case of conflict between resolutions enacted by a 481
board of township trustees and municipal ordinances or 482
resolutions, the ordinance or resolution enacted by the municipal 483
corporation prevails. In case of conflict between resolutions 484
enacted by a board of township trustees and any county resolution, 485

the resolution enacted by the board of township trustees prevails.

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Sec. 504.19. (A) The board of township trustees may prepare and adopt a general plan of water supply or sewer services. After the general plan has been approved by the board, the board immediately shall notify the board of county commissioners if territory served by a county water supply facility or a county sewer district includes territory to be covered by the plan, the legislative authority of a municipal corporation that operates a water supply or sewer system in any of the territory to be covered by the plan, and the board of trustees of any existing regional water and sewer district that includes any territory to be covered by the plan, of the township's intention to provide water supply or sewer services and shall describe the area where the township proposes to provide water supply or sewer services. The notified board of county commissioners, legislative authority of a municipal corporation, and board of trustees of the regional water and sewer district then have thirty days from the date of ~~notiflection~~ notification to comment and object in writing to the township's provision of water supply or sewer services. An objection may be based on one or more of the following:

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(1) The county, municipal corporation, or special district already provides the proposed water supply or sewer services to the area to be served.

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(2) The county, municipal corporation, or special district has in its service plan provisions to provide the proposed water supply or sewer services in the future to the proposed area within a reasonable period of time.

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Within fifteen days after receiving objections, the board of township trustees may request in writing submitted to the objecting party that the issue of the township's provision of the proposed water supply or sewer services be mediated. The mediation

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shall be performed either by the Ohio commission on dispute resolution and conflict management or by having each party select a mediator and having those two mediators select a third mediator who, together with the other two mediators, shall conduct the mediation.

Within forty-five days after the request for mediation is submitted, any mediation shall be completed, and any agreements reached between the parties shall be filed in writing with the parties. Thereafter, the respective governing boards may adopt the agreements, making those agreements binding on the parties, or, if one or more of the agreed-upon points is rejected, that rejection shall be considered a final decision of a governing board for purposes of Chapter 2506. of the Revised Code, and the board of township trustees may file an appeal under that chapter regarding its provision of the proposed water supply or sewer services. In addition to any findings of the court provided in section 2506.04 of the Revised Code, the court may determine that the county, municipal corporation, or special district has not met the criteria specified in divisions (A)(1) and (2) of this section and, therefore, the township may provide its proposed water supply or sewer services or, in the alternative, may determine that the township could provide the proposed water supply or sewer services more expediently than the county, municipal corporation, or special district with no substantial increase in cost to the users of the water supply or sewer services and, therefore, order that the township may provide its proposed water supply or sewer services.

(B) Once the board has approved a general plan of water supply or sewer services under division (A) of this section, the board shall hire an engineer to prepare detailed plans, specifications, and estimates of the cost of the improvements, together with a tentative assessment of the cost based on the

estimates. The tentative assessment shall be for the information 549
of property owners and shall not be certified to the county 550
auditor for collection. The detailed plans, specifications, 551
estimates of cost, and tentative assessment, as prepared by the 552
engineer and approved by the board, shall be preserved in the 553
office of the board and shall be open to inspection of all persons 554
interested in the improvements. 555

(C) Once it has been determined under division (A) of this 556
section that a township may provide its proposed water supply or 557
sewer services, the board may ~~condemn~~ appropriate for the use of 558
the township any public or private land, easement, rights, 559
rights-of-way, franchises, or other property within or outside the 560
township required by it for the accomplishment of its purposes. 561
Except as provided in division (D) of this section, the 562
appropriation shall be according to the procedure set forth in 563
sections 163.01 to 163.22 of the Revised Code. The engineer hired 564
by the board may enter upon any public or private property for the 565
purpose of making surveys and examinations necessary for the 566
design or examination of water supply or sewer facilities. No 567
person shall forbid or interfere with the engineer or the 568
engineer's authorized assistants entering upon property for these 569
purposes. If actual damage is done to property by the making of a 570
survey and examination, the board shall pay the reasonable value 571
of the damage to the owner of the property damaged, and the cost 572
shall be included in the assessment upon the property benefited by 573
the improvement. 574

(D)(1) For purposes of this division, either of the following 575
constitutes a public exigency: 576

(a) A finding by the director of environmental protection 577
that a public health nuisance caused by an occasion of unavoidable 578
urgency and suddenness due to unsanitary conditions compels the 579
immediate construction of sewers for the protection of the public 580

health and welfare;

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

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(2) If a board of township trustees of a township that has adopted a limited home rule government is unable to purchase property for the purpose of the construction of sewers to mitigate or abate the public health nuisance that is the subject of a finding of the director or an order of the board of health, the board of township trustees may adopt a resolution finding that it is necessary for the protection of the public health and welfare to appropriate property that the board considers needed for that purpose. The resolution shall contain a definite, accurate, and detailed description of the property and the name and place of residence, if known or with reasonable diligence ascertainable, of the owners of the property to be appropriated.

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The board of township trustees shall fix in its resolution what it considers to be the value of the property to be appropriated, which shall be the board's determination of the compensation for the property and shall be supported by an independent appraisal, together with any damages to the residue. The board shall deposit the compensation so determined, together with an amount for the damages to the residue, with the probate court or the court of common pleas of the county in which the property, or a part of it, is situated. Except as otherwise provided in this division, the power to appropriate property for the purposes of this division shall be exercised in the manner provided in sections 163.01 and 163.22 of the Revised Code for an appropriation in time of public exigency. The board's resolution and a written copy of the independent appraisal shall accompany

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the petition filed under section 163.05 of the Revised Code.

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(E) As soon as all questions of compensation and damages have been determined for any water supply facilities or sewer services improvement project, the board shall cause to be made an estimated assessment, upon the lots and lands to be assessed, of such part of the compensation, damages, and costs of the improvement as is to be specially assessed according to the method specified by resolution of the board. The schedule of the assessments shall be filed with the township clerk for the inspection of interested persons. Before adopting the estimated assessment, the board shall cause written notice to be sent to the owners of all lots and lands to be assessed that the assessment has been made and is on file with the township clerk, and the date when objections to the assessment will be heard. Objections shall be filed in writing with the board before the date of the hearing. If any objections are filed, the board shall hear them and act as an equalizing board, and may change the assessments if, in its opinion, any change is necessary to make the assessments just and equitable. The board shall adopt a resolution approving and confirming the assessments as reported to or modified by the board.

