

AN ACT

To amend sections 101.23, 101.83, 101.84, 101.85, 101.86, 122.011, 122.133, 122.40, 123.01, 123.151, 149.56, 164.07, 307.674, 317.08, 340.02, 1501.04, 1502.04, 1502.05, 1502.11, 1502.12, 1506.30, 1506.34, 1506.35, 1517.02, 1517.05, 1517.23, 1518.01, 1518.03, 1551.35, 2505.02, 3358.10, 3375.61, 3375.62, 3383.01, 3383.02, 3383.03, 3383.04, 3383.05, 3383.06, 3383.07, 3383.08, 3383.09, 3734.22, 3734.24, 3734.25, 3734.26, 3737.88, 3737.882, 3745.01, 3746.01, 3746.04, 3746.05, 3746.09, 3746.10, 3746.11, 3746.13, 3746.14, 3746.171, 3746.35, 3747.02, 3748.01, 3748.02, 3748.04, 3748.05, 3748.16, 3929.482, 3929.682, 3929.85, 3931.01, 3955.05, 3960.06, 4117.01, 4121.442, 4167.09, 4167.25, 4167.27, 4582.12, 4731.143, 4741.03, 4755.481, 4981.03, 5123.35, and 5123.352, to enact sections 149.305, 149.306, and 5301.80 to 5301.92, and to repeal sections 122.09, 125.24, 149.32, 149.321, 149.322, 1502.10, 1506.37, 1517.03, 1517.04, 3354.161, 3355.121, 3357.161, 3375.47, 3746.08, 3747.04, 3747.05, 3747.06, 3747.061, 3747.07, 3747.08, 3747.09, 3747.10, 3747.11, 3747.12, 3747.13, 3747.14, 3747.15, 3747.16, 3747.17, 3747.18, 3747.19, 3747.20, 3747.21, 3747.22, 3748.09, 3929.71, 3929.72, 3929.721, 3929.73, 3929.75, 3929.76, 3929.77, 3929.78, 3929.79, 3929.80, 3929.81, 3929.82, 3929.83, 3929.84, 4121.443, 4167.26, 5101.93, 5119.81, 5119.82, and 5123.353 of the Revised Code, and to repeal Section 6 of Am. Sub. S.B. 163 of the 124th General Assembly, Section 6 of Sub. S.B. 27 of the 124th General Assembly,

Section 10 of Sub. H.B. 548 of the 123rd General Assembly, Section 3 of Am. H.B. 280 of the 121st General Assembly, Section 27 of Sub. H.B. 670 of the 121st General Assembly, Section 3 of Am. S.B. 208 of the 120th General Assembly, and Section 3 of Sub. H.B. 508 of the 119th General Assembly, to implement the report of the Sunset Review Committee by abolishing, retaining, and changing the names of various agencies and by reestablishing the Sunset Review Committee but postponing its operation until the 128th General Assembly, to terminate the operation of certain provisions of this act on December 31, 2010, by repealing sections 101.82, 101.83, 101.84, 101.85, 101.86, and 101.87 of the Revised Code on that date, to authorize former presiding officers of either house of the General Assembly to administer oaths of office to General Assembly members, officers, and staff, to change the membership and terms of office relative to the Development Financing Advisory Council, to remove from the Technical Advisory Committee to Assist the Director of the Ohio Coal Development Office the member designated by the Ohio Water Development Authority, to establish the Ohio African-American Hall of Fame, to establish environmental covenants as an interest in real property generally arising under an environmental remediation or mitigation project that imposes activity and use limitations on the property, to require the recording of such covenants, and to establish other requirements regarding environmental covenants, and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 101.23, 101.83, 101.84, 101.85, 101.86, 122.011, 122.133, 122.40, 123.01, 123.151, 149.56, 164.07, 307.674, 317.08, 340.02, 1501.04, 1502.04, 1502.05, 1502.11, 1502.12, 1506.30, 1506.34, 1506.35, 1517.02, 1517.05, 1517.23, 1518.01, 1518.03, 1551.35, 2505.02, 3358.10, 3375.61, 3375.62, 3383.01, 3383.02, 3383.03, 3383.04, 3383.05, 3383.06, 3383.07, 3383.08, 3383.09, 3734.22, 3734.24, 3734.25, 3734.26, 3737.88, 3737.882, 3745.01, 3746.01, 3746.04, 3746.05, 3746.09, 3746.10, 3746.11, 3746.13, 3746.14, 3746.171, 3746.35, 3747.02, 3748.01, 3748.02, 3748.04, 3748.05, 3748.16, 3929.482, 3929.682, 3929.85, 3931.01, 3955.05, 3960.06, 4117.01, 4121.442, 4167.09, 4167.25, 4167.27, 4582.12, 4731.143, 4741.03, 4755.481, 4981.03, 5123.35, and 5123.352 be amended and sections 149.305, 149.306, 5301.80, 5301.81, 5301.82, 5301.83, 5301.84, 5301.85, 5301.86, 5301.87, 5301.88, 5301.89, 5301.90, 5301.91, and 5301.92 of the Revised Code be enacted to read as follows:

Sec. 101.23. The oath of office of senators and representatives; the president and president pro tempore of the senate; the speaker and speaker pro tempore of the house of representatives; ~~and~~ the clerk of the senate, the chief administrative officer and the clerk of the house of representatives, and their assistants; and the sergeant at arms and assistant sergeant at arms of each house may be administered by a member, by a former presiding officer of either house of the general assembly, or by a person authorized to administer oaths.

Sec. 101.83. (A) An agency in existence on January 1, ~~2004~~ 2005, shall expire on December 31, ~~2004~~ 2010, unless the agency is renewed in accordance with division (D) of this section and, if so renewed, shall expire thereafter on the thirty-first day of December of the fourth year after the year in which it was most recently renewed unless the agency is renewed in accordance with division (D) of this section. An agency created after January 1, ~~2004~~ 2005, that is created on the thirty-first day of December shall expire not later than four years after its creation, unless the agency is renewed in accordance with division (D) of this section. An agency created after January 1, ~~2004~~ 2005, that is created on any other date shall be considered for the purpose of this section to have been created on the preceding thirty-first day of December, and the agency shall expire not later than four years after the date it was considered to have been created, unless the agency is renewed in accordance with division (D) of this section. Any act creating or renewing an agency shall contain a distinct section providing a specific expiration date for the agency in accordance with this division.

(B) If the general assembly does not renew or transfer an agency on or

before its expiration date, it shall expire on that date.

The auditor of state shall not authorize the expenditure of any moneys for any agency on or after the date of its expiration.

(C) The general assembly may provide by law for the orderly, efficient, and expeditious conclusion of an agency's business and operation. The rules, orders, licenses, contracts, and other actions made, taken, granted, or performed by the agency shall continue in effect according to their terms notwithstanding the agency's abolition, unless the general assembly provides otherwise by law. The general assembly may provide by law for the temporary or permanent transfer of some or all of a terminated or transferred agency's functions and personnel to a successor agency or officer.

The abolition, termination, or transfer of an agency shall not cause the termination or dismissal of any claim pending against the agency by any person, or any claim pending against any person by the agency. Unless the general assembly provides otherwise by law for the substitution of parties, the attorney general shall succeed the agency with reference to any pending claim.

(D) An agency may be renewed by passage of a bill that continues the statutes creating and empowering the agency, that amends or repeals those statutes, or that enacts new statutes, to improve agency usefulness, performance, or effectiveness.

Sec. 101.84. (A) There is hereby created the sunset review committee, to be composed of nine members and function in calendar years 2009 and 2010. The president of the senate shall appoint three members of the senate to the committee, not more than two of whom shall be members of the same political party. The speaker of the house of representatives shall appoint three members of the house of representatives to the committee, not more than two of whom shall be members of the same political party. The governor, with the advice and consent of the senate, shall appoint three members to the committee, not more than two of whom shall be members of the same political party. Members shall be appointed within fifteen days after the commencement of the first regular session of ~~each~~ the 128th general assembly.

(B) Each member of the committee who is appointed by the president of the senate or the speaker of the house of representatives shall serve ~~until~~ during that committee member's ~~successor is appointed~~ term of office or until that committee member no longer is a member of the senate or the house of representatives, whichever is applicable. Each member of the committee who is appointed by the governor shall serve a two-year term that ends on the thirty-first day of December ~~of each even-numbered year~~ in

2010. A vacancy on the committee shall be filled in the same manner as the original appointment.

In the first regular session of a the 128th general assembly, the chairperson of the committee shall be a member of the house of representatives, and the vice-chairperson of the committee shall be a member of the senate. In the second regular session of the 128th general assembly, the chairperson of the committee shall be a member of the senate, and the vice-chairperson of the committee shall be a member of the house of representatives.

Members of the committee shall receive no compensation, but shall be reimbursed for their necessary expenses incurred in the performance of their official duties.

(C) The committee shall meet not later than thirty days after the first day of the first regular session of the 128th general assembly to choose a chairperson and to commence establishment of the schedule for agency review provided for in section 101.85 of the Revised Code or perform other committee duties under sections 101.82 to 101.87 of the Revised Code. Five members of the committee shall constitute a quorum for the conduct of committee business.

Sec. 101.85. (A) The sunset review committee, not later than sixty days after its first meeting in ~~2004~~ 2009, shall schedule for review each agency in existence on January 1, ~~2004~~ 2009. The committee, by a unanimous vote, also may schedule for review any state board or commission described in division (A)(9) of section 101.82 of the Revised Code that is in existence on that date, and any board or commission so scheduled shall be considered an agency for purposes of sections 101.82 to 101.87 of the Revised Code.

(B) The chairperson of the committee shall send a copy of the schedule for review of agencies for ~~each~~ calendar year 2009 and calendar year 2010 to each of the agencies scheduled for review during that year and to the director of the legislative service commission. The director shall publish a copy of the schedule in the Ohio Administrative Code and in the register of Ohio created under section 103.051 of the Revised Code. The commission shall provide the committee with a list of agencies, and state boards and commissions described in division (A)(9) of section 101.82 of the Revised Code, in existence on January 1, ~~2004~~ 2009, to assist the committee in identifying agencies and exercising its duties under sections 101.82 to 101.87 of the Revised Code with respect to those agencies.

Sec. 101.86. (A) Not later than ~~twelve~~ six months prior to the date on which an agency in existence on January 1, ~~2004~~ 2009, is scheduled to expire under division (A) of section 101.83 of the Revised Code, the sunset

review committee shall hold hearings to receive the testimony of the public and of the chief executive officer of each agency scheduled for review and otherwise shall consider and evaluate the usefulness, performance, and effectiveness of the agency.

(B) Each agency that is scheduled for review shall submit to the committee a report that contains all of the following information:

- (1) The agency's primary purpose and its various goals and objectives;
- (2) The agency's past and anticipated workload, the number of staff required to complete that workload, and the agency's total number of staff;
- (3) The agency's past and anticipated budgets and its sources of funding;
- (4) The number of members of its governing board or other governing entity and their compensation, if any.

(C) Each agency shall have the burden of demonstrating to the committee a public need for its continued existence. In determining whether an agency has demonstrated that need, the committee shall consider all of the following:

- (1) The extent to which the agency has permitted qualified applicants to serve the public;
- (2) The cost-effectiveness of the agency in terms of number of employees, services rendered, and administrative costs incurred, both past and present;
- (3) The extent to which the agency has operated in the public interest, and whether its operation has been impeded or enhanced by existing statutes and procedures and by budgetary, resource, and personnel practices;
- (4) Whether the agency has recommended statutory changes to the general assembly that would benefit the public as opposed to the persons regulated by the agency, if any, and whether its recommendations and other policies have been adopted and implemented;
- (5) Whether the agency has required any persons it regulates to report to it the impact of agency rules and decisions on the public as they affect service costs and service delivery;
- (6) Whether persons regulated by the agency, if any, have been required to assess problems in their business operations that affect the public;
- (7) Whether the agency has encouraged public participation in its rule-making and decision-making;
- (8) The efficiency with which formal public complaints filed with the agency have been processed to completion;
- (9) Whether the programs or services of the agency duplicate or overlap those of other agencies;
- (10) Whether the purpose for which the agency was created has been

fulfilled, has changed, or no longer exists;

(11) Whether federal law requires that the agency be renewed in some form;

(12) Changes needed in the enabling laws of the agency in order for it to comply with the criteria suggested by the considerations listed in divisions (C)(1) to (11) of this section.

(D) In its initial review of each agency, the committee, whenever possible, shall realign agency titles to conform to the following descriptions:

(1) Commission: an administrative appeals or hearing agency;

(2) Authority: an agency empowered to issue bonds or notes;

(3) Board: an agency having a licensing function only;

(4) Council: an advisory body to a major agency or department;

(5) Committee: an advisory body to a minor agency or department.

Sec. 122.011. (A) The department of development shall develop and promote plans and programs designed to assure that state resources are efficiently used, economic growth is properly balanced, community growth is developed in an orderly manner, and local governments are coordinated with each other and the state, and for such purposes may do all of the following:

(1) Serve as a clearinghouse for information, data, and other materials that may be helpful or necessary to persons or local governments, as provided in section 122.07 of the Revised Code;

(2) Prepare and activate plans for the retention, development, expansion, and use of the resources and commerce of the state, as provided in section 122.04 of the Revised Code;

(3) Assist and cooperate with federal, state, and local governments and agencies of federal, state, and local governments in the coordination of programs to carry out the functions and duties of the department;

(4) Encourage and foster research and development activities, conduct studies related to the solution of community problems, and develop recommendations for administrative or legislative actions, as provided in section 122.03 of the Revised Code;

(5) Serve as the economic and community development planning agency, which shall prepare and recommend plans and programs for the orderly growth and development of this state and which shall provide planning assistance, as provided in section 122.06 of the Revised Code;

(6) Cooperate with and provide technical assistance to state departments, political subdivisions, regional and local planning commissions, tourist associations, councils of government, community development groups, community action agencies, and other appropriate

organizations for carrying out the functions and duties of the department or for the solution of community problems;

(7) Coordinate the activities of state agencies that have an impact on carrying out the functions and duties of the department;

(8) Encourage and assist the efforts of and cooperate with local governments to develop mutual and cooperative solutions to their common problems that relate to carrying out the purposes of this section;

(9) Study existing structure, operations, and financing of regional or local government and those state activities that involve significant relations with regional or local governmental units, recommend to the governor and to the general assembly such changes in these provisions and activities as will improve the operations of regional or local government, and conduct other studies of legal provisions that affect problems related to carrying out the purposes of this section;

~~(10) Appoint, with the approval of the governor, technical and other advisory councils as it considers appropriate, as provided in section 122.09 of the Revised Code;~~

~~(11)~~ Create and operate a division of community development to develop and administer programs and activities that are authorized by federal statute or the Revised Code;

~~(12)~~(11) Until October 15, 2005, establish fees and charges, in consultation with the director of agriculture, for purchasing loans from financial institutions and providing loan guarantees under the family farm loan program created under sections 901.80 to 901.83 of the Revised Code;

~~(13)~~(12) Provide loan servicing for the loans purchased and loan guarantees provided under section 901.80 of the Revised Code as that section existed prior to October 15, 2005;

~~(14)~~(13) Until October 15, 2005, and upon approval by the controlling board under division (A)(3) of section 901.82 of the Revised Code of the release of money to be used for purchasing a loan or providing a loan guarantee, request the release of that money in accordance with division (B) of section 166.03 of the Revised Code for use for the purposes of the fund created by section 166.031 of the Revised Code.

(B) The director of development may request the attorney general to, and the attorney general, in accordance with section 109.02 of the Revised Code, shall bring a civil action in any court of competent jurisdiction. The director may be sued in the director's official capacity, in connection with this chapter, in accordance with Chapter 2743. of the Revised Code.

Sec. 122.133. ~~(A) The director of development may establish technical and advisory boards in accordance with section 122.09 of the Revised Code~~

~~as the director considers appropriate to assist in the execution of the employee ownership assistance program and may obtain information and cooperation concerning the program, upon request, from any department, bureau, institution, agency, or office of the state government in accordance with section 122.10 of the Revised Code.~~

~~(B)~~ The director of development shall publicize the availability of the employee ownership assistance program and its services to local governments and to business and labor organizations and shall coordinate with local governments, business and labor organizations, and other state agencies in obtaining information relating to the possible relocation of operations or closing of a business establishment.

Sec. 122.40. (A) There is hereby created the development financing advisory council to assist in carrying out the programs created pursuant to sections 122.39 to 122.62 and Chapter 166. of the Revised Code.

(B) The council shall consist of seven members appointed by the governor, with the advice and consent of the senate ~~and, who are~~ selected for their knowledge of and experience in economic development financing, one member of the senate appointed by the president of the senate, ~~and~~ one member of the house of representatives appointed by the speaker of the house of representatives, and the director of development or the director's designee. With respect to the council:

(1) No more than four members of the council appointed by the governor shall be members of the same political party.

(2) Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed.

(3) The terms of office for the seven members appointed by the governor shall be for ~~seven~~ five years commencing on the first day of January and ending on the thirty-first day of December. The seven members appointed by the governor who are serving terms of office of seven years on the effective date of this amendment shall continue to serve those terms, but their successors in office, including the filling of a vacancy occurring prior to the expiration of those terms, shall be appointed for terms of five years in accordance with this division.

(4) Any member of the council is eligible for reappointment.

(5) As a term of a member of the council appointed by the governor expires, the governor shall appoint a successor with the advice and consent of the senate.

(6) ~~Any~~ Except as otherwise provided in division (B)(3) of this section, any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office

for the remainder of the predecessor's term.

(7) Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(8) Before entering upon duties as a member of the council, each member shall take an oath provided by Section 7 of Article XV, Ohio Constitution.

(9) The governor may, at any time, remove any nonlegislative member pursuant to section 3.04 of the Revised Code.

(10) Members of the council, notwithstanding section 101.26 of the Revised Code with respect to members who are members of the general assembly, shall receive their necessary and actual expenses while engaged in the business of the council and shall be paid at the per diem rate of step 1, pay range 31, of section 124.15 of the Revised Code.

(11) ~~Five~~ Four members of the council constitute a quorum.

(12) In the event of the absence of a member appointed by the president of the senate or by the speaker of the house of representatives, the following persons may serve in the member's absence: the president of the senate or the speaker of the house, as the case may be, or a member of the senate or of the house of representatives, of the same political party as the development financing advisory council member, designated by the president of the senate or the speaker of the house.

Sec. 123.01. (A) The department of administrative services, in addition to those powers enumerated in Chapters 124. and 125. of the Revised Code and provided elsewhere by law, shall exercise the following powers:

(1) To prepare, or contract to be prepared, by licensed engineers or architects, surveys, general and detailed plans, specifications, bills of materials, and estimates of cost for any projects, improvements, or public buildings to be constructed by state agencies that may be authorized by legislative appropriations or any other funds made available therefor, provided that the construction of the projects, improvements, or public buildings is a statutory duty of the department. This section does not require the independent employment of an architect or engineer as provided by section 153.01 of the Revised Code in the cases to which that section applies nor affect or alter the existing powers of the director of transportation.

(2) To have general supervision over the construction of any projects, improvements, or public buildings constructed for a state agency and over the inspection of materials previous to their incorporation into those projects, improvements, or buildings;

(3) To make contracts for and supervise the construction of any projects

and improvements or the construction and repair of buildings under the control of a state agency, except contracts for the repair of buildings under the management and control of the departments of public safety, job and family services, mental health, mental retardation and developmental disabilities, rehabilitation and correction, and youth services, the bureau of workers' compensation, the rehabilitation services commission, and boards of trustees of educational and benevolent institutions. These contracts shall be made and entered into by the directors of public safety, job and family services, mental health, mental retardation and developmental disabilities, rehabilitation and correction, and youth services, the administrator of workers' compensation, the rehabilitation services commission, and the boards of trustees of such institutions, respectively. All such contracts may be in whole or in part on unit price basis of maximum estimated cost, with payment computed and made upon actual quantities or units.

(4) To prepare and suggest comprehensive plans for the development of grounds and buildings under the control of a state agency;

(5) To acquire, by purchase, gift, devise, lease, or grant, all real estate required by a state agency, in the exercise of which power the department may exercise the power of eminent domain, in the manner provided by sections 163.01 to 163.22 of the Revised Code;

(6) To make and provide all plans, specifications, and models for the construction and perfection of all systems of sewerage, drainage, and plumbing for the state in connection with buildings and grounds under the control of a state agency;

(7) To erect, supervise, and maintain all public monuments and memorials erected by the state, except where the supervision and maintenance is otherwise provided by law;

(8) To procure, by lease, storage accommodations for a state agency;

(9) To lease or grant easements or licenses for unproductive and unused lands or other property under the control of a state agency. Such leases, easements, or licenses shall be granted for a period not to exceed fifteen years and shall be executed for the state by the director of administrative services and the governor and shall be approved as to form by the attorney general, provided that leases, easements, or licenses may be granted to any county, township, municipal corporation, port authority, water or sewer district, school district, library district, health district, park district, soil and water conservation district, conservancy district, or other political subdivision or taxing district, or any agency of the United States government, for the exclusive use of that agency, political subdivision, or taxing district, without any right of sublease or assignment, for a period not

to exceed fifteen years, and provided that the director shall grant leases, easements, or licenses of university land for periods not to exceed twenty-five years for purposes approved by the respective university's board of trustees wherein the uses are compatible with the uses and needs of the university and may grant leases of university land for periods not to exceed forty years for purposes approved by the respective university's board of trustees pursuant to section 123.77 of the Revised Code.

(10) To lease office space in buildings for the use of a state agency;

(11) To have general supervision and care of the storerooms, offices, and buildings leased for the use of a state agency;

(12) To exercise general custodial care of all real property of the state;

(13) To assign and group together state offices in any city in the state and to establish, in cooperation with the state agencies involved, rules governing space requirements for office or storage use;

(14) To lease for a period not to exceed forty years, pursuant to a contract providing for the construction thereof under a lease-purchase plan, buildings, structures, and other improvements for any public purpose, and, in conjunction therewith, to grant leases, easements, or licenses for lands under the control of a state agency for a period not to exceed forty years. The lease-purchase plan shall provide that at the end of the lease period, the buildings, structures, and related improvements, together with the land on which they are situated, shall become the property of the state without cost.

(a) Whenever any building, structure, or other improvement is to be so leased by a state agency, the department shall retain either basic plans, specifications, bills of materials, and estimates of cost with sufficient detail to afford bidders all needed information or, alternatively, all of the following plans, details, bills of materials, and specifications:

(i) Full and accurate plans suitable for the use of mechanics and other builders in the improvement;

(ii) Details to scale and full sized, so drawn and represented as to be easily understood;

(iii) Accurate bills showing the exact quantity of different kinds of material necessary to the construction;

(iv) Definite and complete specifications of the work to be performed, together with such directions as will enable a competent mechanic or other builder to carry them out and afford bidders all needed information;

(v) A full and accurate estimate of each item of expense and of the aggregate cost thereof.

(b) The department shall give public notice, in such newspaper, in such form, and with such phraseology as the director of administrative services

prescribes, published once each week for four consecutive weeks, of the time when and place where bids will be received for entering into an agreement to lease to a state agency a building, structure, or other improvement. The last publication shall be at least eight days preceding the day for opening the bids. The bids shall contain the terms upon which the builder would propose to lease the building, structure, or other improvement to the state agency. The form of the bid approved by the department shall be used, and a bid is invalid and shall not be considered unless that form is used without change, alteration, or addition. Before submitting bids pursuant to this section, any builder shall comply with Chapter 153. of the Revised Code.

(c) On the day and at the place named for receiving bids for entering into lease agreements with a state agency, the director of administrative services shall open the bids and shall publicly proceed immediately to tabulate the bids upon duplicate sheets. No lease agreement shall be entered into until the bureau of workers' compensation has certified that the person to be awarded the lease agreement has complied with Chapter 4123. of the Revised Code, until, if the builder submitting the lowest and best bid is a foreign corporation, the secretary of state has certified that the corporation is authorized to do business in this state, until, if the builder submitting the lowest and best bid is a person nonresident of this state, the person has filed with the secretary of state a power of attorney designating the secretary of state as its agent for the purpose of accepting service of summons in any action brought under Chapter 4123. of the Revised Code, and until the agreement is submitted to the attorney general and the attorney general's approval is certified thereon. Within thirty days after the day on which the bids are received, the department shall investigate the bids received and shall determine that the bureau and the secretary of state have made the certifications required by this section of the builder who has submitted the lowest and best bid. Within ten days of the completion of the investigation of the bids, the department shall award the lease agreement to the builder who has submitted the lowest and best bid and who has been certified by the bureau and secretary of state as required by this section. If bidding for the lease agreement has been conducted upon the basis of basic plans, specifications, bills of materials, and estimates of costs, upon the award to the builder the department, or the builder with the approval of the department, shall appoint an architect or engineer licensed in this state to prepare such further detailed plans, specifications, and bills of materials as are required to construct the building, structure, or improvement. The department shall adopt such rules as are necessary to give effect to this

section. The department may reject any bid. Where there is reason to believe there is collusion or combination among bidders, the bids of those concerned therein shall be rejected.

(15) To acquire by purchase, gift, devise, or grant and to transfer, lease, or otherwise dispose of all real property required to assist in the development of a conversion facility as defined in section 5709.30 of the Revised Code as that section existed before its repeal by ~~H.B.~~ Amended Substitute House Bill 95 of the 125th general assembly;

(16) To lease for a period not to exceed forty years, notwithstanding any other division of this section, the state-owned property located at 408-450 East Town Street, Columbus, Ohio, formerly the state school for the deaf, to a developer in accordance with this section. "Developer," as used in this section, has the same meaning as in section 123.77 of the Revised Code.

Such a lease shall be for the purpose of development of the land for use by senior citizens by constructing, altering, renovating, repairing, expanding, and improving the site as it existed on June 25, 1982. A developer desiring to lease the land shall prepare for submission to the department a plan for development. Plans shall include provisions for roads, sewers, water lines, waste disposal, water supply, and similar matters to meet the requirements of state and local laws. The plans shall also include provision for protection of the property by insurance or otherwise, and plans for financing the development, and shall set forth details of the developer's financial responsibility.

The department may employ, as employees or consultants, persons needed to assist in reviewing the development plans. Those persons may include attorneys, financial experts, engineers, and other necessary experts. The department shall review the development plans and may enter into a lease if it finds all of the following:

- (a) The best interests of the state will be promoted by entering into a lease with the developer;
- (b) The development plans are satisfactory;
- (c) The developer has established the developer's financial responsibility and satisfactory plans for financing the development.

The lease shall contain a provision that construction or renovation of the buildings, roads, structures, and other necessary facilities shall begin within one year after the date of the lease and shall proceed according to a schedule agreed to between the department and the developer or the lease will be terminated. The lease shall contain such conditions and stipulations as the director considers necessary to preserve the best interest of the state. Moneys received by the state pursuant to this lease shall be paid into the

general revenue fund. The lease shall provide that at the end of the lease period the buildings, structures, and related improvements shall become the property of the state without cost.

(17) To lease to any person any tract of land owned by the state and under the control of the department, or any part of such a tract, for the purpose of drilling for or the pooling of oil or gas. Such a lease shall be granted for a period not exceeding forty years, with the full power to contract for, determine the conditions governing, and specify the amount the state shall receive for the purposes specified in the lease, and shall be prepared as in other cases.

(18) To manage the use of space owned and controlled by the department, including space in property under the jurisdiction of the Ohio building authority, by doing all of the following:

(a) Biennially implementing, by state agency location, a census of agency employees assigned space;

(b) Periodically in the discretion of the director of administrative services:

(i) Requiring each state agency to categorize the use of space allotted to the agency between office space, common areas, storage space, and other uses, and to report its findings to the department;

(ii) Creating and updating a master space utilization plan for all space allotted to state agencies. The plan shall incorporate space utilization metrics.

(iii) Conducting a cost-benefit analysis to determine the effectiveness of state-owned buildings;

(iv) Assessing the alternatives associated with consolidating the commercial leases for buildings located in Columbus.

(c) Commissioning a comprehensive space utilization and capacity study in order to determine the feasibility of consolidating existing commercially leased space used by state agencies into a new state-owned facility.

(B) This section and section 125.02 of the Revised Code shall not interfere with any of the following:

(1) The power of the adjutant general to purchase military supplies, or with the custody of the adjutant general of property leased, purchased, or constructed by the state and used for military purposes, or with the functions of the adjutant general as director of state armories;

(2) The power of the director of transportation in acquiring rights-of-way for the state highway system, or the leasing of lands for division or resident district offices, or the leasing of lands or buildings

required in the maintenance operations of the department of transportation, or the purchase of real property for garage sites or division or resident district offices, or in preparing plans and specifications for and constructing such buildings as the director may require in the administration of the department;

(3) The power of the director of public safety and the registrar of motor vehicles to purchase or lease real property and buildings to be used solely as locations to which a deputy registrar is assigned pursuant to division (B) of section 4507.011 of the Revised Code and from which the deputy registrar is to conduct the deputy registrar's business, the power of the director of public safety to purchase or lease real property and buildings to be used as locations for division or district offices as required in the maintenance of operations of the department of public safety, and the power of the superintendent of the state highway patrol in the purchase or leasing of real property and buildings needed by the patrol, to negotiate the sale of real property owned by the patrol, to rent or lease real property owned or leased by the patrol, and to make or cause to be made repairs to all property owned or under the control of the patrol;

(4) The power of the division of liquor control in the leasing or purchasing of retail outlets and warehouse facilities for the use of the division;

(5) The power of the director of development to enter into leases of real property, buildings, and office space to be used solely as locations for the state's foreign offices to carry out the purposes of section 122.05 of the Revised Code;

(6) The power of the director of environmental protection to enter into environmental covenants, to grant and accept easements, or to sell property pursuant to division (G) of section 3745.01 of the Revised Code.

(C) Purchases for, and the custody and repair of, buildings under the management and control of the capitol square review and advisory board, the rehabilitation services commission, the bureau of workers' compensation, or the departments of public safety, job and family services, mental health, mental retardation and developmental disabilities, and rehabilitation and correction, and buildings of educational and benevolent institutions under the management and control of boards of trustees, are not subject to the control and jurisdiction of the department of administrative services.

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

Sec. 123.151. (A) As used in this section, "minority business enterprise" has the same meaning ~~given as~~ in division (E)(1) of section 122.71 of the Revised Code.

(B)(1) The director of administrative services shall make rules in accordance with Chapter 119. of the Revised Code establishing procedures by which minority businesses may apply to the equal employment opportunity coordinator for certification as minority business enterprises.

~~(2) Any minority business enterprise that desires to bid on a contract under division (C)(1) or (D)(1) of this section or to be a minority business subcontractor or materials supplier under division (C)(2) or (D)(2) of this section shall first apply to the coordinator for certification. The coordinator shall approve the application of any minority business enterprise that complies with the rules adopted under this division. Any person adversely affected by an order of the coordinator denying certification as a minority business enterprise may appeal as provided in Chapter 119. of the Revised Code. The coordinator shall prepare and maintain a list of certified minority business enterprises.~~

~~(C)(1) From the contracts to be awarded under section 123.15 and Chapter 153. of the Revised Code, the director shall select a number of contracts with an aggregate value of approximately five per cent of the total estimated value of contracts to be awarded in the current fiscal year. The director shall set aside the contracts so selected for bidding by minority business enterprises only. The bidding procedures for such contracts shall be the same as for all other contracts awarded under section 123.15 and Chapter 153. of the Revised Code except that only minority business enterprises certified and listed under division (B) of this section shall be qualified to submit bids.~~

~~(2)(a) Any contractor awarded a contract authorized by section 123.15 and Chapter 153. of the Revised Code or a contract included under division (D) of this section shall make every effort to ensure that certified minority business subcontractors and materials suppliers participate in the contract. In the case of contracts specified in division (A) of section 153.50 of the Revised Code, the total value of subcontracts awarded to and materials and services purchased from minority businesses shall be at least ten per cent of the total value of the contract, wherever possible and whenever the contractor awards subcontracts or purchases materials or services. In the case of all other contracts, the total value of subcontracts awarded to certified minority businesses shall equal at least five per cent of the total value of the contract. The total value of both the subcontracts awarded to and the purchases of materials made from such businesses shall equal at~~

~~least ten per cent of the total value of the contract, wherever possible and whenever the contractor awards subcontracts or purchases materials or services.~~

~~(b) Except as provided in divisions (C)(3) and (4) of this section, the department of administrative services shall not enter into any contract authorized under section 123.15 and Chapter 153. of the Revised Code, including any contract set aside under division (C)(1) of this section, unless the contract contains a provision stipulating that the contractor, to the extent that it subcontracts work, will award subcontracts totaling no less than five per cent of the total value of the contract to minority businesses certified under division (B) of this section and that the total value of both the materials purchased from minority businesses certified under division (B) of this section and of the subcontracts awarded, to the extent that it subcontracts work, to such minority businesses will equal at least seven per cent of the total value of the contract; except that in the case of contracts specified in division (A) of section 153.50 of the Revised Code, the contractor shall stipulate that the total value of both the subcontracts awarded to and the materials and services purchased from minority businesses certified under division (B) of this section will equal at least seven per cent of the total value of the contract; but for the purposes of meeting the seven per cent requirement, the value of services shall not be more than five per cent of the total value of the contract. To the extent that the contractor subcontracts work less than the percentages required to be subcontracted to minority business enterprises as established in this section, the total value of the subcontracts awarded to minority business enterprises certified under division (B) of this section need not exceed the actual amount of such subcontracts awarded.~~

~~(3) Where a contractor is unable to agree to the provision required by division (C)(2) of this section because, having made a good faith effort, the contractor is unable to locate qualified minority businesses available to accept subcontracts or sell materials or services, the contractor may apply to the coordinator and the set aside review board created under division (C)(4) of this section for a waiver or modification of the provision. The coordinator shall review the application and shall make a recommendation to the board to allow or disallow the request. After receipt of the coordinator's recommendation, the board shall review the request. If the board finds that the contractor has made a good faith effort to locate and reach agreement with minority business subcontractors and materials suppliers or service providers but has been unable to do so due to circumstances beyond the reasonable control of the contractor, it may authorize the contract to include,~~

~~in lieu of the provision required by division (C)(2) of this section, a provision stipulating a lesser percentage of the total value of the contract to be designated for minority business subcontractors and materials suppliers or it may waive such provision entirely, or stipulate a higher percentage of services permissible in contracts specified in division (A) of section 153.50 of the Revised Code. If the board does not grant the contractor's application for waiver or modification, and if the contractor is unable to agree with the provision required by division (C)(2) of this section, the contractor's bid shall be deemed nonresponsive to the specifications for which the bid was submitted. Such nonresponsiveness shall not be a basis for forfeiture of a bid guaranty or bond required by law if the contractor made application to the board for a waiver or modification within ten days following notification of award of the contract.~~

~~If a contractor requests a waiver or modification because the contractor intends to contract with an enterprise that has sought certification as a minority business enterprise in accordance with division (B)(2) of this section, but the coordinator has not rendered a decision certifying the enterprise, the board may grant the modification or waiver requested, insofar as it applies to that enterprise, if the enterprise's application for certification was filed with the coordinator at least sixty days prior to the contractor's request for waiver or modification and the contractor gives assurances satisfactory to the board that the contractor will award a contract to the enterprise seeking certification.~~

~~(4) There is hereby created in the department of administrative services the set aside review board, consisting of the director of administrative services or the director's designee, one member of the house of representatives appointed by the governor with the recommendation of the speaker of the house of representatives, and one member of the senate appointed by the governor with the recommendation of the president of the senate. Legislative members of the board shall serve four year terms. Any legislative vacancy on the board shall be filled in the same manner as the original appointment. Members of the board shall not receive compensation but shall be reimbursed for all necessary expenses incurred in the course of their official duties.~~

~~The board shall hear all applications of contractors for waiver or modification of the contract provision required by division (C)(2) of this section and shall make a decision on each such application within thirty days of its receipt by the board.~~

~~(5) The director shall adopt rules in accordance with Chapter 119. of the Revised Code requiring the following notice to be included in boldface type~~

~~and capital letters in all bid notifications and specifications for any contract authorized under section 123.15 and Chapter 153. of the Revised Code and in any contract covered by division (D) of this section: "Minority business set-aside requirements as specified in section 123.151 of the Revised Code apply to this project. Copies of section 123.151 of the Revised Code can be obtained from any of the offices of the department of administrative services." The rules shall specify the number of days after the date on which bids are opened by which the successful bidder shall notify the contracting agency concerning the provisions the bidder has made or reasonably can be expected to make for meeting the provisions of division (C)(2) of this section.~~

~~(D)(1) To the extent that any state agency, other than the department of administrative services, and any port authority is authorized to enter into contracts for construction, the agency shall set aside a number of contracts the aggregate value of which equals approximately five per cent of the aggregate value of construction contracts for the current fiscal year for bidding by minority business enterprises only. The bidding procedures for the contracts set aside for minority business enterprises shall be the same as for all other contracts awarded by the agency or port authority, except that only minority business enterprises certified and listed under division (B) of this section shall be qualified to submit bids.~~

~~(2) All contracts for construction entered into by any state agency, other than the department of administrative services, and any port authority including contracts set aside under division (D)(1) of this section, shall contain the same provision required by division (C)(2) of this section, subject to modification or waiver by the set aside review board in the manner specified by divisions (C)(3) and (4) of this section. The rules of the director adopted under division (C)(5) of this section shall be applicable to contracts under this division.~~

~~(E) In the case of contracts set aside under division (C)(1) or (D)(1) of this section, if no bid is submitted by a minority business enterprise, the contract shall be awarded according to normal bidding procedures. The contracting agency or port authority shall from time to time set aside such additional contracts for bidding only by minority business enterprises as are necessary to replace those contracts previously set aside on which no minority business enterprises bid and to ensure that, in any fiscal year, the aggregate amount of construction contracts awarded to minority business enterprises will equal approximately five per cent of the total amount of construction contracts awarded by the agency or port authority.~~

~~(F) This section does not preclude any minority business enterprise from~~

~~bidding on any other contract not specifically set aside for minority business enterprises.~~

~~(G) No funds of any state agency or port authority shall be expended in any fiscal year for construction until the director of administrative services or the chairperson of the port authority, whichever is appropriate, certifies to the equal employment opportunity coordinator, the clerk of the senate, and the clerk of the house of representatives that approximately five per cent of the aggregate amount of the projected expenditure for construction in the fiscal year has been set aside as provided for in this section.~~

~~(H) The department of administrative services, every other state agency authorized to enter into contracts for construction or contracts for purchases of equipment, materials, supplies, ~~contracts of insurance~~, or services, and every port authority shall file a report every ninety days with the equal employment opportunity coordinator. The report shall be filed at a time and in a form prescribed by the coordinator. The report shall include the name of each minority business enterprise that the agency or port authority entered into a contract with during the preceding ninety-day period and the total value and type of each such contract. No later than thirty days after the end of each fiscal year, the coordinator shall notify in writing each state agency and port authority that has not complied with the reporting requirements of this division for the prior fiscal year. A copy of this notification regarding a state agency shall be submitted to the director of budget and management. No later than thirty days after the notification, the agency or port authority shall submit to the coordinator the information necessary to comply with the reporting requirements of this division. ~~H~~~~

~~If, after the expiration of this thirty-day period, ~~the a state~~ agency has not complied with the reporting requirements of this division, the coordinator shall certify to the director of budget and management that the agency has not complied with the reporting requirements ~~of this division~~. A copy of this certification shall be submitted to the agency. Thereafter, no funds of the state agency ~~required to report by this division~~ shall be expended during the fiscal year for construction or purchases of equipment, materials, supplies, contracts of insurance, or services until the coordinator certifies to the director of budget and management that the agency has complied with the reporting requirements of this division for the prior fiscal year.~~

~~If any port authority has not complied with the reporting requirement after the expiration of the thirty-day period, the coordinator shall certify to the speaker of the house of representatives and the president of the senate that the port authority has not complied with the reporting requirements of~~

this division. A copy of this certification shall be submitted to the port authority. Upon receipt of the certification, the speaker of the house of representatives and the president of the senate shall take such action or make such recommendations to the members of the general assembly as they consider necessary to correct the situation.