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~~(E)~~(F) The resolution levying the assessments shall apportion the cost among the benefited lots and lands in the manner provided by the board by resolution. The board shall certify the amounts to be levied upon each lot or parcel of land to the county auditor, who shall enter the amounts on the tax duplicate, to be collected as other taxes. The principal shall be payable in not more than forty semiannual installments, as determined by the board. Any assessment in the amount of twenty-five dollars or less, or of which the unpaid balance is twenty-five dollars or less, shall be paid in full and not in installments, at the time the first or next installment otherwise would become due and payable. Assessments are a lien upon the respective lots or parcels of land

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assessed from the date of adoption of the resolution under 645
division ~~(D)~~(E) of this section. If bonds are issued to pay the 646
compensation, damages, and the costs of an improvement, the 647
principal amount of the assessment shall be payable in such number 648
of semiannual installments and in such amounts as the board 649
determines to be necessary to provide a fund for the payment of 650
the principal of and interest on the bonds and shall bear interest 651
from the date of the issuance of the bonds and at the same rate as 652
the bonds. 653

~~(F)~~(G) Any owner of property to be assessed for any water 654
supply facilities or sewer services improvement project, or other 655
person aggrieved by the action of the board in regard to any water 656
supply facilities or sewer services improvement project, may 657
appeal to the court of common pleas, in the manner prescribed by 658
Chapter 2506. of the Revised Code. 659

~~(G)~~(H) When collected, the assessments shall be paid by the 660
county auditor by warrant of the county treasurer into a special 661
fund in the township treasury created for the purpose of 662
constructing, improving, maintaining, and operating water supply 663
facilities or sewer improvements. The board may expend moneys from 664
the fund only for the purposes for which the assessments were 665
levied. 666

Sec. 504.21. (A) The board of township trustees of a township 667
that has adopted a limited home rule government may, for the 668
unincorporated territory in the township, adopt, amend, and 669
rescind rules establishing technically feasible and economically 670
reasonable standards to achieve a level of management and 671
conservation practices that will abate wind or water erosion of 672
the soil or abate the degradation of the waters of the state by 673
soil sediment in conjunction with land grading, excavating, 674
filling, or other soil disturbing activities on land used or being 675

developed in the township for nonfarm commercial, industrial, 676
residential, or other nonfarm purposes, and establish criteria for 677
determination of the acceptability of those management and 678
conservation practices. The rules shall be designed to implement 679
the applicable areawide waste treatment management plan prepared 680
under section 208 of the "Federal Water Pollution Control Act," 86 681
Stat. 816 (1972), 33 U.S.C.A. 1228, as amended, and to implement 682
phase II of the storm water program of the national pollutant 683
discharge elimination system established in 40 C.F.R. Part 122. 684
The rules to implement phase II of the storm water program of the 685
national pollutant discharge elimination system shall not be 686
inconsistent with, more stringent than, or broader in scope than 687
the rules or regulations adopted by the environmental protection 688
agency under 40 C.F.R. Part 122. The rules adopted under this 689
section shall not apply inside the limits of municipal 690
corporations, to lands being used in a strip mine operation as 691
defined in section 1513.01 of the Revised Code, or to land being 692
used in a surface mine operation as defined in section 1514.01 of 693
the Revised Code. 694

The rules adopted under this section may require persons to 695
file plans governing erosion control, sediment control, and water 696
management before clearing, grading, excavating, filling, or 697
otherwise wholly or partially disturbing one or more contiguous 698
acres of land owned by one person or operated as one development 699
unit for the construction of nonfarm buildings, structures, 700
utilities, recreational areas, or other similar nonfarm uses. If 701
the rules require plans to be filed, the rules shall do all of the 702
following: 703

(1) Designate the board itself, its employees, or another 704
agency or official to review and approve or disapprove the plans; 705

(2) Establish procedures and criteria for the review and 706
approval or disapproval of the plans; 707

(3) Require the designated entity to issue a permit to a person for the clearing, grading, excavating, filling, or other project for which plans are approved and to deny a permit to a person whose plans have been disapproved; 708
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(4) Establish procedures for the issuance of the permits; 712

(5) Establish procedures under which a person may appeal the denial of a permit. 713
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Areas of less than one contiguous acre shall not be exempt from compliance with other provisions of this section or rules adopted under this section. The rules adopted under this section may impose reasonable filing fees for plan review, permit processing, and field inspections. 715
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No permit or plan shall be required for a public highway, transportation, or drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the board or the chief of the division of soil and water conservation in the department of natural resources. 720
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(B) Rules or amendments may be adopted under this section only after public hearings at not fewer than two regular sessions of the board of township trustees. The board shall cause to be published, in a newspaper of general circulation in the township, notice of the public hearings, including time, date, and place, once a week for two weeks immediately preceding the hearings. The proposed rules or amendments shall be made available by the board to the public at the board office or other location indicated in the notice. The rules or amendments shall take effect on the thirty-first day following the date of their adoption. 727
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(C) The board of township trustees may employ personnel to assist in the administration of this section and the rules adopted 737
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under it. The board also, if the action does not conflict with the 739
rules, may delegate duties to review sediment control and water 740
management plans to its employees, and may enter into agreements 741
with one or more political subdivisions, other township officials, 742
or other government agencies, in any combination, in order to 743
obtain reviews and comments on plans governing erosion control, 744
sediment control, and water management or to obtain other services 745
for the administration of the rules adopted under this section. 746

(D) The board of township trustees or any duly authorized 747
representative of the board may, upon identification to the owner 748
or person in charge, enter any land upon obtaining agreement with 749
the owner, tenant, or manager of the land in order to determine 750
whether there is compliance with the rules adopted under this 751
section. If the board or its duly authorized representative is 752
unable to obtain such an agreement, the board or representative 753
may apply for, and a judge of the court of common pleas for the 754
county where the land is located may issue, an appropriate 755
inspection warrant as necessary to achieve the purposes of this 756
section. 757

(E)(1) If the board of township trustees or its duly 758
authorized representative determines that a violation of the rules 759
adopted under this section exists, the board or representative may 760
issue an immediate stop work order if the violator failed to 761
obtain any federal, state, or local permit necessary for sediment 762
and erosion control, earth movement, clearing, or cut and fill 763
activity. In addition, if the board or representative determines 764
such a rule violation exists, regardless of whether or not the 765
violator has obtained the proper permits, the board or 766
representative may authorize the issuance of a notice of 767
violation. If, after a period of not less than thirty days has 768
elapsed following the issuance of the notice of violation, the 769
violation continues, the board or its duly authorized 770

representative shall issue a second notice of violation. Except as
provided in division (E)(3) of this section, if, after a period of
not less than fifteen days has elapsed following the issuance of
the second notice of violation, the violation continues, the board
or its duly authorized representative may issue a stop work order
after first obtaining the written approval of the prosecuting
attorney of the county in which the township is located if, in the
opinion of the prosecuting attorney, the violation is egregious.

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Once a stop work order is issued, the board or its duly
authorized representative shall request, in writing, the
prosecuting attorney to seek an injunction or other appropriate
relief in the court of common pleas to abate excessive erosion or
sedimentation and secure compliance with the rules adopted under
this section. If the prosecuting attorney seeks an injunction or
other appropriate relief, then, in granting relief, the court of
common pleas may order the construction of sediment control
improvements or implementation of other control measures and may
assess a civil fine of not less than one hundred or more than five
hundred dollars. Each day of violation of a rule or stop work
order issued under this section shall be considered a separate
violation subject to a civil fine.

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(2) The person to whom a stop work order is issued under this
section may appeal the order to the court of common pleas of the
county in which it was issued, seeking any equitable or other
appropriate relief from that order.

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(3) No stop work order shall be issued under this section
against any public highway, transportation, or drainage
improvement or maintenance project undertaken by a government
agency or political subdivision in accordance with a statement of
its standard sediment control policies that is approved by the
board or the chief of the division of soil and water conservation
in the department of natural resources.

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(F) No person shall violate any rule adopted or order issued 803
under this section. Notwithstanding division (E) of this section, 804
if the board of township trustees determines that a violation of 805
any rule adopted or administrative order issued under this section 806
exists, the board may request, in writing, the prosecuting 807
attorney of the county in which the township is located, to seek 808
an injunction or other appropriate relief in the court of common 809
pleas to abate excessive erosion or sedimentation and secure 810
compliance with the rules or order. In granting relief, the court 811
of common pleas may order the construction of sediment control 812
improvements or implementation of other control measures and may 813
assess a civil fine of not less than one hundred or more than five 814
hundred dollars. Each day of violation of a rule adopted or 815
administrative order issued under this section shall be considered 816
a separate violation subject to a civil fine. 817

Sec. 505.07. Notwithstanding any contrary provision in 818
another section of the Revised Code, section 519.12 of the Revised 819
Code, or any vote of the electors on a petition for zoning 820
referendum, a township may settle any court action by a consent 821
decree or court-approved settlement agreement which may include an 822
agreement to rezone any property involved in the action as 823
provided in the decree or court-approved settlement agreement 824
without following the procedures in section 519.12 of the Revised 825
Code and also may include township approval of a development plan 826
for any property involved in the action as provided in the decree 827
or court-approved settlement agreement, provided that the court 828
makes specific findings of fact that notice has been properly made 829
pursuant to this section, ~~the plaintiff in the action has~~ 830
~~presented credible prima facie evidence in the form of an expert~~ 831
~~report from a planner, property economist, or real estate~~ 832
~~appraiser supporting the plaintiff's claim that the current zoning~~ 833
~~is invalid or unconstitutional,~~ and the consent decree or 834

approved settlement agreement is fair and reasonable. 835

If the subject of the consent decree or court-approved 836
settlement agreement involves a zoning issue subject to referendum 837
under section 519.12 of the Revised Code, the board of township 838
trustees shall publish notice of their intent to meet and consider 839
and take action on the decree or court-approved settlement 840
agreement and the date and time of the meeting in a newspaper of 841
general circulation in the township at least fifteen days before 842
the meeting. The board shall permit members of the public to 843
express their objections to the consent decree or court-approved 844
settlement agreement at the meeting. Copies of the proposed 845
consent decree or court-approved settlement agreement shall be 846
available to the public at the township clerk's office during 847
normal business hours. 848

At least ten days prior to the submission of a proposed 849
consent decree or settlement agreement to the court for its review 850
and consideration, the plaintiff in the action involving the 851
consent decree or settlement agreement shall publish a notice 852
~~which that~~ shall include the caption of the case, the case number, 853
and the court in which the consent decree or settlement agreement 854
will be filed, the intention of the parties ~~therein~~ in the action 855
to file a consent decree ~~in that case~~ or settlement agreement, 856
and, when applicable, a description of the real property involved 857
and the proposed change in zoning or permitted use, in a newspaper 858
of general circulation in the township ~~where that real property is~~ 859
~~located.~~ 860

~~An elector in the township involving the property in 861
litigation who circulated the petition for zoning referendum 862
relating to the current zoning of the property has the right to 863
intervene in a case in which the decree or court approved 864
settlement agreement is pending solely for the purpose of 865
challenging the sufficiency of the evidence submitted pursuant to 866~~

~~this section and the adequacy of the notice given pursuant to this section. Any other members of the electorate may intervene only if permitted by the court pursuant to division (B) of Civil Rule 24 and solely for the purpose of challenging the sufficiency of the evidence submitted pursuant to this section and the adequacy of the notice given pursuant to this section.~~

Sec. 505.375. (A) The board of a joint ambulance district created under section 505.71 of the Revised Code and the board of a joint fire district created under section 505.371 of the Revised Code may negotiate in accordance with this section to combine their two joint districts into a single district, called a fire and ambulance district, for the delivery of both fire and ambulance services, if the geographic area covered by the combining joint districts is exactly the same. Both boards shall adopt a joint resolution ratifying the agreement and setting a date on which the fire and ambulance district shall come into being. On that date, the joint fire district and the joint ambulance district shall cease to exist, and the power of each to levy a tax upon taxable property shall terminate, except that any levy of a tax for the payment of indebtedness within the territory of the joint fire or joint ambulance district as it was composed at the time the indebtedness was incurred shall continue to be collected by the successor fire and ambulance district if the indebtedness remains unpaid.