~~(I) Any person who intentionally misrepresents self as owning, controlling, operating, or participating in a minority business enterprise for the purpose of obtaining contracts, subcontracts, or any other benefits under this section shall be guilty of theft by deception as provided for in section 2913.02 of the Revised Code.~~

Sec. 149.305. (A) The Ohio historical society, in addition to its other public functions, shall cooperate with the Ohio African-American hall of fame governing board established in section 149.306 of the Revised Code to establish the Ohio African-American hall of fame.

(B) The purpose of the hall of fame shall be to provide recognition to African-Americans who have made significant contributions to the state. The governing board shall select the persons to be inducted into the hall of fame and conduct an annual induction ceremony in the city of Columbus.

(C)(1) Portraits of and biographical information regarding persons inducted into the hall of fame shall initially be housed and displayed in an appropriate space located within the Ohio historical center in Columbus, Ohio. The society shall consult with the governing board regarding the manner and location in which the portraits and biographical information shall be housed and displayed.

(2) Central state university also shall serve as a repository of information regarding persons inducted into the hall of fame. The university shall consult with the governing board regarding the manner and location in which the information shall be housed and displayed.

(D) The society and the governing board shall cooperate in the selection of a permanent hall of fame site. Before any real property is acquired or accepted for that purpose, they shall consult with the governing board on the design, plans, and specifications for the construction or modification of any buildings or other visitation facilities for the hall of fame. The society, in cooperation and consultation with the governing board, shall establish an acquisition policy for the hall of fame.

(E) There is hereby created the African-American hall of fame fund, which shall be in the custody of the treasurer of state but shall not be part of the state treasury. All donations of money, grants, and other assistance received for purposes of the hall of fame shall be deposited into the fund. Money in the fund shall be used for the expenses of the society incurred in

the performance of its duties under this section and for the expenses of the hall of fame, including the reimbursement of members of the governing board. The treasurer of state shall invest any portion of the fund not needed for immediate use in the same manner as, and subject to all provisions of law with respect to the investment of, state funds. The treasurer of state shall disburse money from the fund on order of the society.

(F) After the society and governing board select a permanent site for the hall of fame, they shall establish a private, nonprofit organization that shall acquire title to, operate, and maintain the hall of fame. The society shall operate and maintain the hall of fame until the hall of fame and its contents are conveyed to the private, nonprofit organization.

The society may accept donations of historical items and artifacts for placement in the hall of fame and shall house those items and artifacts at the Ohio historical center in Columbus, Ohio. After a permanent hall of fame site is selected, the society shall cooperate with the private, nonprofit organization to loan those items and artifacts for interpretive purposes of the hall of fame.

Any historical items or artifacts donated to the private, nonprofit organization for placement in the hall of fame shall remain the property of the hall of fame as part of its permanent collection.

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

Sec. 149.306. (A) There is hereby created the Ohio African-American hall of fame governing board to raise funds for the Ohio African-American hall of fame, to commission a business plan for implementation of the hall of fame, to advise the Ohio historical society in the performance of its duties under section 149.305 of the Revised Code, and to select and induct persons into the hall of fame pursuant to that section. The board shall consist of thirteen voting members who have demonstrated interest in preserving African-American history. The members shall be appointed as follows:

(1) Three members appointed by the governor;

(2) Two members appointed by the speaker of the house of representatives;

(3) Two members appointed by the president of the senate;

(4) Two members appointed by the chair of the Ohio legislative black caucus;

(5) One member appointed by the national museum of Afro-American history and culture planning committee;

(6) One member appointed by the board of directors of the national

underground railroad freedom center:

(7) One member appointed by the board of trustees of the Ohio historical society;

(8) One member appointed by the board of trustees of the Ohioana library association.

(B) Initial appointments to the governing board shall be made within ninety days after the effective date of this section. Of the initial appointments, the term of one member appointed by the governor, one member appointed by the speaker of the house of representatives, one member appointed by the president of the senate, one member appointed by the chair of the Ohio legislative black caucus, the member appointed by the board of directors of the national underground railroad freedom center, and the member appointed by the board of trustees of the Ohioana library association shall be for a term ending one year after the effective date of this section. The initial terms of all other members shall be for a term ending two years after the effective date of this section. Thereafter, terms for all members shall be for two years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(C) All members of the governing board shall serve without compensation, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties. The expenses of the governing board shall be paid out of the African-American hall of fame fund created under section 149.305 of the Revised Code.

(D) The governing board shall elect a chairperson from its membership. It shall meet at least four times per year and shall keep a record of its proceedings, which shall be open to the public for inspection. A written notice of the time and place of each meeting shall be sent to each member. A majority of the members of the governing board shall constitute a quorum.

(E) The Ohio historical society may provide any necessary staff or services required by the governing board in the performance of its duties.

Compensation for those services shall be paid out of the African-American hall of fame fund.

(F) The governing board may accept donations of historical items and artifacts for placement in the hall of fame and shall house those items and artifacts at the Ohio historical center in Columbus, Ohio, until a permanent hall of fame site is selected under section 149.305 of the Revised Code. After a permanent hall of fame site is selected, the governing board shall convey all donated items and artifacts to the private, nonprofit organization established under that section. All historical items and artifacts so conveyed shall remain the property of the hall of fame as part of its permanent collection. The governing board shall advise the private, nonprofit organization concerning the operation and maintenance of the hall of fame.

(G) The governing board is not subject to sections 101.82 to 101.87 of the Revised Code.

Sec. 149.56. (A) As used in this section, "abandoned property" has the same meaning as in section 1506.30 of the Revised Code.

(B) The Ohio historical society shall establish a program to locate, identify, and evaluate abandoned property and other resources in Lake Erie. The society, in accordance with the authority granted under section 149.30 of the Revised Code, may list any abandoned property it finds to have historical significance on its Ohio archaeological inventory or Ohio historical inventory as the director of the society considers appropriate. In determining whether an item has historical significance, the director shall follow the criteria of the national register of historic places established in 36 C.F.R. 60. The director shall notify the director of natural resources of any abandoned property found to have historical significance. The society may use the services of volunteers to locate, identify, and evaluate abandoned property in Lake Erie. The director shall approve any volunteer programs and may recruit, train, and supervise the services of volunteers.

(C) The moneys credited to the Ohio historical society under division (C) of section 1506.35 of the Revised Code and any appropriations, contributions, gifts, and federal grants made to the Ohio historical society for the purposes of this section and the applicable provisions of sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised Code shall be placed in a separate fund within the accounts of the Ohio historical society, together with moneys credited to that fund under divisions (D)(2) and (3) of section 1506.33 of the Revised Code, to be used solely to implement and administer this section and the duties assigned the society under sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised Code.

Sec. 164.07. (A) In awarding contracts for capital improvement projects

~~to be financed in whole or in part under this chapter, a local subdivision shall comply with the percentage requirements of division (C)(1) of section 123.151 and of section 125.081 of the Revised Code. The subdivision shall also require compliance by its subcontractors with the requirements of division (C)(2) of section 123.151 of the Revised Code in awarding contracts and purchasing services and materials under those contracts. If, after making a good faith effort, a contractor is unable to comply with the requirements of division (C)(2) of section 123.151 of the Revised Code because it is unable to locate minority business enterprises available to accept subcontracts or purchase materials or services, the contractor may apply to the subdivision for a waiver or modification of the requirement. If the subdivision determines that the contractor made a good faith effort to locate and use minority business enterprises but was unable to do so, it may waive the provisions, authorize a reduction in the total value of the contract designated to minority business enterprises, or require a greater percentage of services permissible in contracts for plumbing, gas fitting, steam and hot water heating, ventilating apparatus, steam power plant, or electrical equipment. If the subdivision denies a request for a waiver or modification and the contractor is unable to comply with division (C)(2) of section 123.151 of the Revised Code, the contract shall be terminated by the subdivision.~~

(B) A capital improvement that is financed in whole or in part under this chapter is a public improvement, and a subdivision undertaking a capital improvement is a public authority, for purposes of section 4115.03 of the Revised Code. All contractors and subcontractors working on a capital improvement financed in whole or in part under this chapter shall comply with sections 4115.03 to 4115.16 of the Revised Code.

Sec. 307.674. (A) As used in this section:

(1) "Bonds" means:

(a) Revenue bonds of the port authority described in division (B)(2)(a) of this section;

(b) Securities as defined in division (KK) of section 133.01 of the Revised Code issued by the host municipal corporation, described in division (B)(3)(a) of this section;

(c) Any bonds issued to refund any of those revenue bonds or securities.

(2) "Corporation" means a nonprofit corporation that is organized under the laws of this state and that includes within the purposes for which it is incorporated the authorization to lease and operate facilities such as a port authority educational and cultural performing arts facility.

(3) "Cost," as applied to a port authority educational and cultural

performing arts facility, means the cost of acquiring, constructing, renovating, rehabilitating, equipping, or improving the facility, or any combination of those purposes, collectively referred to in this section as "construction," and the cost of acquisition of all land, rights of way, property rights, easements, franchise rights, and interests required for those purposes, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any land to which those buildings or structures may be moved, the cost of public utility and common carrier relocation or duplication, the cost of all machinery, furnishings, and equipment, financing charges, interest prior to and during construction and for not more than three years after completion of construction, costs arising under guaranty agreements, reimbursement agreements, or other credit enhancement agreements relating to bonds, engineering, expenses of research and development with respect to such facility, legal expenses, plans, specifications, surveys, studies, estimates of costs and revenues, other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing the facility, administrative expense, and other expenses as may be necessary or incident to that acquisition or construction and the financing of such acquisition or construction, including, with respect to the revenue bonds of a port authority, amounts to be paid into any special funds from the proceeds of those bonds, and repayments to the port authority, host county, host municipal corporation, or corporation of any amounts advanced for the foregoing purposes.

(4) "Debt service charges" means, for any period or payable at any time, the principal of and interest and any premium due on bonds for that period or payable at that time whether due at maturity or upon mandatory redemption, together with any required deposits to reserves for the payment of principal of and interest on those bonds, and includes any payments required by the port authority to satisfy any of its obligations under or arising from any guaranty agreements, reimbursement agreements, or other credit enhancement agreements described in division (C) of this section.

(5) "Host county" means the county within the boundaries of which the port authority educational and cultural performing arts facility is or will be located.

(6) "Host municipal corporation" means the municipal corporation within the boundaries of which the port authority educational and cultural performing arts facility is or will be located.

(7) "Port authority" means a port authority created pursuant to section 4582.22 of the Revised Code.

(8) "Port authority educational and cultural performing arts facility"

means a facility that consists of a center for music or other performing arts, a theater or other facilities to provide programs of an educational, recreational, or cultural nature, or any combination of those purposes as determined by the parties to the cooperative agreement for which provision is made in division (B) of this section to fulfill the public educational, recreational, and cultural purposes set forth therein, together with all parking facilities, walkways, and other auxiliary facilities, real and personal property, property rights, easements, and interests that may be appropriate for, or used in connection with, the operation of the facility.

(B) A host county, a host municipal corporation, and a port authority may enter into a cooperative agreement with a corporation under which, as further provided for in that agreement:

(1) The host county may agree to do any or all of the following:

(a) Levy and collect a tax under division (E) and division (F) of section 5739.09 of the Revised Code for the purposes, and in an amount sufficient for those purposes, described in divisions (B)(1)(b) and (c) of this section;

(b) Pay to the port authority all or such portion as provided for in the cooperative agreement of the revenue from the tax, together with any investment earnings on that revenue, to be used to pay a portion of the costs of acquiring, constructing, renovating, rehabilitating, equipping, or improving the port authority educational and cultural performing arts facility;

(c) Pledge and pay to the corporation all or such portion as provided for in the cooperative agreement of the revenue from the tax, together with any investment earnings on that revenue, to be used to pay a portion of the costs to the corporation of leasing the port authority educational and cultural performing arts facility from the port authority.

(2) The port authority may agree to do any or all of the following:

(a) Issue its revenue bonds pursuant to section 4582.48 of the Revised Code for the purpose of paying all or a portion of the costs of the port authority educational and cultural performing arts facility;

(b) Acquire, construct, renovate, rehabilitate, equip, and improve the port authority educational and cultural performing arts facility;

(c) Lease the port authority educational and cultural performing arts facility to the corporation;

(d) To the extent provided for in the cooperative agreement or the lease to the corporation, authorize the corporation to administer on behalf of the port authority the contracts for acquiring, constructing, renovating, rehabilitating, or equipping the port authority educational and cultural performing arts facility;

(e) Use the revenue derived from the lease of the port authority educational and cultural performing arts facility to the corporation solely to pay debt service charges on revenue bonds of the port authority issued pursuant to division (B)(2)(a) of this section and to pay its obligations under or arising from any guaranty agreements, reimbursement agreements, or other credit enhancement agreements provided for in this section.

(3) The host municipal corporation may agree to do either or both of the following:

(a) Issue its bonds for the purpose of paying all or a portion of the costs of the port authority educational and cultural performing arts facility, and pay the proceeds from the issuance to the port authority for that purpose;

(b) Enter into a guaranty agreement, a reimbursement agreement, or other credit enhancement agreement with the port authority to provide a guaranty or other credit enhancement of the port authority revenue bonds referred to in division (B)(2)(a) of this section pledging taxes, other than ad valorem property taxes, or other revenues for the purpose of providing the funds required to satisfy the host municipal corporation's obligations under that agreement.

The cooperative agreement may provide that the proceeds of such securities or of such guaranty agreement, reimbursement agreement, or other credit enhancement agreement be deposited with and administered by the trustee pursuant to the trust agreement authorized in division (C) of this section.

(4) The corporation may agree to do any or all of the following:

(a) Lease the port authority educational and cultural performing arts facility from the port authority;

(b) Operate and maintain the port authority educational and cultural performing arts facility pursuant to the lease;

(c) To the extent provided for in the cooperative agreement or the lease from the port authority, administer on behalf of the port authority the contracts for acquiring, constructing, renovating, rehabilitating, or equipping the port authority educational and cultural performing arts facility.

(C) The pledge and payments referred to in divisions (B)(1)(b) and (c) of this section and provided for in the cooperative agreement shall be for the period stated in the cooperative agreement but shall not extend longer than the period necessary to provide for the final retirement of the port authority revenue bonds referred to in division (B)(2)(a) of this section, and for the satisfaction by the port authority of any of its obligations under or arising from any guaranty agreements, reimbursement agreements, or other credit enhancement agreements relating to those bonds or to the revenues pledged

to them. The cooperative agreement shall provide for the termination of the cooperative agreement, including the pledge and payment referred to in division (B)(1)(c) of this section, if the port authority revenue bonds referred to in division (B)(2)(a) of this section have not been issued, sold, and delivered within five years of the effective date of the cooperative agreement.

The cooperative agreement shall provide that any port authority revenue bonds shall be secured by a trust agreement between the port authority and a corporate trustee that is a trust company or bank having the powers of a trust company within or outside the state but authorized to exercise trust powers within the state. The host county may be a party to that trust agreement for the purpose of better securing the pledge by the host county of its payment to the corporation pursuant to division (B)(1)(c) of this section. A tax levied pursuant to section 5739.09 of the Revised Code for the purposes specified in division (B)(1)(b) or (c) of this section is not subject to diminution by initiative or referendum or diminution by statute, unless provision is made for an adequate substitute reasonably satisfactory to the trustee under the trust agreement that secures the port authority revenue bonds.

(D) A pledge of money by a host county under this section shall not be net indebtedness of the host county for purposes of section 133.07 of the Revised Code. A guaranty or other credit enhancement by a host municipal corporation under this section shall not be net indebtedness of the host municipal corporation for purposes of section 133.05 of the Revised Code.

(E) If the terms of the cooperative agreement so provide, any contract for the acquisition, construction, renovation, rehabilitation, equipping, or improving of a port authority educational and cultural performing arts facility shall be made in such manner as is determined by the board of directors of the port authority, and unless the cooperative agreement provides otherwise, such a contract is not subject to division (R)(2) of section 4582.31 of the Revised Code. The port authority may take the assignment of and assume any contracts for the acquisition, construction, renovation, rehabilitation, equipping, or improving of a port authority educational and cultural performing arts facility that had previously been authorized by any of the host county, the host municipality, or the corporation. Such contracts are not subject to division (R)(2) of section 4582.31 of the Revised Code.

Any contract for the acquisition, construction, renovation, rehabilitation, equipping, or improving of a port authority educational and cultural performing arts facility entered into, assigned, or assumed pursuant to this division shall provide that all laborers and mechanics employed for the

acquisition, construction, renovation, rehabilitation, equipping, or improving of that facility shall be paid at the prevailing rates of wages of laborers and mechanics for the class of work called for by the port authority educational and cultural performing arts facility, which wages shall be determined in accordance with the requirements of Chapter 4115. of the Revised Code for the determination of prevailing wage rates.

Notwithstanding any provisions to the contrary in section 3383.07 of the Revised Code, construction services and general building services for a port authority educational and cultural performing arts facility funded completely or in part with money appropriated by the state to the Ohio ~~arts and sports~~ cultural facilities commission may be provided by a port authority or a corporation that occupies, will occupy, or is responsible for that facility, as determined by the commission. The construction services and general building services to be provided by the port authority or the corporation shall be specified in an agreement between the commission and the port authority or corporation. That agreement, or any actions taken under it, are not subject to Chapters 123. or 153. of the Revised Code, but are subject to Chapter 4115. of the Revised Code.

Sec. 317.08. (A) Except as provided in divisions (C) and (D) of this section, the county recorder shall keep six separate sets of records as follows:

(1) A record of deeds, in which shall be recorded all deeds and other instruments of writing for the absolute and unconditional sale or conveyance of lands, tenements, and hereditaments; all notices as provided in sections 5301.47 to 5301.56 of the Revised Code; all judgments or decrees in actions brought under section 5303.01 of the Revised Code; all declarations and bylaws, and all amendments to declarations and bylaws, as provided in Chapter 5311. of the Revised Code; affidavits as provided in section 5301.252 of the Revised Code; all certificates as provided in section 5311.17 of the Revised Code; all articles dedicating archaeological preserves accepted by the director of the Ohio historical society under section 149.52 of the Revised Code; all articles dedicating nature preserves accepted by the director of natural resources under section 1517.05 of the Revised Code; all agreements for the registration of lands as archaeological or historic landmarks under section 149.51 or 149.55 of the Revised Code; all conveyances of conservation easements and agricultural easements under section 5301.68 of the Revised Code; all instruments extinguishing agricultural easements under section 901.21 or 5301.691 of the Revised Code or pursuant to terms of such an easement granted to a charitable organization under section 5301.68 of the Revised Code; all instruments or

orders described in division (B)(1)(c)(ii) of section 5301.56 of the Revised Code; all no further action letters issued under section 122.654 or 3746.11 of the Revised Code; all covenants not to sue issued under section 3746.12 of the Revised Code, including all covenants not to sue issued pursuant to section 122.654 of the Revised Code; any restrictions on the use of property contained in a no further action letter issued under section 122.654 of the Revised Code, any restrictions on the use of property identified pursuant to division (C)(3)(a) of section 3746.10 of the Revised Code, and any restrictions on the use of property contained in a deed or other instrument as provided in division (E) or (F) of section 3737.882 of the Revised Code; any easement executed or granted under section 3734.22, 3734.24, 3734.25, or 3734.26 of the Revised Code; any environmental covenant entered into in accordance with sections 5301.80 to 5301.92 of the Revised Code; all memoranda of trust, as described in division (A) of section 5301.255 of the Revised Code, that describe specific real property; and all agreements entered into under division (A) of section 1521.26 of the Revised Code;

(2) A record of mortgages, in which shall be recorded all of the following:

(a) All mortgages, including amendments, supplements, modifications, and extensions of mortgages, or other instruments of writing by which lands, tenements, or hereditaments are or may be mortgaged or otherwise conditionally sold, conveyed, affected, or encumbered;

(b) All executory installment contracts for the sale of land executed after September 29, 1961, that by their terms are not required to be fully performed by one or more of the parties to them within one year of the date of the contracts;

(c) All options to purchase real estate, including supplements, modifications, and amendments of the options, but no option of that nature shall be recorded if it does not state a specific day and year of expiration of its validity;

(d) Any tax certificate sold under section 5721.33 of the Revised Code, or memorandum of it, that is presented for filing of record.

(3) A record of powers of attorney, including all memoranda of trust, as described in division (A) of section 5301.255 of the Revised Code, that do not describe specific real property;

(4) A record of plats, in which shall be recorded all plats and maps of town lots, of the subdivision of town lots, and of other divisions or surveys of lands, any center line survey of a highway located within the county, the plat of which shall be furnished by the director of transportation or county engineer, and all drawings and amendments to drawings, as provided in

Chapter 5311. of the Revised Code;

(5) A record of leases, in which shall be recorded all leases, memoranda of leases, and supplements, modifications, and amendments of leases and memoranda of leases;

(6) A record of declarations executed pursuant to section 2133.02 of the Revised Code and durable powers of attorney for health care executed pursuant to section 1337.12 of the Revised Code.

(B) All instruments or memoranda of instruments entitled to record shall be recorded in the proper record in the order in which they are presented for record. The recorder may index, keep, and record in one volume unemployment compensation liens, internal revenue tax liens and other liens in favor of the United States as described in division (A) of section 317.09 of the Revised Code, personal tax liens, mechanic's liens, agricultural product liens, notices of liens, certificates of satisfaction or partial release of estate tax liens, discharges of recognizances, excise and franchise tax liens on corporations, broker's liens, and liens provided for in sections 1513.33, 1513.37, 3752.13, 5111.021, and 5311.18 of the Revised Code.

The recording of an option to purchase real estate, including any supplement, modification, and amendment of the option, under this section shall serve as notice to any purchaser of an interest in the real estate covered by the option only during the period of the validity of the option as stated in the option.

(C) In lieu of keeping the six separate sets of records required in divisions (A)(1) to (6) of this section and the records required in division (D) of this section, a county recorder may record all the instruments required to be recorded by this section in two separate sets of record books. One set shall be called the "official records" and shall contain the instruments listed in divisions (A)(1), (2), (3), (5), and (6) and (D) of this section. The second set of records shall contain the instruments listed in division (A)(4) of this section.

(D) Except as provided in division (C) of this section, the county recorder shall keep a separate set of records containing all corrupt activity lien notices filed with the recorder pursuant to section 2923.36 of the Revised Code and a separate set of records containing all medicaid fraud lien notices filed with the recorder pursuant to section 2933.75 of the Revised Code.

Sec. 340.02. As used in this section, "mental health professional" means a person who is qualified to work with mentally ill persons, pursuant to standards established by the director of mental health under section 5119.611 of the Revised Code.

For each alcohol, drug addiction, and mental health service district, there shall be appointed a board of alcohol, drug addiction, and mental health services of eighteen members. Members shall be residents of the district and shall be interested in mental health programs and facilities or in alcohol or drug addiction programs.

The director of mental health shall appoint four members of the board, the director of alcohol and drug addiction services shall appoint four members, and the board of county commissioners shall appoint ten members. In a joint-county district, the county commissioners of each participating county shall appoint members in as nearly as possible the same proportion as that county's population bears to the total population of the district, except that at least one member shall be appointed from each participating county.

The director of mental health shall ensure that at least one member of the board is a psychiatrist and one member of the board is a mental health professional. ~~One member of the board may be a voting member of the citizen's advisory council of an institution under the control of the department of mental health which serves a hospital district in which one or more counties in the service district is located.~~ If the appointment of a psychiatrist is not possible, as determined under rules adopted by the director, a licensed physician may be appointed in place of the psychiatrist. If the appointment of a licensed physician is not possible, the director of mental health may waive the requirement that the psychiatrist or licensed physician be a resident of the service district and appoint a psychiatrist or licensed physician from a contiguous county. The membership of the board shall, as nearly as possible, reflect the composition of the population of the service district as to race and sex. The director of mental health shall ensure that at least one member of the board is a person who has received or is receiving mental health services paid for by public funds and at least one member is a parent or other relative of such a person.

The director of alcohol and drug addiction services shall ensure that at least one member of the board is a professional in the field of alcohol or drug addiction services and one member of the board is an advocate for persons receiving treatment for alcohol or drug addiction. Of the members appointed by the director of alcohol and drug addiction services, at least one shall be a person who has received or is receiving services for alcohol or drug addiction, and at least one ~~member~~ shall be a parent or other relative of such a person.

No member or employee of a board of alcohol, drug addiction, and mental health services shall serve as a member of the board of any agency

with which the board of alcohol, drug addiction, and mental health services has entered into a contract for the provision of services or facilities. No member of a board of alcohol, drug addiction, and mental health services shall be an employee of any agency with which the board has entered into a contract for the provision of services or facilities. No person shall be an employee of a board and such an agency unless the board and agency both agree in writing.

No person shall serve as a member of the board of alcohol, drug addiction, and mental health services whose spouse, child, parent, brother, sister, grandchild, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law serves as a member of the board of any agency with which the board of alcohol, drug addiction, and mental health services has entered into a contract for the provision of services or facilities. No person shall serve as a member or employee of the board whose spouse, child, parent, brother, sister, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law serves as a county commissioner of a county or counties in the alcohol, drug addiction, and mental health service district.

Each year each board member shall attend at least one inservice training session provided or approved by the department of mental health or the department of alcohol and drug addiction services. Such training sessions shall not be considered to be regularly scheduled meetings of the board.

Each member shall be appointed for a term of four years, commencing the first day of July, except that one-third of initial appointments to a newly established board, and to the extent possible to expanded boards, shall be for terms of two years, one-third of initial appointments shall be for terms of three years, and one-third of initial appointments shall be for terms of four years. No member shall serve more than two consecutive four-year terms. A member may serve for three consecutive terms only if one of the terms is for less than two years. A member who has served two consecutive four-year terms or three consecutive terms totaling less than ten years is eligible for reappointment one year following the end of the second or third term, respectively.

When a vacancy occurs, appointment for the expired or unexpired term shall be made in the same manner as an original appointment. The appointing authority shall be notified by certified mail of any vacancy and shall fill the vacancy within sixty days following ~~such~~ that notice.

Any member of the board may be removed from office by the appointing authority for neglect of duty, misconduct, or malfeasance in

office, and shall be removed by the appointing authority if the member's spouse, child, parent, brother, sister, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law serves as a county commissioner of a county or counties in the service district or serves as a member or employee of the board of an agency with which the board of alcohol, drug addiction, and mental health services has entered a contract for the provision of services or facilities. The member shall be informed in writing of the charges and afforded an opportunity for a hearing. Upon the absence of a member within one year from either four board meetings or from two board meetings without prior notice, the board shall notify the appointing authority, which may vacate the appointment and appoint another person to complete the member's term.

Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties, as defined by rules of the departments of mental health and alcohol and drug addiction services.

Sec. 1501.04. There is hereby created in the department of natural resources a recreation and resources commission composed of the chairperson of the wildlife council created under section 1531.03 of the Revised Code, the chairperson of the parks and recreation council created under section 1541.40 of the Revised Code, the chairperson of the waterways safety council created under section 1547.73 of the Revised Code, the chairperson of the technical advisory council on oil and gas created under section 1509.38 of the Revised Code, the ~~chairman~~ chairperson of the forestry advisory council created under section 1503.40 of the Revised Code, the chairperson of the Ohio soil and water conservation commission created under section 1515.02 of the Revised Code, ~~the chairperson of the Ohio natural areas council created under section 1517.03 of the Revised Code,~~ the chairperson of the Ohio water advisory council created under section 1521.031 of the Revised Code, the chairperson of the recycling and litter prevention advisory council created under section 1502.04 of the Revised Code, the chairperson of the Ohio geology advisory council created under section 1505.11 of the Revised Code, and five members appointed by the governor with the advice and consent of the senate, not more than three of whom shall belong to the same political party. The director of natural resources shall be an ex officio member of the commission, with a voice in its deliberations, but without the power to vote.

Terms of office of members of the commission appointed by the

governor shall be for five years, commencing on the second day of February and ending on the first day of February. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed.

In the event of the death, removal, resignation, or incapacity of a member of the commission, the governor, with the advice and consent of the senate, shall appoint a successor who shall hold office for the remainder of the term for which the member's predecessor was appointed. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

The governor may remove any appointed member of the commission for misfeasance, nonfeasance, or malfeasance in office.

The commission shall exercise no administrative function, but may do any of the following:

(A) Advise with and recommend to the director as to plans and programs for the management, development, utilization, and conservation of the natural resources of the state;

(B) Advise with and recommend to the director as to methods of coordinating the work of the divisions of the department;

(C) Consider and make recommendations upon any matter that the director may submit to it;

(D) Submit to the governor biennially recommendations for amendments to the conservation laws of the state.

Each member of the commission, before entering upon the discharge of the member's duties, shall take and subscribe to an oath of office, which oath, in writing, shall be filed in the office of the secretary of state.

The members of the commission shall serve without compensation, but shall be entitled to receive their actual and necessary expenses incurred in the performance of their official duties.

The commission, by a majority vote of all its members, shall adopt and amend bylaws.

To be eligible for appointment, a person shall be a citizen of the United States and an elector of the state and shall possess a knowledge of and have an interest in the natural resources of this state.

The commission shall hold at least four regular quarterly meetings each year. Special meetings shall be held at such times as the bylaws of the commission provide. Notices of all meetings shall be given in such manner as the bylaws provide. The commission shall choose annually from among its members a chairperson to preside over its meetings and a secretary to

keep a record of its proceedings. A majority of the members of the commission constitutes a quorum. No advice shall be given or recommendation made without a majority of the members of the commission concurring ~~therein~~ in it.

Sec. 1502.04. There is hereby created within the division of recycling and litter prevention the recycling and litter prevention advisory council consisting of thirteen members. The speaker of the house of representatives shall appoint one member of the house of representatives to the council, and the president of the senate shall appoint one member of the senate to the council. If the president of the senate belongs to the same political party as the speaker of the house of representatives, the president shall appoint a member of the senate who belongs to a different political party as recommended by the minority leader of the senate. The speaker of the house of representatives and the president of the senate shall make their initial appointments to the council within sixty days after July 20, 1994. Each member appointed by the speaker of the house of representatives or the president of the senate shall serve for a term of office of three years. The appropriate appointing authority may fill any vacancy occurring during the term of any member whom the appointing authority has appointed to the advisory council.

The remaining eleven members shall be appointed by the governor with the advice and consent of the senate and shall be persons with knowledge of or experience in recycling or litter prevention programs. The council shall have broad based representation of interests including agriculture, labor, the environment, manufacturing, wholesale and retail industry, and the public. One of the business members shall be from the commercial recycling industry, and another shall be from an industry required to pay taxes under section 5733.065 of the Revised Code. The director of natural resources shall not be a member of the council. The governor shall make initial appointments to the council within thirty days after October 20, 1987. Of the governor's initial appointments to the council, five shall be for a term of one year, and six shall be for a term of two years. Thereafter, terms of office shall be for three years. Each member appointed by the governor shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. In the event of death, removal, resignation, or incapacity of a member of the council appointed by the governor, the governor, with the advice and consent of the senate, shall appoint a successor who shall hold office for the remainder of the term for which the successor's predecessor was appointed. A member shall continue in office subsequent to the expiration date of the member's term until the

member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. The governor at any time may remove any of the governor's appointees from the council for misfeasance, nonfeasance, or malfeasance in office.

Members of the council may be reappointed.

The council shall hold at least four regular quarterly meetings each year. Special meetings may be held at the behest of the chairperson or a majority of the members. The council annually shall select from among its members a chairperson, a vice-chairperson, and a secretary to keep a record of its proceedings.

A majority vote of the members of the council is necessary to take action in any matter.

A member of the council shall serve without compensation for attending council meetings, but shall be reimbursed for all traveling, hotel, and other ordinary and necessary expenses incurred in the performance of the member's work as a member of the council.

Membership on the council does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment.

The council shall do all of the following:

~~(A) Assist the interagency recycling market development workgroup created in section 1502.10 of the Revised Code in executing its duties under division (A) of that section;~~

~~(B)~~ In conjunction with the chief of recycling and litter prevention and with the approval of the director of natural resources, establish criteria by which to certify, and certify, agencies of the state, municipal corporations with a population of more than fifty thousand, counties, and solid waste management districts as eligible to receive grants under section 1502.05 of the Revised Code;

~~(C)~~~~(B)~~ In conjunction with the chief and with the approval of the director, establish criteria by which to certify, and certify, political subdivisions for receipt of special grants for activities or projects that are intended to accomplish the purposes of any of the programs established under section 1502.03 of the Revised Code;

~~(D)~~~~(C)~~ Advise the chief in carrying out the chief's duties under this chapter.

Sec. 1502.05. (A) The chief of recycling and litter prevention, pursuant to division ~~(B)~~~~(A)~~ of section 1502.04 of the Revised Code and with the approval of the director of natural resources, may make grants from the

recycling and litter prevention fund created in section 1502.02 of the Revised Code to accomplish the purposes of the programs established under section 1502.03 of the Revised Code.

(B) Except as provided in division (C) of this section, the chief, with the approval of the director, may require any eligible applicant certified by the recycling and litter prevention advisory council under division ~~(B)~~(A) of section 1502.04 of the Revised Code that applies for a grant for an activity or project that is intended to further the purposes of any program established under division (A)(1), (2), or (4) of section 1502.03 of the Revised Code to provide a matching contribution of not more than fifty per cent of the grant.

(C) Notwithstanding division (B) of this section, any grant awarded under division (A) of this section to foster cooperative research and development regarding recycling or the cooperative establishment or expansion of private recycling facilities or programs shall be made in conjunction with a contribution to the project by a cooperating enterprise that maintains or proposes to maintain a relevant research and development or recycling facility or program in this state or by an agency of the state, provided that funding provided by a state agency shall not be provided from general revenue funds appropriated by the general assembly. No grant made under division (A) of this section for the purposes described in this division shall exceed the contribution made by the cooperating enterprise or state agency. The chief may consider cooperating contributions in the form of state of the art new equipment or in other forms if the chief determines that the contribution is essential to the successful implementation of the project.