All funds and other property of the joint districts that combined into the fire and ambulance district shall become the property of the fire and ambulance district, unless otherwise provided in the negotiated agreement. The agreement shall provide for the settlement of all debts and obligations of the joint districts.

(B) The governing body of the fire and ambulance district

shall be a board of trustees of at least three but no more than 898
nine members, appointed as provided in the agreement creating the 899
district. Members of the board of trustees may be compensated at a 900
rate not to exceed thirty dollars per meeting for not more than 901
fifteen meetings per year, and may be reimbursed for all necessary 902
expenses incurred, as provided in the agreement creating the 903
district. 904

The board shall employ a clerk and other employees as it 905
considers best, including a fire chief or fire prevention 906
officers, and shall fix their compensation. Neither this section 907
nor any other section of the Revised Code requires, or shall be 908
construed to require, that the fire chief of a fire and ambulance 909
district be a resident of the district. 910

Before entering upon the duties of office, the clerk shall 911
execute a bond, in the amount and with surety to be approved by 912
the board, payable to the state, conditioned for the faithful 913
performance of all of the clerk's official duties. The clerk shall 914
deposit the bond with the presiding officer of the board, who 915
shall file a copy of it, certified by the presiding officer, with 916
the county auditor of the county containing the most territory in 917
the district. 918

The board shall also provide for the appointment of a fiscal 919
officer for the district. The board may also enter into agreements 920
with volunteer fire companies for the use and operation of 921
fire-fighting equipment. Volunteer firefighters acting under such 922
an agreement are subject to the requirements for volunteer 923
firefighters set forth in division (A) of section 505.38 of the 924
Revised Code. 925

Employees of the district shall not be removed from office 926
except as provided by sections 733.35 to 733.39 of the Revised 927
Code, except that, to initiate removal proceedings, the board 928

shall designate a private citizen or, if the employee is employed 929
as a firefighter, the board may designate the fire chief, to 930
investigate, conduct the proceedings, and prepare the necessary 931
charges in conformity with sections 733.35 to 733.39 of the 932
Revised Code, and except that the board shall perform the 933
functions and duties specified for the municipal legislative 934
authority under those sections. The board may pay reasonable 935
compensation to any private citizen hired for services rendered in 936
the matter. 937

No person shall be appointed as a permanent full-time paid 938
member of the district whose duties include fire fighting, or be 939
appointed as a volunteer firefighter, unless that person has 940
received a certificate issued under former section 3303.07 or 941
section 4765.55 of the Revised Code evidencing satisfactory 942
completion of a firefighter training program. The board may send 943
its officers and firefighters to schools of instruction designed 944
to promote the efficiency of firefighters and, if authorized in 945
advance, may pay their necessary expenses from the funds used for 946
the maintenance and operation of the district. 947

The board may choose, by adoption of an appropriate 948
resolution, to have the Ohio medical transportation board license 949
any emergency medical service organization it operates. If the 950
board adopts such a resolution, Chapter 4766. of the Revised Code, 951
except for sections 4766.06 and 4766.99 of the Revised Code, 952
applies to the organization. All rules adopted under the 953
applicable sections of that chapter also apply to the 954
organization. The board may likewise, by resolution, remove its 955
emergency medical service organization from the jurisdiction of 956
the Ohio medical transportation board. 957

(C) The board may exercise the following powers: 958

(1) Purchase or otherwise provide any fire apparatus, 959

- mechanical resuscitators, or other fire or ambulance equipment, 960
appliances, or materials; fire hydrants; and water supply for 961
fire-fighting purposes that seems advisable to the board; 962
- (2) Provide for the care and maintenance of equipment and, 963
for that purpose, purchase, lease, lease with an option to 964
purchase, or construct and maintain necessary buildings; 965
- (3) Establish and maintain lines of fire-alarm communications 966
within the limits of the district; 967
- (4) Appropriate land for a fire station or medical emergency 968
unit needed in order to respond in reasonable time to a fire or 969
medical emergency, in accordance with Chapter 163. of the Revised 970
Code; 971
- (5) Purchase, appropriate, or accept a deed or gift of land 972
to enlarge or improve a fire station or medical emergency unit; 973
- (6) Purchase, lease, lease with an option to purchase, 974
maintain, and use all materials, equipment, vehicles, buildings, 975
and land necessary to perform its duties; 976
- (7) Contract for a period not to exceed three years with one 977
or more townships, municipal corporations, counties, joint fire 978
districts, governmental agencies, nonprofit corporations, or 979
private ambulance owners located either within or outside the 980
state, to furnish or receive ambulance services or emergency 981
medical services within the several territories of the contracting 982
parties, if the contract is first authorized by all boards of 983
trustees and legislative authorities concerned; 984
- (8) Establish reasonable charges for the use of ambulance or 985
emergency medical services under the same conditions under which a 986
board of fire district trustees may establish those charges under 987
section 505.371 of the Revised Code; 988
- (9) Establish all necessary rules to guard against the 989

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| occurrence of fires and to protect property and lives against | 990 |
| damage and accidents; | 991 |
| (10) Adopt a standard code pertaining to fire, fire hazards, | 992 |
| and fire prevention prepared and promulgated by the state or by a | 993 |
| public or private organization that publishes a model or standard | 994 |
| code; | 995 |
| (11) Provide for charges for false alarms at commercial | 996 |
| establishments in the same manner as joint fire districts are | 997 |
| authorized to do under section 505.391 of the Revised Code; | 998 |
| (12) Issue bonds and other evidences of indebtedness, subject | 999 |
| to Chapter 133. of the Revised Code, but only after approval by a | 1000 |
| vote of the electors of the district as provided by section 133.18 | 1001 |
| of the Revised Code; | 1002 |
| (13) To provide the services and equipment it considers | 1003 |
| necessary, levy a sufficient tax, subject to Chapter 5705. of the | 1004 |
| Revised Code, on all the taxable property in the district. | 1005 |
| (D) Any municipal corporation or township may join an | 1006 |
| existing fire and ambulance district by its legislative | 1007 |
| authority's adoption of a resolution requesting the membership and | 1008 |
| upon approval of the board of the district. Any municipal | 1009 |
| corporation or township may withdraw from a district by its | 1010 |
| legislative authority's adoption of a resolution ordering | 1011 |
| withdrawal. Upon its withdrawal, the municipal corporation or | 1012 |
| township ceases to be a part of the district, and the district's | 1013 |
| power to levy a tax on taxable property in the withdrawing | 1014 |
| township or municipal corporation terminates, except that the | 1015 |
| district shall continue to levy and collect taxes for the payment | 1016 |
| of indebtedness within the territory of the district as it was | 1017 |
| composed at the time the indebtedness was incurred. | 1018 |
| Upon the withdrawal of any township or municipal corporation | 1019 |
| from a district, the county auditor of the county containing the | 1020 |