Grants made under division (A) of this section for the purposes described in this division shall be made in such form and conditioned on such terms as the chief considers to be appropriate.

(D)(1) The chief, with the approval of the director, may require any eligible applicant certified by the recycling and litter prevention advisory council under division ~~(B)~~(A) of section 1502.04 of the Revised Code that applies for a grant that is intended to further the purposes of the program established under division (A)(3) of section 1502.03 of the Revised Code, except any eligible applicant that is or is located in a county that has a per capita income equal to or below ninety per cent of the median county per capita income of the state as determined by the chief using the most recently available figures from the United States census bureau, to provide a matching contribution as follows:

(a) Up to ten per cent of the grant from any eligible applicant that is or is located in a county that has a per capita income above ninety per cent of the median county per capita income of the state, but equal to or below one

hundred per cent of the median county per capita income of the state;

(b) Up to twenty per cent of the grant from any eligible applicant that is or is located in a county that has a per capita income above the median county per capita income of the state.

(2) If the eligible applicant is a joint solid waste management district or is filing a joint application on behalf of two or more counties, the matching contribution required under division (D)(1) of this section shall be the average of the matching contributions of all of the counties covered by the application as determined in accordance with that division. The matching contribution of a county that has a per capita income equal to or below ninety per cent of the median county per capita income of the state shall be included as zero in calculating the average matching contribution.

(E) After receiving notice from the director of environmental protection that each county within the state is subject to the solid waste management plan of a solid waste management district, the chief shall ensure that not less than fifty per cent of the moneys distributed as grants under this section shall be expended for the purposes of recycling and recycling market development.

Sec. 1502.11. (A) ~~Not later than December 31, 1994, the interagency recycling market development workgroup~~ The chief of recycling and litter prevention shall prepare, with the assistance of the recycling and litter prevention advisory council, and the director of natural resources shall approve ~~the initial Ohio recycling market development plan. Thereafter, a revised Ohio recycling market development plan shall be prepared and approved~~ not later than the thirty-first day of December every two years. The

~~The Ohio recycling market development~~ plan shall do all of the following:

(1) Identify the types of recyclables, the recycling of which will receive assistance under the plan;

(2) Assess the need for and recommend specific types of direct financial assistance to be provided by the state, including grants, low-interest loans, bonds, and rebates and guarantees for projects such as retooling costs for manufacturers and industrial plants to use recycled materials, capitalization business incubators, new product research and development, demonstration projects, and the application and uses of recycled materials;

(3) Assess the need for and recommend specific types of other assistance to be provided by the state, including the creation of enterprise zones and other tax incentives and exemptions, job training and managerial assistance, facilitation of technology transfers, provision of technical

information to industries and to counties, townships, municipal corporations, and solid waste management districts, provision of consumer information, and establishment of a computer information network;

(4) Designate a specific state agency to administer each component of the plan recommended under divisions (A)(2) and (3) of this section;

(5) Determine the funding level needed for each component of the plan recommended under divisions (A)(2) and (3) of this section, and establish biennial budget estimates for the main operating biennial budget needed by the state agency designated to administer the component under division (A)(4) of this section;

(6) Recommend necessary statutory changes, provided that the changes have been endorsed by a two-thirds vote of the recycling and litter prevention advisory council.

~~(B) In preparing the initial plan under division (A) of this section, the workgroup shall review existing programs of state agencies to determine which programs can be used to increase state support of recycling and recycling market development. In particular, the workgroup shall do all of the following:~~

~~(1) With regard to the department of natural resources, review the types and amounts of grants awarded by the chief of recycling and litter prevention under section 1502.05 of the Revised Code to determine which of those grants should be continued using moneys appropriated from the recycling and litter prevention fund created in section 1502.02 of the Revised Code;~~

~~(2) With regard to the department of development, determine which existing industrial development programs administered by the department can be used to implement any of the components of the plan recommended under divisions (A)(2) and (3) of this section;~~

~~(3) With regard to the environmental protection agency:~~

~~(a) Review recycling information obtained through solid waste management plans prepared by solid waste management districts under sections 3734.50 to 3734.575 of the Revised Code;~~

~~(b) Determine the feasibility of authorizing solid waste management districts to provide revolving loans for local recycling industrial development.~~

~~(C) Each revised plan prepared under division (A) of this section shall do both of the following:~~

~~(1) Review the relevant activities of each state agency designated to administer a component of the previous plan;~~

~~(2) Recommend any needed changes in the components of the previous~~

plan prepared under divisions (A)(1) to (6) of this section, including the addition or deletion of any components.

~~(D)~~(C) Each state agency that is designated under the plan to administer a component of the plan shall do both of the following:

- (1) Administer ~~each such~~ that component as provided in the plan;
- (2) Include in its biennial budget estimates for the main operating biennial budget the budget estimates established pursuant to division (A)(5) of this section.

~~(E)~~(D) A copy of each plan prepared under this section shall be submitted upon completion to the governor, the speaker of the house of representatives, and the president of the senate.

Sec. 1502.12. (A) There is hereby created in the state treasury the scrap tire grant fund, consisting of moneys transferred to the fund under section 3734.82 of the Revised Code. The chief of the division of recycling and litter prevention, with the approval of the director of natural resources, may make grants from the fund for the purpose of supporting market development activities for scrap tires. The grants may be awarded to individuals, businesses, and entities certified under division ~~(B)~~(A) of section 1502.04 of the Revised Code.

(B) Projects and activities that are eligible for grants under this section shall be evaluated for funding using, at a minimum, the following criteria:

- (1) The degree to which a proposed project contributes to the increased use of scrap tires generated in this state;
- (2) The degree of local financial support for a proposed project;
- (3) The technical merit and quality of a proposed project.

Sec. 1506.30. As used in sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised Code:

(A) "Abandoned property" means a submerged aircraft; a submerged watercraft, including a ship, boat, canoe, skiff, raft, or barge; the rigging, gear, fittings, trappings, and equipment of a submerged aircraft or watercraft; the personal property of the officers, crew, and passengers of a submerged aircraft or watercraft; the cargo of a submerged aircraft or watercraft that has been deserted, relinquished, cast away, or left behind and for which attempts at reclamation have been abandoned by the owners and insurers; and submerged materials resulting from activities of prehistoric and historic native Americans.

(B) "Lake Erie" means that portion of the waters and lands of Lake Erie belonging to the state as provided in section 1506.10 of the Revised Code.

(C) "Historical value" means the quality of significance exemplified by an object, structure, site, or district that is included in or eligible for

inclusion in the state registry of archaeological landmarks authorized under section 149.51 of the Revised Code, the state registry of historic landmarks authorized under section 149.55 of the Revised Code, or the national register of historic places.

(D) "Marine surveyor" means a person engaged in the business of mapping or surveying submerged lands and abandoned property.

(E) "Mechanical or other assistance" means all ~~manmade~~ artificial devices used to raise or remove artifacts from abandoned property, including pry bars, wrenches and other hand or power tools, cutting torches, explosives, winches, flotation bags, lines to surface, extra divers buoyancy devices, and other buoyancy devices.

(F) "Recreational value" means value relating to an activity in which the public engages or may engage for recreation or sport, including scuba diving and fishing, as determined by the director of natural resources.

Sec. 1506.34. (A) The director of natural resources, with the approval of the director of the Ohio historical society, shall establish policies and may adopt rules necessary to implement and administer sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised Code. Not less than forty-five days prior to adopting a rule under this section or section 1506.31 of the Revised Code, the director of natural resources shall send a copy of the proposed rule to the director of the Ohio historical society, who shall promptly review it. Not more than thirty days after receiving the proposed rule, the director of the Ohio historical society shall return the rule to the director of natural resources together with ~~his~~ the former director's written approval or disapproval of the proposed rule. If ~~he~~ the director of the Ohio historical society disapproves the rule, ~~he~~ the director shall explain the reasons for ~~his~~ the disapproval and any amendments to the rule ~~he~~ the director considers necessary to obtain ~~his~~ the director's approval. The director of natural resources shall not adopt a rule under those sections that has not been approved by the director of the Ohio historical society. If the director of the Ohio historical society does not respond within thirty days as prescribed in this section, the rule is deemed approved by ~~him~~ the director.

(B) The director of natural resources shall inform the public of the requirements of sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised Code and any policies established and rules adopted under them. In complying with this section, the director may establish or conduct educational programs or seminars, print and distribute informational pamphlets, and provide detailed information to organizations that conduct scuba diving training programs.

(C) The director of natural resources may hire or contract with a marine

archaeologist, a marine historian, a marine surveyor, or any combination ~~thereof~~ of these persons for the purposes of implementing and administering sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised Code and any rules adopted under them.

Sec. 1506.35. (A) The director of natural resources may suspend or revoke, in accordance with Chapter 119. of the Revised Code, a permit issued under section 1506.32 of the Revised Code if the permit holder has done either of the following:

(1) Failed to comply with sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised Code, any rules adopted under those sections, or any provision or condition of ~~his~~ the holder's permit;

(2) Damaged abandoned property other than in accordance with the provisions or conditions of the permit.

(B) Any motor vehicle, as defined in section 4501.01 of the Revised Code, watercraft, as defined in section 1547.01 of the Revised Code, mechanical or other assistance, scuba gear, sonar equipment, or other equipment used by any person in the course of committing a third or subsequent violation of division (K) of section 1506.32 of the Revised Code shall be considered contraband for the purposes of sections 2933.42 and 2933.43 of the Revised Code, except that proceeds from the sale of such contraband shall be disposed of in the following order:

(1) To the payment of the costs incurred in the forfeiture proceedings under section 2933.43 of the Revised Code;

(2) To the payment of the balance due on any security interest preserved under division (C) of section 2933.43 of the Revised Code;

(3) To the payment of any costs incurred by the seizing agency under section 2933.43 of the Revised Code in connection with the storage, maintenance, security, and forfeiture of the contraband;

(4) Fifty per cent of the remaining money to the credit of the Lake Erie submerged lands preserves fund created in division (C) of this section, and fifty per cent of the remaining money to the Ohio historical society for deposit into the fund created pursuant to division (C) of section 149.56 of the Revised Code.

(C) There is hereby created in the state treasury the Lake Erie submerged lands preserves fund. The fund shall be composed of moneys credited to it under division (B)(4) of this section and division (D)(2) of section 1506.33 of the Revised Code, all appropriations, contributions, and gifts made to it, and any federal grants received by the department of natural resources for the purposes of sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised Code. The director shall use the moneys in the Lake Erie

submerged lands preserves fund solely to implement and administer sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised Code.

(D) The director may request the attorney general to, and the attorney general shall, bring a civil action in any court of competent jurisdiction for any of the following purposes:

(1) To enforce compliance with or restrain violation of sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised Code, any rules adopted under those sections, or any permit issued under section 1506.32 of the Revised Code;

(2) To enjoin the further removal of abandoned property or archaeological material from Lake Erie;

(3) To order the restoration of an area affected by a violation of sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised Code or of a permit issued under section 1506.32 of the Revised Code to its prior condition.

Any action under this division is a civil action, governed by the Rules of Civil Procedure.

(E) A peace officer of a county, township, or municipal corporation, and a preserve officer, wildlife officer, park officer, or watercraft officer designated under section 1517.10, 1531.13, 1541.10, or 1547.521 of the Revised Code, as applicable, may enforce compliance with sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised Code, any rules adopted under those sections, and any permit issued under section 1506.32 of the Revised Code and may make arrests for violation of those laws, rules, and permits.

Sec. 1517.02. There is hereby created in the department of natural resources the division of natural areas and preserves, which shall be administered by the chief of ~~the division of natural areas and preserves~~. The chief shall take an oath of office and shall file in the office of the secretary of state a bond signed by ~~him~~ the chief and by a surety approved by the governor for a sum fixed pursuant to section 121.11 of the Revised Code.

The chief shall, ~~in consultation from time to time with the Ohio natural areas council~~, administer a system of nature preserves and wild, scenic, and recreational river areas. The chief shall establish a system of nature preserves through acquisition and dedication of natural areas of state or national significance, which shall include, but not be limited to, areas which represent characteristic examples of Ohio's natural landscape types and its natural vegetation and geological history. The chief shall encourage landowners to dedicate areas of unusual significance as nature preserves, and shall establish and maintain a registry of natural areas of unusual significance.

The chief may supervise, operate, protect, and maintain wild, scenic, and recreational river areas, as designated by the director of natural

resources. The chief may cooperate with federal agencies administering any federal program concerning wild, scenic, or recreational river areas.

The chief may, with the approval of the director, enter into an agreement with the United States department of commerce under the "Coastal Zone Management Act of 1972," 86 Stat. 1280, 16 U.S.C.A. 1451, as amended, for the purpose of receiving grants to continue the management, operation, research, and programming at old woman creek national estuarine research reserve.

The chief shall do the following:

(A) Formulate policies and plans for the acquisition, use, management, and protection of nature preserves;

(B) Formulate policies for the selection of areas suitable for registration;

(C) Formulate policies for the dedication of areas as nature preserves;

(D) Prepare and maintain surveys and inventories of natural areas and habitats of rare and endangered species of plants and animals;

(E) Adopt rules for the use, visitation, and protection of nature preserves, "natural areas owned or managed through easement, license, or lease by the department and administered by the division," and lands owned "or managed through easement, license, or lease" by the department and administered by the division which are within or adjacent to any wild, scenic, or recreational river area, in accordance with Chapter 119. of the Revised Code;

(F) Provide facilities and improvements within the state system of nature preserves that are necessary for their visitation, use, restoration, and protection and do not impair their natural character;

~~(G) Consult with the Ohio natural areas council in advance of any improvement, development, or change in use of a nature preserve that is inconsistent with the rules governing their use;~~

~~(H)~~ Provide interpretive programs and publish and disseminate information pertaining to nature preserves and natural areas for their visitation and use;

~~(I)~~~~(H)~~ Conduct and grant permits to qualified persons for the conduct of scientific research and investigations within nature preserves;

~~(J)~~~~(I)~~ Establish an appropriate system for marking nature preserves;

~~(K)~~~~(J)~~ Publish and submit to the governor and the general assembly a biennial report of the status and condition of each nature preserve, activities conducted within each preserve, and plans and recommendations for natural area preservation.

Sec. 1517.05. The department of natural resources, for and on behalf of the state, shall acquire a system of nature preserves for the following uses

and purposes:

(A) For scientific research in such fields as ecology, taxonomy, genetics, forestry, pharmacology, agriculture, soil science, geology, paleontology, conservation, and similar fields;

(B) For the teaching of biology, natural history, ecology, geology, conservation, and other subjects;

(C) As habitats for plant and animal species and communities and other natural objects;

(D) As reservoirs of natural materials;

(E) As places of natural interest and beauty;

(F) For visitation whereby persons may observe and experience natural biotic and environmental systems of the earth and their processes;

(G) To promote understanding and appreciation of the aesthetic, cultural, scientific, and spiritual values of such areas by the people of the state;

(H) For the preservation and protection of nature preserves against modification or encroachment resulting from occupation, development, or other use that would destroy their natural or aesthetic conditions.

The director of natural resources, ~~upon the advice and concurrence of the Ohio natural areas council,~~ shall accept natural areas by articles of dedication or gift, provided that funds and services are available for their preservation and protection.

A nature preserve is established when articles of dedication have been filed by or at the direction of the owner of land, or a governmental agency having ownership or control thereof, in the office of the county recorder of the county in which the land is located.

Articles of dedication shall be executed by the owner of the land in the same manner and with the same effect as a conveyance of an interest in land and shall be irrevocable except as provided in this section. The county recorder may not accept articles of dedication for recording unless they have been accepted by the director of natural resources. The director may not accept articles of dedication unless they contain terms restricting the use of the land that adequately provide for its preservation and protection against modification or encroachment resulting from occupation, development, or other use that would destroy its natural or aesthetic conditions for one or more of the uses and purposes set forth in this section. Wherever possible and consistent with such preservation and protection of the land, the articles shall provide for public access in order that the maximum benefit be obtained for the uses and purposes stated in this section.

Articles of dedication may contain provisions for the management,

custody, and transfer of land, provisions defining the rights of the owner or operating agency, and the department, and ~~such~~ other provisions ~~as may be~~ necessary or advisable to carry out the uses and purposes for which the land is dedicated. They may contain conditions under which the owner and the director of natural resources may agree to rescind the articles.

The attorney general, upon request of the director of natural resources, may bring an action for injunction in any court of competent jurisdiction to enforce the terms of articles of dedication.

The department may make or accept amendments of any articles of dedication upon terms and conditions that will not destroy the natural or aesthetic conditions of a preserve. If the fee simple interest in the area or preserve is not held by the state, no amendments shall be made without the written consent of the owner. Each amendment shall be recorded in the same manner as the articles of dedication.

Sec. 1517.23. ~~With the advice of the Ohio natural areas council created under section 1517.03 of the Revised Code, the~~ The chief of the division of natural areas and preserves shall do both of the following:

(A) Formulate policies and plans and establish a program incorporating them for the identification and protection of the state's cave resources and adopt, amend, or rescind rules in accordance with Chapter 119. of the Revised Code to implement that program;

(B) Provide technical assistance and management advice to owners upon request concerning the protection of caves on their land.

Sec. 1518.01. ~~With the advice of the natural areas council, the~~ The chief of ~~the division of~~ natural areas and preserves shall adopt and may amend or rescind rules, in accordance with Chapter 119. of the Revised Code, setting forth criteria for identifying and designating species of plants native to ~~Ohio~~ which this state that are in danger of extirpation or ~~which~~ are threatened with becoming endangered. The chief shall adopt and may amend or rescind rules, in accordance with Chapter 119. of the Revised Code, setting forth a list of the plants that ~~he~~ the chief determines to be endangered or threatened with extirpation from this state, applying the criteria so developed. This list shall identify the common and scientific names of each species. The list shall include all species native to this state ~~which~~ that are listed on the "United States list of endangered and threatened wildlife and plants" pursuant to the "Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531-1543, as amended. Further, the chief may produce for public education purposes; lists of plant species; which shall include the names of species of plants, ~~which that~~ may become threatened in the future through habitat loss, commercial exploitation, or other means.

Sec. 1518.03. ~~With the advice of the natural areas council, the~~ The chief of ~~the division~~ of natural areas and preserves shall adopt and may amend or repeal rules, in accordance with Chapter 119. of the Revised Code, restricting the taking, possessing, transportation, sale, offering for sale, or exposure for sale, for commercial purposes of native Ohio species of wild plants or parts ~~thereof~~ of them, that are listed as endangered or threatened by rule adopted under section 1518.01 of the Revised Code. The rules may prohibit the taking of any endangered or threatened plant, or parts ~~thereof~~ of it, for commercial purposes, from any wood lot, field, or forest, or from any other location in which ~~such that~~ such plant is found growing in its native habitat. This section does not prevent any ~~nurseryman~~ nurseryperson or dealer who is licensed under Chapter 927. of the Revised Code, from selling, offering for sale, shipping, or otherwise disposing of any endangered or threatened plants or parts ~~thereof~~ of them when ~~such~~ those plants have been commercially grown by a licensed nursery or legally imported into this state. For the purposes of this section, "commercial purposes" means with intent to sell or trade endangered or threatened plants for gain or profit. "Commercially grown" means to grow plants under cultivation in tilled plots or in a greenhouse.

The rules shall provide for the taking of species endangered or threatened with statewide extirpation for botanical, educational, and scientific purposes, and for propagation in captivity to preserve the species, with written permission from the chief. The rules shall not prohibit the taking or possession of species listed on the "United States list of endangered and threatened wildlife and plants" for botanical, educational, or scientific purposes, or for propagation in captivity to preserve the species, under a permit or license from the United States or any instrumentality ~~thereof~~ of the United States.

Sec. 1551.35. (A) There is hereby established a technical advisory committee to assist the director of the Ohio coal development office in achieving the office's purposes. The director shall appoint to the committee one member of the public utilities commission and one representative each of coal production companies, the united mine workers of America, electric utilities, manufacturers that use Ohio coal, and environmental organizations, as well as two people with a background in coal research and development technology, one of whom is employed at the time of the member's appointment by a state university, as defined in section 3345.011 of the Revised Code. In addition, the committee shall include four legislative members. The speaker and minority leader of the house of representatives each shall appoint one member of the house of representatives, and the

president and minority leader of the senate each shall appoint one member of the senate, to the committee. The director of environmental protection; and the director of development; ~~and one member of the Ohio water development authority designated by that authority;~~ shall serve on the committee as ex officio members ~~ex officio~~. Any member of the committee may designate in writing a substitute to serve in the member's absence on the committee. The director of environmental protection may designate in writing the chief of the air pollution control division of the agency to represent the agency. Members shall serve on the committee at the pleasure of their appointing authority. Members of the committee appointed by the director of the office and, notwithstanding section 101.26 of the Revised Code, legislative members of the committee, when engaged in their official duties as members of the committee, shall be compensated on a per diem basis in accordance with division (J) of section 124.15 of the Revised Code, except that the member of the public utilities commission and, while employed by a state university, the member with a background in coal research, shall not be so compensated. Members shall receive their actual and necessary expenses incurred in the performance of their duties.

(B) The technical advisory committee shall review and make recommendations concerning the Ohio coal development agenda required under section 1551.34 of the Revised Code, project proposals, research and development projects submitted to the office by public utilities for the purpose of section 4905.304 of the Revised Code, proposals for grants, loans, and loan guarantees for purposes of sections 1555.01 to 1555.06 of the Revised Code, and such other topics as the director of the office considers appropriate.

(C) The technical advisory committee may hold an executive session at any regular or special meeting for the purpose of considering research and development project proposals or applications for assistance submitted to the Ohio coal development office under section 1551.33, or sections 1555.01 to 1555.06, of the Revised Code, to the extent that ~~such~~ the proposals or applications consist of trade secrets or other proprietary information.

Any materials or data submitted to, made available to, or received by the Ohio air quality development authority or the director of the Ohio coal development office in connection with agreements for assistance entered into under this chapter or Chapter 1555. of the Revised Code, or any information taken from ~~such~~ those materials or data for any purpose, to the extent that the materials or data consist of trade secrets or other proprietary information, are not public records for the purposes of section 149.43 of the

Revised Code.

As used in this division, "trade secrets" has the same meaning as in section 1333.61 of the Revised Code.

Sec. 2505.02. (A) As used in this section:

(1) "Substantial right" means a right that the United States Constitution, the Ohio Constitution, a statute, the common law, or a rule of procedure entitles a person to enforce or protect.

(2) "Special proceeding" means an action or proceeding that is specially created by statute and that prior to 1853 was not denoted as an action at law or a suit in equity.

(3) "Provisional remedy" means a proceeding ancillary to an action, including, but not limited to, a proceeding for a preliminary injunction, attachment, discovery of privileged matter, suppression of evidence, ~~or~~ a prima-facie showing pursuant to section 2307.85 or 2307.86 of the Revised Code, a prima-facie showing pursuant to section 2307.92 of the Revised Code, or a finding made pursuant to division (A)(3) of section 2307.93 of the Revised Code.

(B) An order is a final order that may be reviewed, affirmed, modified, or reversed, with or without retrial, when it is one of the following:

(1) An order that affects a substantial right in an action that in effect determines the action and prevents a judgment;

(2) An order that affects a substantial right made in a special proceeding or upon a summary application in an action after judgment;

(3) An order that vacates or sets aside a judgment or grants a new trial;

(4) An order that grants or denies a provisional remedy and to which both of the following apply:

(a) The order in effect determines the action with respect to the provisional remedy and prevents a judgment in the action in favor of the appealing party with respect to the provisional remedy.

(b) The appealing party would not be afforded a meaningful or effective remedy by an appeal following final judgment as to all proceedings, issues, claims, and parties in the action.

(5) An order that determines that an action may or may not be maintained as a class action;

(6) An order determining the constitutionality of any changes to the Revised Code made by Am. Sub. S.B. 281 of the 124th general assembly, including the amendment of sections 1751.67, 2117.06, 2305.11, 2305.15, 2305.234, 2317.02, 2317.54, 2323.56, 2711.21, 2711.22, 2711.23, 2711.24, 2743.02, 2743.43, 2919.16, 3923.63, 3923.64, ~~3929.71~~, 4705.15, and 5111.018, and the enactment of sections 2305.113, 2323.41, 2323.43, and

2323.55 of the Revised Code.

(C) When a court issues an order that vacates or sets aside a judgment or grants a new trial, the court, upon the request of either party, shall state in the order the grounds upon which the new trial is granted or the judgment vacated or set aside.

(D) This section applies to and governs any action, including an appeal, that is pending in any court on July 22, 1998, and all claims filed or actions commenced on or after July 22, 1998, notwithstanding any provision of any prior statute or rule of law of this state.

Sec. 3358.10. Sections 3354.10, 3354.121, 3354.15, and 3354.16, ~~and 3354.161~~ of the Revised Code apply to state community college districts and their boards of trustees.

Sec. 3375.61. In recognition of the work the ~~Martha Kinney Cooper~~ Ohioana Library Association, Martha Kinney Cooper Memorial, a corporation organized not for profit under the laws of this state, has done and is doing to collect, promote, publicize, and make available to the public the cultural, literary, scientific, social, and economic achievements of Ohioans, the state may grant financial aid to ~~said that~~ corporation in order that the purposes for which it was instituted may be fostered and its services to the public improved and expanded.

Sec. 3375.62. The governor shall appoint four members of the board of trustees of the ~~Martha Kinney Cooper~~ Ohioana Library Association, Martha Kinney Cooper Memorial. Terms of office shall be for four years, commencing on the sixteenth day of September and ending on the fifteenth day of September; ~~except that upon expiration of the term ending January 8, 1976, the new term which succeeds it shall commence on January 9, 1976 and end on September 15, 1979.~~ Each member shall hold office from the date of ~~his~~ appointment until the end of the term for which ~~he~~ was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of ~~such that~~ term. Any member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. ~~Said~~ The gubernatorial appointees shall serve as members of the board of trustees ~~of the Martha Kinney Cooper Ohioana Library Association~~ in addition to the regular constituted board of trustees of the corporation.

Sec. 3383.01. As used in this chapter:

(A) "Arts Culture" means any of the following:

(1) Visual, musical, dramatic, graphic, design, and other arts, including,

but not limited to, architecture, dance, literature, motion pictures, music, painting, photography, sculpture, and theater, and the provision of training or education in these arts;

(2) The presentation or making available, in museums or other indoor or outdoor facilities, of principles of science and their development, use, or application in business, industry, or commerce or of the history, heritage, development, presentation, and uses of the arts described in division (A)(1) of this section and of transportation;

(3) The preservation, presentation, or making available of features of archaeological, architectural, environmental, or historical interest or significance in a state historical facility or a local historical facility.

(B) "Arts Cultural organization" means either of the following:

(1) A governmental agency or Ohio nonprofit corporation that provides programs or activities in areas directly concerned with ~~the arts~~ culture;

(2) A regional arts and cultural district as defined in section 3381.01 of the Revised Code.

(C) "Arts Cultural project" means all or any portion of an Ohio ~~arts cultural~~ arts cultural facility for which the general assembly has specifically authorized the spending of money, or made an appropriation, pursuant to division (D)(3) or (E) of section 3383.07 of the Revised Code.

(D) "Cooperative contract" means a contract between the Ohio ~~arts and sports~~ arts cultural facilities commission and ~~an arts a~~ a cultural organization providing the terms and conditions of the cooperative use of an Ohio ~~arts cultural~~ arts cultural facility.

(E) "Costs of operation" means amounts required to manage an Ohio ~~arts cultural~~ arts cultural facility that are incurred following the completion of construction of its ~~arts cultural~~ arts cultural project, provided that both of the following apply:

(1) Those amounts either:

(a) Have been committed to a fund dedicated to that purpose;

(b) Equal the principal of any endowment fund, the income from which is dedicated to that purpose.

(2) The commission and the ~~arts cultural~~ arts cultural organization have executed an agreement with respect to either of those funds.

(F) "General building services" means general building services for an Ohio ~~arts cultural~~ arts cultural facility or an Ohio sports facility, including, but not limited to, general custodial care, security, maintenance, repair, painting, decoration, cleaning, utilities, fire safety, grounds and site maintenance and upkeep, and plumbing.

(G) "Governmental agency" means a state agency, a state-supported or

state-assisted institution of higher education, a municipal corporation, county, township, or school district, a port authority created under Chapter 4582. of the Revised Code, any other political subdivision or special district in this state established by or pursuant to law, or any combination of these entities; except where otherwise indicated, the United States or any department, division, or agency of the United States, or any agency, commission, or authority established pursuant to an interstate compact or agreement.

(H) "Local contributions" means the value of an asset provided by or on behalf of ~~an arts a cultural~~ organization from sources other than the state, the value and nature of which shall be approved by the Ohio ~~arts and sports~~ cultural facilities commission, in its sole discretion. "Local contributions" may include the value of the site where ~~an arts a cultural~~ project is to be constructed. All "local contributions," except a contribution attributable to such a site, shall be for the costs of construction of ~~an arts a cultural~~ project or the creation or expansion of an endowment for the costs of operation of ~~an arts a cultural~~ facility.

(I) "Local historical facility" means a site or facility, other than a state historical facility, of archaeological, architectural, environmental, or historical interest or significance, or a facility, including a storage facility, appurtenant to the operations of such a site or facility, that is owned by ~~an arts a cultural~~ organization, provided the facility meets the requirements of division (K)(2)(b) of this section, is managed by or pursuant to a contract with the Ohio ~~arts and sports~~ cultural facilities commission, and is used for or in connection with the activities of the commission, including the presentation or making available of arts culture to the public.

(J) "Manage," "operate," or "management" means the provision of, or the exercise of control over the provision of, activities:

(1) Relating to ~~the arts culture~~ for an Ohio arts cultural facility, including as applicable, but not limited to, providing for displays, exhibitions, specimens, and models; booking of artists, performances, or presentations; scheduling; and hiring or contracting for directors, curators, technical and scientific staff, ushers, stage managers, and others directly related to the arts cultural activities in the facility; but not including general building services;

(2) Relating to sports and athletic events for an Ohio sports facility, including as applicable, but not limited to, providing for booking of athletes, teams, and events; scheduling; and hiring or contracting for staff, ushers, managers, and others directly related to the sports and athletic events in the facility; but not including general building services.

(K) "Ohio ~~arts~~ cultural facility" means any of the following:

(1) The ~~three~~ theaters located in the state office tower at 77 South High street in Columbus;

(2) Any capital facility in this state to which both of the following apply:

(a) The construction of ~~an arts~~ a cultural project related to the facility was authorized or funded by the general assembly pursuant to division (D)(3) of section 3383.07 of the Revised Code and proceeds of state bonds are used for costs of the ~~arts~~ cultural project.

(b) The facility is managed directly by, or is subject to a cooperative or management contract with, the Ohio ~~arts and sports~~ cultural facilities commission, and is used for or in connection with the activities of the commission, including the presentation or making available of ~~arts~~ culture to the public and the provision of training or education in ~~the arts~~ culture.

(3) A state historical facility or a local historical facility.

(L) "State agency" means the state or any of its branches, officers, boards, commissions, authorities, departments, divisions, or other units or agencies.

(M) "Construction" includes acquisition, including acquisition by lease-purchase, demolition, reconstruction, alteration, renovation, remodeling, enlargement, improvement, site improvements, and related equipping and furnishing.

(N) "State historical facility" means a site or facility of archaeological, architectural, environmental, or historical interest or significance, or a facility, including a storage facility, appurtenant to the operations of such a site or facility, that is owned by or is located on real property owned by the state or by ~~an arts~~ a cultural organization, so long as the real property of the ~~arts~~ cultural organization is contiguous to state-owned real property that is in the care, custody, and control of ~~an arts~~ a cultural organization, and that is managed directly by or is subject to a cooperative or management contract with the Ohio ~~arts and sports~~ cultural facilities commission and is used for or in connection with the activities of the commission, including the presentation or making available of ~~arts~~ culture to the public.

(O) "Ohio sports facility" means all or a portion of a stadium, arena, motorsports complex, or other capital facility in this state, a primary purpose of which is to provide a site or venue for the presentation to the public of either motorsports events or events of one or more major or minor league professional athletic or sports teams that are associated with the state or with a city or region of the state, which facility is, in the case of a motorsports complex, owned by the state or governmental agency, or in all other

instances, is owned by or is located on real property owned by the state or a governmental agency, and including all parking facilities, walkways, and other auxiliary facilities, equipment, furnishings, and real and personal property and interests and rights therein, that may be appropriate for or used for or in connection with the facility or its operation, for capital costs of which state funds are spent pursuant to this chapter. A facility constructed as an Ohio sports facility may be both an Ohio ~~arts~~ cultural facility and an Ohio sports facility.

(P) "Motorsports" means sporting events in which motor vehicles are driven on a clearly demarcated tracked surface.

Sec. 3383.02. (A) There is hereby created the Ohio ~~arts and sports~~ cultural facilities commission. Notwithstanding any provision to the contrary contained in Chapter 152. of the Revised Code, the commission shall engage in and provide for the development, performance, and presentation or making available of ~~the arts~~ culture and professional sports and athletics to the public in this state, and the provision of training or education in ~~the arts~~ culture, by the exercise of its powers under this chapter, including the provision, operation, management, and cooperative use of Ohio ~~arts~~ cultural facilities and Ohio sports facilities. The commission is a body corporate and politic, an agency of state government and an instrumentality of the state, performing essential governmental functions of this state. The carrying out of the purposes and the exercise by the commission of its powers conferred by this chapter are essential public functions and public purposes of the state and of state government. The commission may, in its own name, sue and be sued, enter into contracts, and perform all the powers and duties given to it by this chapter; however, it does not have and shall not exercise the power of eminent domain.

(B) The commission shall consist of ten members, seven of whom shall be voting members and three of whom shall be nonvoting members. The seven voting members shall be appointed by the governor, with the advice and consent of the senate, from different geographical regions of the state. In addition, one of the voting members shall represent the state architect. Not more than four of the members appointed by the governor shall be affiliated with the same political party. The nonvoting members shall be the staff director of the Ohio arts council, a member of the senate appointed by the president of the senate, and a member of the house of representatives appointed by the speaker of the house.

(C) Of the five initial appointments made by the governor, one shall be for a term expiring December 31, 1989, two shall be for terms expiring December 31, 1990, and two shall be for terms expiring December 31, 1991.

Of the initial appointments of the sixth and seventh voting members ~~appointed~~ made by the governor ~~as a result of this amendment~~, one shall be for a term expiring December 31, 2003, and one shall be for a term expiring December 31, 2004. Thereafter, each such term shall be for three years, commencing on the first day of January and ending on the thirty-first day of December. Each appointment by the president of the senate and by the speaker of the house of representatives shall be for the balance of the then legislative biennium. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(D) Members of the commission shall serve without compensation.

(E) Organizational meetings of the commission shall be held at the first meeting of each calendar year. At each organizational meeting, the commission shall elect from among its voting members a chairperson, a vice-chairperson, and a secretary-treasurer, who shall serve until the next annual meeting. The commission shall adopt rules pursuant to section 111.15 of the Revised Code for the conduct of its internal business and shall keep a journal of its proceedings.

(F) Four voting members of the commission constitute a quorum, and the affirmative vote of four members is necessary for approval of any action taken by the commission. A vacancy in the membership of the commission does not impair a quorum from exercising all the rights and performing all the duties of the commission. Meetings of the commission may be held anywhere in the state, and shall be held in compliance with section 121.22 of the Revised Code.

(G) All expenses incurred in carrying out this chapter are payable solely from money accrued under this chapter or appropriated for these purposes by the general assembly, and the commission shall incur no liability or obligation beyond such money.

(H) The commission shall file an annual report of its activities and finances with the governor, director of budget and management, speaker of the house of representatives, president of the senate, and chairpersons of the house and senate finance committees.

(I) There is hereby established in the state treasury the Ohio ~~arts and sports~~ cultural facilities commission administration fund. All revenues of the

commission shall be credited to that fund and to any accounts created in the fund with the commission's approval. All expenses of the commission, including reimbursement of, or payment to, any other fund or any governmental agency for advances made or services rendered to or on behalf of the commission, shall be paid from the Ohio ~~arts and sports~~ cultural facilities commission administration fund as determined by or pursuant to directions of the commission. All investment earnings of the administration fund shall be credited to the fund and shall be allocated among any accounts created in the fund in the manner determined by the commission.

(J) Title to all real property and lesser interests in real property acquired by the commission, including leasehold and other interests, pursuant to this chapter shall be taken in the name of the state and shall be held for the use and benefit of the commission. The commission shall not mortgage such real property and interests in real property. Title to other property and interests in it acquired by the commission pursuant to this chapter shall be taken in its name.

Sec. 3383.03. The Ohio ~~arts and sports~~ cultural facilities commission shall do the following:

(A) From time to time, determine the need for ~~arts~~ cultural projects, Ohio ~~arts~~ cultural facilities, and Ohio sports facilities, and report to the governor and the general assembly on the need for any additional ~~arts~~ cultural projects, Ohio ~~arts~~ cultural facilities, and Ohio sports facilities. This division does not apply to state historical facilities.

(B) Have jurisdiction, control, and possession of, and supervision over the use and disposition of, all property, rights, licenses, money, contracts, accounts, liens, books, records, and other property rights and interests conveyed, delivered, transferred, or assigned to it;

(C) Use, and provide for the use of, Ohio ~~arts~~ cultural facilities and Ohio sports facilities for the commission's purposes and functions, and conduct reviews necessary to ensure that uses of those facilities are consistent with statewide interests and the commission's purposes, including the presentation or making available of ~~the arts culture~~ and professional athletics and sports to the public in this state and the provision of training or education in ~~the arts culture~~;

(D) Hold a meeting, including the organizational meeting required by division (E) of section 3383.02 of the Revised Code, at least quarterly to conduct its business;

(E) Cooperate with any governmental agency or ~~arts~~ cultural organization that provides services in, to, or for an Ohio ~~arts~~ cultural facility, and cooperate with any governmental agency or nonprofit corporation for

the provision or operation of any Ohio sports facilities.

Sec. 3383.04. The Ohio ~~arts and sports~~ cultural facilities commission may do the following:

(A) Employ and fix the compensation of an executive director and such other employees as will facilitate the activities and purposes of the commission. Any executive director shall serve at the pleasure of the commission and may serve part-time. Other employees shall be employed by and serve at the pleasure of the commission or the executive director, as determined by the commission.

(B) Adopt, amend, and rescind, pursuant to section 111.15 of the Revised Code, rules for the management and operation of Ohio ~~arts~~ cultural facilities and Ohio sports facilities and for the exercise of all of the commission's rights with respect to those facilities;

(C) Own, construct or provide for the construction of, lease, equip, furnish, administer, and manage or provide for the operation and management of, and cooperate in the use of, Ohio ~~arts~~ cultural facilities and Ohio sports facilities;

(D) Dispose of, whether by sale, lease, lease-purchase, sublease, re-lease, or otherwise, real and personal property, and lesser interests in it, held or owned by the state for the use and benefit of the commission or held or owned by the commission, if not needed for the commission's purposes, upon such terms as the commission determines, subject to approval by the governor in the case of real property and interests in it;

(E) Grant such easements and other interests in real or personal property of the commission as will not interfere with the use of the property as an Ohio ~~arts~~ cultural facility or an Ohio sports facility;

(F) Fix, alter, and collect rentals and other charges for the use or availability for use of Ohio ~~arts~~ cultural facilities or an Ohio sports facility, as determined solely by the commission, for the purpose of providing for all or a portion of the costs and expenses of the commission, and the costs to be paid by the commission of leasing, constructing, equipping, repairing, maintaining, administering, managing, and cooperating in the use of Ohio ~~arts~~ cultural facilities, including rentals to be paid by the commission for any Ohio ~~arts~~ cultural facilities or for any Ohio sports facility;

(G) Lease, sublease, cooperate in the use of, or otherwise make available to ~~an arts~~ a cultural organization, Ohio ~~arts~~ cultural facilities, and to any governmental agency or nonprofit corporation, Ohio sports facilities, including real and personal property, or any interests in it, to carry out the purposes of this chapter;

(H) Contract with, retain the services of, or designate, and fix the

compensation of, ~~such~~ agents, accountants, attorneys, consultants, advisers, and other independent contractors ~~as may be~~ necessary or desirable to carry out the purposes of this chapter;

(I) Procure insurance against loss to the commission by reason of damages to or nonusability of its property resulting from fire, theft, accident, or other casualties, or by reason of its liability for any damages to persons or property, including, but not limited to, general liability insurance, business interruption insurance, liability insurance for members, officers, and employees, and copyright liability insurance;

(J) Receive and accept gifts, grants, devises, bequests, loans, and any other financial or other form of aid or assistance from any governmental agency or other person and enter into any contract or agreement with any such agency or other person in connection therewith, and receive and accept aid or contributions from any other source of money, real or personal property, labor, or other things of value, to be held, used, and applied only for the purposes for which the aid and contributions are made and according to their terms and conditions, all within the purposes of this chapter;

(K) Make and enter into all contracts, commitments, and agreements, and execute all instruments, necessary or incidental to the performance of its duties and the execution of its rights and powers under this chapter;

(L) Do anything necessary or appropriate to carry out the purposes of and exercise the powers granted in this chapter;

(M) Contract with any governmental agency or nonprofit corporation to provide or cause to be provided services, including general building services, in, to, or for an Ohio ~~arts~~ cultural facility or any Ohio sports facility, or with ~~an arts~~ a cultural organization for the management of an Ohio ~~arts~~ cultural facility, or with a governmental agency or nonprofit corporation for the management of an Ohio sports facility, all in furtherance of the state function, and make contracts pursuant to divisions (A) and (B) of section 3383.07 of the Revised Code, except that nothing in this chapter limits the exercise of the care, custody, control, and management of those state historical facilities specified in section 149.30 of the Revised Code.

Sec. 3383.05. (A) Upon the request of the Ohio ~~arts and sports~~ cultural facilities commission, any governmental agency may lease, sublease, grant by lease-purchase or otherwise, convey, or grant the right to use, to the commission or to a state agency designated by the commission, any real or personal property or interests in property, including improvements to it and public roads, owned or controlled by the governmental agency, which are necessary or convenient to an Ohio ~~arts~~ cultural facility or an Ohio sports facility, upon such terms and conditions as they agree upon. The lease,

sublease, grant, conveyance, or grant of use may be made without the necessity for advertisement, auction, competitive bidding, court order, or other action or formality otherwise required by law, except that the consent of the governing body of the governmental agency shall be obtained, or, if title to the property is in the state, the consent of the governor shall be obtained. Any governmental agency may enter into agreements with the Ohio ~~arts and sports~~ cultural facilities commission for furnishing any supplies, equipment, or services to the commission pursuant to such terms and for such compensation as agreed upon by the governmental agency and the commission.

(B) Leases, contracts, agreements, or conveyances entered into pursuant to this section are not public contracts for purposes of section 2921.42 of the Revised Code.

Sec. 3383.06. All property purchased, acquired, constructed, owned, leased, or subleased by the Ohio ~~arts and sports~~ cultural facilities commission for the exercise of its powers and duties is public property used exclusively for a public purpose, and this property and the income derived by the commission from it are exempt, except as may otherwise be provided by the commission with respect to Ohio sports facilities, from all taxation within this state, including, without limitation, ad valorem and excise taxes.

Sec. 3383.07. (A) The department of administrative services shall provide for the construction of ~~an arts~~ a cultural project in conformity with Chapter 153. of the Revised Code, except as follows:

(1) For ~~an arts~~ a cultural project that has an estimated construction cost, excluding the cost of acquisition, of twenty-five million dollars or more, and that is financed by the Ohio building authority, construction services may be provided by the authority if the authority determines it should provide those services.

(2) For ~~an arts~~ a cultural project other than a state historical facility, construction services may be provided on behalf of the state by the Ohio ~~arts and sports~~ cultural facilities commission, or by a governmental agency or ~~an arts~~ a cultural organization that occupies, will occupy, or is responsible for the Ohio ~~arts~~ cultural facility, as determined by the commission. Construction services to be provided by a governmental agency or ~~an arts~~ a cultural organization shall be specified in an agreement between the commission and the governmental agency or ~~arts~~ cultural organization. The agreement, or any actions taken under it, are not subject to Chapter 123. or 153. of the Revised Code, except for sections ~~423.151~~ 123.081 and 153.011 of the Revised Code, and shall be subject to Chapter 4115. of the Revised Code.

(3) For ~~an arts~~ a cultural project that is a state historical facility, construction services may be provided by the Ohio ~~arts and sports cultural~~ facilities commission or by ~~an arts~~ a cultural organization that occupies, will occupy, or is responsible for the facility, as determined by the commission. The construction services to be provided by the ~~arts~~ cultural organization shall be specified in an agreement between the commission and the ~~arts~~ cultural organization. That agreement, and any actions taken under it, are not subject to Chapter 123., 153., or 4115. of the Revised Code.

(B) For an Ohio sports facility that is financed in part by the Ohio building authority, construction services shall be provided on behalf of the state by or at the direction of the governmental agency or nonprofit corporation that will own or be responsible for the management of the facility, all as determined by the Ohio ~~arts and sports cultural~~ facilities commission. Any construction services to be provided by a governmental agency or nonprofit corporation shall be specified in an agreement between the commission and the governmental agency or nonprofit corporation. That agreement, and any actions taken under it, are not subject to Chapter 123. or 153. of the Revised Code, except for sections ~~123.151~~ 123.081 and 153.011 of the Revised Code, and shall be subject to Chapter 4115. of the Revised Code.

(C) General building services for an Ohio ~~arts~~ cultural facility shall be provided by the Ohio ~~arts and sports cultural~~ facilities commission or by ~~an~~ arts a cultural organization that occupies, will occupy, or is responsible for the facility, as determined by the commission, except that the Ohio building authority may elect to provide those services for Ohio ~~arts~~ cultural facilities financed with proceeds of state bonds issued by the authority. The costs of management and general building services shall be paid by the ~~arts~~ cultural organization that occupies, will occupy, or is responsible for the facility as provided in an agreement between the commission and the ~~arts~~ cultural organization, except that the state may pay for general building services for state-owned ~~arts~~ cultural facilities constructed on state-owned land.

General building services for an Ohio sports facility shall be provided by or at the direction of the governmental agency or nonprofit corporation that will be responsible for the management of the facility, all as determined by the commission. Any general building services to be provided by a governmental agency or nonprofit corporation for an Ohio sports facility shall be specified in an agreement between the commission and the governmental agency or nonprofit corporation. That agreement, and any actions taken under it, are not subject to Chapter 123. or 153. of the Revised Code, except for sections ~~123.151~~ 123.081 and 153.011 of the Revised

Code, and shall be subject to Chapter 4115. of the Revised Code.

(D) This division does not apply to a state historical facility. No state funds, including any state bond proceeds, shall be spent on the construction of any ~~arts~~ cultural project under this chapter unless, with respect to the ~~arts~~ cultural project and to the Ohio ~~arts~~ cultural facility related to the project, all of the following apply:

(1) The Ohio ~~arts and sports~~ cultural facilities commission has determined that there is a need for the ~~arts~~ cultural project and the Ohio ~~arts~~ cultural facility related to the project in the region of the state in which the Ohio ~~arts~~ cultural facility is located or for which the facility is proposed.

(2) The commission has determined that, as an indication of substantial regional support for the ~~arts~~ cultural project, the ~~arts~~ cultural organization has made provision satisfactory to the commission, in its sole discretion, for local contributions amounting to not less than fifty per cent of the total state funding for the ~~arts~~ cultural project.

(3) The general assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the ~~arts~~ cultural project, or for rental payments relating to the financing of the construction of the ~~arts~~ cultural project. Authorization to spend money, or an appropriation, for planning the ~~arts~~ cultural project does not constitute authorization to spend money on, or an appropriation for, construction of the ~~arts~~ cultural project.

(E) No state funds, including any state bond proceeds, shall be spent on the construction of any state historical facility under this chapter unless the general assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the ~~arts~~ state historical project related to the facility, or for rental payments relating to the financing of the construction of the ~~arts~~ state historical project. Authorization to spend money, or an appropriation, for planning the ~~arts~~ state historical project does not constitute authorization to spend money on, or an appropriation for, the construction of the ~~arts~~ state historical project.

(F) State funds shall not be used to pay or reimburse more than fifteen per cent of the initial estimated construction cost of an Ohio sports facility, excluding any site acquisition cost, and no state funds, including any state bond proceeds, shall be spent on any Ohio sports facility under this chapter unless, with respect to that facility, all of the following apply:

(1) The Ohio ~~arts and sports~~ cultural facilities commission has determined that there is a need for the facility in the region of the state for which the facility is proposed to provide the function of an Ohio sports facility as provided for in this chapter.

(2) As an indication of substantial local support for the facility, the commission has received a financial and development plan satisfactory to it, and provision has been made, by agreement or otherwise, satisfactory to the commission, for a contribution amounting to not less than eighty-five per cent of the total estimated construction cost of the facility, excluding any site acquisition cost, from sources other than the state.

(3) The general assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the facility, or for rental payments relating to state financing of all or a portion of the costs of constructing the facility. Authorization to spend money, or an appropriation, for planning or determining the feasibility of or need for the facility does not constitute authorization to spend money on, or an appropriation for, costs of constructing the facility.

(4) If state bond proceeds are being used for the Ohio sports facility, the state or a governmental agency owns or has sufficient property interests in the facility or in the site of the facility or in the portion or portions of the facility financed from proceeds of state bonds, which may include, but is not limited to, the right to use or to require the use of the facility for the presentation of sport and athletic events to the public at the facility.

(G) In addition to the requirements of division (F) of this section, no state funds, including any state bond proceeds, shall be spent on any Ohio sports facility that is a motorsports complex, unless, with respect to that facility, both of the following apply:

(1) Motorsports events shall be presented at the facility pursuant to a lease entered into with the owner of the facility. The term of the lease shall be for a period of not less than the greater of the useful life of the portion of the facility financed from proceeds of state bonds as determined using the guidelines for maximum maturities as provided under divisions (B) and (C) of section 133.20 of the Revised Code, or the period of time remaining to the date of payment or provision for payment of outstanding state bonds allocable to costs of the facility, all as determined by the director of budget and management and certified by the director to the ~~Ohio arts and sports~~ cultural facilities commission and to the Ohio building authority.

(2) Any motorsports organization that commits to using the facility for an established period of time shall give the political subdivision in which the facility is located not less than six months' advance notice if the organization intends to cease utilizing the facility prior to the expiration of that established period. Such a motorsports organization shall be liable to the state for any state funds used on the construction costs of the facility.

Sec. 3383.08. There is hereby created in the state treasury the capital

donations fund, which shall be administered by the Ohio ~~arts and sports~~ cultural facilities commission. The fund shall consist of gifts, grants, devises, bequests, and other financial contributions made to the commission for the construction or improvement of ~~arts~~ cultural and sports facilities and shall be used in accordance with the specific purposes for which the gifts, grants, devises, bequests, or other financial contributions are made. All investment earnings of the fund shall be credited to the fund. Chapters 123., 125., 127., and 153. and section 3517.13 of the Revised Code do not apply to contracts paid from the fund, notwithstanding anything to the contrary in those chapters or that section.

Not later than one month following the end of each quarter of the fiscal year, the commission shall allocate the amounts credited to the fund from investment earnings during that preceding quarter of the fiscal year among the specific projects for which they are to be used and shall certify this information to the director of budget and management.

If the amounts credited to the fund for a particular project exceed what is required to complete that project, the commission may refund any of those excess amounts, including unexpended investment earnings attributable to those amounts, to the entity from which they were received.

Sec. 3383.09. (A) There is hereby created in the state treasury the ~~arts~~ cultural and sports facilities building fund, which shall consist of proceeds of obligations authorized to pay costs of Ohio ~~arts~~ cultural facilities and Ohio sports facilities for which appropriations are made by the general assembly. All investment earnings of the fund shall be credited to the fund.

(B) The director of budget and management may transfer, to the Ohio ~~arts and sports~~ cultural facilities commission administration fund, investment earnings credited to the ~~arts~~ cultural and sports facilities building fund that exceed the amounts required to meet estimated federal arbitrage rebate requirements when requested of the director of budget and management by the chairperson or executive director of the commission.

Sec. 3734.22. Before beginning to clean up any facility under section 3734.21 of the Revised Code, the director of environmental protection shall endeavor to enter into an agreement with the owner of the land on which the facility is located, or with the owner of the facility, specifying the measures to be performed and authorizing the director, employees of the agency, or contractors retained by the director to enter upon the land and perform the specified measures.

Each agreement shall contain provisions for the reimbursement of the state for the costs of the cleanup.

All reimbursements and payments shall be credited to the hazardous

waste clean-up fund created in section 3734.28 of the Revised Code.

The agreement may require the owner to execute an easement whereby the director, an authorized employee of the agency, or a contractor employed by the agency in accordance with the bidding procedure established in division (C) of section 3734.23 of the Revised Code may enter upon the facility to sample, repair, or reconstruct air and water quality monitoring equipment constructed under the agreement. Such easements shall be for a specified period of years and may be extinguished by agreement between the owner and the director. When necessary to protect the public health or safety, the agreement may require the owner to ~~execute a restrictive covenant to run with the land that specifies the uses that may be made of the facility after work performed is completed, specifies the period for which the restrictive covenant applies, and provides terms whereby~~ modifications to the restrictive covenant, or other land uses, may be initiated or proposed to the director by the owner or by subsequent owners of the facility. ~~All easements or covenants required under this section shall be recorded in the office of the county recorder of the county in which the facility is located, and the recording fees shall be paid by the director~~ enter into an environmental covenant with the director in accordance with sections 5301.80 to 5301.92 of the Revised Code.

Upon a breach of the reimbursement provisions of the agreement by the owner of the land or facility, or upon notification to the director by the owner that the owner is unable to perform the duties under the reimbursement provisions of the agreement, the director shall record the unreimbursed portion of the costs of cleanup at the office of the county recorder of the county in which the facility is located. The costs so recorded constitute a lien against the property on which the facility is located until discharged. Upon written request of the director, the attorney general shall institute a civil action to recover the unreimbursed portion of the costs of cleanup. Any moneys so recovered shall be credited to the hazardous waste clean-up fund.

Sec. 3734.24. After the cleanup of a solid waste facility or a hazardous waste facility acquired and cleaned up under section 3734.23 of the Revised Code, the director of environmental protection may, if the facility is suitable for use by any other state department, agency, office, or institution and if the proposed use of the facility is compatible with the condition of the facility as cleaned up, transfer the facility to that state department, agency, office, or institution. The director shall continue to provide for the post-closure care, maintenance, and monitoring of any such cleaned-up facility as required by section 3734.23 of the Revised Code.

If the director determines that any facility so cleaned up is suitable, because of its condition as cleaned up, for restricted or unrestricted use, ~~he~~ the director may, with the approval of the attorney general, sell the facility if the sale is advantageous to the state. Prior to selling the cleaned-up facility, the director shall, when necessary to protect public health or safety, ~~execute a restrictive covenant to run with the land that specifies the uses that may be made of the facility, specifies the period for which the restrictive covenant applies, and provides terms whereby modifications to the restrictive covenant, or other land uses, may be initiated or proposed to the director by subsequent owners of the facility~~ enter into an environmental covenant in accordance with sections 5301.80 to 5301.92 of the Revised Code. When selling any such cleaned-up facility, the director shall retain the right to enter upon the facility, in person or by ~~his~~ an authorized agent, to provide for the post-closure care, maintenance, and monitoring of the facility. The director shall provide for the post-closure care, maintenance, and monitoring of any such facility sold as required by section 3734.23 of the Revised Code.

With the approval of the attorney general, the director may grant easements or leases on any such cleaned-up facility if ~~he~~ the director determines that the use of the facility under the easement or lease is compatible with its condition as cleaned up.

Any moneys derived from the sale of such cleaned-up facilities or from payments from easements or leases shall be credited to the hazardous waste clean-up fund created in section 3734.28 of the Revised Code.

Sec. 3734.25. (A) The director of environmental protection may make grants of moneys from the hazardous waste clean-up fund created in section 3734.28 of the Revised Code for payment by the state of up to two-thirds of the reasonable and necessary expenses incurred by a municipal corporation, county, or township for the proper closure of or abatement of air or water pollution or soil contamination from a solid waste facility in which significant quantities of hazardous waste were disposed of and that the political subdivision owns and once operated.

(B) A municipal corporation, county, or township shall submit an application for a grant on forms provided by the director, together with detail plans and specifications indicating the measures to be performed, an itemized estimate of the project's cost, a description of the project's benefits, and such other information as the director prescribes. The plan for closure or abatement of air or water pollution or soil contamination may be prepared in consultation with the director or the board of health of the city or general health district in which the facility is located. The director may award the applicant a grant only if ~~he~~ the director finds that the proposed measures will

provide for the proper closure of the facility and will abate or prevent air or water pollution or soil contamination, including, but not limited to, those measures necessary or desirable to:

(1) In the case of a facility at which land burial of hazardous waste occurred, establish and maintain a suitable cover of soil and vegetation over the cells in which waste is buried in order to minimize erosion, the infiltration of surface water into the cells, the production of leachate, and the accumulation or runoff of contaminated surface waters and to prevent air emissions of hazardous waste from the facility;

(2) Collect and treat contaminated surface water runoff from the facility;

(3) Collect and treat leachate produced at the facility;

(4) Install test wells and other equipment or facilities to monitor the quality of surface waters receiving runoff from the facility or to monitor air emissions of hazardous waste from the facility;

(5) Regularly monitor and analyze surface water runoff from the facility, the quality of waters receiving the runoff, and ~~groundwater~~ ground water quality in the vicinity of the facility, and regularly monitor leachate collection and treatment systems installed under the grant and analyze samples from them;

(6) Remove and dispose of hazardous waste from the facility at a suitable hazardous waste disposal facility where necessary to protect public health or safety or to prevent or abate air or water pollution or soil contamination.

(C) The director shall determine the amount of the grant based upon ~~his~~ the director's determination of what constitutes reasonable and necessary expenses for the proper closure of the facility or for the prevention or elimination of air or water pollution or soil contamination from the facility. In making a grant, the director shall enter into a contract with the municipal corporation, county, or township that owns the facility to ensure that the moneys granted are used for the purposes of this section and that measures performed are properly done. The final payment under a grant may not be made until the director inspects and approves the completed cleanup.

The contract shall require the municipal corporation, county, or township to execute an easement whereby the director, an authorized employee of the agency, or a contractor employed by the director may enter upon the facility to sample, repair, or reconstruct air and water quality monitoring equipment constructed under the contract. Such easements shall be for a specified period of years and may be extinguished by agreement between the political subdivision and the director.

When necessary to protect public health or safety, the contract may

~~require the municipal corporation, county, or township to execute a restrictive covenant to run with the land that specifies the uses that may be made of the facility after work performed under the contract is completed, specifies the period for which the restrictive covenant applies, and provides terms whereby modifications to the restrictive covenant, or other land uses, may be initiated or proposed to the director by the political subdivision or by subsequent owners of the facility. Any easements or covenants required under this section shall be recorded in the office of the county recorder of the county in which the facility is located, and the recording fees shall be paid by the recipient of the grant~~ enter into an environmental covenant with the director in accordance with sections 5301.80 to 5301.92 of the Revised Code.

Sec. 3734.26. (A) The director of environmental protection may make grants of moneys from the hazardous waste clean-up fund created in section 3734.28 of the Revised Code to the owner, other than a political subdivision, of a solid waste facility in which significant quantities of hazardous waste were disposed of or a hazardous waste facility for up to fifty per cent of the cost of the reasonable and necessary expenses incurred for the proper closure of or abatement or prevention of air or water pollution or soil contamination from the facility and for developing the land on which it was located for use in industry, commerce, distribution, or research.

The director shall not make grants to the owner of any land on which such facilities are located if the owner at any time owned or operated the facility located thereon for profit or in conjunction with any profit-making enterprise located in this state or to any person who at any time owned or operated a facility concerning which the director has taken action under section 3734.20, 3734.22, or 3734.23 of the Revised Code. However, the director may make grants under this section to any subsequent owner of the land, provided that the person has no affiliation with any person who owned or operated the facility located on the land for profit or in conjunction with any profit-making enterprise located in this state or who owned or operated a facility concerning which the director has taken action under section 3734.20, 3734.22, or 3734.23 of the Revised Code.

(B) The owner shall submit an application for a grant on forms furnished by the director, together with detail plans and specifications for the measures to be performed to close the facility properly or to abate or prevent air or water pollution or soil contamination from the facility, an itemized estimate of the project's cost, a description of the project's estimated benefits, and such other information as the director prescribes. The plan may be prepared in consultation with the director or with the board

of health of the city or general health district in which the facility is located. The director may award the applicant a grant only ~~if he finds~~ after finding that the proposed measures will provide for the proper closure of the facility or will abate or prevent air or water pollution or soil contamination from the facility, including, but not limited to, those measures necessary or desirable to:

(1) In the case of a facility for the land burial of hazardous waste, establish and maintain a suitable cover of soil and vegetation over the cells in which waste is buried in order to minimize erosion, the infiltration of surface water into the cells, the production of leachate, and the accumulation or runoff of contaminated surface water and to prevent air emissions of hazardous waste from the facility;

(2) Collect and treat contaminated surface water runoff from the facility;

(3) Collect and treat leachate produced at the facility;

(4) Install test wells and other equipment or facilities to monitor the quality of surface waters receiving runoff from the facility or to monitor air emissions of hazardous waste from the facility;

(5) Regularly monitor and analyze surface water runoff from the facility, the quality of waters receiving the runoff, and ~~groundwater~~ ground water quality in the vicinity of the facility, and regularly monitor leachate collection and treatment systems installed under the grant and analyze samples from them;

(6) Remove and dispose of hazardous waste from the facility at a suitable hazardous waste disposal facility where necessary to protect public health or safety or to abate or prevent air or water pollution or soil contamination.

(C) The director shall determine the amount of the grant based upon ~~his~~ the director's determination of what constitutes reasonable and necessary expenses for the proper closure of the facility or for the abatement or prevention of air or water pollution or soil contamination from the facility. The amount of the grant shall not exceed one-half of the total, as determined by the director, of what constitutes reasonable and necessary expenses actually incurred for the proper closure of or abatement or prevention of air or water pollution or soil contamination from the facility.

In making a grant, the director shall enter into a contract for funding with each applicant awarded a grant to ensure that the moneys granted are used for the purpose of this section and that the measures performed are properly performed. The final payment under a grant may not be made until the director inspects and approves the completed cleanup and the plans for developing the land for use in industry, commerce, distribution, or research.

Each contract for funding shall contain provisions for the reimbursement of the state of a portion of the costs of the cleanup that is commensurate with the increase in the market value of the property attributable to the cleanup thereon, as determined by appraisals made before and after cleanup in the manner stated in the contract. For reimbursement of that portion, the contract may include provisions for:

(1) Payment to the state of the share of the income derived from the productive use of the land;

(2) Imposition of a lien in the amount of the increase in fair market value payable upon the transfer or conveyance to a new owner;

(3) Waiver of all reimbursement if the determination discloses an increase in value that is insubstantial in comparison to the benefits to the public from the abatement of threats to public health or safety or from the abatement or prevention of pollution or contamination, considering the applicant's share of the cleanup cost.

All reimbursements and payments shall be credited to the hazardous waste clean-up fund created in section 3734.28 of the Revised Code.

(D) ~~The contract shall require the owner to execute an easement whereby the director, an authorized employee of the agency, or a contractor employed by the agency may enter upon the facility to sample, repair, or reconstruct air and water quality monitoring equipment constructed under the contract. Such easements shall be for a specified period of years and may be extinguished by agreement between the owner and the director. When necessary to protect the public health or safety, the contract may require the owner to execute a restrictive covenant to run with the land that specifies the uses that may be made of the facility after work performed under the grant is completed, specifies the period for which the restrictive covenant applies, and provides terms whereby modifications to the restrictive covenant, or other land uses, may be initiated or proposed to the director by the owner or by subsequent owners of the facility. All easements or covenants required under this section shall be recorded in the office of the county recorder of the county in which the facility is located, and the recording fees shall be paid by the owner~~ enter into an environmental covenant with the director in accordance with sections 5301.80 to 5301.92 of the Revised Code.

(E) As used in this section, "commerce" includes, but is not limited to, agriculture, forestry, and housing.

Sec. 3737.88. (A)(1) The fire marshal shall have responsibility for implementation of the underground storage tank program and corrective action program for releases from underground petroleum storage tanks

established by the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended. To implement the program, the fire marshal may adopt, amend, and rescind such rules, conduct such inspections, require annual registration of underground storage tanks, issue such citations and orders to enforce those rules, enter into environmental covenants in accordance with sections 5301.80 to 5301.92 of the Revised Code, and perform such other duties, as are consistent with those programs. The fire marshal, by rule, may delegate the authority to conduct inspections of underground storage tanks to certified fire safety inspectors.

(2) In the place of any rules regarding release containment and release detection for underground storage tanks adopted under division (A)(1) of this section, the fire marshal, by rule, shall designate areas as being sensitive for the protection of human health and the environment and adopt alternative rules regarding release containment and release detection methods for new and upgraded ~~underground~~ underground storage tank systems located in those areas. In designating such areas, the fire marshal shall take into consideration such factors as soil conditions, hydrogeology, water use, and the location of public and private water supplies. Not later than July 11, 1990, the fire marshal shall file the rules required under this division with the secretary of state, director of the legislative service commission, and joint committee on agency rule review in accordance with divisions (B) and (H) of section 119.03 of the Revised Code.

(B) Before adopting any rule under this section or section 3737.881 or 3737.882 of the Revised Code, the fire marshal shall file written notice of ~~his~~ the proposed rule with the ~~chairman~~ chairperson of the state fire commission, and, within sixty days after notice is filed, the commission may file responses to or comments on and may recommend alternative or supplementary rules to the fire marshal. At the end of the sixty-day period or upon the filing of responses, comments, or recommendations by the commission, the fire marshal may adopt the rule filed with the commission or any alternative or supplementary rule recommended by the commission.

(C) The fire commission may recommend courses of action to be taken by the fire marshal in carrying out ~~his~~ the fire marshal's duties under this section. The commission shall file its recommendations in the office of the fire marshal, and, within sixty days after the recommendations are filed, the fire marshal shall file with the ~~chairman~~ chairperson of the commission ~~his~~ comments on, and proposed action in response to, the recommendations.

(D) For the purpose of sections 3737.87 to 3737.89 of the Revised Code, the fire marshal shall adopt, and may amend and rescind, rules identifying or listing hazardous substances. The rules shall be consistent

with and equivalent in scope, coverage, and content to regulations identifying or listing hazardous substances adopted under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9602, as amended, except that the fire marshal shall not identify or list as a hazardous substance any hazardous waste identified or listed in rules adopted under division (A) of section 3734.12 of the Revised Code.

(E) Notwithstanding any provision of the laws of this state to the contrary, the fire marshal has exclusive jurisdiction to regulate the storage, treatment, and disposal of petroleum contaminated soil generated from corrective actions undertaken in response to releases of petroleum. The fire marshal may adopt, amend, or rescind such rules as ~~he~~ the fire marshal considers to be necessary or appropriate to regulate the storage, treatment, or disposal of petroleum contaminated soil so generated.

(F) The fire marshal shall adopt, amend, and rescind rules under sections 3737.88 to 3737.882 of the Revised Code in accordance with Chapter 119. of the Revised Code.

Sec. 3737.882. (A) If, after an examination or inspection, the fire marshal or an assistant fire marshal finds that a release of petroleum is suspected, the fire marshal shall take such action as the fire marshal considers necessary to ensure that a suspected release is confirmed or disproved and, if the occurrence of a release is confirmed, to correct the release. These actions may include one or more of the following:

(1) Issuance of a citation and order requiring the responsible person to undertake, in a manner consistent with the requirements of section 9003 of the "Resource Conservation and Recovery Act of 1976," 98 Stat. 3279, 42 U.S.C.A. 6991b, as amended, applicable regulations adopted thereunder, and rules adopted under division (B) of this section, such actions as are necessary to protect human health and the environment, including, without limitation, the investigation of a suspected release;

(2) Requesting the attorney general to bring a civil action for appropriate relief, including a temporary restraining order or preliminary or permanent injunction, in the court of common pleas of the county in which a suspected release is located or in which the release occurred, to obtain the corrective action necessary to protect human health and the environment. In granting any such relief, the court shall ensure that the terms of the temporary restraining order or injunction are sufficient to provide comprehensive corrective action to protect human health and the environment.

(3) Entry onto premises and undertaking corrective action with respect

to a release of petroleum if, in the fire marshal's judgment, such action is necessary to protect human health and the environment. Any corrective action undertaken by the fire marshal or assistant fire marshal under division (A)(3) of this section shall be consistent with the requirements of sections 9003 and 9005 of the "Resource Conservation and Recovery Act of 1976," 98 Stat. 3279, 42 U.S.C.A. 6991b, and 98 Stat. 3284, 42 U.S.C.A. 6991e, respectively, as amended, applicable regulations adopted thereunder, and rules adopted under division (B) of this section.

(B) The fire marshal shall adopt, and may amend and rescind, such rules as the fire marshal considers necessary to establish standards for corrective actions for suspected and confirmed releases of petroleum and standards for the recovery of costs incurred for undertaking corrective or enforcement actions with respect to such releases. The rules also shall include requirements for financial responsibility for the cost of corrective actions for and compensation of bodily injury and property damage incurred by third parties that are caused by releases of petroleum. Rules regarding financial responsibility shall, without limitation, require responsible persons to provide evidence that the parties guaranteeing payment of the deductible amount established under division (E) or (F) of section 3737.91 of the Revised Code are, at a minimum, secondarily liable for all corrective action and third-party liability costs incurred within the scope of the deductible amount. The rules shall be consistent with sections 9003 and 9005 of the "Resource Conservation and Recovery Act of 1976," 98 Stat. 3279, 42 U.S.C.A. 6991b, and 98 Stat. 3284, 42 U.S.C.A. 6991e, respectively, as amended, and applicable regulations adopted thereunder.

(C)(1) No person shall violate or fail to comply with a rule adopted under division (A) of section 3737.88 of the Revised Code or division (B) of this section, and no person shall violate or fail to comply with the terms of any order issued under division (A) of section 3737.88 of the Revised Code or division (A)(1) of this section.

(2) Whoever violates division (C)(1) of this section or division (F) of section 3737.881 of the Revised Code shall pay a civil penalty of not more than ten thousand dollars for each day that the violation continues. The fire marshal may, by order, assess a civil penalty under this division, or the fire marshal may request the attorney general to bring a civil action for imposition of the civil penalty in the court of common pleas of the county in which the violation occurred. If the fire marshal determines that a responsible person is in violation of division (C)(1) of this section or division (F) of section 3737.881 of the Revised Code, the fire marshal may request the attorney general to bring a civil action for appropriate relief,

including a temporary restraining order or preliminary or permanent injunction, in the court of common pleas of the county in which the underground storage tank or, in the case of a violation of division (F)(3) of section 3737.881 of the Revised Code, the training program that is the subject of the violation is located. The court shall issue a temporary restraining order or an injunction upon a demonstration that a violation of division (C)(1) of this section or division (F) of section 3737.881 of the Revised Code has occurred or is occurring.

Any action brought by the attorney general under this division is a civil action, governed by the Rules of Civil Procedure and other rules of practice and procedure applicable to civil actions.

(D) Orders issued under division (A) of section 3737.88 of the Revised Code and divisions (A)(1) and (C) of this section, and appeals thereof, are subject to and governed by Chapter 3745. of the Revised Code. Such orders shall be issued without the necessity for issuance of a proposed action under that chapter. For purposes of appeals of any such orders, the term "director" as used in Chapter 3745. of the Revised Code includes the fire marshal and an assistant fire marshal.

(E) Any restrictions on the use of real property for the purpose of ~~achieving~~ the achievement by an owner or operator of applicable standards pursuant to rules adopted under division (B) of this section shall be contained in a deed or in another instrument that is signed and acknowledged by the property owner in the same manner as a deed or an environmental covenant that is entered into in accordance with sections 5301.80 to 5301.92 of the Revised Code. The deed ~~or~~ other instrument containing the restrictions, or environmental covenant shall be filed and recorded in the office of the county recorder of the county in which the property is located. Pursuant to Chapter 5309. of the Revised Code, ~~such~~ if the use restrictions ~~in connection~~ or environmental covenant are connected with registered land, as defined in section 5309.01 of the Revised Code, the restrictions or environmental covenant shall be entered as a memorial on the page of the register where the title of the owner is registered.

(F) Any restrictions on the use of real property for the purpose of the achievement by a person that is not a responsible person, or by a person undertaking a voluntary action of applicable standards pursuant to rules adopted under division (B) of this section shall be contained in an environmental covenant that is entered into in accordance with sections 5301.80 to 5301.92 of the Revised Code. The environmental covenant shall be filed and recorded in the office of the county recorder of the county in which the property is located. Pursuant to Chapter 5309. of the Revised

Code, if the environmental covenant is connected with registered land, as defined in section 5309.01 of the Revised Code, the environmental covenant shall be entered as a memorial on the page of the register where the title of the owner is registered.