most territory in the district shall ascertain, apportion, and
order a division of the funds on hand, including funds in the
ambulance and emergency medical services fund, moneys and taxes in
the process of collection, except for taxes levied for the payment
of indebtedness, credits, and real and personal property on the
basis of the valuation of the respective tax duplicates of the
withdrawing municipal corporation or township and the remaining
territory of the district.

(E) As used in this section:

(1) "Governmental agency" includes all departments, boards,
offices, commissions, agencies, colleges, universities,
institutions, and other instrumentalities of this or another
state.

(2) "Emergency medical service organization" has the same
meaning as in section 4766.01 of the Revised Code.

Sec. 519.02. Except as otherwise provided in this section, in
the interest of the public health, safety, convenience, comfort,
prosperity, or general welfare, the board of township trustees
may, in accordance with a comprehensive plan, regulate by
resolution the location, height, bulk, number of stories, and size
of buildings and other structures, including tents, cabins, and
trailer coaches, percentages of lot areas that may be occupied,
set back building lines, sizes of yards, courts, and other open
spaces, the density of population, the uses of buildings and other
structures, including tents, cabins, and trailer coaches, and the
uses of land for trade, industry, residence, recreation, or other
purposes in the unincorporated territory of the township, and
establish reasonable residential landscaping standards and
residential architectural standards, excluding exterior building
materials, for the unincorporated territory of the township; and,
for all these purposes, the board may divide all or any part of

the unincorporated territory of the township into districts or 1052
zones of such number, shape, and area as the board determines. All 1053
such regulations shall be uniform for each class or kind of 1054
building or other structure or use throughout any district or 1055
zone, but the regulations in one district or zone may differ from 1056
those in other districts or zones. 1057

For any activities permitted and regulated under Chapter 1058
~~1509.7~~ 1513.7 or 1514. of the Revised Code and any related 1059
processing activities, the board of township trustees may regulate 1060
under the authority conferred by this section only in the interest 1061
of public health or safety. 1062

Sec. 3709.41. (A) There is hereby created in each city and in 1063
each general health district a health district licensing council, 1064
to be appointed by the entity that has responsibility for 1065
appointing the board of health in the health district. The members 1066
of the ~~health district licensing~~ council shall consist of one 1067
representative of each business activity for which the board of 1068
health operates a licensing program. To be appointed and remain a 1069
member, an individual ~~must~~ shall be a resident of the health 1070
district for which the council was created. 1071

The appointing authority shall make initial appointments to 1072
the council not later than thirty days after ~~the effective date of~~ 1073
~~this section~~ November 21, 2001. Of the initial appointments to the 1074
council, one-third of the members, rounded to the nearest whole 1075
number, shall serve for a term ending three years after ~~the~~ 1076
~~effective date of this section~~ November 21, 2001; one-third, 1077
rounded to the nearest whole number, shall serve for a term ending 1078
four years after ~~the effective date of this section~~ November 21, 1079
2001; and the remaining members shall serve for a term ending five 1080
years after ~~the effective date of this section~~ November 21, 2001. 1081
Thereafter, terms of office shall be five years, with each term 1082

ending on the same day of the same month as did the term that it 1083
succeeds. 1084

Each member shall hold office from the date of the member's 1085
appointment until the end of the term for which the member was 1086
appointed. Members may be reappointed. 1087

Vacancies shall be filled in the manner provided for original 1088
appointments. Any member appointed to fill a vacancy occurring 1089
prior to the expiration of the term for which the member's 1090
predecessor was appointed shall hold office as a member for the 1091
remainder of that term. A member shall continue in office 1092
subsequent to the expiration date of the member's term until the 1093
member's successor takes office or until a period of sixty days 1094
has elapsed, whichever occurs first. 1095

Members ~~of a health district licensing council~~ shall serve 1096
without compensation, except to the extent that serving on the 1097
council is part of their regular duties of employment. 1098

(B) Each health district licensing council shall organize by 1099
selecting from among its members a chairperson, a secretary, and 1100
any other officers it considers necessary. Each council shall 1101
adopt bylaws for the regulation of its affairs and the conduct of 1102
its business. 1103

Each council shall meet at least ~~quarterly~~ annually or at 1104
more frequent intervals if specified in its bylaws. In addition to 1105
the mandatory meetings, a council shall meet at the call of the 1106
chairperson or the request of a majority of the council members. 1107

(C) Pursuant to sections 3709.03, 3709.05, and 3709.07 of the 1108
Revised Code, the health district licensing council shall appoint 1109
one of its members to serve as a member of the board of health. 1110
The council shall appoint one of its members to serve as an 1111
alternate board of health member if for any reason the original 1112
member is required to abstain from voting on a particular issue 1113

being considered by the board of health. While serving on behalf 1114
of the original member, the alternate member has the same powers 1115
and duties as the original member. 1116

Sec. 6101.181. (A) For the purposes of this section, either 1117
of the following constitutes a public exigency: 1118

(1) A finding by the director of environmental protection 1119
that a public health nuisance caused by an occasion of unavoidable 1120
urgency and suddenness due to unsanitary conditions compels the 1121
immediate construction of sewers for the protection of the public 1122
health and welfare; 1123

(2) The issuance of an order by the board of health of a 1124
health district to mitigate or abate a public health nuisance that 1125
is caused by an occasion of unavoidable urgency and suddenness due 1126
to unsanitary conditions and compels the immediate construction of 1127
sewers for the protection of the public health and welfare. 1128