Sec. 3745.01. There is hereby created the environmental protection agency, headed by the director of environmental protection. The agency, under the supervision of the director, shall administer the laws pertaining to chemical emergency planning, community right-to-know, and toxic chemical release reporting; the cessation of chemical handling operations; the prevention, control, and abatement of air and water pollution; public water supply; comprehensive water resource management planning; and the disposal and treatment of solid wastes, infectious wastes, construction and demolition debris, hazardous waste, sewage, industrial waste, and other wastes. The director may do all of the following:

(A) Provide such methods of administration, appoint such personnel, make such reports, and take such other action as may be necessary to comply with the requirements of the federal laws and regulations pertaining to chemical emergency planning, community right-to-know, and toxic chemical release reporting; air and water pollution control; public water supply; water resource planning; and waste disposal and treatment;

(B) Procure by contract the temporary or intermittent services of experts or consultants, or organizations thereof, when those services are to be performed on a part-time or fee-for-service basis and do not involve the performance of administrative duties;

(C) Advise, consult, cooperate, and enter into contracts or agreements with any other agencies of the state, the federal government, other states, and interstate agencies and with affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter and Chapters 3704., 3714., 3734., 3751., 3752., 6109., and 6111. of the Revised Code;

(D) Establish advisory boards in accordance with section 121.13 of the Revised Code;

(E) Accept on behalf of the state any grant, gift, or contribution made for toxic chemical release reporting, air or water pollution control, public water supply, water resource planning, waste disposal or treatment, or related purposes, and expend it for those purposes;

(F) Make an annual report to the governor and the general assembly on activities and expenditures as well as recommendations for such additional legislation as the director considers appropriate to carry out the director's duties or accomplish the purposes of this section;

(G) Enter into environmental covenants in accordance with sections

5301.80 to 5301.92 of the Revised Code, and grant or accept easements or sell real property pursuant to section 3734.22, 3734.24, 3734.25, or 3734.26 of the Revised Code, as applicable.

The agency shall utilize the laboratory facilities of the department of health and other state institutions and agencies to the maximum extent that the utilization is practicable, economical, and technically satisfactory.

The director shall maintain and keep available for public inspection, at the director's principal office, a current register of all applications filed for permits, leases, licenses, variances, certificates, and approval of plans and specifications and of publicly owned treatment works pretreatment programs under the director's jurisdiction, hearings pending, the director's final action thereon, and the dates on which the filings, hearings, and final actions occur. The director shall maintain and keep available for public inspection at the director's principal office all plans, reports, and other documents required to be filed with the emergency response commission under Chapter 3750. of the Revised Code and rules adopted under it, and all reports and other documents required to be filed with the director under Chapter 3751. of the Revised Code and rules adopted under it, subject to the requirements of those chapters and rules adopted under them for the protection of trade secrets and confidential business information from disclosure to persons not authorized under those laws to receive trade secret or confidential business information.

Sec. 3746.01. As used in this chapter:

(A) "Activity and use limitations" has the same meaning as in section 5301.80 of the Revised Code.

~~(B)~~ "Affiliated" means under common ownership or control.

~~(B)~~(C) "Applicable standards," unless the context indicates otherwise, means standards established in or pursuant to sections 3746.05, 3746.06, and 3746.07 of the Revised Code, in or pursuant to rules adopted under division (B)(1) or (2) of section 3746.04 of the Revised Code, pursuant to rules adopted under division (B)(12)(b) of section 3746.04 of the Revised Code, or alternative standards and terms and conditions set forth in a variance issued under section 3746.09 of the Revised Code, as applicable.

~~(C)~~(D) "Background level" means the conditions at a property and areas surrounding a property that are unaffected by any current or past activities involving treatment, storage, or disposal of hazardous substances or petroleum. "Background level" includes naturally occurring substances.

~~(D)~~(E) "Certified laboratory" means a laboratory certified by the director of environmental protection pursuant to rules adopted under division (B)(6) of section 3746.04 of the Revised Code, or deemed to be

certified under division (E) of section 3746.07 of the Revised Code, to perform analyses in connection with voluntary actions.

~~(E)~~(F) "Certified professional" means a person certified by the director pursuant to rules adopted under division (B)(5) of section 3746.04 of the Revised Code, or deemed to be certified under division (D) of section 3746.07 of the Revised Code, to issue no further action letters under section 3746.11 of the Revised Code.

~~(F)~~(G) "Covenant not to sue" means a release from liability that is issued by the director under section 3746.12 of the Revised Code.

(H) "Environmental covenant" has the same meaning as in section 5301.80 of the Revised Code.

(I) "Hazardous substance" includes all of the following:

(1) Any substance identified or listed in rules adopted under division (B)(1)(c) of section 3750.02 of the Revised Code;

(2) Any product registered as a pesticide under section 921.02 of the Revised Code when the product is used in a manner inconsistent with its required labeling;

(3) Any product formerly registered as a pesticide under that section for which the registration was suspended or canceled under section 921.05 of the Revised Code;

(4) Any mixture of a substance described in divisions ~~(F)~~(I)(1) to (3) of this section with a radioactive material.

~~(G)~~(J) "Owner or operator" includes both of the following:

(1) Any person owning or holding a legal, equitable, or possessory interest in or having responsibility for the daily activities on a property;

(2) In the case of property title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to this state or a political subdivision of this state, any person who owned, operated, or otherwise controlled activities occurring on the property before the conveyance.

~~(H)~~(K) "Person" means any person as defined in section 1.59 of the Revised Code and also includes this state, any political subdivision of this state, any other body of this state or of a political subdivision of this state, the board of directors of a nonprofit corporation governing a special improvement district created under Chapter 1710. of the Revised Code, and the United States and any agency or instrumentality thereof.

~~(I)~~(L) "Petroleum" means oil or petroleum of any kind and in any form, including, without limitation, crude oil or any fraction thereof, petroleum, gasoline, kerosene, fuel oil, oil sludge, oil refuse, used oil, substances or additives utilized in the refining or blending of crude petroleum or

petroleum stock, natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel, and mixtures of natural gas and synthetic gas.

~~(J)~~(M) "Property," except for the purposes of sections 3746.02, 3746.26, and 3746.27 of the Revised Code, means any parcel of real property, or portion thereof, and any improvements thereto, the limits of which have been described in writing by the owner of record or a legally appointed representative of the owner and that is or has been the subject of a voluntary action under this chapter and rules adopted under it.

~~(K)~~(N) "Radioactive material" means a substance that spontaneously emits ionizing radiation.

~~(L)~~(O) "Related" means the persons are related by consanguinity or marriage.

~~(M)~~(P) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, migrating, dumping, or disposing of any hazardous substance or petroleum into the environment, including, without limitation, the abandonment or discarding of barrels, containers, or any other closed receptacle containing any hazardous substance, petroleum, or pollutant or contaminant. "Release" does not include any of the following:

(1) Any release that results solely in the exposure of individuals to hazardous substances or petroleum in the workplace with respect to which those individuals may assert a claim against their employer and that is regulated under the "Occupational Health and Safety Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, as amended, and regulations adopted under that act, or under Chapter 4167. of the Revised Code and rules adopted under it;

(2) Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine;

(3) Any release of a source, byproduct, or special nuclear material from a nuclear incident, as "source material," "byproduct material," "special nuclear material," and "nuclear incident" are defined in the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended, if the release is subject to financial protection requirements under section 170 of that act unless any such material is mixed with a hazardous substance or petroleum;

(4) Any federally permitted release as defined in section 101(10) of the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 3300, 42 U.S.C.A. 9601, as amended;

(5) The normal application of a fertilizer material that is intended to improve the quality or quantity of plant growth.

~~(N)~~(Q) "Remedy" or "remedial activities" means actions that are taken at a property to treat, remove, transport for treatment or disposal, dispose of,

contain, or control hazardous substances or petroleum, are protective of public health and safety and the environment, and are consistent with a permanent remedy, including, without limitation, excavation, treatment, off-site disposal, the use of engineering or institutional controls or ~~measures~~ activity and use limitations, the issuance and implementation of a consolidated standards permit under section 3746.15 of the Revised Code, and the entering into and implementation of an operation and maintenance agreement pursuant to section 3746.12 of the Revised Code.

~~(O)~~(R) "Voluntary action" means a series of measures that may be undertaken to identify and address potential sources of contamination of property by hazardous substances or petroleum and to establish that the property complies with applicable standards. "Voluntary action" may include, without limitation, a phase I property assessment conducted in accordance with rules adopted under division (B)(3) of section 3746.04 of the Revised Code or division (B) of section 3746.07 of the Revised Code, as appropriate, a phase II property assessment conducted in accordance with rules adopted under division (B)(4) of section 3746.04 of the Revised Code or division (C) of section 3746.07 of the Revised Code, as appropriate, a sampling plan, a remedial plan, or remedial activities followed by the issuance of a no further action letter under section 3746.11 of the Revised Code indicating that the property meets applicable standards upon demonstration by the person undertaking the measures either that there is no information indicating that there has been a release of hazardous substances or petroleum at or upon the property or that there has been a release of hazardous substances or petroleum at or upon the property and that applicable standards were not exceeded or have been or will be achieved in accordance with this chapter and rules adopted under it.

Sec. 3746.04. Within one year after September 28, 1994, the director of environmental protection, in accordance with Chapter 119. of the Revised Code and with the advice of the multidisciplinary council appointed under section 3746.03 of the Revised Code, shall adopt, and subsequently may amend, suspend, or rescind, rules that do both of the following:

(A) Revise the rules adopted under Chapters 3704., 3714., 3734., 6109., and 6111. of the Revised Code to incorporate the provisions necessary to conform those rules to the requirements of this chapter. The amended rules adopted under this division also shall establish response times for all submittals to the environmental protection agency required under this chapter or rules adopted under it.

(B) Establish requirements and procedures that are reasonably necessary for the implementation and administration of this chapter, including, without

limitation, all of the following:

(1) Appropriate generic numerical clean-up standards for the treatment or removal of soils, sediments, and water media for hazardous substances and petroleum. The rules shall establish separate generic numerical clean-up standards based upon the intended use of properties after the completion of voluntary actions, including industrial, commercial, and residential uses and such other categories of land use as the director considers to be appropriate. The generic numerical clean-up standards established for each category of land use shall be the concentration of each contaminant that may be present on a property that shall ensure protection of public health and safety and the environment for the reasonable exposure for that category of land use. When developing the standards, the director shall consider such factors as all of the following:

- (a) Scientific information, including, without limitation, toxicological information and realistic assumptions regarding human and environmental exposure to hazardous substances or petroleum;
- (b) Climatic factors;
- (c) Human activity patterns;
- (d) Current statistical techniques;
- (e) For petroleum at industrial property, alternatives to the use of total petroleum hydrocarbons.

The generic numerical clean-up standards established under division (B)(1) of this section shall be consistent with and equivalent in scope, content, and coverage to any applicable standard established by federal environmental laws and regulations adopted under them, including, without limitation, the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended; the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended; the "Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended; the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as amended; and the "Safe Drinking Water Act," 88 Stat. 1660 (1974), 42 U.S.C.A. 300f, as amended.

In order for the rules adopted under division (B)(1) of this section to require that any such federal environmental standard apply to a property, the property shall meet the requirements of the particular federal statute or regulation involved in the manner specified by the statute or regulation.

The generic numerical clean-up standards for petroleum at commercial or residential property shall be the standards established in rules adopted under division (B) of section 3737.882 of the Revised Code.

(2)(a) Procedures for performing property-specific risk assessments that would be performed at a property to demonstrate that the remedy evaluated in a risk assessment results in protection of public health and safety and the environment instead of complying with the generic numerical clean-up standards established in the rules adopted under division (B)(1) of this section. The risk assessment procedures shall describe a methodology to establish, on a property-specific basis, allowable levels of contamination to remain at a property to ensure protection of public health and safety and the environment on the property and off the property when the contamination is emanating off the property, taking into account all of the following:

(i) The implementation of treatment, storage, or disposal, or a combination thereof, of hazardous substances or petroleum;

(ii) The existence of institutional controls or activity and use limitations that eliminate or mitigate exposure to hazardous substances or petroleum through the restriction of access to hazardous substances or petroleum; ~~including, without limitation, deed and water use restrictions;~~

(iii) The existence of engineering controls that eliminate or mitigate exposure to hazardous substances or petroleum through containment of, control of, or restrictions of access to hazardous substances or petroleum, including, without limitation, fences, cap systems, cover systems, and landscaping.

(b) The risk assessment procedures and levels of acceptable risk set forth in the rules adopted under division (B)(2) of this section shall be based upon all of the following:

(i) Scientific information, including, without limitation, toxicological information and actual or proposed human and environmental exposure;

(ii) Locational and climatic factors;

(iii) Surrounding land use and human activities;

(iv) Differing levels of remediation that may be required when an existing land use is continued compared to when a different land use follows the remediation.

(c) Any standards established pursuant to rules adopted under division (B)(2) of this section shall be no more stringent than standards established under the environmental statutes of this state and rules adopted under them for the same contaminant in the same environmental medium that are in effect at the time the risk assessment is conducted.

(3) Minimum standards for phase I property assessments. The standards shall specify the information needed to demonstrate that there is no reason to believe that contamination exists on a property. The rules adopted under division (B)(3) of this section, at a minimum, shall require that a phase I

property assessment include all of the following:

(a) A review and analysis of deeds, mortgages, easements of record, and similar documents relating to the chain of title to the property that are publicly available or that are known to and reasonably available to the owner or operator;

(b) A review and analysis of any previous environmental assessments, property assessments, environmental studies, or geologic studies of the property and any land within two thousand feet of the boundaries of the property that are publicly available or that are known to and reasonably available to the owner or operator;

(c) A review of current and past environmental compliance histories of persons who owned or operated the property;

(d) A review of aerial photographs of the property that indicate prior uses of the property;

(e) Interviews with managers of activities conducted at the property who have knowledge of environmental conditions at the property;

(f) Conducting an inspection of the property consisting of a walkover;

(g) Identifying the current and past uses of the property, adjoining tracts of land, and the area surrounding the property, including, without limitation, interviews with persons who reside or have resided, or who are or were employed, within the area surrounding the property regarding the current and past uses of the property and adjacent tracts of land.

The rules adopted under division (B)(3) of this section shall establish criteria to determine when a phase II property assessment shall be conducted when a phase I property assessment reveals facts that establish a reason to believe that hazardous substances or petroleum have been treated, stored, managed, or disposed of on the property if the person undertaking the phase I property assessment wishes to obtain a covenant not to sue under section 3746.12 of the Revised Code.

(4) Minimum standards for phase II property assessments. The standards shall specify the information needed to demonstrate that any contamination present at the property does not exceed applicable standards or that the remedial activities conducted at the property have achieved compliance with applicable standards. The rules adopted under division (B)(4) of this section, at a minimum, shall require that a phase II property assessment include all of the following:

(a) A review and analysis of all documentation prepared in connection with a phase I property assessment conducted within the one hundred eighty days before the phase II property assessment begins. The rules adopted under division (B)(4)(a) of this section shall require that if a period of more

than one hundred eighty days has passed between the time that the phase I assessment of the property was completed and the phase II assessment begins, the phase II assessment shall include a reasonable inquiry into the change in the environmental condition of the property during the intervening period.

(b) Quality assurance objectives for measurements taken in connection with a phase II assessment;

(c) Sampling procedures to ensure the representative sampling of potentially contaminated environmental media;

(d) Quality assurance and quality control requirements for samples collected in connection with phase II assessments;

(e) Analytical and data assessment procedures;

(f) Data objectives to ensure that samples collected in connection with phase II assessments are biased toward areas where information indicates that contamination by hazardous substances or petroleum is likely to exist.

(5) Standards governing the conduct of certified professionals, criteria and procedures for the certification of professionals to issue no further action letters under section 3746.11 of the Revised Code, and criteria for the suspension and revocation of those certifications. The issuance, denial, suspension, and revocation of those certifications are subject to Chapter 3745. of the Revised Code, and the director shall take any such action regarding a certification as a final action.

The rules adopted under division (B)(5) of this section shall do all of the following:

(a) Provide for the certification of environmental professionals to issue no further action letters pertaining to investigations and remedies in accordance with the criteria and procedures set forth in the rules. The rules adopted under division (B)(5)(a) of this section shall do at least all of the following:

(i) Authorize the director to consider such factors as an environmental professional's previous performance record regarding such investigations and remedies and the environmental professional's environmental compliance history when determining whether to certify the environmental professional;

(ii) Ensure that an application for certification is reviewed in a timely manner;

(iii) Require the director to certify any environmental professional who the director determines complies with those criteria;

(iv) Require the director to deny certification for any environmental professional who does not comply with those criteria.

(b) Establish an annual fee to be paid by environmental professionals certified pursuant to the rules adopted under division (B)(5)(a) of this section. The fee shall be established at an amount calculated to defray the costs to the environmental protection agency for the required reviews of the qualifications of environmental professionals for certification and for the issuance of the certifications.

(c) Develop a schedule for and establish requirements governing the review by the director of the credentials of environmental professionals who were deemed to be certified professionals under division (D) of section 3746.07 of the Revised Code in order to determine if they comply with the criteria established in rules adopted under division (B)(5) of this section. The rules adopted under division (B)(5)(c) of this section shall do at least all of the following:

(i) Ensure that the review is conducted in a timely fashion;

(ii) Require the director to certify any such environmental professional who the director determines complies with those criteria;

(iii) Require any such environmental professional initially to pay the fee established in the rules adopted under division (B)(5)(b) of this section at the time that the environmental professional is so certified by the director;

(iv) Establish a time period within which any such environmental professional who does not comply with those criteria may obtain the credentials that are necessary for certification;

(v) Require the director to deny certification for any such environmental professional who does not comply with those criteria and who fails to obtain the necessary credentials within the established time period.

(d) Require that any information submitted to the director for the purposes of division (B)(5)(a) or (c) of this section comply with division (A) of section 3746.20 of the Revised Code;

(e) Authorize the director to suspend or revoke the certification of an environmental professional if the director finds that the environmental professional's performance has resulted in the issuance of no further action letters under section 3746.11 of the Revised Code that are not consistent with applicable standards or finds that the certified environmental professional has not substantially complied with section 3746.31 of the Revised Code;

(f) Authorize the director to suspend for a period of not more than five years or to permanently revoke a certified environmental professional's certification for any violation of or failure to comply with an ethical standard established in rules adopted under division (B)(5) of this section.

(g) Require the director to revoke the certification of an environmental

professional if the director finds that the environmental professional falsified any information on the environmental professional's application for certification regarding the environmental professional's credentials or qualifications or any other information generated for the purposes of or use under this chapter or rules adopted under it;

(h) Require the director permanently to revoke the certification of an environmental professional who has violated or is violating division (A) of section 3746.18 of the Revised Code;

(i) Preclude the director from revoking the certification of an environmental professional who only conducts investigations and remedies at property contaminated solely with petroleum unless the director first consults with the director of commerce.

(6) Criteria and procedures for the certification of laboratories to perform analyses under this chapter and rules adopted under it. The issuance, denial, suspension, and revocation of those certifications are subject to Chapter 3745. of the Revised Code, and the director of environmental protection shall take any such action regarding a certification as a final action.

The rules adopted under division (B)(6) of this section shall do all of the following:

(a) Provide for the certification to perform analyses of laboratories in accordance with the criteria and procedures established in the rules adopted under division (B)(6)(a) of this section and establish an annual fee to be paid by those laboratories. The fee shall be established at an amount calculated to defray the costs to the agency for the review of the qualifications of those laboratories for certification and for the issuance of the certifications. The rules adopted under division (B)(6)(a) of this section may provide for the certification of those laboratories to perform only particular types or categories of analyses, specific test parameters or group of test parameters, or a specific matrix or matrices under this chapter.

(b) Develop a schedule for and establish requirements governing the review by the director of the operations of laboratories that were deemed to be certified laboratories under division (E) of section 3746.07 of the Revised Code in order to determine if they comply with the criteria established in rules adopted under division (B)(6) of this section. The rules adopted under division (B)(6)(b) of this section shall do at least all of the following:

(i) Ensure that the review is conducted in a timely fashion;

(ii) Require the director to certify any such laboratory that the director determines complies with those criteria;

(iii) Require any such laboratory initially to pay the fee established in

the rules adopted under division (B)(6)(a) of this section at the time that the laboratory is so certified by the director;

(iv) Establish a time period within which any such laboratory that does not comply with those criteria may make changes in its operations necessary for the performance of analyses under this chapter and rules adopted under it in order to be certified by the director;

(v) Require the director to deny certification for any such laboratory that does not comply with those criteria and that fails to make the necessary changes in its operations within the established time period.

(c) Require that any information submitted to the director for the purposes of division (B)(6)(a) or (b) of this section comply with division (A) of section 3746.20 of the Revised Code;

(d) Authorize the director to suspend or revoke the certification of a laboratory if the director finds that the laboratory's performance has resulted in the issuance of no further action letters under section 3746.11 of the Revised Code that are not consistent with applicable standards;

(e) Authorize the director to suspend or revoke the certification of a laboratory if the director finds that the laboratory falsified any information on its application for certification regarding its credentials or qualifications;

(f) Require the director permanently to revoke the certification of a laboratory that has violated or is violating division (A) of section 3746.18 of the Revised Code.

(7) Information to be included in a no further action letter prepared under section 3746.11 of the Revised Code, including, without limitation, all of the following:

(a) A summary of the information required to be submitted to the certified environmental professional preparing the no further action letter under division (C) of section 3746.10 of the Revised Code;

(b) Notification that a risk assessment was performed in accordance with rules adopted under division (B)(2) of this section if such an assessment was used in lieu of generic numerical clean-up standards established in rules adopted under division (B)(1) of this section;

(c) The contaminants addressed at the property, if any, their source, if known, and their levels prior to remediation;

(d) The identity of any other person who performed work to support the request for the no further action letter as provided in division (B)(2) of section 3746.10 of the Revised Code and the nature and scope of the work performed by that person;

(e) A list of the data, information, records, and documents relied upon by the certified environmental professional in preparing the no further action

letter.

(8) Methods for determining fees to be paid for the following services provided by the agency under this chapter and rules adopted under it:

(a) Site- or property-specific technical assistance in developing or implementing plans in connection with a voluntary action;

(b) Reviewing applications for and issuing consolidated standards permits under section 3746.15 of the Revised Code and monitoring compliance with those permits;

(c) Negotiating, preparing, and entering into agreements necessary for the implementation and administration of this chapter and rules adopted under it;

(d) Reviewing no further action letters, issuing covenants not to sue, and monitoring compliance with any terms and conditions of those covenants and with operation and maintenance agreements entered into pursuant to those covenants, including, without limitation, conducting audits of properties where voluntary actions are being or were conducted under this chapter and rules adopted under it.

The fees established pursuant to the rules adopted under division (B)(8) of this section shall be at a level sufficient to defray the direct and indirect costs incurred by the agency for the administration and enforcement of this chapter and rules adopted under it other than the provisions regarding the certification of professionals and laboratories.

(9) Criteria for selecting the no further action letters issued under section 3746.11 of the Revised Code that will be audited under section 3746.17 of the Revised Code, and the scope and procedures for conducting those audits. The rules adopted under division (B)(9) of this section, at a minimum, shall require the director to establish priorities for auditing no further action letters to which any of the following applies:

(a) The letter was prepared by an environmental professional who was deemed to be a certified professional under division (D) of section 3746.07 of the Revised Code, but who does not comply with the criteria established in rules adopted under division (B)(5) of this section as determined pursuant to rules adopted under division (B)(5)(d) of this section;

(b) The letter was submitted fraudulently;

(c) The letter was prepared by a certified environmental professional whose certification subsequently was revoked in accordance with rules adopted under division (B)(5) of this section, or analyses were performed for the purposes of the no further action letter by a certified laboratory whose certification subsequently was revoked in accordance with rules adopted under division (B)(6) of this section;

(d) A covenant not to sue that was issued pursuant to the letter was revoked under this chapter;

(e) The letter was for a voluntary action that was conducted pursuant to a risk assessment in accordance with rules adopted under division (B)(2) of this section;

(f) The letter was for a voluntary action that included as remedial activities engineering controls or institutional controls or activity and use limitations authorized under section 3746.05 of the Revised Code ~~or restrictions on the use of the relevant property identified pursuant to division (C)(3) of section 3746.10 of the Revised Code.~~

The rules adopted under division (B)(9) of this section shall provide for random audits of no further action letters to which the rules adopted under divisions (B)(9)(a) to (f) of this section do not apply.

(10) A classification system to characterize ground water according to its capability to be used for human use and its impact on the environment and a methodology that shall be used to determine when ground water that has become contaminated from sources on a property for which a covenant not to sue is requested under section 3746.11 of the Revised Code shall be remediated to the standards established under division (B)(1) or (2) of this section.

(a) In adopting rules under division (B)(10) of this section to characterize ground water according to its capability for human use, the director shall consider all of the following:

(i) The presence of legally enforceable, reliable restrictions on the use of ground water, including, without limitation, local rules or ordinances;

(ii) The presence of regional commingled contamination from multiple sources that diminishes the quality of ground water;

(iii) The natural quality of ground water;

(iv) Regional availability of ground water and reasonable alternative sources of drinking water;

(v) The productivity of the aquifer;

(vi) The presence of restrictions on the use of ground water implemented under this chapter and rules adopted under it;

(vii) The existing use of ground water.

(b) In adopting rules under division (B)(10) of this section to characterize ground water according to its impacts on the environment, the director shall consider both of the following:

(i) The risks posed to humans, fauna, surface water, sediments, soil, air, and other resources by the continuing presence of contaminated ground water;

(ii) The availability and feasibility of technology to remedy ground water contamination.

(11) Governing the application for and issuance of variances under section 3746.09 of the Revised Code;

(12)(a) In the case of voluntary actions involving contaminated ground water, specifying the circumstances under which the generic numerical clean-up standards established in rules adopted under division (B)(1) of this section and standards established through a risk assessment conducted pursuant to rules adopted under division (B)(2) of this section shall be inapplicable to the remediation of contaminated ground water and under which the standards for remediating contaminated ground water shall be established on a case-by-case basis prior to the commencement of the voluntary action pursuant to rules adopted under division (B)(12)(b) of this section;

(b) Criteria and procedures for the case-by-case establishment of standards for the remediation of contaminated ground water under circumstances in which the use of the generic numerical clean-up standards and standards established through a risk assessment are precluded by the rules adopted under division (B)(12)(a) of this section. The rules governing the procedures for the case-by-case development of standards for the remediation of contaminated ground water shall establish application, public participation, adjudication, and appeals requirements and procedures that are equivalent to the requirements and procedures established in section 3746.09 of the Revised Code and rules adopted under division (B)(11) of this section, except that the procedural rules shall not require an applicant to make the demonstrations set forth in divisions (A)(1) to (3) of section 3746.09 of the Revised Code ~~and shall not require the director to obtain the advice of the property revitalization board created in section 3746.08 of the Revised Code regarding any application submitted pursuant to the rules adopted under division (B)(12)(b) of this section.~~

(13) A definition of the evidence that constitutes sufficient evidence for the purpose of division (A)(5) of section 3746.02 of the Revised Code.

At least thirty days before filing the proposed rules required to be adopted under this section with the secretary of state, director of the legislative service commission, and joint committee on agency rule review in accordance with divisions (B) and (H) of section 119.03 of the Revised Code, the director of environmental protection shall hold at least one public meeting on the proposed rules in each of the five districts into which the agency has divided the state for administrative purposes.

Sec. 3746.05. A remedy or remedial activity conducted under this

chapter may attain applicable standards otherwise established in this chapter and rules adopted under it through the use of institutional controls or activity and use limitations that restrict the ~~access to or~~ use of a property or through the removal of, treatment of, transportation for treatment or disposal of, disposal of, or use of engineering controls that contain or control the release of hazardous substances or petroleum at or from a property. Any such institutional controls or activity and use limitations that restrict the use of a property shall ensure that the property is used only for purposes that comply with the applicable standards established in this chapter and rules adopted under it pertaining to the intended use of the property after the completion of the voluntary action, as the intended use is specified in the documents establishing the institutional controls or activity and use limitations. If a property is subject to institutional controls ~~that restrict its use~~ or activity and use limitations and is put to a use that does not comply with the institutional controls or activity and use limitations specified in the documents establishing the institutional controls or activity and use limitations, the covenant not to sue issued under section 3746.12 of the Revised Code for the property in connection with the voluntary action for which the institutional controls or activity and use limitations were established is hereby declared to be void on and after the date of the commencement of the noncomplying use.

Sec. 3746.09. (A) A person who proposes to enter into or who is participating in the voluntary action program under this chapter and rules adopted under it, in accordance with this section and rules adopted under division (B)(11) of section 3746.04 of the Revised Code, may apply to the director of environmental protection for a variance from applicable standards otherwise established in this chapter and rules adopted under it. The application for a variance shall be prepared by a certified professional. The director shall issue a variance from those applicable standards only if the application makes all of the following demonstrations to the director's satisfaction:

(1) Either or both of the following:

(a) It is technically infeasible to comply with the applicable standards otherwise established at the property named in the application;

(b) The costs of complying with the applicable standards otherwise established at the property substantially exceed the economic benefits;

(2) The proposed alternative standard or set of standards and terms and conditions set forth in the application will result in an improvement of environmental conditions at the property and ensure that public health and safety will be protected;

(3) The establishment of and compliance with the alternative standard or set of standards and terms and conditions are necessary to promote, protect, preserve, or enhance employment opportunities or the reuse of the property named in the application.

A variance issued under this section shall state the specific standard or standards whose terms are being varied and shall set forth the specific alternative standard or set of standards and the terms and conditions imposed on the applicant in their place. A variance issued under this section shall include only standards and terms and conditions proposed by the applicant in ~~his~~ the application, except that the director may impose any additional or alternative terms and conditions that ~~he~~ the director determines to be necessary to ensure that public health and safety will be protected. If the director finds that compliance with any standard or term or condition proposed by the applicant will not protect public health and safety and that the imposition of additional or alternative terms and conditions will not ensure that public health or safety will be protected, the director shall disapprove the application and shall include in the order of denial the specific findings on which the denial was based.

(B) Variances shall be issued or denied in accordance with this section, rules adopted under division (B)(11) of section 3746.04 of the Revised Code, and Chapter 3745. of the Revised Code. Upon determining that an application for a variance is complete, the director shall ~~do both of the following:~~

~~(1) Transmit a copy of the application to the property revitalization board created in section 3746.08 of the Revised Code;~~

~~(2) Schedule schedule a public meeting on the application to be held within ninety days after the director determines that the application is complete in the county in which is located the property to which the application pertains.~~

(C) Not less than thirty days before the date scheduled for the public meeting on an application for a variance, the director shall publish notice of the public meeting and that the director will receive written comments on the application for a period of forty-five days commencing on the date of the publication of the notice. The notice shall contain all of the following information, at a minimum:

(1) The address of the property to which the application pertains;

(2) A brief summary of the alternative standards and terms and conditions proposed by the applicant;

(3) The date, time, and location of the public meeting.

The notice shall be published in a newspaper of general circulation in

the county in which the property is located and, if the property is located in close proximity to the boundary of the county with an adjacent county, as determined by the director, shall be published in a newspaper of general circulation in the adjacent county. Concurrently with the publication of the notice of the public meeting, the director shall mail notice of the application, comment period, and public meeting to the owner of each parcel of land that is adjacent to the affected property and to the legislative authority of the municipal corporation or township, and county, in which the affected property is located. The notices mailed to the adjacent land owners and legislative authorities shall contain the same information as the published notice.

(D) At the public meeting on an application for a variance, the applicant, or a representative of the applicant who is knowledgeable about the affected property and the application, shall present information regarding the application and the basis of the request for the variance and shall respond to questions from the public regarding the affected property and the application. A representative of the environmental protection agency who is familiar with the affected property and the application shall attend the public meeting to hear the public's comments and to respond to questions from the public regarding the affected property and the application. A stenographic record of the proceedings at the public meeting shall be kept and shall be made a part of the administrative record regarding the application.

(E) Within ninety days after conducting the public meeting on an application for a variance under division (D) of this section, the director shall issue a proposed action to the applicant in accordance with section 3745.07 of the Revised Code that indicates the director's intent with regard to the issuance or denial of the application. When considering whether to issue or deny the application or whether to impose terms and conditions of the variance that are in addition or alternative to those proposed by the applicant, the director shall consider ~~the advice provided by the property revitalization board,~~ comments on the application made by the public at the public meeting, and written comments on the application received from the public.

Sec. 3746.10. (A) Except as otherwise provided in section 3746.02 of the Revised Code, any person may undertake a voluntary action under this chapter and rules adopted under it to identify and address potential sources of contamination by hazardous substances or petroleum of soil, sediments, surface water, or ground water on or underlying property and to establish that the property meets applicable standards. The voluntary action may

include any one or more of the following elements:

(1) A phase I property assessment conducted in accordance with rules adopted under division (B)(3) of section 3746.04 of the Revised Code or division (B) of section 3746.07 of the Revised Code, as appropriate;

(2) A phase II property assessment conducted in accordance with rules adopted under division (B)(4) of section 3746.04 of the Revised Code or division (C) of section 3746.07 of the Revised Code, as appropriate;

(3) A sampling plan;

(4) A remediation plan;

(5) Remedial activities;

(6) Such other activities as the person undertaking the voluntary action considers to be necessary or appropriate to address the contamination.

When the person undertaking a voluntary action determines that the property meets applicable standards, ~~he~~ the person may seek a no further action letter from a certified professional. A no further action letter may be issued for the property at any stage of the identification of potential hazardous substance or petroleum contamination or remedial activities after a phase I or II property assessment has demonstrated that there is no reason to believe that there has been a release of hazardous substances or petroleum at or upon the property, that information indicates that there has been a release of hazardous substances or petroleum at or upon the property, but that the release is not in excess of applicable standards, or that if there has been such a release in excess of applicable standards, those standards have been achieved through remedial activities or will be achieved in accordance with the timeframes established in an operation and maintenance agreement entered into under division (A)(3) of section 3746.12 of the Revised Code or in such an agreement and a consolidated standards permit issued under section 3746.15 of the Revised Code.

(B)(1) A person who is participating in the voluntary action program under this chapter and rules adopted under it shall do both of the following:

(a) Utilize the services of a certified laboratory to perform any analyses that form the basis for the issuance of a no further action letter for a property and ensure that a laboratory performs in connection with a voluntary action only those analyses for which it is certified under rules adopted under division (B)(6) of section 3746.04 of the Revised Code or for which it is qualified prior to the adoption of those rules;

(b) Utilize the services of a certified professional to verify that the property and any remedial activities undertaken at the property in connection with a voluntary action comply with applicable standards and, if those standards are met, to issue to the person a no further action letter for

the property. For the purposes of such a verification, the certified professional shall perform and review all work that was conducted to support the request for the no further action letter or shall ensure that the work has been performed and reviewed by other persons with expertise and competence in areas other than those of the certified professional's expertise and competence as necessary for the issuance of the no further action letter.

(2) No person who is participating in the voluntary action program shall do any of the following:

(a) If the person also is a certified professional, prepare a no further action letter in connection with a voluntary action conducted at a property that ~~he~~ the certified professional owns or operates;

(b) Utilize the services of a certified professional who is employed by, affiliated with, or related to ~~him~~ the participant or who was employed by or affiliated with ~~him~~ the participant during the year preceding the date that ~~he~~ the participant entered into the contract to utilize the services of the certified professional in connection with the voluntary action;

(c) Utilize the services of a certified laboratory that is owned by or affiliated with ~~him~~ the participant, that is owned by a person related to ~~him~~ the participant, or that was owned by or affiliated with ~~him~~ the participant during the year preceding the date that ~~he~~ the participant entered into the contract to utilize the services of the certified laboratory in connection with the voluntary action, to perform any analyses that form the basis for the issuance of a no further action letter in connection with a voluntary action.

A covenant not to sue issued under section 3746.12 of the Revised Code to a person who violated division (B)(2)(a), (b), or (c) of this section with respect to the no further action letter upon which issuance of the covenant was based is void.

Except as otherwise provided in division (B)(2) of this section, a person who is participating in the voluntary action program may utilize an independent contractor to serve as a certified professional or certified laboratory.

(C) In order to obtain a no further action letter, a person undertaking a voluntary action shall submit to a certified professional all of the following, as applicable:

(1) Information demonstrating that there is no contamination by hazardous substances or petroleum of soil, sediments, surface water, or ground water on or underlying the property in concentrations exceeding applicable standards. The demonstrations shall be based upon the findings of a phase I or phase II property assessment.

(2) If remedial activities were conducted in connection with the

voluntary action, data demonstrating that the remedy meets applicable standards or will achieve applicable standards in accordance with the timeframes established in an operation and maintenance agreement entered into under division (A)(3) of section 3746.12 of the Revised Code or in such an agreement and a consolidated standards permit issued under section 3746.15 of the Revised Code;

(3)(a) If the remedy relies on institutional controls or restrictions on the use of the property to achieve applicable standards, a demonstration that the institutional controls or the use restrictions have been recorded in the office of the county recorder of the county in which the property is located, or have been entered in the appropriate register for registered land as defined in section 5309.01 of the Revised Code, in compliance with section 3746.14 of the Revised Code;

(b) If the person undertaking a voluntary action seeks to obtain a covenant not to sue and if the remedy relies on activity and use limitations to achieve applicable standards, a demonstration that the activity and use limitations have been developed in accordance with this chapter and rules adopted under it and are contained in a proposed environmental covenant that meets the requirements established in section 5301.82 of the Revised Code.