(B) If the board of directors of a conservancy district is 1129
unable to purchase property for the purpose of the construction of 1130
sewers to mitigate or abate the public health nuisance that is the 1131
subject of a finding of the director or an order of the board of 1132
health, the board of directors may adopt a resolution finding that 1133
it is necessary for the protection of the public health and 1134
welfare to appropriate property that the board of directors 1135
considers needed for that purpose. The resolution shall contain a 1136
definite, accurate, and detailed description of the property and 1137
the name and place of residence, if known or with reasonable 1138
diligence ascertainable, of the owners of the property to be 1139
appropriated. 1140

The board of directors shall fix in its resolution what it 1141
considers to be the value of the property to be appropriated, 1142
which shall be the board's determination of the compensation for 1143

the property and shall be supported by an independent appraisal, 1144
together with any damages to the residue. The board shall deposit 1145
the compensation so determined, together with an amount for the 1146
damages to the residue, with the probate court or the court of 1147
common pleas of the county in which the property, or a part of it, 1148
is situated. Except as otherwise provided in this division, the 1149
power to appropriate property for the purposes of this division 1150
shall be exercised in the manner provided in sections 163.01 to 1151
163.22 of the Revised Code for an appropriation in the time of 1152
public exigency. The board's resolution and a written copy of the 1153
independent appraisal shall accompany the petition filed under 1154
section 163.05 of the Revised Code. 1155

Sec. 6115.221. (A) For the purposes of this section, either 1156
of the following constitutes a public exigency: 1157

(1) A finding by the director of environmental protection 1158
that a public health nuisance caused by an occasion of unavoidable 1159
urgency and suddenness due to unsanitary conditions compels the 1160
immediate construction of sewers for the protection of the public 1161
health and welfare; 1162

(2) The issuance of an order by the board of health of a 1163
health district to mitigate or abate a public health nuisance that 1164
is caused by an occasion of unavoidable urgency and suddenness due 1165
to unsanitary conditions and compels the immediate construction of 1166
sewers for the protection of the public health and welfare. 1167

(B) If the board of directors of a sanitary district is 1168
unable to purchase property for the purpose of the construction of 1169
sewers to mitigate or abate the public health nuisance that is the 1170
subject of a finding of the director or an order of the board of 1171
health, the board of directors may adopt a resolution finding that 1172
it is necessary for the protection of the public health and 1173
welfare to appropriate property that the board of directors 1174

considers needed for that purpose. The resolution shall contain a 1175
definite, accurate, and detailed description of the property and 1176
the name and place of residence, if known or with reasonable 1177
diligence ascertainable, of the owners of the property to be 1178
appropriated. 1179

The board of directors shall fix in its resolution what it 1180
considers to be the value of the property to be appropriated, 1181
which shall be the board's determination of the compensation for 1182
the property and shall be supported by an independent appraisal, 1183
together with any damages to the residue. The board shall deposit 1184
the compensation so determined, together with an amount for the 1185
damages to the residue, with the probate court or the court of 1186
common pleas of the county in which the property, or a part of it, 1187
is situated. Except as otherwise provided in this division, the 1188
power to appropriate property for the purposes of this division 1189
shall be exercised in the manner provided in sections 163.01 to 1190
163.22 of the Revised Code for an appropriation in time of public 1191
exigency. The board's resolution and a written copy of the 1192
independent appraisal shall accompany the petition filed under 1193
section 163.05 of the Revised Code. 1194

Sec. 6117.012. (A) A board of county commissioners may adopt 1195
rules requiring owners of property within the district whose 1196
property is served by a connection to sewers maintained and 1197
operated by the board or to sewers that are connected to 1198
interceptor sewers maintained and operated by the board to do any 1199
of the following: 1200

(1) Disconnect stormwater inflows to sanitary sewers 1201
maintained and operated by the board and not operated as a 1202
combined sewer, or to connections with ~~such~~ those sewers; 1203

(2) Disconnect non-stormwater inflows to stormwater sewers 1204
maintained and operated by the board and not operated as a 1205

combined sewer, or to connections with ~~such~~ those sewers; 1206

(3) Reconnect or relocate any such disconnected inflows in 1207
compliance with board rules and applicable building codes, health 1208
codes, or other relevant codes; 1209

(4) Prevent sewer back-ups into properties that have 1210
experienced one or more overflows of sanitary or combined sewers 1211
maintained and operated by the board. 1212

(B) Any inflow required to be disconnected or any sewer 1213
back-up required to be prevented under a rule adopted pursuant to 1214
division (A) of this section constitutes a nuisance subject to 1215
injunctive relief and abatement pursuant to Chapter 3767. of the 1216
Revised Code or as otherwise permitted by law. 1217

(C) A board of county commissioners may use sewer district 1218
funds; county general fund moneys; and, to the extent permitted by 1219
their terms, loans, grants, or other moneys from appropriate state 1220
or federal funds, for either of the following: 1221

(1) The cost of disconnections, reconnections, ~~or~~ 1222
relocations, or sewer back-up prevention required by rules adopted 1223
pursuant to division (A) of this section, performed by the county 1224
or under contract with the county; 1225

(2) Payments to the property owner or a contractor hired by 1226
the property owner pursuant to a competitive process established 1227
by district rules, for the cost of disconnections, reconnections, 1228
~~or~~ relocations, or sewer back-up prevention required by rules 1229
adopted pursuant to division (A) of this section after the board, 1230
pursuant to its rules, has approved the work to be performed and 1231
after the county has received from the property owner a statement 1232
releasing the county from all liability in connection with the 1233
disconnections, reconnections, ~~or~~ relocations, or sewer back-up 1234
prevention. 1235

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

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

(2) A special assessment levied against the property, payable in ~~such~~ the number of years as the board determines, not to exceed fifteen years, with interest as determined by the board not to exceed ten per cent. The board ~~of county commissioners~~ shall certify the assessments to the county auditor, stating the amount and time of payment. The auditor shall record the information in the county sewer improvement record, showing separately the assessments to be collected, and shall place the assessments upon

the real property tax list and duplicate for collection. ~~Such~~ 1268
~~assessment~~ The assessments shall be a lien on the property from 1269
the date ~~it is~~ they are placed on the tax list and duplicate and 1270
shall be collected in the same manner as other taxes. 1271