(4) If the remedy relies on engineering controls that contain or control the release of hazardous substances or petroleum at or from the property, a plan for the proper operation and maintenance of the engineering controls.

(D) Except as otherwise specifically provided in this chapter and rules adopted under it, voluntary actions under this chapter and rules adopted under it shall be undertaken in compliance with all applicable laws of this state and rules adopted under them and with applicable ordinances, resolutions, and rules of political subdivisions of this state.

Sec. 3746.11. (A) After receiving the demonstrations and operation and maintenance plan, if any, required to be submitted to ~~him~~ a certified professional under division (C) of section 3746.10 of the Revised Code, ~~a~~ the certified professional shall review them to verify whether the property where the voluntary action was undertaken complies with applicable standards or shall ensure that they have been reviewed by another person or persons who performed work to support the request for the no further action letter as provided in division (B)(2) of section 3746.10 of the Revised Code. If, on the basis of the best knowledge, information, and belief of the certified professional, the certified professional concludes that the property meets applicable standards, ~~he~~ the certified professional shall prepare a no further action letter for the property. The no further action letter shall

contain all the information specified in rules adopted under division (B)(7) of section 3746.04 of the Revised Code or in division (E) of section 3746.07 of the Revised Code, as applicable.

Upon completion of a no further action letter, the certified professional shall send a copy of the letter to the person who undertook the voluntary action. The letter shall be accompanied by a written request that the person notify the certified professional as to whether the person wishes to submit the no further action letter to the director of environmental protection and by a written notice informing the person that the original letter may be submitted to the director only by a certified professional and that the person may receive a covenant not to sue from the director in connection with the voluntary action only if the no further action letter for the voluntary action is submitted to the director on ~~his~~ the person's behalf by the certified professional.

Promptly after receipt of the letter and request, the person who undertook the voluntary action shall send written notice to the certified professional informing ~~him~~ the certified professional as to whether the person wishes to submit the letter to the director and shall send a copy of the notice to the director. If the person's notice indicates that ~~he~~ the person wishes to have the no further action letter submitted to the director, promptly after receipt of the notice, the certified professional shall submit the original no further action letter, together with a proposed environmental covenant, if applicable, and a proposed operation and maintenance agreement, if applicable, to the director by certified mail on behalf of the person who undertook the voluntary action. If the person who undertook the voluntary action notifies the certified professional that ~~he~~ the person does not wish to submit the no further action letter to the director, the certified professional shall send the original letter to the person promptly after receiving the notice.

(B) If after reviewing the demonstrations required to be submitted to ~~him~~ the certified professional under division (C) of section 3746.10 of the Revised Code, the certified professional finds that the property where the voluntary action was undertaken does not comply with applicable standards, the certified professional shall send to the person who undertook the voluntary action written notice of that fact and of the certified professional's inability to issue a no further action letter for the property.

(C) A certified professional shall prepare a summary report detailing ~~his~~ the certified professional's findings and conclusions about the environmental conditions at the property concerning which the professional was requested to prepare a no further action letter and the remedial activities undertaken to

mitigate or abate any threat to public health and safety and the environment, including, without limitation, all of the following:

(1) A description of the nature and extent of contamination emanating from sources on the property;

(2) A risk assessment performed in accordance with rules adopted under division (B)(2) of section 3746.04 of the Revised Code if such an assessment was used in lieu of generic numerical clean-up standards established in rules adopted under division (B)(1) of that section;

(3) A description of any remedy conducted at the property and how the remedy complies with applicable standards;

(4) A description of any plan for the proper operation and maintenance of engineering controls identified under division (C)(4) of section 3746.10 of the Revised Code;

(5) Any documents prepared by any other person who performed work to support the request for the no further action letter as provided in division (B)(2) of section 3746.10 of the Revised Code.

(D) A certified professional shall maintain all documents and data prepared or acquired by ~~him~~ the certified professional in connection with a no further action letter for not less than ten years after the date of issuance of the letter or after the notice required under division (B) of this section has been sent, as applicable, or for a longer period as determined in rules adopted under section 3746.04 of the Revised Code. The director shall have access to those documents and data in accordance with section 3746.18 or 3746.31 of the Revised Code.

Sec. 3746.13. (A) For property that does not involve the issuance of a consolidated standards permit under section 3746.15 of the Revised Code and where no ~~engineering or institutional controls~~ remedial activities for which there is a required operation and maintenance agreement or an environmental covenant under this chapter or sections 5301.80 to 5301.92 of the Revised Code, as applicable, are used to comply with applicable standards, the director of environmental protection shall issue a covenant not to sue pursuant to section 3746.12 of the Revised Code by issuance of an order and as a final action under Chapter 3745. of the Revised Code within thirty days after the director receives the no further action letter for the property ~~and accompanying verification~~ from the certified professional who prepared the letter under section 3746.11 of the Revised Code.

(B) For property that involves the issuance of a consolidated standards permit under section 3746.15 of the Revised Code or where ~~engineering or institutional controls~~ remedial activities for which there is a required operation and maintenance agreement or an environmental covenant under

this chapter or sections 5301.80 to 5301.92 of the Revised Code, as applicable, are used to comply with applicable standards, the director shall issue a covenant not to sue pursuant to section 3746.12 of the Revised Code by issuance of an order and as a final action under Chapter 3745. of the Revised Code within ninety days after the director receives the no further action letter for the property and accompanying verification from the certified professional who prepared the letter and enters into an environmental covenant regarding the property, if applicable.

(C) Except as provided in division (D) of this section, each person who is issued a covenant not to sue under this section shall pay the fee established pursuant to rules adopted under division (B)(8) of section 3746.04 of the Revised Code. Until those rules become effective, each person who is issued a covenant not to sue shall pay a fee of two thousand dollars. The fee shall be paid to the director at the time that the no further action letter and accompanying verification are submitted to the director.

(D) An applicant, as defined in section 122.65 of the Revised Code, who has entered into an agreement under section 122.653 of the Revised Code and who is issued a covenant not to sue under this section shall not be required to pay the fee for the issuance of a covenant not to sue established in rules adopted under division (B)(8) of section 3746.04 of the Revised Code.

Sec. 3746.14. (A) Except as otherwise provided in division (B) of this section, ~~a no further action letter issued for a property under section 3746.11 of the Revised Code, a covenant not to sue issued for the property under section 3746.12 of the Revised Code, and any restrictions on the use of such property identified pursuant to division (C)(3) of section 3746.10 of the Revised Code shall be filed in the office of the county recorder of the county in which the property is located by the person to whom the covenant not to sue was issued and shall be recorded in the same manner as a deed to the property. The no further action letter, covenant not to sue, and use restrictions, if any, shall run with the property~~ the person to whom a covenant not to sue for a property has been issued under section 3746.12 of the Revised Code shall file for recording in the office of the county recorder of the county in which the property is located a true and accurate copy of all of the following:

(1) The no further action letter issued under section 3746.11 of the Revised Code or an executive summary of it;

(2) The covenant not to sue issued for the property under section 3746.12 of the Revised Code;

(3) The environmental covenant for the property, if any, proposed

pursuant to division (C)(3)(b) of section 3746.10 of the Revised Code and executed under section 5301.82 of the Revised Code.

The documents specified in divisions (A)(1) to (3) of this section shall be recorded in the same manner as a deed to the property. The no further action letter, covenant not to sue, and environmental covenant, if any, shall run with the property.

No person shall fail to comply with this division.

(B) Pursuant to Chapter 5309. of the Revised Code, a no further action letter, a covenant not to sue, and, if applicable, any ~~operation and maintenance agreement and use restrictions~~ environmental covenant prepared, issued, entered into, or identified under this chapter and rules adopted under it or under sections 5301.80 to 5301.92 of the Revised Code, as applicable, in connection with registered land, as defined in section 5309.01 of the Revised Code, shall be entered as a memorial on the page of the register where the title of the owner is registered.

(C) A no further action letter, a covenant not to sue, and any agreement authorized to be entered into and entered into under this chapter and rules adopted under it may be transferred by the recipient to any other person by assignment or in conjunction with the acquisition of title to the property to which the document applies.

Sec. 3746.171. The director of environmental protection shall maintain a record of the properties for which covenants not to sue were issued under section 3746.12 of the Revised Code that involve institutional controls or activity and use limitations that restrict the use of the properties in order to comply with applicable standards. The records pertaining to those properties shall indicate the use restrictions or activity and use limitations applicable to each of them. At least once every five years, the director or ~~his~~ an authorized representative of the director shall visually inspect each such property to determine whether the property is being used in compliance with the applicable institutional controls or activity and use limitations.

Sec. 3746.35. (A) Not later than September 1, 1996, and not later than the first day of September of each subsequent year, the director of environmental protection shall prepare and submit to the ~~chairmen~~ chairpersons of the respective standing committees of the senate and house of representatives primarily responsible for considering environmental and taxation matters a report regarding the voluntary action program established under this chapter and rules adopted under it and the tax abatements granted pursuant to sections 5709.87 and 5709.88 of the Revised Code for properties where voluntary actions were conducted. Each annual report shall include, without limitation, all of the following:

(1) Both of the following for each property for which a covenant not to sue was issued under section 3746.12 of the Revised Code during the preceding calendar year:

(a) The address of the property and name of the person who undertook the voluntary action at the property;

(b) Whether the applicable standards governing the voluntary action were the interim standards established in section 3746.07 of the Revised Code or the generic numerical clean-up standards established in rules adopted under division (B)(1) of section 3746.04 of the Revised Code, were established through the performance of a risk assessment pursuant to rules adopted under division (B)(2) of section 3746.04 of the Revised Code, or were set forth in a variance issued under section 3746.09 of the Revised Code.

(2) All of the following for each property for which a variance was issued under section 3746.09 of the Revised Code during the preceding calendar year:

(a) The address of the property and the name of the person to whom the variance was issued;

(b) A summary of the alternative standards and terms and conditions of the variance and brief description of the improvement in environmental conditions at the property that is anticipated to result from compliance with the alternative standards and terms and conditions set forth in the variance;

(c) A brief description of the economic benefits to the person to whom the variance was issued and the community in which the property is located that are anticipated to result from the undertaking of the voluntary action in compliance with the alternative standards and terms and conditions set forth in the variance.

(3) The number of audits performed under section 3746.17 of the Revised Code during the preceding calendar year and, in connection with each of them, at least the following information:

(a) The address of the property in connection with which the audit was performed and the name of the person who undertook the voluntary action at the property;

(b) An indication as to whether the audit was a random audit or was conducted in accordance with the priorities established in rules adopted under divisions (A)(9)(a) to (f) of section 3746.04 of the Revised Code and, if the audit was conducted in accordance with those priorities, an indication as to which of them resulted in the selection of the voluntary action for an audit;

(c) A brief summary of the findings of the audit and any action taken by

the environmental protection agency as a result of those findings.

(4) The number of covenants not to sue revoked during the preceding calendar year through the operation of divisions (A)(2)(c) and (B) of section 3746.12, division (B)(2) of section 3746.18, and division (B) of section 3746.19 of the Revised Code and for each property for which a covenant was revoked, at least both of the following:

(a) The address of the property affected by the revocation and name of the person who undertook the voluntary action at the property;

(b) The reason for the revocation.

(5) The amount of money credited to the voluntary action administration fund created in section 3746.16 of the Revised Code during the preceding fiscal year from the fees established in divisions (D) and (H) of section 3746.07 and division (C) of section 3746.13 of the Revised Code ~~and pursuant to rules adopted under divisions (B)(5) and (8) of section 3746.08 of the Revised Code~~ and from civil penalties imposed under section 3746.22 of the Revised Code. The report shall indicate the amount of money that arose from each of the fees and from the civil penalties. The report also shall include the amount of money expended from the fund during the preceding fiscal year by program category, including, without limitation, the amount expended for conducting audits under section 3746.17 of the Revised Code during the preceding fiscal year.

(6) For each property that is receiving a tax abatement under section 5709.87 of the Revised Code for the preceding tax year, the amount of the valuation exempted from real property taxation for that tax year under that section. In order to comply with division (A)(6) of this section, the director shall include in the annual report the report required to be provided to ~~him~~ the director by the director of development under division (B)(2) of this section. The sole responsibility of the director of environmental protection regarding the report provided to ~~him~~ the director under that division is to include it in the annual report prepared under division (A) of this section.

(7) For each property that is receiving a tax abatement pursuant to an agreement with a municipal corporation or county entered into under section 5709.88 of the Revised Code, the amount of the valuation exempted from real or personal property taxation. In order to comply with division (A)(7) of this section, the director shall include in the annual report the report required to be provided to ~~him~~ the director by the director of development under division (C) of this section. The sole responsibility of the director of environmental protection regarding the report provided to ~~him~~ the director under that division is to ~~include~~ include it in the annual report prepared under division (A) of this section.

~~(8) Recommendations submitted to the director by the property revitalization board created under section 3746.08 of the Revised Code for any legislative and administrative action necessary to promote economic and financial incentives to achieve the purposes of this chapter.~~

(B)(1) Not later than March 31, 1996, the county auditor of each county in which is located any property that is receiving a tax abatement under section 5709.87 of the Revised Code shall report to the director of development for each such property both of the following as applicable to tax year 1995:

(a) The address of the property and the name of the owner as stated in the records of the county auditor of the county in which the property is located;

(b) The amount of the valuation of the property that was exempted from real property taxation under that section.

Not later than the thirty-first day of March of each subsequent year, each such county auditor shall report the information described in those divisions to the director of development for each property within the county that is receiving a tax abatement under that section for the preceding tax year.

(2) Not later than July 1, 1996, and not later than the first day of July of each subsequent year, the director of development shall compile the information provided to ~~him~~ the director under division (B)(1) of this section applicable to the preceding tax year into a report covering all of the counties in the state in which are located properties receiving a tax abatement under section 5709.87 of the Revised Code for the preceding tax year and shall forward the report to the director of environmental protection. The sole responsibility of the director of development in preparing the report is to compile the information submitted to ~~him~~ the director by the county auditors under division (B)(1) of this section.

(C) Not later than July 1, 1996, and not later than the first day of July of each subsequent year, the director of development shall compile the information provided to ~~him~~ the director by municipal corporations and counties under division (A) of section 5709.882 of the Revised Code applicable to the preceding calendar year into a report covering, by county, all of the municipal corporations and counties in this state in which are located properties receiving a tax abatement pursuant to an agreement entered into under section 5709.88 of the Revised Code and shall forward the report to the director of environmental protection. The sole responsibility of the director of development in preparing the report is to compile the information submitted to him by municipal corporations and counties under

division (A) of section 5709.882 of the Revised Code.

Sec. 3747.02. (A)(1) The governor, with the advice and consent of the senate, shall appoint the Ohio member of the midwest interstate low-level radioactive waste commission. The commissioner shall serve at the pleasure of the governor and shall be reimbursed for actual and necessary expenses incurred in the performance of ~~his~~ official duties.

(2) As used in this section, "compact" means the midwest interstate compact on low-level radioactive waste entered into under section 3747.01 of the Revised Code.

(B) The representative from this state on the commission shall not cast a vote contrary to Ohio law.

(C) The representative from this state on the commission shall not cast an affirmative vote on the following matters before the commission without the prior approval of ~~a majority of the members of the board of directors of the Ohio low-level radioactive waste facility development authority created in section 3747.05 of the Revised Code~~ the governor:

(1) Approval by the commission of the amount of the long-term care fund established by this state pursuant to Article VI(O) of the compact ~~and division (B) of section 3747.18 of the Revised Code~~;

(2) Relief of a party state to the compact of its responsibility to serve as a host state under Article VI(E) of the compact;

(3) A requirement pursuant to Article VI(F) of the compact that this state use alternate technology to that proposed by this state for a compact facility in this state;

(4) ~~Disposal of any of the waste described in division (B) of section 3747.13 of the Revised Code in a compact facility in a party state in the compact other than this state~~;

~~(5)~~ Authorization of the early closing of a compact facility under Article III(H)(7) of the compact;

~~(6)~~(5) Any agreement between this state and the commission or a state other than Ohio that determines or alters the rights, powers, or obligations of this state under the compact;

~~(7)~~(6) Modification of the requirements of Article VI(L)(2), (3), or (5) of the compact if the then operating compact facility is in this state;

~~(8)~~(7) Admission by the commission of a new party state to the compact;

~~(9)~~(8) Revocation by the commission of the membership of a party state in the compact.

(D) A vote by the representative from this state on the commission that is inconsistent with division (B) or (C) of this section is void and is not

enforceable.

Sec. 3748.01. As used in this chapter:

(A) "Byproduct material" means either of the following:

(1) Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to radiation incident to the process of producing or utilizing special nuclear material;

(2) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

(B) "Certified radiation expert" means an individual who has complied with all of the following:

(1) Applied to the director of health for certification as a radiation expert under section 3748.12 of the Revised Code;

(2) Met minimum education and experience requirements established in rules adopted under division (C) of section 3748.04 of the Revised Code;

(3) Been granted a certificate as a radiation expert by the director under section 3748.12 of the Revised Code.

(C) "Closure" or "site closure" refers to a facility for the disposal of low-level radioactive waste or a byproduct material site, as "byproduct material" is defined in division (A)(2) of this section, and means all activities performed at a licensed operation, such as stabilization and contouring, to ensure that the site where the operation occurred is in a stable condition so that only minor custodial care, surveillance, and monitoring are necessary at the site following the termination of the licensed operation.

(D) "Decommissioning" means to safely remove any licensed operation from service and reduce residual radioactivity to a level that permits release of the licensee's property for unrestricted use. With regard to a facility for the disposal of low-level radioactive waste or a byproduct material site, as "byproduct material" is defined in division (A)(2) of this section, "decommissioning" does not include the reduction of residual radioactivity to a level that permits release of the facility for unrestricted use.

(E) "Director of health" includes a designee or authorized representative of the director.

(F) "Disposal," with regard to low-level radioactive waste, means the permanent isolation of that waste in accordance with requirements established by the United States nuclear regulatory commission or the licensing agreement state.

(G) "Disposal site" ~~has the same meaning as in section 3747.04 of the Revised Code~~ means that portion of a facility that is used for the disposal of low-level radioactive waste and that consists of disposal units and a buffer

zone. "Disposal unit" means a discrete portion of such a facility into which low-level radioactive waste is placed for disposal.

(H)(1) Except as provided in division (H)(2) of this section, "facility" means the state, any political subdivision, person, public or private institution, or group, or any unit of one of those entities, but does not include the federal government or any of its agencies.

(2) For the purposes of the disposal of low-level radioactive waste, "facility" has the same meaning as in section 3747.01 of the Revised Code.

(I) "Handle" means receive, possess, use, store, transfer, install, service, or dispose of sources of radiation unless possession is solely for the purpose of transportation.

(J) "Handler" means a facility that handles sources of radiation unless possession is solely for the purpose of transportation.

(K) "Inspection" means an official review, examination, or observation, including, without limitation, tests, surveys, and monitoring, that is used to determine compliance with rules, orders, requirements, and conditions of the department of health and that is conducted by the director of health.

(L) "Low-level radioactive waste" has the same meaning as in section 3747.01 of the Revised Code with regard to the disposal of low-level radioactive waste. In regard to regulatory control at locations other than a disposal facility, "low-level radioactive waste" has the same meaning as in 42 U.S.C.A. 2021b.

(M) "Quality assurance program" means a program providing for verification by written procedures such as testing, auditing, and inspection to ensure that deficiencies, deviations, defective equipment, or unsafe practices, or a combination thereof, relating to the use, disposal, management, or manufacture of radiation sources are identified, promptly corrected, and reported to the appropriate regulatory authorities.

(N) "Radiation" means ionizing and nonionizing radiation.

(1) "Ionizing radiation" means gamma rays and X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles, but does not include sound or radio waves or visible, infrared, or ultraviolet light.

(2) "Nonionizing radiation" means any electromagnetic radiation, other than ionizing electromagnetic radiation, or any sonic, ultrasonic, or infrasonic wave.

(O) "Radioactive material" means any solid, liquid, or gaseous material that emits ionizing radiation spontaneously. "Radioactive material" includes accelerator-produced and naturally occurring materials and byproduct, source, and special nuclear material.

(P) "Radiation-generating equipment" means any manufactured product or device, or component of such a product or device, or any machine or system that during operation can generate or emit radiation, except those that emit radiation only from radioactive material. "Radiation-generating equipment" does not include either of the following:

(1) Diathermy machines;

(2) Microwave ovens, including food service microwave ovens used for commercial and industrial uses, television receivers, electric lamps, and other household appliances and products that generate very low levels of radiation.

(Q) "Source material" means uranium, thorium, or any combination thereof in any physical or chemical form, or any ores that contain by weight at least one-twentieth of one per cent of uranium, thorium, or any combination thereof. "Source material" does not include special nuclear material.

(R) "Source of radiation" means radioactive material or radiation-generating equipment.

(S) "Special nuclear material" means either of the following:

(1) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the United States nuclear regulatory commission determines to be special nuclear material, but does not include source material pursuant to section 51 of the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2071."

(2) Except for any source material, any material artificially enriched by any of the materials identified in division (S)(1) of this section.

(T) "Storage" means the retention of radioactive materials, including low-level radioactive waste, prior to disposal in a manner that allows for surveillance, control, and subsequent retrieval.

Sec. 3748.02. (A) The department of health is hereby designated the Ohio radiation control agency.

(B) In accordance with the laws of this state, the director of health may employ, compensate, and prescribe the duties of individuals necessary to implement and administer this chapter and the rules adopted under it ~~and for the purposes of division (A)(4) of section 3747.06 and section 3747.15 of the Revised Code.~~

Sec. 3748.04. The public health council, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend or rescind rules doing all of the following:

(A) Listing types of radioactive material for which licensure by its handler is required and types of radiation-generating equipment for which

registration by its handler is required, and establishing requirements governing them. Rules adopted under division (A) of this section shall be compatible with applicable federal regulations and shall establish all of the following, without limitation:

(1) Requirements governing both of the following:

(a) The licensing and inspection of handlers of radioactive material. Standards established in rules adopted under division (A)(1)(a) of this section regarding byproduct material or any activity that results in the production of that material, to the extent practicable, shall be equivalent to or more stringent than applicable standards established by the United States nuclear regulatory commission.

(b) The registration and inspection of handlers of radiation-generating equipment. Standards established in rules adopted under division (A)(1)(b) of this section, to the extent practicable, shall be equivalent to applicable standards established by the food and drug administration in the United States department of health and human services.

(2) Identification of and requirements governing possession and use of specifically licensed and generally licensed quantities of radioactive material as either sealed sources or unsealed sources;

(3) A procedure for the issuance of and the frequency of renewal of the licenses of handlers of radioactive material, other than a license for a facility for the disposal of low-level radioactive waste, and of the certificates of registration of handlers of radiation-generating equipment;

(4) Procedures for suspending and revoking the licenses of handlers of radioactive material and the certificates of registration of handlers of radiation-generating equipment;

(5) Criteria to be used by the director of health in amending the license of a handler of radioactive material or the certificate of registration of a handler of radiation-generating equipment subsequent to its issuance;

(6) Criteria for achieving and maintaining compliance with this chapter and rules adopted under it by licensees and registrants;

(7) Criteria governing environmental monitoring of licensed and registered activities to assess compliance with this chapter and rules adopted under it;

(8) Except as otherwise provided in division (A)(8) of this section, fees for the licensing of handlers of radioactive material, other than a facility for the disposal of low-level radioactive waste, and the registration of handlers of radiation-generating equipment and a fee schedule for their inspection. Rules adopted under division (A)(8) of this section shall not revise any fees established in section 3748.07 or 3748.13 of the Revised Code to be paid by

any handler of radiation-generating equipment that is a medical practitioner or a corporation, partnership, or other business entity consisting of medical practitioners, other than a hospital as defined in section 3727.01 of the Revised Code.

As used in division (A)(8) of this section, "medical practitioner" means a person who is authorized to practice dentistry pursuant to Chapter 4715. of the Revised Code; medicine and surgery, osteopathic medicine and surgery, or podiatry pursuant to Chapter 4731. of the Revised Code; or chiropractic pursuant to Chapter 4734. of the Revised Code.

~~(9) With regard to a facility for the disposal of low level radioactive waste, an application fee to cover the costs incurred by the department of health for review of the license application submitted by the contractor selected under division (A)(6) of section 3747.06 and section 3747.10 of the Revised Code by the board of directors of the Ohio low level radioactive waste facility development authority created in section 3747.05 of the Revised Code to develop and operate the facility, which shall be paid by the contractor at the time of receipt of an invoice from the department; a license review fee to cover the costs of the department for review of that license, which shall be paid by the contractor every five years after the issuance of the license; and a fee for routine compliance monitoring, which shall be paid annually by the contractor. Fees collected pursuant to rules adopted under division (A)(9) of this section shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it. A fee for routine compliance monitoring required pursuant to rules adopted under division (A)(9) of this section that has not been paid within ninety days after the invoice date shall be assessed at two times the original invoiced fee. Any such fee that has not been paid within one hundred eighty days after the invoice date shall be assessed at five times the original invoiced fee.~~

(B)(1) Identifying sources of radiation, circumstances of possession, use, or disposal of sources of radiation, and levels of radiation that constitute an unreasonable or unnecessary risk to human health or the environment;

(2) Establishing requirements for the achievement and maintenance of compliance with standards for the receipt, possession, use, storage, installation, transfer, servicing, and disposal of sources of radiation to prevent levels of radiation that constitute an unreasonable or unnecessary risk to human health or the environment;

(3) Requiring the maintenance of records on the receipt, use, storage, transfer, and disposal of radioactive material and on the radiological safety

aspects of the use and maintenance of radiation-generating equipment.

In adopting rules under divisions (A) and (B) of this section, the council shall use standards no less stringent than the "suggested state regulations for control of radiation" prepared by the conference of radiation control program directors, inc., and regulations adopted by the United States nuclear regulatory commission, the United States environmental protection agency, and the United States department of health and human services and shall consider reports of the national council on radiation protection and measurement and the relevant standards of the American national standards institute.

(C) Establishing fees, procedures, and requirements for certification as a radiation expert, including all of the following, without limitation:

- (1) Minimum training and experience requirements;
- (2) Procedures for applying for certification;
- (3) Procedures for review of applications and issuance of certificates;
- (4) Procedures for suspending and revoking certification.

(D) Establishing a schedule for inspection of sources of radiation and their shielding and surroundings;

(E) Establishing the responsibilities of a radiation expert;

(F) Establishing criteria for quality assurance programs for licensees of radioactive material and registrants of radiation-generating equipment;

(G) Establishing fees to be paid by any facility that, on September 8, 1995, holds a license from the United States nuclear regulatory commission in order to provide moneys necessary for the transfer of licensing and other regulatory authority from the commission to the state pursuant to section 3748.03 of the Revised Code. Rules adopted under this division shall stipulate that fees so established do not apply to any functions dealing specifically with a facility for the disposal of low-level radioactive waste. Fees collected under this division shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it.

(H) Establishing fees to be collected annually from generators of low-level radioactive waste, which shall be based upon the volume and radioactivity of the waste generated and the costs of administering low-level radioactive waste management activities under this chapter and rules adopted under it. All fees collected under this division shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it. Any fee

required under this division that has not been paid within ninety days after the invoice date shall be assessed at two times the original invoiced fee. Any fee that has not been paid within one hundred eighty days after the invoice date shall be assessed at five times the original invoiced fee.

(I) Establishing requirements governing closure, decontamination, decommissioning, reclamation, and long-term surveillance and care of a facility licensed under this chapter and rules adopted under it. Rules adopted under division (I) of this section shall include, without limitation, all of the following:

(1) Standards and procedures to ensure that a licensee prepares a decommissioning funding plan that provides an adequate financial guaranty to permit the completion of all requirements governing the closure, decontamination, decommissioning, and reclamation of sites, structures, and equipment used in conjunction with a licensed activity;

(2) For licensed activities where radioactive material that will require surveillance or care is likely to remain at the site after the licensed activities cease, as indicated in the application for the license submitted under section 3748.07 of the Revised Code, standards and procedures to ensure that the licensee prepares an additional decommissioning funding plan for long-term surveillance and care, before termination of the license, that provides an additional adequate financial guaranty as necessary to provide for that surveillance and care;

(3) For the purposes of the decommissioning funding plans required in rules adopted under divisions (I)(1) and (2) of this section, the types of acceptable financial guaranties, which shall include bonds issued by fidelity or surety companies authorized to do business in the state, certificates of deposit, deposits of government securities, irrevocable letters or lines of credit, trust funds, escrow accounts, or other similar types of arrangements, but shall not include any arrangement that constitutes self-insurance;

(4) A requirement that the decommissioning funding plans required in rules adopted under divisions (I)(1) and (2) of this section contain financial guaranties in amounts sufficient to ensure compliance with any standards established by the United States nuclear regulatory commission, or by the state if it has become an agreement state pursuant to section 3748.03 of the Revised Code, pertaining to closure, decontamination, decommissioning, reclamation, and long-term surveillance and care of licensed activities and sites of licensees.

Standards established in rules adopted under division (I) of this section regarding any activity that resulted in the production of byproduct material, as defined in division (A)(2) of section 3748.01 of the Revised Code, to the

extent practicable, shall be equivalent to or more stringent than standards established by the United States nuclear regulatory commission for sites at which ores were processed primarily for their source material content and at which byproduct material, as defined in division (A)(2) of section 3748.01 of the Revised Code, is deposited.

~~(J) Establishing qualifications for members of the license review board appointed under division (B) of section 3748.09 of the Revised Code;~~

~~(K) Establishing criteria governing inspections of a facility for the disposal of low-level radioactive waste, including, without limitation, the establishment of a resident inspector program at such a facility;~~

~~(L)(K) Establishing requirements and procedures governing the filing of complaints under section 3748.16 of the Revised Code, including, without limitation, those governing intervention in a hearing held under division (B)(3) of that section;~~

~~(M) Establishing requirements and procedures for entering into an agreement with the board of directors of the Ohio low-level radioactive waste facility development authority created in section 3747.05 of the Revised Code for the payment of the department's costs incurred pursuant to division (A)(4) of section 3747.06 of the Revised Code and Article III(I)(5) of the midwest interstate compact on low-level radioactive waste established under section 3747.01 of the Revised Code.~~

Sec. 3748.05. (A) The director of health shall do all of the following:

(1) Administer and enforce this chapter and the rules adopted under it;

(2) Collect and make available information relating to sources of radiation;

(3) Ensure the review of plans and specifications, submitted in accordance with rules adopted by the public health council, for the control of radiation that constitutes an unreasonable or unnecessary risk to human health or the environment;

(4) Review reports of quality assurance audits performed by certified radiation experts under this chapter and the rules adopted under it;

(5) Ensure that programs for the control of sources of radiation are developed with due regard for compatibility with federal programs for the regulation of byproduct, source, and special nuclear materials;

(6) In accordance with Chapter 119. of the Revised Code, adopt, and subsequently may amend and rescind, rules providing for the administrative assessment and collection of monetary penalties for failure by any facility licensed under this chapter and rules adopted under it to comply with this chapter and those rules. The director may require the submission of compliance schedules and other related information. Any orders issued or

payments or other requirements imposed pursuant to rules adopted under division (A)(6) of this section shall not affect any civil or criminal enforcement proceeding brought under this chapter or any other provision of state or local law. Moneys collected as administrative penalties imposed pursuant to rules adopted under division (A)(6) of this section shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The moneys shall be used solely to administer and enforce this chapter and the rules adopted under it.

(7) Maintain files of both of the following:

(a) All license and registration applications, issuances, denials, amendments, renewals, suspensions, and revocations and any administrative or judicial action pertaining to them;

(b) All rules adopted under this chapter, or proposed to be adopted, relating to the regulation of sources of radiation and proceedings on them.

~~(8) In accordance with chapter 119. of the Revised Code, adopt, and subsequently may amend and rescind, rules of procedure to govern any adjudication conducted by the license review board under division (B)(3)(c) of section 3748.09 of the Revised Code. The rules adopted under division (A)(8) of this section shall be in substantial conformity with the procedural rules established in 10 C.F.R. 2.705-2.759.~~

(B) The director may do any or all of the following:

(1) Advise, consult, and cooperate with other agencies of the state, the federal government, other states, interstate agencies, political subdivisions, industries, and other affected groups in furtherance of the purposes of this chapter and the rules adopted under it;

(2) Accept and administer grants from the federal government and from other sources, public or private, for carrying out any of the director's functions under this chapter and the rules adopted under it;

(3) Encourage, participate in, or conduct studies, investigations, training, research, and demonstrations relating to the detection and control of radiation that constitutes an unreasonable or unnecessary risk to human health or the environment, the measurement of radiation, the evaluation of potential effects on health of cumulative or acute exposure to radiation, the development and improvement of methods to limit and reduce the generation of radioactive waste, and related problems as the director considers necessary or advisable;

(4) In accordance with Chapter 119. of the Revised Code, adopt rules establishing criteria under which other agencies of the state or private entities may perform inspections of x-ray equipment at registered dental ~~faeiltes~~ facilities at the request of the facility or pursuant to contract with

the department;

(5) Exercise all incidental powers necessary to carry out the purposes of this chapter and the rules adopted under it, including, without limitation, the issuance of orders.

Sec. 3748.16. (A)(1) The director of health shall conduct regular inspections of the facility for the disposal of low-level radioactive waste in accordance with rules adopted under division ~~(K)~~(J) of section 3748.04 of the Revised Code and, in accordance with those rules, shall provide for at least one resident inspector at the facility.

(2) Concentrations of radioactive materials released into the environment during operation, closure, institutional control, and long-term care of the facility shall be kept as low as are reasonably achievable and shall not exceed levels established in rules adopted under division (A)(7) of section 3748.04 of the Revised Code or the standards set forth in 10 C.F.R. 61.41, whichever are more stringent. The director shall establish a program to monitor concentrations of radioactive materials so released and shall conduct an investigation if monitoring results indicate concentrations of radioactive materials at levels that are greater than the established background for a monitoring point to determine ~~both of the following:~~

~~(a) The source of the increased radiation level;~~

~~(b) If violations of this chapter or Chapter 3747. of the Revised Code, rules adopted under them, or conditions of the license issued for the facility under section 3748.09 and rules adopted under division (A) of section 3748.04 of the Revised Code resulted in the increase.~~

~~The director shall identify corrective actions to be taken based on the findings of the investigation and shall require the contractor selected under division (A)(6) of section 3747.06 and section 3747.10 of the Revised Code by the board of directors of the Ohio low level radioactive waste facility development authority created in section 3747.05 of the Revised Code to submit a corrective action plan in writing.~~

(B)(1) An officer of an agency of the state or of a political subdivision, acting in the officer's representative capacity, or any person may file a written complaint with the director, in accordance with rules adopted under division ~~(L)~~(K) of section 3748.04 of the Revised Code, regarding the failure or alleged failure of the facility for the disposal of low-level radioactive waste to comply with health or safety requirements established under this chapter or Chapter 3747. of the Revised Code or rules adopted under them. The complaint shall be verified by an affidavit of the complainant or the complainant's agent or attorney. The affidavit may be made before any person authorized by law to administer oaths and shall be

signed by the officer or person who makes it. The person before whom it was taken shall certify that it was sworn to before that person and signed in that person's presence, and the certificate signed officially by that person shall be evidence that the affidavit was made, that the name of the officer or person was written by that officer or person, and that the signer was that officer or person.

(2) Upon receipt of a complaint under division (B)(1) of this section, the director shall cause a prompt investigation to be conducted as is reasonably necessary to determine whether the facility has failed or is failing to comply with the health or safety requirements identified in the complaint. The investigation shall include a discussion of the complaint with the contractor.

(3) The director may hold a hearing on the complaint. Not less than twenty days before the hearing, the director shall cause publication of a notice of the hearing in the county in which the facility is located and shall mail written notice by certified mail, return receipt requested, to the complainant and to the contractor. The hearing shall be conducted before the director or a hearing examiner designated by the director. The department of health and the contractor shall be parties. The complainant may participate as a party by filing with the director, at any time prior to the hearing, a written notice of the complainant's intent to participate. Any other person may be permitted to intervene upon the granting by the director or hearing examiner of a motion to intervene filed in accordance with rules adopted under division ~~(L)~~(K) of section 3748.04 of the Revised Code.

If the director does not hold a hearing, the director shall provide an opportunity to the complainant and the contractor to attend a conference with the director concerning the complaint.

(4) Following the completion of the investigation under division (B)(2) of this section and the hearing or conference under division (B)(3) of this section, if the director determines that the facility is in compliance with the health or safety requirements identified in the complaint, the director shall dismiss the complaint. If the director determines that the facility is not in compliance with those requirements, the director shall issue an order under division (B)(4) of section 3748.05 of the Revised Code requiring the contractor to bring the facility into compliance and to submit a written discussion of how that will be accomplished. The director also may do any or all of the following:

(a) Suspend or revoke the facility's license in accordance with rules adopted under division (A) of section 3748.04 of the Revised Code;

(b) Issue an order assessing an administrative penalty in accordance with rules adopted under division (A)(6) of section 3748.05 of the Revised

Code;

(c) Request the attorney general, in writing, to commence appropriate legal proceedings, including a civil action for imposition of a civil penalty under section 3748.19 of the Revised Code and criminal prosecution.