(E) The county may adopt a resolution specifying a maximum 1272
amount of the cost of any disconnection, reconnection, ~~or~~ 1273
relocation, or sewer back-up prevention required pursuant to 1274
division (A) of this section that may be paid by the county for 1275
each affected parcel of property without requiring reimbursement. 1276
~~Such~~ That amount may be allowed only if there is a building code, 1277
health code, or other relevant code, or a federally imposed or 1278
state-imposed consent decree that is filed or otherwise recorded 1279
in a court of competent jurisdiction, applicable to the affected 1280
parcel that prohibits in the future any inflows or sewer back-ups 1281
not allowed under rules adopted pursuant to division (A)(1) or (4) 1282
of this section. The board, by rule, shall establish criteria for 1283
determining how much of the maximum amount for each qualifying 1284
parcel need not be reimbursed. 1285

(F) Disconnections, reconnections, ~~or~~ relocations, or sewer 1286
back-up prevention required under this section ~~that are~~ and 1287
performed by a contractor under contract with the property owner 1288
shall not be considered a "public improvement", and those 1289
performed by the county shall be considered a "public improvement" 1290
as defined in section 4115.03 of the Revised Code. 1291

Disconnections, reconnections, ~~or~~ relocations, or sewer 1292
back-up prevention required under this section performed by a 1293
contractor under contract with the property owner shall not be 1294
subject to competitive bidding or public bond laws. 1295

(G) Property owners shall be responsible for maintaining any 1296
improvements made on private property to reconnect or relocate 1297
disconnected inflows or for sewer back-up prevention pursuant to 1298
this section unless a public easement exists for the county to 1299

maintain that improvement. 1300

Sec. 6117.39. Whenever (A) Except as provided in division (B) 1301
of this section, whenever, in the opinion of the board of county 1302
commissioners, it is necessary to acquire real estate or any 1303
interest in real estate for the acquisition, construction, 1304
maintenance, or operation of any sewer, drainage, or other 1305
improvement authorized by this chapter, or to acquire the right to 1306
construct, maintain, and operate the sewer, drainage, or other 1307
improvement in and upon any property within or outside of a county 1308
sewer district, it may purchase the real estate, interest in real 1309
estate, or right by negotiation. If the board and the owner of the 1310
real estate, interest in real estate, or right are unable to agree 1311
upon its purchase and sale, or the amount of damages to be awarded 1312
for it, the board may appropriate the real estate, interest, or 1313
right in accordance with sections 163.01 to 163.22 of the Revised 1314
Code, except that the board, in the exercise of the powers granted 1315
by this section or any other section of this chapter, may not 1316
appropriate real estate or personal property owned by a municipal 1317
corporation. 1318

(B)(1) For the purposes of division (B) of this section, 1319
either of the following constitutes a public exigency: 1320

(a) A finding by the director of environmental protection 1321
that a public health nuisance caused by an occasion of unavoidable 1322
urgency and suddenness due to unsanitary conditions compels the 1323
immediate construction of sewers for the protection of the public 1324
health and welfare; 1325

(b) The issuance of an order by the board of health of a 1326
health district to mitigate or abate a public health nuisance that 1327
is caused by an occasion of unavoidable urgency and suddenness due 1328
to unsanitary conditions and compels the immediate construction of 1329
sewers for the protection of the public health and welfare. 1330

(2) If the board of county commissioners is unable to 1331
purchase property for the purpose of the construction of sewers to 1332
mitigate or abate the public health nuisance that is the subject 1333
of a finding of the director or an order of the board of health, 1334
the board of county commissioners may adopt a resolution finding 1335
that it is necessary for the protection of the public health and 1336
welfare to appropriate property that the board of county 1337
commissioners considers needed for that purpose. The resolution 1338
shall contain a definite, accurate, and detailed description of 1339
the property and the name and place of residence, if known or with 1340
reasonable diligence ascertainable, of the owners of the property 1341
to be appropriated. 1342

The board of county commissioners shall fix in its resolution 1343
what it considers to be the value of the property to be 1344
appropriated, which shall be the board's determination of the 1345
compensation for the property and shall be supported by an 1346
independent appraisal, together with any damages to the residue. 1347
The board shall deposit the compensation so determined, together 1348
with an amount for the damages to the residue, with the probate 1349
court or the court of common pleas of the county in which the 1350
property, or a part of it, is situated. Except as otherwise 1351
provided in this division, the power to appropriate property for 1352
the purposes of this division shall be exercised in the manner 1353
provided in sections 163.01 to 163.22 of the Revised Code for an 1354
appropriation in the time of public exigency. The board's 1355
resolution and a written copy of the independent appraisal shall 1356
accompany the petition filed under section 163.05 of the Revised 1357
Code. 1358

Sec. 6117.51. If the board of health of the health district 1359
within which a new public sewer construction project is proposed 1360
or located passes a resolution stating that the reason for the 1361

project is to reduce or eliminate an existing health problem or a 1362
hazard of water pollution, the board of county commissioners of 1363
the county, by resolution, may order the owner of any premises 1364
located in a sewer district in the county, the owner's agent, 1365
lessee, or tenant, or any other occupant of the premises to 1366
connect the premises to the sewer for the purpose of discharging 1367
sewage or other waste that the board determines is originating on 1368
the premises, to make use of the connection, and to cease the 1369
discharge of the sewage or other waste into a cesspool, ditch, 1370
private sewer, privy, septic tank, semipublic disposal system as 1371
defined in division (B)(1)(a) of section 3709.085 of the Revised 1372
Code, or other outlet if the board finds that the sewer is 1373
available for use and is accessible to the premises following a 1374
determination and certification to the board by a registered 1375
professional engineer designated by it as to the availability and 1376
accessibility of the sewer. This section does not apply to any of 1377
the following: 1378

(A) Any discharge authorized by a permit issued under 1379
division (J) of section 6111.03 of the Revised Code other than a 1380
discharge to or from a semipublic disposal system as defined in 1381
division (B)(1)(a) of section 3709.085 of the Revised Code; 1382

(B) Wastes resulting from the keeping of animals; 1383

(C) Any premises that are not served by a common sewage 1384
collection system when the foundation wall of the structure from 1385
which sewage or other waste originates is more than two hundred 1386
feet from the nearest boundary of the right-of-way within which 1387
the sewer is located; 1388

(D) Any premises that are served by a common sewage 1389
collection system when both the foundation wall of the structure 1390
from which the sewage or other waste originates and the common 1391
sewage collection system are more than two hundred feet from the 1392
nearest boundary of the right-of-way within which the public sewer 1393

is located; 1394

(E) Any dwelling house located on property that is listed on 1395
the county's agricultural land tax list as being valued for tax 1396
purposes as land devoted exclusively to agricultural use under 1397
section 5713.31 of the Revised Code, when the foundation wall of 1398
the dwelling house is two hundred feet or less from the nearest 1399
boundary of the right-of-way within which the sewer is located, if 1400
both of the following also apply: 1401

(1) The sewer right-of-way for the property on which the 1402
dwelling house is located was obtained by appropriation due to a 1403
public exigency pursuant to division (B) of section 307.08, 1404
6101.181, 6115.211, 6117.39, or 6119.11 of the Revised Code. 1405

(2) The local health department has certified that the 1406
household sewage disposal system is functioning properly. 1407

The board shall not direct an order under this section to a 1408
resident tenant unless it determines that the terms of the tenancy 1409
are such that the owner lacks sufficient rights of access to 1410
permit the owner to comply with the terms of the order. 1411

An owner, agent, lessee, tenant, or occupant shall comply 1412
with the order of the board within ninety days after the 1413
completion of service of the order upon that person as provided in 1414
this section. The board, upon written application filed prior to 1415
the expiration of the ninety-day period, may waive compliance with 1416
any order either temporarily or permanently and conditionally or 1417
unconditionally. 1418

In its resolution, the board shall direct its clerk, or the 1419
clerk's designee, to serve its order upon the owner, agent, 1420
lessee, tenant, or occupant. Service of the order shall be made 1421
personally, by leaving the order at the usual place of residence 1422
with a person of suitable age and discretion then residing 1423
therein, or by certified mail addressed to the owner, agent, 1424

lessee, tenant, or occupant at that person's last known address or
to the address to which tax bills are sent. If it appears by the
return of service or the return of the order forwarded by
certified mail that the owner, agent, lessee, tenant, or occupant
cannot be found, that person shall be served by publication of the
order once in a newspaper of general circulation within the
county, or if that person refuses service, that person shall be
served by ordinary mail addressed to that person's last known
address or to the address to which tax bills are sent. The return
of the person serving the order or a certified copy of the return,
or a returned receipt for the order forwarded by certified mail
accepted by the addressee or anyone purporting to act for the
addressee, is prima-facie evidence of the service of the order
under this section. The return of the person attempting to serve
the order, or the return to the sender of the order forwarded by
certified mail with an indication on the return of the refusal of
the addressee to accept delivery, is prima-facie evidence of the
refusal of service.

No owner, agent, lessee, tenant, or occupant shall violate an
order issued under this section. Upon request of the board, the
prosecuting attorney shall prosecute in a court of competent
jurisdiction any owner, agent, lessee, tenant, or occupant who
violates an order issued under this section. Each day that a
violation continues after conviction for the violation of an order
issued under this section and the final determination thereof is a
separate offense. The court, for good cause shown, may grant a
reasonable additional period of time for compliance after
conviction.

Any owner, agent, lessee, tenant, or occupant violating an
order issued under this section also may be enjoined from
continuing in violation. Upon request of the board, the
prosecuting attorney shall bring an action in a court of competent

jurisdiction for an injunction against the owner, agent, lessee,
tenant, or occupant violating an order.

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The Ohio water development authority created under section
6121.02 of the Revised Code, in addition to its other powers, has
the same power and shall be governed by the same procedures in a
waste water facilities service area, or in any area adjacent to a
public sewer operated by the authority, as a board of county
commissioners in a county sewer district under this section,
except that the authority shall act by order, and the attorney
general, upon request of the authority, shall prosecute any person
who violates an order of the authority issued under this section.

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Sec. 6119.11. The (A) Except as provided in division (B) of
this section, the board of trustees of a regional water and sewer
district may condemn for the use of the district any public or
private land, easement, rights, rights_of_way, franchises, or
other property within or without the district required by it for
the accomplishment of its purposes according to the procedure set
forth in sections 163.01 to 163.22, inclusive, of the Revised
Code.

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

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(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;

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(b) The issuance of an order by the board of health of a
health district to mitigate or abate a public health nuisance that
is caused by an occasion of unavoidable urgency and suddenness due
to unsanitary conditions and compels the immediate construction of

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sewers for the protection of the public health and welfare. 1487

(2) If the board of trustees of a regional water and sewer district is unable to purchase property for the purpose of the construction of sewers to mitigate or abate the public health nuisance that is the subject of a finding of the director or an order of the board of health, the board of trustees may adopt a resolution finding that it is necessary for the protection of the public health and welfare to appropriate property that the board of trustees considers needed for that purpose. The resolution shall contain a definite, accurate, and detailed description of the property and the name and place of residence, if known or with reasonable diligence ascertainable, of the owners of the property to be appropriated. 1488
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The board of trustees shall fix in its resolution what it considers to be the value of the property to be appropriated, which shall be the board's determination of the compensation for the property and shall be supported by an independent appraisal, together with any damages to the residue. The board shall deposit the compensation so determined, together with an amount for the damages to the residue, with the probate court or the court of common pleas of the county in which the property, or a part of it, is situated. Except as otherwise provided in this division, the power to appropriate property for the purposes of this division shall be exercised in the manner provided in sections 163.01 to 163.22 of the Revised Code for an appropriation in the time of public exigency. The board's resolution and a written copy of the independent appraisal shall accompany the petition filed under section 163.05 of the Revised Code. 1500
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Section 2. That existing sections 163.02, 163.09, 163.12, 303.02, 307.08, 307.79, 504.04, 504.19, 505.07, 505.375, 519.02, 3709.41, 6117.012, 6117.39, 6117.51, and 6119.11 of the Revised Code are hereby repealed. 1515
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