(C) If the director suspends or revokes the license of the facility for the disposal of low-level radioactive waste for any reason in accordance with rules adopted under division (A) or (B) of section 3748.04 of the Revised Code, the contractor shall indemnify the state for any loss suffered by the state as a result of the lack of disposal capacity for low-level radioactive waste that otherwise would have been disposed of at the facility.

(D) The provisions of division (A) of this section establishing requirements governing the director and divisions (B) and (C) of this section apply only if the state becomes an agreement state pursuant to section 3748.03 of the Revised Code.

~~Sec. 3929.482. (A) The Ohio fair plan underwriting association by action of its board of governors, with the approval of the superintendent of insurance, is authorized to enter into a contract with any association formed under a medical professional liability insurance plan created by authority of section 3929.72 of the Revised Code, whereby Ohio fair plan underwriting association will perform administrative services necessary or incidental to the operation of the medical professional liability insurance plan. Such contract shall provide that the Ohio fair plan underwriting association will be reimbursed for its actual expenses incurred in performing such services. Common expenses applicable both to the Ohio fair plan and to the medical professional liability insurance plan shall be allocated between them on an equitable basis approved by the superintendent of insurance.~~

~~(B)~~ The Ohio fair plan underwriting association by action of its board of governors, with the approval of the superintendent of insurance, is authorized to enter into a contract with the Ohio mine subsidence insurance underwriting association to provide administrative and claims adjusting services required by it. Such contract shall provide indemnification by the Ohio mine subsidence insurance underwriting association to the Ohio fair plan underwriting association, its members, members of its board of governors, and its officers, employees, and agents against all liability, loss, and expense resulting from acts done or omitted in good faith in performing such contract. Such contract shall also provide that the Ohio fair plan underwriting association will be reimbursed for its actual expenses incurred in performing such services. Common expenses applicable both to the Ohio fair plan and to the mine subsidence insurance underwriting association shall be allocated between them on an equitable basis approved by the

superintendent of insurance.

~~(C)~~(B) The Ohio fair plan underwriting association by action of its board of governors, with the approval of the superintendent of insurance, is authorized to enter into a contract with the Ohio commercial joint underwriting association to provide administrative and claims adjusting services required by it. Such contract shall provide indemnification by the Ohio commercial joint underwriting association to the Ohio fair plan underwriting association, its members, members of its board of governors, and its officers, employees, and agents against all liability, loss, and expenses resulting from acts done or omitted in good faith in performing such contract. Such contract shall also provide that the Ohio fair plan underwriting association will be reimbursed for its actual expenses incurred in performing such services. Common expenses applicable both to the Ohio fair plan and to the Ohio commercial joint underwriting association shall be allocated between them on an equitable basis approved by the superintendent of insurance.

Sec. 3929.682. ~~(A)~~ A medical liability fund is hereby created in the state treasury. The medical liability fund shall ~~consist of the remaining funds of the joint underwriting association, the association created under section 3929.72 of the Revised Code and dissolved under section 3929.721 of the Revised Code, and shall~~ be used for the purposes of funding the medical liability underwriting association that is created in accordance with sections 3929.62 to 3929.70 of the Revised Code or for funding another medical malpractice initiative with the approval of the general assembly.

~~(B) As used in this section, "remaining funds of the joint underwriting association" means funds paid to the treasurer of state in accordance with section 3929.721 of the Revised Code and any plan of dissolution or trust agreement adopted under section 3929.721 of the Revised Code.~~

Sec. 3929.85. No insurer licensed to carry on the business of insurance in this state that is required by law to contribute to, or participate in, or ~~which that~~ can be assessed by the Ohio insurance guaranty association pursuant to sections 3955.01 to 3955.19 of the Revised Code, or by the plan for apportionment of applicants for motor vehicle insurance pursuant to section 4509.70 of the Revised Code, or by the Ohio fair plan underwriting association pursuant to sections 3929.43 to 3929.61 of the Revised Code, ~~or by the joint underwriting association pursuant to sections 3929.71 to 3929.85 of the Revised Code,~~ or by the Ohio commercial insurance joint underwriting association pursuant to sections 3930.03 to 3930.18 of the Revised Code shall in any calendar year be required to contribute to, participate in, or be assessed by any one or more of ~~the aforementioned~~

those plans or associations in an amount or amounts totaling in excess of two and one-half per cent of its net direct Ohio premium volume for the year next preceding the year in which the assessment or assessments are made or the contributions or participations are required.

Sec. 3931.01. Individuals, partnerships, and corporations of this state, designated in sections 3931.01 to 3931.12 of the Revised Code, as "subscribers," may exchange reciprocal or interinsurance contracts with each other, and with individuals, partnerships, and corporations of other states, districts, provinces, and countries, providing indemnity among themselves from any loss which may be legally insured against by any fire or casualty insurance company or association provided that contracts of indemnity against property damage and bodily injury arising out of the ownership, maintenance or use of a singly owned private passenger automobile principally used for nonbusiness purposes may not be exchanged through a reciprocal insurer which maintains a surplus over all liabilities of less than two and one-half million dollars and provided that this exception shall not prohibit the exchanging of contracts of indemnity against any form of liability otherwise authorized and arising out of any business or commercial enterprise. Such contracts and the exchange thereof and such subscribers, their attorneys, and representatives shall be regulated by such sections, and no law enacted after July 4, 1917, shall apply to them, unless they are expressly designated therein.

Such a contract may be executed by an attorney or other representative designated "attorney," in sections 3931.01 to 3931.12 of the Revised Code, authorized by and acting for such subscribers under powers of attorney. Such attorney may be a corporation. The principal office of such attorney shall be maintained at the place designated by the subscribers in the powers of attorney.

Except for such limitations on assessability as are approved by the superintendent of insurance, every reciprocal or interinsurance contract written pursuant to this chapter for medical malpractice insurance ~~as defined in division (A) of section 3929.71 of the Revised Code~~ shall be fully assessable and shall contain a statement, in boldface capital letters and in type more prominent than that of the balance of the contract, setting forth such terms of ~~aeccessability~~ assessability. As used in this section, "medical malpractice insurance" means insurance coverage against the legal liability of the insured and against loss, damage, or expense incident to a claim arising out of the death, disease, or injury of any person as the result of negligence or malpractice in rendering professional service by any licensed physician, podiatrist, or hospital, as those terms are defined in section

2305.113 of the Revised Code.

Sec. 3955.05. Sections 3955.01 to 3955.19 of the Revised Code apply to all kinds of direct insurance, except:

- (A) Title insurance;
- (B) Fidelity or surety bonds, or any other bonding obligations;
- (C) Credit insurance, vendors' single interest insurance, collateral protection insurance, or any similar insurance protecting the interests of a creditor arising out of a creditor-debtor transaction;
- (D) Mortgage guaranty, financial guaranty, residual value, or other forms of insurance offering protection against investment risks;
- (E) Ocean marine insurance;
- (F) Any insurance provided by or guaranteed by government, including, but not limited to, any department, board, office, commission, agency, institution, or other instrumentality or entity of any branch of state government, any political subdivision of this state, the United States or any agency of the United States, or any separate or joint governmental self-insurance or risk-pooling program, plan, or pool;
- (G) Contracts of any corporation by which health services are to be provided to its subscribers;
- (H) Life, annuity, health, or disability insurance, including sickness and accident insurance written pursuant to Chapter 3923. of the Revised Code;
- (I) Fraternal benefit insurance;
- (J) Mutual protective insurance of persons or property;
- (K) Reciprocal or interinsurance contracts written pursuant to Chapter 3931. of the Revised Code for medical malpractice insurance ~~as defined in division (A) of section 3929.71 of the Revised Code~~; As used in this division, "medical malpractice insurance" means insurance coverage against the legal liability of the insured and against loss, damage, or expense incident to a claim arising out of the death, disease, or injury of any person as the result of negligence or malpractice in rendering professional service by any licensed physician, podiatrist, or hospital, as those terms are defined in section 2305.113 of the Revised Code.
- (L) Any political subdivision self-insurance program or joint political subdivision self-insurance pool established under Chapter 2744. of the Revised Code;
- (M) Warranty or service contracts, or the insurance of ~~such~~ those contracts;
- (N) Any state university or college self-insurance program established under section 3345.202 of the Revised Code;
- (O) Any transaction, or combination of transactions, between a person,

including affiliates of such person, and an insurer, including affiliates of such insurer, that involves the transfer of investment or credit risk unaccompanied by a transfer of insurance risk;

(P) Credit union share guaranty insurance issued pursuant to Chapter 1761. of the Revised Code;

(Q) Insurance issued by risk retention groups as defined in Chapter 3960. of the Revised Code;

(R) Workers' compensation insurance, including any contract indemnifying an employer who pays compensation directly to employees.

Sec. 3960.06. (A) A purchasing group and its insurer or insurers are subject to all applicable laws of this state, except that a purchasing group and its insurer or insurers, in regard to liability insurance for the purchasing group, are exempt from any law that does any of the following:

(1) Prohibits the establishment of a purchasing group;

(2) Makes it unlawful for an insurer to provide or offer to provide insurance on a basis providing, to a purchasing group or its members, advantages based on their loss and expense experience not afforded to other persons with respect to rates, policy forms, coverages, or other matters;

(3) Prohibits a purchasing group or its members from purchasing insurance on a group basis described in division (A)(2) of this section;

(4) Prohibits a purchasing group from obtaining insurance on a group basis because the group has not been in existence for a minimum period of time or because any member has not belonged to the group for a minimum period of time;

(5) Requires that a purchasing group have a minimum number of members, common ownership or affiliation, or a certain legal form;

(6) Requires that a certain percentage of a purchasing group obtain insurance on a group basis;

(7) Otherwise discriminates against a purchasing group or any of its members;

(8) Requires that any insurance policy issued to a purchasing group or any of its members be countersigned by an insurance agent or broker residing in this state.

(B) The superintendent of insurance may require or exempt a risk retention group from participation in any joint underwriting association established under section ~~3929.72~~ or 3930.03 or in the plan established under section 4509.70 of the Revised Code. Any risk retention group that is required to participate under this division shall submit sufficient information to the superintendent to enable ~~him~~ the superintendent to apportion on a nondiscriminatory basis the risk retention group's proportionate share of

losses and expenses.

Sec. 4117.01. As used in this chapter:

(A) "Person," in addition to those included in division (C) of section 1.59 of the Revised Code, includes employee organizations, public employees, and public employers.

(B) "Public employer" means the state or any political subdivision of the state located entirely within the state, including, without limitation, any municipal corporation with a population of at least five thousand according to the most recent federal decennial census; county; township with a population of at least five thousand in the unincorporated area of the township according to the most recent federal decennial census; school district; governing authority of a community school established under Chapter 3314. of the Revised Code; state institution of higher learning; public or special district; state agency, authority, commission, or board; or other branch of public employment.

(C) "Public employee" means any person holding a position by appointment or employment in the service of a public employer, including any person working pursuant to a contract between a public employer and a private employer and over whom the national labor relations board has declined jurisdiction on the basis that the involved employees are employees of a public employer, except:

- (1) Persons holding elective office;
- (2) Employees of the general assembly and employees of any other legislative body of the public employer whose principal duties are directly related to the legislative functions of the body;
- (3) Employees on the staff of the governor or the chief executive of the public employer whose principal duties are directly related to the performance of the executive functions of the governor or the chief executive;
- (4) Persons who are members of the Ohio organized militia, while training or performing duty under section 5919.29 or 5923.12 of the Revised Code;
- (5) Employees of the state employment relations board;
- (6) Confidential employees;
- (7) Management level employees;
- (8) Employees and officers of the courts, assistants to the attorney general, assistant prosecuting attorneys, and employees of the clerks of courts who perform a judicial function;
- (9) Employees of a public official who act in a fiduciary capacity, appointed pursuant to section 124.11 of the Revised Code;

(10) Supervisors;

(11) Students whose primary purpose is educational training, including graduate assistants or associates, residents, interns, or other students working as part-time public employees less than fifty per cent of the normal year in the employee's bargaining unit;

(12) Employees of county boards of election;

(13) Seasonal and casual employees as determined by the state employment relations board;

(14) Part-time faculty members of an institution of higher education;

(15) Employees of the state personnel board of review;

~~(16) Employees of the board of directors of the Ohio low level radioactive waste facility development authority created in section 3747.05 of the Revised Code;~~

~~(17)~~ Participants in a work activity, developmental activity, or alternative work activity under sections 5107.40 to 5107.69 of the Revised Code who perform a service for a public employer that the public employer needs but is not performed by an employee of the public employer if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;

~~(18)~~(17) Employees included in the career professional service of the department of transportation under section 5501.20 of the Revised Code;

~~(19)~~(18) Employees who must be licensed to practice law in this state to perform their duties as employees.

(D) "Employee organization" means any labor or bona fide organization in which public employees participate and that exists for the purpose, in whole or in part, of dealing with public employers concerning grievances, labor disputes, wages, hours, terms, and other conditions of employment.

(E) "Exclusive representative" means the employee organization certified or recognized as an exclusive representative under section 4117.05 of the Revised Code.

(F) "Supervisor" means any individual who has authority, in the interest of the public employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other public employees; to responsibly direct them; to adjust their grievances; or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment, provided that:

(1) Employees of school districts who are department chairpersons or consulting teachers shall not be deemed supervisors;

(2) With respect to members of a police or fire department, no person

shall be deemed a supervisor except the chief of the department or those individuals who, in the absence of the chief, are authorized to exercise the authority and perform the duties of the chief of the department. Where prior to June 1, 1982, a public employer pursuant to a judicial decision, rendered in litigation to which the public employer was a party, has declined to engage in collective bargaining with members of a police or fire department on the basis that those members are supervisors, those members of a police or fire department do not have the rights specified in this chapter for the purposes of future collective bargaining. The state employment relations board shall decide all disputes concerning the application of division (F)(2) of this section.

(3) With respect to faculty members of a state institution of higher education, heads of departments or divisions are supervisors; however, no other faculty member or group of faculty members is a supervisor solely because the faculty member or group of faculty members participate in decisions with respect to courses, curriculum, personnel, or other matters of academic policy;

(4) No teacher as defined in section 3319.09 of the Revised Code shall be designated as a supervisor or a management level employee unless the teacher is employed under a contract governed by section 3319.01, 3319.011, or 3319.02 of the Revised Code and is assigned to a position for which a license deemed to be for administrators under state board rules is required pursuant to section 3319.22 of the Revised Code.

(G) "To bargain collectively" means to perform the mutual obligation of the public employer, by its representatives, and the representatives of its employees to negotiate in good faith at reasonable times and places with respect to wages, hours, terms, and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, with the intention of reaching an agreement, or to resolve questions arising under the agreement. "To bargain collectively" includes executing a written contract incorporating the terms of any agreement reached. The obligation to bargain collectively does not mean that either party is compelled to agree to a proposal nor does it require the making of a concession.

(H) "Strike" means continuous concerted action in failing to report to duty; willful absence from one's position; or stoppage of work in whole from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Strike" does not include a stoppage of work by employees in good faith because of dangerous or

unhealthful working conditions at the place of employment that are abnormal to the place of employment.

(I) "Unauthorized strike" includes, but is not limited to, concerted action during the term or extended term of a collective bargaining agreement or during the pendency of the settlement procedures set forth in section 4117.14 of the Revised Code in failing to report to duty; willful absence from one's position; stoppage of work; slowdown, or abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Unauthorized strike" includes any such action, absence, stoppage, slowdown, or abstinence when done partially or intermittently, whether during or after the expiration of the term or extended term of a collective bargaining agreement or during or after the pendency of the settlement procedures set forth in section 4117.14 of the Revised Code.

(J) "Professional employee" means any employee engaged in work that is predominantly intellectual, involving the consistent exercise of discretion and judgment in its performance and requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship; or an employee who has completed the courses of specialized intellectual instruction and is performing related work under the supervision of a professional person to become qualified as a professional employee.

(K) "Confidential employee" means any employee who works in the personnel offices of a public employer and deals with information to be used by the public employer in collective bargaining; or any employee who works in a close continuing relationship with public officers or representatives directly participating in collective bargaining on behalf of the employer.

(L) "Management level employee" means an individual who formulates policy on behalf of the public employer, who responsibly directs the implementation of policy, or who may reasonably be required on behalf of the public employer to assist in the preparation for the conduct of collective negotiations, administer collectively negotiated agreements, or have a major role in personnel administration. Assistant superintendents, principals, and assistant principals whose employment is governed by section 3319.02 of the Revised Code are management level employees. With respect to members of a faculty of a state institution of higher education, no person is a management level employee because of the person's involvement in the

formulation or implementation of academic or institution policy.

(M) "Wages" means hourly rates of pay, salaries, or other forms of compensation for services rendered.

(N) "Member of a police department" means a person who is in the employ of a police department of a municipal corporation as a full-time regular police officer as the result of an appointment from a duly established civil service eligibility list or under section 737.15 or 737.16 of the Revised Code, a full-time deputy sheriff appointed under section 311.04 of the Revised Code, a township constable appointed under section 509.01 of the Revised Code, or a member of a township police district police department appointed under section 505.49 of the Revised Code.

(O) "Members of the state highway patrol" means highway patrol troopers and radio operators appointed under section 5503.01 of the Revised Code.

(P) "Member of a fire department" means a person who is in the employ of a fire department of a municipal corporation or a township as a fire cadet, full-time regular firefighter, or promoted rank as the result of an appointment from a duly established civil service eligibility list or under section 505.38, 709.012, or 737.22 of the Revised Code.

(Q) "Day" means calendar day.

~~Sec. 4121.442. (A) There is hereby created the health care quality advisory council consisting of the administrator of workers' compensation and sixteen members appointed by the governor as follows:~~

- ~~(1) Five individuals who represent the interests of employees;~~
- ~~(2) Five individuals who represent the interests of employers;~~
- ~~(3) One individual who represents the governor;~~
- ~~(4) One physician licensed to practice medicine or surgery pursuant to Chapter 4731. of the Revised Code;~~
- ~~(5) One individual to represent the interests of hospitals;~~
- ~~(6) One chiropractor licensed pursuant to Chapter 4734. of the Revised Code;~~
- ~~(7) One pharmacist licensed pursuant to Chapter 4729. of the Revised Code;~~
- ~~(8) One physician licensed to practice osteopathic medicine and surgery pursuant to Chapter 4731. of the Revised Code.~~

~~All appointed members shall be knowledgeable in matters pertaining to the delivery of health care, the workers' compensation system, and health care administration and have at least three years experience in a position with primary responsibility for health care matters. The administrator shall serve as the chairperson of the council.~~

~~(B) The governor shall make initial appointments, from the lists submitted pursuant to division (C) of this section, by not later than thirty days after October 20, 1993. Appointed members shall serve at the pleasure of the governor and shall receive no compensation but shall receive their actual and necessary expenses incurred in the performance of their duties.~~

~~(C) In making initial appointments to the council under this section, the governor shall select members representing employees from a list of eight names submitted by the Ohio chapter of the American federation of labor/congress of industrial organizations, the members representing employers from a list of eight names submitted jointly by the recognized major statewide employer organizations, and the members representing those individuals specified in divisions (A)(4) to (8) of this section from a list of ten names submitted jointly by the recognized major statewide health care provider organizations. Thereafter, the labor federation for an employee vacancy on the council, the employer organizations, for an employer vacancy, and the health care provider organizations, for a vacancy of an individual specified in divisions (A)(4) to (8) of this section, shall submit to the governor a list of two names for each vacancy.~~

~~(D) The health care quality advisory council administrator of workers' compensation shall develop standards for qualification of health care plans of the Ohio workers' compensation qualified health plan system to provide medical, surgical, nursing, drug, hospital, and rehabilitation services and supplies to an employee for an injury or occupational disease that is compensable under this chapter or Chapter 4123., 4127., or 4131. of the Revised Code. In adopting the standards, the ~~council~~ administrator shall use nationally recognized accreditation standards. The standards the ~~council~~ administrator adopts must provide that a qualified plan provides for all of the following:~~

- ~~(1) Criteria for selective contracting of health care providers;~~
- ~~(2) Adequate plan structure and financial stability;~~
- ~~(3) Procedures for the resolution of medical disputes between an employee and an employer, an employee and a provider, or an employer and a provider, prior to an appeal under section 4123.511 of the Revised Code;~~
- ~~(4) Authorize employees who are dissatisfied with the health care services of the employer's qualified plan and do not wish to obtain treatment under the provisions of this section, to request the administrator for referral to a health care provider in the bureau's health care partnership program. The administrator must refer all requesting employees into the health care partnership program.~~
- ~~(5) Does not discriminate against any category of health care provider;~~

(6) Provide a procedure for reporting injuries to the bureau of workers' compensation and to employers by providers within the qualified plan;

(7) Provide appropriate financial incentives to reduce service costs and utilization without sacrificing the quality of service;

(8) Provide adequate methods of peer review, utilization review, quality assurance, and dispute resolution to prevent and provide sanctions for inappropriate, excessive, or not medically necessary treatment;

(9) Provide a timely and accurate method of reporting to the administrator necessary information regarding medical and health care service and supply costs, quality, and utilization to enable the administrator to determine the effectiveness of the plan;

(10) Authorize necessary emergency medical treatment for an injury or occupational disease provided by a health care provider who is not a part of the qualified health care plan;

(11) Provide an employee the right to change health care providers within the qualified health care plan;

(12) Provide for standardized data and reporting requirements;

(13) Authorize necessary medical treatment for employees who work in Ohio but reside in another state.

~~(E)~~(B) Health care plans that meet the approved qualified health plan standards shall be considered qualified plans and are eligible to become part of the Ohio workers' compensation qualified health plan system. Any employer or group of employers may provide medical, surgical, nursing, drug, hospital, and rehabilitation services and supplies to an employee for an injury or occupational disease that is compensable under this chapter or Chapter 4123., 4127., or 4131. of the Revised Code through a qualified health plan.

~~(F) The council shall on or before the first day of January of each year, make recommendations to the administrator regarding changes needed in the rules the administrator adopts to implement the standards, and the administrator, by no later than the first day of March of that year, shall determine whether to alter the existing rules according to the council's recommendations.~~

~~(G) By no later than twenty four months after the establishment of the Ohio workers' compensation qualified health plan system, and thereafter, on or before the first day of January of every odd-numbered year, the administrator shall conduct an appraisal of the system with respect to the system's efficiency and cost effectiveness and the appropriateness of care rendered under the system and shall submit a written report of the appraisal to the governor.~~

Sec. 4167.09. (A) Any public employer affected by a proposed rule or Ohio employment risk reduction standard or any provision ~~thereof~~ of a standard proposed under section 4167.07; or 4167.08; ~~or 4167.26~~ of the Revised Code may apply to the director of commerce for an order granting a temporary variance from the standard or provision ~~thereof~~. The application for the order and any extension ~~thereof~~ of the order shall contain a reasonable application fee, as determined by the public employment risk reduction advisory commission, and all of the following information:

(1) A specification of the Ohio public employment risk reduction standard or ~~portion thereof~~ provision of it from which the public employer seeks the temporary variance;

(2) A representation by the public employer, supported by representations from qualified persons having firsthand knowledge of the facts represented, that the public employer is unable to comply with the Ohio employment risk reduction standard or ~~portion thereof~~ provision of it and a detailed statement of the reasons ~~therefor~~ for the inability to comply;

(3) A statement of the steps that the public employer has taken and will take, with dates specified, to protect employees against the hazard covered by the standard;

(4) A statement of when the public employer expects to be able to comply fully with the Ohio employment risk reduction standard and what steps the public employer has taken and will take, with dates specified, to come into full compliance with the standard;

(5) A certification that the public employer has informed the public employer's public employees of the application by giving a copy of the application to the public employee representative, if any, and by posting a statement giving a summary of the application and specifying where a copy of the application may be examined at the place or places where notices to public employees are normally posted, and by any other appropriate means of public employee notification. The public employer ~~must~~ also shall inform the public employer's public employees of their rights to a hearing under section 4167.15 of the Revised Code. The certification also shall contain a description of how public employees have been informed of the application and of their rights to a hearing.

(B) The director shall issue an order providing for a temporary variance if the public employer files an application that meets the requirements of division (A) of this section and establishes that all of the following pertaining to the public employer are true:

(1) The public employer is unable to comply with the Ohio employment risk reduction standard or a provision ~~thereof~~ of it by its effective date

because of the unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the Ohio employment risk reduction standard or provision ~~thereof~~ of it or because necessary construction or alteration of facilities cannot be completed by the effective date of the standard.

(2) The public employer is taking all available steps to safeguard the public employer's public employees against the hazards covered by the Ohio employment risk reduction standard.

(3) The public employer has an effective program for coming into compliance with the Ohio employment risk reduction standard as quickly as practicable.

(4) The granting of the variance will not create an imminent danger of death or serious physical harm to public employees.

(C)(1) If the director issues an order providing for a temporary variance under division (B) of this section, the director shall prescribe the practices, means, methods, operations, and processes that the public employer must adopt and use while the order is in effect and state in detail the public employer's program for coming into compliance with the Ohio employment risk reduction standard. The director may issue the order only after providing notice to affected public employees and their public employee representative, if any, and an opportunity for a hearing pursuant to section 4167.15 of the Revised Code, provided that the director may issue one interim order granting a temporary order to be effective until a decision on a hearing is made. Except as provided in division (C)(2) of this section, no temporary variance may be in effect for longer than the period needed by the public employer to achieve compliance with the Ohio employment risk reduction standard or one year, whichever is shorter.

(2) The director may renew an order issued under division (C) of this section up to two times provided that the requirements of divisions (A), (B), and (C)(1) of this section and section 4167.15 of the Revised Code are met and the public employer files an application for renewal with the director at least ninety days prior to the expiration date of the order.

(D) Any public employer affected by an Ohio employment risk reduction standard or any provision ~~thereof~~ of it proposed, adopted, or otherwise issued under section 4167.07; or 4167.08; ~~or 4167.26~~ of the Revised Code may apply to the director for an order granting a variance from the standard or ~~portion thereof~~ provision. The director shall provide affected public employees and their public employee representative, if any, notice of the application and shall provide an opportunity for a hearing pursuant to section 4167.15 of the Revised Code. The director shall issue the

order granting the variance if the public employer files an application that meets the requirements of division (B) of this section, and after an opportunity for a hearing pursuant to section 4167.15 of the Revised Code, and if the public employer establishes to the satisfaction of the director that the conditions, practices, means, methods, operations, or processes used or proposed to be used by the public employer will provide employment and places of employment to the public employer's public employees that are as safe and healthful as those that would prevail if the public employer complied with the Ohio employment risk reduction standard. The director shall prescribe in the order granting the variance the conditions the public employer must maintain, and the practices, means, methods, operations, and processes the public employer must adopt and utilize in lieu of the Ohio employment risk reduction standard ~~which~~ that would otherwise apply. The director may modify or revoke the order upon application of the public employer, public employee, or public employee representative, or upon the director's own motion in the manner prescribed for the issuance of an order under this division at any time during six months after the date of issuance of the order.

Sec. 4167.25. As used in this section and sections ~~4167.26 to 4167.27~~ and 4767.28 of the Revised Code:

(A) "Bloodborne pathogen" means a microorganism present in human blood that can cause disease in humans, including the human immunodeficiency virus, hepatitis B virus, hepatitis C virus, and other pathogenic microorganisms.

(B) "Engineered sharps injury protection" means either of the following:

(1) A physical attribute built into a needle device used for withdrawing body fluids, accessing a vein or artery, or administering medications or other fluids that effectively reduces the risk of an exposure incident by a mechanism such as barrier creation, blunting, encapsulation, withdrawal, retraction, destruction, or any other effective mechanism;

(2) A physical attribute built into a type of needle device not included in division (B)(1) of this section, or built into a non-needle sharp, that effectively reduces the risk of an exposure incident.

(C) "Exposure incident" means an occurrence of occupational exposure to blood or other material potentially containing bloodborne pathogens, including exposure that occurs through a sharps injury.

(D) "Needleless system" means a device that does not utilize needles for the following:

(1) Withdrawing body fluids after initial venous or arterial access is established;

- (2) Administering medication or fluids;
- (3) Performing any other procedure involving potential exposure incidents.

(E) "Public health care worker" means a person who is employed by a public employer to provide health services that carry with them the potential for exposure incidents, including a person employed by a public hospital or other public health care facility, a person employed by a public employer to provide home health care, and a person employed by a public employer as a firefighter, emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic. "Public health care worker" does not include a person who is employed by a public employer to provide dental services, treatment, or training or a dental student who is receiving training from a public employer.

(F) "Sharp" means an object used in or encountered when providing health care services that can be reasonably anticipated to penetrate the skin or any other part of the body and result in an exposure incident, including objects such as needle devices, scalpels, lancets, and broken glass.

(G) "Sharps injury" means an injury caused by a sharp, including such injuries as cuts, abrasions, and needlesticks.

Sec. 4167.27. (A) The public employment risk reduction advisory commission shall adopt a rule and Ohio employment risk reduction standard for the prevention of exposure incidents. The initial rule and standard shall be adopted not later than one hundred eighty days after ~~the effective date of this section. In adopting, modifying, or rescinding the rule or standard, the commission shall act in accordance with recommendations submitted by the commission's subcommittee appointed under section 4167.26 of the Revised Code October 5, 2000.~~

(B) The commission shall provide advice to public employers with regard to their implementation of the requirements established by the rule and standard adopted under this section and the requirements of section 4167.28 of the Revised Code.

Sec. 4582.12. (A) Except as otherwise provided in division (E) of section 307.671 of the Revised Code, division (A) of this section does not apply to a port authority educational and cultural facility acquired, constructed, and equipped pursuant to a cooperative agreement entered into under section 307.671 of the Revised Code.

Except as provided in division (C) of this section, when the cost of a contract for the construction of any building, structure, or other improvement undertaken by a port authority involves an expenditure exceeding twenty-five thousand dollars and the port authority is the

contracting entity, the port authority shall make a written contract ~~after complying with section 123.151 of the Revised Code and~~ after notice calling for bids for the award of the contract has been given by publication twice, with at least seven days between publications, in a newspaper of general circulation in the area of the jurisdiction of the port authority. Each such contract shall be let to the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code. Every contract let shall be in writing and if the contract involves work or construction, it shall be accompanied by or shall refer to plans and specifications for the work to be done, prepared for and approved by the port authority, signed by an authorized officer of the port authority and by the contractor, and shall be executed in triplicate.

Each bid shall be awarded in accordance with sections 153.54, 153.57, and 153.571 of the Revised Code.

The port authority may reject any and all bids.

(B) The board of directors of a port authority by rule may provide criteria for the negotiation and award without competitive bidding of any contract as to which the port authority is the contracting entity for the construction of any building, structure, or other improvement under any of the following circumstances:

(1) There exists a real and present emergency that threatens damage or injury to persons or property of the port authority or other persons, provided that a statement specifying the nature of the emergency that is the basis for the negotiation and award of a contract without competitive bidding shall be signed by the officer of the port authority that executes that contract at the time of the contract's execution and shall be attached to the contract.

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

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

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

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

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

improvement to the proposer making the proposal considered to be the most advantageous to the port authority.

(2) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in division (B)(4) of this section, any construction activities related to the incorporation of the material into the improvement also may be provided without competitive bidding by the source or supplier of that material.

(D) No contract for the construction or repair of any building, structure, or other improvement and no loan agreement for the borrowing of funds for any such improvement undertaken by a port authority, where the port authority is the contracting entity, shall be executed unless laborers and mechanics employed on such improvements are paid at the prevailing rates of wages of laborers and mechanics for the class of work called for by the improvement. The wages shall be determined in accordance with the requirements of Chapter 4115. of the Revised Code for the determination of prevailing wage rates, provided that the requirements of this section do not apply where the federal government or any of its agencies furnishes by loan or grant all or any part of the funds used in connection with such project and prescribes predetermined minimum wages to be paid to the laborers and mechanics.

Sec. 4731.143. (A) Each person holding a valid certificate under this chapter authorizing the certificate holder to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, who is not covered by medical malpractice insurance ~~as defined in section 3929.71 of the Revised Code~~, shall provide a patient with written notice of the certificate holder's lack of ~~such~~ that insurance coverage prior to providing nonemergency professional services to the patient. The notice shall be provided alone on its own page. The notice shall provide space for the patient to acknowledge receipt of the notice, and shall be in the following form:

"N O T I C E:

Dr. (here state the full name of the certificate holder) is not covered by medical malpractice insurance.

The undersigned acknowledges the receipt of this notice.

.....
(Patient's Signature)

.....
(Date)"

The certificate holder shall obtain the patient's signature, acknowledging the patient's receipt of the notice, prior to providing nonemergency

professional services to the patient. The certificate holder shall maintain the signed notice in the patient's file.

(B) This section does not apply to any officer or employee of the state, as those terms are defined in section 9.85 of the Revised Code, who is immune from civil liability under section 9.86 of the Revised Code or is entitled to indemnification pursuant to section 9.87 of the Revised Code, to the extent that the person is acting within the scope of the person's employment or official responsibilities.

This section does not apply to a person who complies with division (B)(2) of section 2305.234 of the Revised Code.

(C) As used in this section, "medical malpractice insurance" means insurance coverage against the legal liability of the insured and against loss, damage, or expense incident to a claim arising out of the death, disease, or injury of any person as the result of negligence or malpractice in rendering professional service by any licensed physician, podiatrist, or hospital, as those terms are defined in section 2305.113 of the Revised Code.

Sec. 4741.03. (A) The state veterinary medical licensing board shall meet at least once in each calendar year and may hold additional meetings as often as it considers necessary to conduct the business of the board. The president of the board may call special meetings, and the executive secretary shall call special meetings upon the written request of three members of the board. The board shall organize by electing a president and vice-president from its veterinarian members and such other officers as the board prescribes by rule. Each officer shall serve for a term specified by board rule or until a successor is elected and qualified. A quorum of the board consists of four members of which at least three are members who are veterinarians. The concurrence of four members is necessary for the board to take any action.

(B) The board may appoint a person, not one of its members, to serve as its executive secretary. The executive secretary is in the unclassified service and serves at the pleasure of the board. The executive secretary shall serve as the board's secretary-treasurer ex officio. The board may employ additional employees for professional, technical, clerical, and special work as it considers necessary. The executive secretary shall give a surety bond to the state in the sum the board requires, conditioned upon the faithful performance of the executive secretary's duties. The board shall pay the cost of the bond. The executive secretary shall keep a complete accounting of all funds received and of all vouchers presented by the board to the director of budget and management for the disbursement of funds. The president or executive secretary shall approve all vouchers of the board. All money

received by the board shall be credited to the occupational licensing and regulatory fund.

(C) In addition to any other duty required under this chapter, the board shall do all of the following:

(1) Prescribe a seal;

(2) Hold at least one examination during each calendar year for applicants for a license. The board shall provide public notice of the time and place for the examination. The examination for applicants for a license to practice veterinary medicine shall be either written or oral, or both, as determined by the board, and may include a practical demonstration. The examination may include all subjects relevant to veterinary medicine the board determines appropriate, including public health and jurisprudence.

(3) Keep a record of all of its meetings and proceedings;

(4) Maintain a register that records all applicants for a certificate of license or a temporary permit, all persons who have been denied a license or permit, all persons who have been granted or reissued a license or permit, and all persons whose license or permit has been revoked or suspended. The register shall also include a record of persons licensed prior to October 17, 1975.

(5) Maintain a register, in such form as the board determines by rule, of all colleges and universities that teach veterinary medicine and that are approved by the board;

(6) Enforce this chapter, and for that purpose, make investigations relative as provided in section 4741.26 of the Revised Code;

(7) Issue licenses and permits to persons who meet the qualifications set forth in this chapter;

(8) Approve colleges and universities which meet the board's requirements for veterinary medicine and associated fields of study and withdraw or deny, after an adjudication conducted in accordance with Chapter 119. of the Revised Code, approval from colleges and universities which fail to meet those requirements;

(9) Adopt rules, in accordance with Chapter 119. of the Revised Code, which are necessary for its government and for the administration and enforcement of this chapter.

(D) The board may do all of the following:

(1) Subpoena witnesses and require their attendance and testimony, and require the production by witnesses of books, papers, public records, animal patient records, and other documentary evidence and examine them, in relation to any matter ~~which~~ that the board has authority to investigate, inquire into, or hear. Except for any officer or employee of the state or any

political subdivision of the state, the treasurer of state shall pay all witnesses in any proceeding before the board, upon certification from the board, witness fees in the same amount as provided in section 2335.06 of the Revised Code.

(2) Examine and inspect books, papers, public records, animal patient records, and other documentary evidence at the location where the books, papers, records, and other evidence are normally stored or maintained;

~~(3) Create an advisory committee consisting of members of the animal health and allied medical services in this state to confer with and assist the board in the adoption of rules pertaining to divisions (B) to (E) of section 4741.19 and divisions (A), (D), (E), and (F) of section 4741.20 of the Revised Code.~~

(E) All registers, books, and records kept by the board are the property of the board and are open for public examination and inspection at all reasonable times. The registers, books, and records are prima-facie evidence of the matters contained ~~therein~~ in them.

Sec. 4755.481. (A) If a physical therapist evaluates and treats a patient without the prescription of, or the referral of the patient by, a person who is licensed to practice medicine and surgery, chiropractic, dentistry, osteopathic medicine and surgery, podiatric medicine and surgery, or ~~to practice~~ nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, all of the following apply:

(1) The physical therapist shall, upon consent of the patient, inform the patient's physician, chiropractor, dentist, podiatrist, certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner of the evaluation not later than five business days after the evaluation is made.

(2) If the physical therapist determines, based on reasonable evidence, that no substantial progress has been made with respect to that patient during the thirty-day period immediately following the date of the patient's initial visit with the physical therapist, the physical therapist shall consult with or refer the patient to a licensed physician, chiropractor, dentist, podiatrist, certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, unless either of the following applies:

(a) The evaluation, treatment, or services are being provided for fitness, wellness, or prevention purposes.

(b) The patient previously was diagnosed with chronic, neuromuscular, or developmental conditions and the evaluation, treatment, or services are

being provided for problems or symptoms associated with one or more of those previously diagnosed conditions.

(3) If the physical therapist determines that orthotic devices are necessary to treat the patient, the physical therapist shall be limited to the application of the following orthotic devices:

(a) Upper extremity adaptive equipment used to facilitate the activities of daily living;

(b) Finger splints;

(c) Wrist splints;

(d) Prefabricated elastic or fabric abdominal supports with or without metal or plastic reinforcing stays and other prefabricated soft goods requiring minimal fitting;

(e) Nontherapeutic accommodative inlays;

(f) Shoes that are not manufactured or modified for a particular individual;

(g) Prefabricated foot care products;

(h) Custom foot orthotics;

(i) Durable medical equipment.

(4) If, at any time, the physical therapist has reason to believe that the patient has symptoms or conditions that require treatment or services beyond the scope of practice of a physical therapist, the physical therapist shall refer the patient to a licensed health care practitioner acting within the practitioner's scope of practice.

(B) Nothing in sections 4755.40 to 4755.56 of the Revised Code shall be construed to require reimbursement under any health insuring corporation policy, contract, or agreement, any sickness and accident insurance policy, the medical assistance program as defined in section 5111.01 of the Revised Code, or the health partnership program or qualified health plans established pursuant to sections 4121.44 to ~~4121.443~~ 4121.442 of the Revised Code, for any physical therapy service rendered without the prescription of, or the referral of the patient by, a licensed physician, chiropractor, dentist, podiatrist, certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner.

(C) For purposes of this section, "business day" means any calendar day that is not a Saturday, Sunday, or legal holiday. "Legal holiday" has the same meaning as in section 1.14 of the Revised Code.

Sec. 4981.03. (A) The Ohio rail development commission shall do all of the following:

(1) Develop, promote, and support safe, adequate, and efficient rail service throughout the state;

(2) Maintain adequate programs of investigation, research, promotion, planning, and development for rail service, which programs shall include the consideration of recommendations by public or private planning organizations;

(3) Provide for the participation of private corporations or organizations and the public in the development, construction, operation, and maintenance of rail service, and as franchisees ~~thereof~~ of rail service.

(B) In regard to rail service, the Ohio rail development commission is the successor of the Ohio high speed rail authority and the division of rail transportation of the department of transportation. The commission shall succeed to all federal allotments, entitlements, subsidies, and grants now existing, whether such allotments, entitlements, subsidies, and grants are encumbered or unencumbered, in the same manner and with the same authority as the Ohio high speed rail authority and the division of rail transportation exercised prior to ~~the effective date of this amendment~~ October 20, 1994.

(C) Every authority, commission, department, or other agency of this state shall provide the commission with data, plans, research, and any other information that the commission requests to assist it in performing its duties pursuant to this chapter.

(D) The commission may request and contract with any railroad to provide it with data and information necessary to carry out the purposes of this chapter. All railroads operating within this state shall provide the requested data and information to the commission. The commission shall not disclose any confidential data or information supplied to it.

(E) The commission shall cooperate with the director of development by exercising the commission's duty to promote and develop rail service in this state in conjunction with the director's exercise of his duty to promote the economic development of this state.

(F) The commission, when developing rail service throughout the state, may give priority to projects undertaken within the geographic boundaries of qualifying subdivisions.

~~(G) Notwithstanding any other provision of law, the commission is subject to section 123.151 of the Revised Code when entering into contracts for the performance of labor, the furnishing of materials, goods, or services, or the construction of any structures or buildings necessary for the maintenance, control, or management of any rail service project, as defined in section 4981.11 of the Revised Code.~~

Sec. 5123.35. (A) There is hereby created the ~~state planning~~ Ohio developmental disabilities council, which shall serve as an advocate for all

persons with developmental disabilities. The council shall act in accordance with the "Developmental Disabilities Assistance and Bill of Rights Act," 98 Stat. 2662 (1984), 42 U.S.C. 6001, as amended. The governor shall appoint the members of the council in accordance with 42 U.S.C. 6024.

(B) The ~~state planning~~ Ohio developmental disabilities council shall develop the state plan required by federal law as a condition of receiving federal assistance under 42 U.S.C. 6021 to 6030. The department of mental retardation and developmental disabilities, as the state agency selected by the governor for purposes of receiving the federal assistance, shall receive, account for, and disburse funds based on the state plan and shall provide assurances and other administrative support services required as a condition of receiving the federal assistance.

(C) The federal funds may be disbursed through grants to or contracts with persons and government agencies for the provision of necessary or useful goods and services for developmentally disabled persons. The ~~state planning~~ Ohio developmental disabilities council may award the grants or enter into the contracts.

(D) The Ohio developmental disabilities council may award grants to or enter into contracts with a member of the council or an entity that the member represents if all of the following apply:

(1) The member serves on the council as a representative of one of the principal state agencies concerned with services for persons with developmental disabilities as specified in 42 U.S.C. 6024(b)(3), a representative of a university affiliated program as defined in 42 U.S.C. 6001(18), or a representative of the legal rights service created under section 5123.60 of the Revised Code;

(2) The council determines that the member or the entity ~~he~~ the member represents is capable of providing the goods or services specified under the terms of the grant or contract;

(3) The member has not taken part in any discussion or vote of the council related to awarding the grant or entering into the contract, including service as a member of a review panel established by the council to award grants or enter into contracts or to make recommendations with regard to awarding grants or entering into contracts.

(E) A member of the ~~state planning~~ Ohio developmental disabilities council is not in violation of Chapter 102. or section 2921.42 of the Revised Code with regard to receiving a grant or entering into a contract under this section if the requirements of division (D) of this section have been met.

Sec. 5123.352. There is hereby created in the state treasury the community mental retardation and developmental disabilities trust fund. The

director of mental retardation and developmental disabilities, not later than sixty days after the end of each fiscal year, shall certify to the director of budget and management the amount of all the unexpended, unencumbered balances of general revenue fund appropriations made to the department of mental retardation and developmental disabilities for the fiscal year, excluding appropriations for rental payments to the Ohio public facilities commission, and the amount of any other funds held by the department in excess of amounts necessary to meet the department's operating costs and obligations pursuant to this chapter and Chapter 5126. of the Revised Code. On receipt of the certification, the director of budget and management shall transfer cash to the trust fund in an amount up to, but not exceeding, the total of the amounts certified by the director of mental retardation and developmental disabilities, except in cases in which the transfer will involve more than twenty million dollars. In such cases, the director of budget and management shall notify the controlling board and must receive the board's approval of the transfer prior to making the transfer.

~~Except for expenses paid under division (C) of section 5123.353 of the Revised Code, all~~ All moneys in the trust fund shall be distributed in accordance with section 5126.19 of the Revised Code.

Sec. 5301.80. As used in sections 5301.80 to 5301.92 of the Revised Code:

(A) "Activity and use limitations" means restrictions or obligations created under sections 5301.80 to 5301.92 of the Revised Code with respect to real property.

(B) "Agency" means the environmental protection agency or any other state or federal agency that determines or approves the environmental response project pursuant to which an environmental covenant is created.

(C) "Common interest community" means a condominium, a cooperative, or other real property with respect to which a person, by virtue of the person's ownership of a parcel of real property, is obligated to pay property taxes or insurance premiums or to pay for maintenance or improvement of other real property described in a recorded covenant that creates the common interest community.

(D) "Environmental covenant" means a servitude arising under an environmental response project that imposes activity and use limitations and that meets the requirements established in section 5301.82 of the Revised Code.

(E) "Environmental response project" means a plan or work performed for environmental remediation of real property or for protection of ecological features associated with real property and conducted as follows:

(1) Under a federal or state program governing environmental remediation of real property that is subject to agency review or approval, including, but not limited to, property that is the subject of any of the following:

(a) A corrective action, closure, or post-closure pursuant to the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, et seq., as amended, or any regulation adopted under that act, or Chapter 3734. of the Revised Code or any rule adopted under it;

(b) A removal or remedial action pursuant to the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, et seq., as amended, or any regulation adopted under that act, or Chapter 3734. or 6111. of the Revised Code or any rule adopted under those chapters;

(c) A no further action letter submitted with a request for a covenant not to sue pursuant to section 3746.11 of the Revised Code;

(d) A no further action letter prepared pursuant to section 122.654 of the Revised Code;

(e) A corrective action pursuant to section 3737.88, 3737.882, or 3737.89 of the Revised Code or any rule adopted under those sections.

(2) Pursuant to a mitigation requirement associated with the section 401 water quality certification program or the isolated wetland program as required by Chapter 6111. of the Revised Code;

(3) Pursuant to a grant commitment or loan agreement entered into pursuant to section 6111.036 or 6111.037 of the Revised Code;

(4) Pursuant to a supplemental environmental project embodied in orders issued by the director of environmental protection pursuant to Chapter 6111. of the Revised Code.

(F) "Holder" means a grantee of an environmental covenant as specified in division (A) of section 5301.81 of the Revised Code.

(G) "Person" includes the state, a political subdivision, another state or local entity, the United States and any agency or instrumentality of it, and any legal entity defined as a person under section 1.59 of the Revised Code.

(H) "Record," when used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Sec. 5301.81. (A) Any person, including a person that owns an interest in the real property that is the subject of an environmental covenant, may be a holder. An environmental covenant may identify more than one holder.

(B) The interest of a holder is an interest in real property. However, a right of an agency under sections 5301.80 to 5301.92 of the Revised Code or

under an environmental covenant, other than a right as a holder, is not an interest in real property.

Sec. 5301.82. (A) An environmental covenant shall contain all of the following:

(1) A statement that the instrument is an environmental covenant executed pursuant to sections 5301.80 to 5301.92 of the Revised Code;

(2) A legally sufficient description of the real property that is subject to the environmental covenant;

(3) A description of the activity and use limitations on the real property;

(4) Requirements for notice following transfer of a specified interest in, or concerning proposed changes in the use of, applications for building permits for, or proposals for any site work affecting contamination on, the property that is subject to the environmental covenant;

(5) The name or identity of every holder;

(6) Rights of access to the property granted in connection with implementation or enforcement of the environmental covenant;

(7) The signatures of the applicable agency, every holder, and, unless waived by the agency, every owner of the fee simple of the real property that is subject to the environmental covenant;

(8) An identification of the name and location of any administrative record for the environmental response project pursuant to which the environmental covenant is created.

(B) In addition to the information required by division (A) of this section, an environmental covenant may contain other information, restrictions, and requirements agreed to by the persons who signed the environmental covenant, including any of the following:

(1) Requirements for periodic reporting describing compliance with the environmental covenant;

(2) A brief narrative description of contamination on the property and its remedy, including the contaminants of concern, the pathways of exposure, limits on exposure, and the location and extent of the contamination;

(3) Limitations on amendment or termination of the environmental covenant in addition to those established in sections 5301.89 and 5301.90 of the Revised Code;

(4) Rights of the holder in addition to the right to enforce the environmental covenant pursuant to section 5301.91 of the Revised Code.

(C) In addition to other conditions for an agency's approval of an environmental covenant, the agency may require those persons specified by the agency who have interests in the real property that is the subject of the environmental covenant to sign the covenant.

Sec. 5301.83. (A) A copy of an environmental covenant shall be provided to all of the following in a manner required by the applicable agency:

(1) Each person that signed the environmental covenant;

(2) Each person holding a recorded interest in the real property that is subject to the environmental covenant;

(3) Each person in possession of the real property that is subject to the environmental covenant;

(4) Each unit of local government in which the real property that is subject to the environmental covenant is located;

(5) Any other person that the agency requires.

(B) The validity of an environmental covenant is not affected by failure to provide a copy of the environmental covenant as required under this section.

Sec. 5301.84. An agency is bound by any obligation that it expressly assumes in an environmental covenant, but an agency does not assume obligations merely by signing an environmental covenant. Any other person that signs an environmental covenant is bound by the obligations that the person assumes in the environmental covenant, but signing the environmental covenant does not change obligations, rights, or protections that are granted or imposed under law other than sections 5301.80 to 5301.92 of the Revised Code, except as provided in the environmental covenant.

Sec. 5301.85. (A) An environmental covenant that complies with sections 5301.80 to 5301.92 of the Revised Code runs with the land.

(B) An environmental covenant that is otherwise effective is valid and enforceable even if any of the following limitations on enforcement of interests applies:

(1) It is not appurtenant to an interest in real property.

(2) It can be or has been assigned to a person other than the original holder.

(3) It is not of a character that has been recognized traditionally at common law.

(4) It imposes a negative burden.

(5) It imposes an affirmative obligation on a person having an interest in the real property or on the holder.

(6) The benefit or burden of the environmental covenant does not touch or concern real property.

(7) There is no privity of estate or contract.

(8) The holder dies, ceases to exist, resigns, or is replaced.

(9) The owner of an interest that is subject to the environmental covenant and the holder are the same person.

(C) An instrument that creates restrictions or obligations with respect to real property that would qualify as activity and use limitations except for the fact that the instrument was recorded before the effective date of sections 5301.80 to 5301.92 of the Revised Code is not invalid or unenforceable because of any of the limitations on enforcement of interests described in division (B) of this section or because it was identified as an easement, servitude, deed restriction, or other interest. Sections 5301.80 to 5301.92 of the Revised Code do not apply in any other respect to such an instrument.

(D) Sections 5301.80 to 5301.92 of the Revised Code do not invalidate or render unenforceable any interest, whether designated as an environmental covenant or other interest, that is otherwise enforceable under the laws of this state.

(E) Nothing in sections 5301.80 to 5301.92 of the Revised Code shall be construed to restrict, affect, or impair the rights of any person under the Revised Code or common law to enter into or record a restrictive covenant, institutional control, easement, servitude, or other restriction on the use of property that does not satisfy the requirements of division (A) of section 5301.82 of the Revised Code and does not have the permission, approval, or consent of an agency, political subdivision, regulatory body, or other unit of government. However, a restrictive covenant, institutional control, easement, servitude, or other restriction on the use of property entered into or recorded without such permission, approval, or consent is not an environmental covenant and is not binding on an agency, political subdivision, regulatory body, or other unit of government.

Sec. 5301.86. With respect to interests in real property in existence at the time that an environmental covenant is created or amended, all of the following apply:

(A) An interest that has priority under other law is not affected by an environmental covenant unless the person that owns the interest agrees to subordinate that interest to the environmental covenant.

(B) Sections 5301.80 to 5301.92 of the Revised Code do not require a person that owns a prior interest to subordinate that interest to an environmental covenant or to agree to be bound by the covenant.

(C) A subordination agreement may be contained in an environmental covenant or in a separate record. If the environmental covenant covers commonly owned property in a common interest community, the record may be signed by any person who is authorized by the common interest community.

(D) An agreement by a person to subordinate a prior interest to an environmental covenant affects the priority of that persons's interest, but does not by itself impose any affirmative obligation on the person with respect to the environmental covenant.

Sec. 5301.87. Sections 5301.80 to 5301.92 of the Revised Code do not authorize a use of real property that is otherwise prohibited by zoning, by law other than sections 5301.80 to 5301.92 of the Revised Code regulating use of real property, or by a recorded instrument that has priority over an environmental covenant. An environmental covenant may prohibit or restrict uses of real property that are authorized by zoning or by law other than sections 5301.80 to 5301.92 of the Revised Code.

Sec. 5301.88. (A) Except as otherwise provided in division (B) of this section, an environmental covenant and any amendment or termination of the environmental covenant shall be filed in the office of the county recorder of each county in which the real property that is subject to the environmental covenant is located and shall be recorded in the same manner as a deed to the property. For purposes of indexing, a holder shall be treated as a grantee.

(B) Pursuant to Chapter 5309. of the Revised Code, an environmental covenant and any amendment or termination of the environmental covenant in connection with registered land, as defined in section 5309.01 of the Revised Code, shall be entered as a memorial on the page of the register where the title of the owner is registered.

(C) Except as otherwise provided in division (C) of section 5301.89 of the Revised Code, an environmental covenant is subject to the laws of this state governing recording and priority of interest in real property.

Sec. 5301.89. (A) An environmental covenant is perpetual unless any of the following applies:

(1) The environmental covenant is limited by its terms to a specific duration or is terminated by its terms by the occurrence of a specific event.

(2) The environmental covenant is terminated by consent pursuant to section 5301.90 of the Revised Code.

(3) The environmental covenant is terminated pursuant to division (B) of this section.

(4) The environmental covenant is terminated by foreclosure of an interest that has priority over the environmental covenant.

(5) The environmental covenant is terminated or modified in an eminent domain proceeding, but only if all of the following apply:

(a) The agency that signed the environmental covenant is a party to the proceeding.

(b) All persons identified in divisions (A) and (B) of section 5301.90 of

the Revised code are given notice of the pendency of the proceeding.

(c) The court determines, after a hearing, that the termination or modification will not adversely affect human health or safety or the environment.

(B) If the agency that signed an environmental covenant has determined that the intended benefits of the environmental covenant can no longer be realized, a court, under the doctrine of changed circumstances, in an action in which all persons identified in divisions (A) and (B) of section 5301.90 of the Revised Code have been given notice, may terminate the environmental covenant or reduce its burden on the real property that is subject to the environmental covenant.

(C) Except as otherwise provided in divisions (A) and (B) of this section, an environmental covenant may not be extinguished, limited, or impaired through issuance of a tax deed, foreclosure of a tax lien, or application of the doctrine of adverse possession, prescription, abandonment, waiver, lack of enforcement, or acquiescence or a similar doctrine.

(D) An environmental covenant may not be extinguished, limited, or impaired by application of sections 5301.47 to 5301.56 of the Revised Code.

Sec. 5301.90. (A) An environmental covenant may be amended or terminated by consent only if the amendment or termination is signed by all of the following:

(1) The applicable agency;

(2) Unless waived by that agency, the current owner of the fee simple of the real property that is subject to the environmental covenant;

(3) Each person that originally signed the environmental covenant unless the person waived in a signed record the right to consent or a court finds that the person no longer exists or cannot be located or identified with the exercise of reasonable diligence;

(4) Except as otherwise provided in division (D)(2) of this section, each holder.

(B) If an interest in real property is subject to an environmental covenant, the interest is not affected by an amendment of the environmental covenant unless the current owner of the interest consents in writing to the amendment or has waived in a signed record the right to consent to amendments.

(C) Except for an assignment undertaken pursuant to a governmental reorganization, assignment of an environmental covenant to a new holder is an amendment of the environmental covenant.

(D) Except as otherwise provided in an environmental covenant, both of

the following apply:

(1) A holder may not assign its interest without consent of the other parties to the environmental covenant specified in division (A) of this section.

(2) A holder may be removed and replaced by agreement of the other parties specified in division (A) of this section.

(E) A court of competent jurisdiction may fill a vacancy in the position of holder.

Sec. 5301.91. (A) A civil action for injunctive or other equitable relief for violation of an environmental covenant may be maintained by any of the following:

(1) A party to the environmental covenant specified in division (A) of section 5301.90 of the Revised Code that is not otherwise specified in divisions (A)(2) to (6) of this section;

(2) The environmental protection agency;

(3) The applicable agency if it is other than the environmental protection agency;

(4) Any person to whom the environmental covenant expressly grants the authority to maintain such an action;

(5) A person whose interest in the real property or whose collateral or liability may be affected by the alleged violation of the environmental covenant;

(6) A unit of local government in which the real property that is subject to the environmental covenant is located.

(B) Sections 5301.80 to 5301.92 of the Revised Code do not limit the regulatory authority of the applicable agency or the environmental protection agency if it is not the applicable agency under any law other than sections 5301.80 to 5301.92 of the Revised Code with respect to an environmental response project.

(C) A person is not responsible for or subject to liability for environmental remediation solely because it has the right to enforce an environmental covenant.

Sec. 5301.92. Sections 5301.80 to 5301.92 of the Revised Code modify, limit, or supersede the "Electronic Signatures in Global and National Commerce Act," 114 Stat. 464 (2000), 15 U.S.C. 7001 et seq., as amended, except that sections 5301.80 to 5301.92 of the Revised Code do not modify, limit, or supersede section 101 of that act, 15 U.S.C. 7001(a), as amended, or authorize electronic delivery of any of the notices described in section 103 of that act, 15 U.S.C. 7003(b), as amended.

SECTION 2. That existing sections 101.23, 101.83, 101.84, 101.85, 101.86, 122.011, 122.133, 122.40, 123.01, 123.151, 149.56, 164.07, 307.674, 317.08, 340.02, 1501.04, 1502.04, 1502.05, 1502.11, 1502.12, 1506.30, 1506.34, 1506.35, 1517.02, 1517.05, 1517.23, 1518.01, 1518.03, 1551.35, 2505.02, 3358.10, 3375.61, 3375.62, 3383.01, 3383.02, 3383.03, 3383.04, 3383.05, 3383.06, 3383.07, 3383.08, 3383.09, 3734.22, 3734.24, 3734.25, 3734.26, 3737.88, 3737.882, 3745.01, 3746.01, 3746.04, 3746.05, 3746.09, 3746.10, 3746.11, 3746.13, 3746.14, 3746.171, 3746.35, 3747.02, 3748.01, 3748.02, 3748.04, 3748.05, 3748.16, 3929.482, 3929.682, 3929.85, 3931.01, 3955.05, 3960.06, 4117.01, 4121.442, 4167.09, 4167.25, 4167.27, 4582.12, 4731.143, 4741.03, 4755.481, 4981.03, 5123.35, and 5123.352 and sections 122.09, 125.24, 149.32, 149.321, 149.322, 1502.10, 1506.37, 1517.03, 1517.04, 3354.161, 3355.121, 3357.161, 3375.47, 3746.08, 3747.04, 3747.05, 3747.06, 3747.061, 3747.07, 3747.08, 3747.09, 3747.10, 3747.11, 3747.12, 3747.13, 3747.14, 3747.15, 3747.16, 3747.17, 3747.18, 3747.19, 3747.20, 3747.21, 3747.22, 3748.09, 3929.71, 3929.72, 3929.721, 3929.73, 3929.75, 3929.76, 3929.77, 3929.78, 3929.79, 3929.80, 3929.81, 3929.82, 3929.83, 3929.84, 4121.443, 4167.26, 5101.93, 5119.81, 5119.82, and 5123.353 of the Revised Code are hereby repealed.

SECTION 3. That Section 27 of Sub. H.B. 670 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 95 of the 125th General Assembly, is hereby repealed.

SECTION 4. The following agencies shall be retained pursuant to division (D) of section 101.83 of the Revised Code and shall expire on December 31, 2010:

AGENCY NAME	REVISED CODE OR UNCODIFIED SECTION
Administrator, Interstate Compact on Mental Health	5119.50
Administrator, Interstate Compact on Placement of Children	5103.20
Advisory Board of Governor's Office of Faith-Based and Community Initiatives	107.12

Advisory Boards to the EPA for Air Pollution	121.13
Advisory Boards to the EPA for Water Pollution	121.13
Advisory Committee of the State Veterinary Medical Licensing Board	4741.03(D)(3)
Advisory Committee on Livestock Exhibitions	901.71
Advisory Council on Amusement Ride Safety	1711.51
Advisory Board of Directors for Prison Labor	5145.162
Advisory Council for Each Wild, Scenic, or Recreational River Area	1517.18
Advisory Councils or Boards for State Departments	107.18 or 121.13
Advisory Group to the Ohio Water Resources Council	1521.19(C)
Alzheimer's Disease Task Force	173.04(F)
AMBER Alert Advisory Committee	5502.521
Apprenticeship Council	4139.02
Armory Board of Control	5911.09
Automated Title Processing Board	4505.09(C)(1)
Banking Commission	1123.01
Board of Directors of the Ohio Health Reinsurance Program	3924.08
Board of Voting Machine Examiners	3506.05(B)
Board of Tax Appeals	5703.02
Brain Injury Advisory Committee	3304.231
Capitol Square Review and Advisory Board	105.41
Child Support Guideline Advisory Council	3119.024
Children's Trust Fund Board	3109.15
Citizens Advisory Committee (BMV)	4501.025
Citizen's Advisory Councils (Dept. of Mental Retardation and Developmental Disabilities)	5123.092
Clean Ohio Trail Advisory Board	1519.06
Coastal Resources Advisory Council	1506.12
Commission on African-American Males	4112.12
Commission on Hispanic-Latino Affairs	121.31
Commission on Minority Health	3701.78
Committee on Prescriptive Governance	4723.49
Commodity Advisory Commission	926.32
Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council	5123.353

Community Oversight Council	3311.77
Compassionate Care Task Force	Section 3, H.B. 474, 124th GA
Consumer Advisory Committee to the Rehabilitation Services Commission	3304.24
Continuing Education Committee (for Sheriffs)	109.80
Controlling Board	127.12
Coordinating Committee, Agricultural Commodity Marketing Programs	924.14
Council on Alcohol and Drug Addiction Services	3793.09
Council on Unreclaimed Strip Mined Lands	1513.29
Council to Advise on the Establishment and Implementation of the Birth Defects Information System	3705.34
County Sheriffs' Standard Car-Marking and Uniform Commission	311.25
Credit Union Council	1733.329
Criminal Sentencing Advisory Committee	181.22
Day-Care Advisory Council	5104.08
Dentist Loan Repayment Advisory Board	3702.92
Development Financing Advisory Council	122.40
Education Commission of the States (Interstate Compact for Education)	3301.48
Electrical Safety Inspector Advisory Committee	3783.08
Emergency Response Commission	3750.02
Engineering Experiment Station Advisory Committee	3335.27
Environmental Education Council	3745.21
Environmental Review Appeals Commission	3745.02
EPA Advisory Boards or Councils	121.13
Farmland Preservation Advisory Board	901.23
Financial Planning & Supervision Commission for Municipal Corporation, County, or Township	118.05
Financial Planning & Supervision Commission for School District	3316.05
Forestry Advisory Council	1503.40
Governance Authority for a State University or College	3345.75
Governor's Advisory Council on Physical Fitness,	3701.77

Wellness, & Sports	
Governor's Council on People with Disabilities	3303.41
Governor's Residence Advisory Commission	107.40
Great Lakes Commission (Great Lakes Basin Compact)	6161.01
Gubernatorial Transition Committee	107.29
Head Start Partnership Study Council	Section 41.35, H.B. 95, 125th GA
Hemophilia Advisory Subcommittee	3701.0210
Housing Trust Fund Advisory Committee	175.25
Industrial Commission Nominating Council	4121.04
Industrial Technology and Enterprise Advisory Council	122.29
Infant Hearing Screening Subcommittee	3701.507
Insurance Agent Education Advisory Council	3905.483
Interagency Council on Hispanic/Latino Affairs	121.32(J)
Interstate Mining Commission (Interstate Mining Compact)	1514.30
Interstate Rail Passenger Advisory Council (Interstate High Speed Intercity Rail Passenger Network Compact)	4981.35
Joint Council on MR/DD	101.37
Joint Select Committee on Volume Cap	133.021
Labor-Management Government Advisory Council	4121.70
Legal Rights Service Commission	5123.60
Legislative Task Force on Redistricting, Reapportionment, and Demographic Research	103.51
Maternal and Child Health Council	3701.025
Medically Handicapped Children's Medical Advisory Council	3701.025
Midwest Interstate Passenger Rail Compact Commission (Ohio members)	4981.361
Military Activation Task Force	5902.15
Milk Sanitation Board	917.03
Mine Subsidence Insurance Governing Board	3929.51
Minority Development Financing Board	122.72
Multi-Agency Radio Communications Systems Steering Committee	Sec. 21, H.B. 790, 120th GA
Multidisciplinary Council	3746.03

Muskingum River Advisory Council	1501.25
National Museum of Afro-American History and Culture Planning Committee	149.303
Nursing Facility Reimbursement Study Council	5111.34
Ohio Advisory Council for the Aging	173.03
Ohio Aerospace & Defense Advisory Council	122.98
Ohio Arts Council	3379.02
Ohio Business Gateway Steering Committee	5703.57
Ohio Cemetery Dispute Resolution Commission	4767.05
Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils	4112.04(B)
Ohio Commercial Insurance Joint Underwriting Association Board Of Governors	3930.03
Ohio Commercial Market Assistance Plan Executive Committee	3930.02
Ohio Commission on Dispute Resolution and Conflict Management	179.02
Ohio Commission to Reform Medicaid	Section 59.29, H.B. 95, 125th GA
Ohio Community Service Council	121.40
Ohio Council for Interstate Adult Offender Supervision	5149.22
Ohio Cultural Facilities Commission	3383.02
Ohio Developmental Disabilities Council	5123.35
Ohio Educational Telecommunications Network Commission	3353.02
Ohio Ethics Commission	102.05
Ohio Expositions Commission	991.02
Ohio Family and Children First Cabinet Council	121.37
Ohio Geology Advisory Council	1505.11
Ohio Grape Industries Committee	924.51
Ohio Hepatitis C Advisory Commission	3701.92
Ohio Historic Site Preservation Advisory Board	149.301
Ohio Historical Society Board of Trustees	149.30
Ohio Judicial Conference	105.91
Ohio Lake Erie Commission	1506.21
Ohio Medical Malpractice Commission	Section 4, S.B. 281, 124th GA and Section 3,

	S.B. 86, 125th GA
Ohio Medical Quality Foundation	3701.89
Ohio Parks and Recreation Council	1541.40
Ohio Peace Officer Training Commission	109.71
Ohio Public Defender Commission	120.01
Ohio Public Library Information Network Board	Sec. 69, H.B. 117, 121st GA, as amended by H.B. 284, 121st GA
Ohio Public Works Commission	164.02
Ohio Quarter Horse Development Commission	3769.086
Ohio SchoolNet Commission	3301.80
Ohio Small Government Capital Improvements Commission	164.02
Ohio Soil and Water Conservation Commission	1515.02
Ohio Standardbred Development Commission	3769.085
Ohio Steel Industry Advisory Council	122.97
Ohio Teacher Education and Licensure Advisory Council	3319.28(D)
Ohio Thoroughbred Racing Advisory Committee	3769.084
Ohio Tuition Trust Authority	3334.03
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10
Ohio Vendors Representative Committee	3304.34
Ohio War Orphans Scholarship Board	5910.02
Ohio Water Advisory Council	1521.031
Ohio Water Resources Council	1521.19
Ohioana Library Association, Martha Kinney Cooper Memorial	3375.62
Oil and Gas Commission	1509.35
Operating Committee, Agricultural Commodity Marketing Programs	924.07
Organized Crime Investigations Commission	177.01
Parole Board	5149.10
Pharmacy and Therapeutics Committee of the Dept. of Job and Family Services	5111.81
Physician Loan Repayment Advisory Board	3702.81

Power Siting Board	4906.02
Prequalification Review Board	5525.07
Private Water Systems Advisory Council	3701.346
Public Employment Risk Reduction Advisory Commission	4167.02
Public Health Council	3701.33
Public Utilities Commission Nominating Council	4901.021
Public Utility Property Tax Study Committee	5727.85
Radiation Advisory Council	3748.20
Reclamation Commission	1513.05
Recreation and Resources Commission	1501.04
Recycling and Litter Prevention Advisory Council	1502.04
Rehabilitation Services Commission Consumer Advisory Committee	3304.24
Release Authority of Department of Youth Services	5139.50
Savings & Loans Associations & Savings Banks Board	1181.16
Schools and Ministerial Lands Divestiture Committee	501.041
Second Chance Trust Fund Advisory Committee	2108.17
Self-Insuring Employers Evaluation Board	4123.352
Services Committee of the Workers' Compensation System	4121.06
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19
Solid Waste Management Advisory Council	3734.51
State Agency Coordinating Group	1521.19
State Board of Deposit	135.02
State Board of Emergency Medical Services Subcommittees	4765.04
State Council of Uniform State Laws	105.21
State Committee for the Purchase of Products and Services Provided by Persons with Severe Disabilities	4115.32
State Criminal Sentencing Commission	181.21
State Employment Relations Board	4117.02
State Fire Commission	3737.81
State Racing Commission	3769.02
State Victims Assistance Advisory Committee	109.91
Student Tuition Recovery Authority	3332.081

Tax Credit Authority	122.17
Technical Advisory Committee to Assist the Director of the Ohio Coal Development Office	1551.35
Technical Advisory Council on Oil and Gas	1509.38
Transportation Review Advisory Council	5512.07
Unemployment Compensation Review Commission	4141.06
Unemployment Compensation Advisory Council	4141.08
Utility Radiological Safety Board	4937.02
Vehicle Management Commission	125.833
Veterans Advisory Committee	5902.02(K)
Volunteer Fire Fighters' Dependents Fund Boards (Private and Public)	146.02
Water and Sewer Commission	1525.11(C)
Waterways Safety Council	1547.73
Wildlife Council	1531.03
Workers' Compensation System Oversight Commission	4121.12
Workers' Compensation Oversight Commission Nominating Committee	4121.123

SECTION 5. That Section 10 of Sub. H.B. 548 of the 123rd General Assembly is hereby repealed.

SECTION 6. That sections 101.82, 101.83, 101.84, 101.85, 101.86, and 101.87 of the Revised Code are hereby repealed on December 31, 2010.

SECTION 7. That Section 6 of Am. Sub. S.B. 163 of the 124th General Assembly, Section 6 of Sub. S.B. 27 of the 124th General Assembly, Section 3 of Am. H.B. 280 of the 121st General Assembly, as most recently amended by Sub. H.B. 670 of the 121st General Assembly, and Section 3 of Sub. H.B. 508 of the 119th General Assembly, as most recently amended by Sub. H.B. 670 of the 121st General Assembly are hereby repealed.

SECTION 8. (A) That Section 3 of Am. S.B. 208 of the 120th General Assembly is hereby repealed.

(B) The repeal of section 149.32 of the Revised Code, effective December 30, 2004, and Section 3 of Am. S.B. 208 of the 120th General

Assembly, effective December 30, 2004, is intended to accelerate the earlier repeal, with delayed effective date, of section 149.32 of the Revised Code.

SECTION 9. (A) It is in part the intent of the General Assembly in enacting this act to implement the report of the Sunset Review Committee that was created by Sub. H.B. 548 of the 123rd General Assembly. That report is implemented in part as follows:

(1) By the abolishment in this act, through amendments to relevant codified sections of law and through outright repeals of codified or uncodified sections of law, of several agencies, as defined in section 101.82 of the Revised Code, that were subject to the Committee's jurisdiction;

(2) By the continuation, through the amendment or enactment of codified or uncodified sections of law, of the existence of numerous agencies, as defined in section 101.82 of the Revised Code, that were subject to the Committee's jurisdiction.

(B) In addition to the means of implementing the Committee's report mentioned in division (A) of this section, the General Assembly hereby declares its intent to abolish the Department of Health's Citizen's Advisory Council and the Environmental Protection Agency's Public Response Group. These entities were subject to the Committee's jurisdiction, and the Committee declared that they should be abolished, but no express codified or uncodified source of law for them was found to exist by the General Assembly.

(C) Further, in addition to the means of implementing the Committee's report mentioned in divisions (A) and (B) of this section, the General Assembly hereby declares its intent to continue the existence of the following five entities, if they have not expired by operation of law prior to and are in existence on the effective date of this act. These entities were subject to the Committee's jurisdiction, and the Committee declared they should be continued in existence, but no express codified or uncodified source of law for them was found to exist by the General Assembly:

- (1) Assistance Council;
- (2) Interdepartmental Cluster for Services to Youth;
- (3) Jobs for Ohio's Graduates Board of Trustees;
- (4) Ohio Oil and Gas Energy Education Program;
- (5) Ohio Science and Technology Council

SECTION 10. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, and 11 of this act shall take effect on December 30, 2004.

SECTION 11. Section 2505.02 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B. 292, Am. Sub. H.B. 342, and Sub. S.B. 187 of the 125th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 12. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for the necessity is that, unless this act takes immediate effect, hundreds of significant state agencies will expire by operation of law on December 31, 2004. Therefore, this act shall go into immediate effect.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____