

As Introduced

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

H. B. No. 568

Representative White

—

A B I L L

To amend sections 101.83, 101.84, 101.85, 101.86, 1
122.011, 122.133, 123.151, 149.56, 164.07, 2
307.674, 1501.04, 1502.04, 1502.05, 1502.11, 3
1502.12, 1506.30, 1506.34, 1506.35, 1517.02, 4
1517.05, 1517.23, 1518.01, 1518.03, 2505.02, 5
3358.10, 3375.61, 3375.62, 3383.01, 3383.02, 6
3383.03, 3383.04, 3383.05, 3383.06, 3383.07, 7
3383.08, 3383.09, 3746.04, 3746.09, 3746.35, 8
3747.02, 3748.01, 3748.02, 3748.04, 3748.05, 9
3748.16, 3929.482, 3929.682, 3929.85, 3931.01, 10
3955.05, 3960.06, 4117.01, 4121.442, 4167.09, 11
4167.25, 4167.27, 4582.12, 4731.143, 4741.03, 12
4755.481, 4981.03, 5123.35, and 5123.352 and to 13
repeal sections 122.09, 125.24, 149.32, 149.321, 14
149.322, 1502.10, 1506.37, 1517.03, 1517.04, 15
3354.161, 3355.121, 3357.161, 3375.47, 3746.08, 16
3747.04, 3747.05, 3747.06, 3747.061, 3747.07, 17
3747.08, 3747.09, 3747.10, 3747.11, 3747.12, 18
3747.13, 3747.14, 3747.15, 3747.16, 3747.17, 19
3747.18, 3747.19, 3747.20, 3747.21, 3747.22, 20
3748.09, 3929.71, 3929.72, 3929.721, 3929.73, 21
3929.75, 3929.76, 3929.77, 3929.78, 3929.79, 22
3929.80, 3929.81, 3929.82, 3929.83, 3929.84, 23
4121.443, 4167.26, 4981.36, 4981.361, 5101.93, and 24
5123.353 of the Revised Code, and to repeal 25

Section 3 of Sub. H.B. 508 of the 119th General 26
Assembly, Section 3 of Am. S.B. 208 of the 120th 27
General Assembly, Section 3 of Am. H.B. 280 of the 28
121st General Assembly, Section 27 of Sub. H.B. 29
670 of the 121st General Assembly, Section 10 of 30
Sub. H.B. 548 of the 123rd General Assembly, 31
Section 6 of Sub. S.B. 27 of the 124th General 32
Assembly, and Section 6 of Am. Sub. S.B. 163 of 33
the 124th General Assembly, to implement the 34
report of the Sunset Review Committee by 35
abolishing, retaining, and changing the names of 36
various agencies and by reestablishing the Sunset 37
Review Committee but postponing its operation 38
until the 128th General Assembly, to terminate the 39
operation of certain provisions of this act on 40
December 31, 2010, by repealing sections 101.82, 41
101.83, 101.84, 101.85, 101.86, and 101.87 of the 42
Revised Code on that date, and to declare an 43
emergency. 44

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

Section 1. That sections 101.83, 101.84, 101.85, 101.86, 45
122.011, 122.133, 123.151, 149.56, 164.07, 307.674, 1501.04, 46
1502.04, 1502.05, 1502.11, 1502.12, 1506.30, 1506.34, 1506.35, 47
1517.02, 1517.05, 1517.23, 1518.01, 1518.03, 2505.02, 3358.10, 48
3375.61, 3375.62, 3383.01, 3383.02, 3383.03, 3383.04, 3383.05, 49
3383.06, 3383.07, 3383.08, 3383.09, 3746.04, 3746.09, 3746.35, 50
3747.02, 3748.01, 3748.02, 3748.04, 3748.05, 3748.16, 3929.482, 51
3929.682, 3929.85, 3931.01, 3955.05, 3960.06, 4117.01, 4121.442, 52
4167.09, 4167.25, 4167.27, 4582.12, 4731.143, 4741.03, 4755.481, 53
4981.03, 5123.35, and 5123.352 of the Revised Code be amended to 54

read as follows: 55

Sec. 101.83. (A) An agency in existence on January 1, ~~2001~~ 56
2005, shall expire on December 31, ~~2004~~ 2010, unless the agency is 57
renewed in accordance with division (D) of this section and, if so 58
renewed, shall expire thereafter on the thirty-first day of 59
December of the fourth year after the year in which it was most 60
recently renewed unless the agency is renewed in accordance with 61
division (D) of this section. An agency created after January 1, 62
~~2001~~ 2005, that is created on the thirty-first day of December 63
shall expire not later than four years after its creation, unless 64
the agency is renewed in accordance with division (D) of this 65
section. An agency created after January 1, ~~2001~~ 2005, that is 66
created on any other date shall be considered for the purpose of 67
this section to have been created on the preceding thirty-first 68
day of December, and the agency shall expire not later than four 69
years after the date it was considered to have been created, 70
unless the agency is renewed in accordance with division (D) of 71
this section. Any act creating or renewing an agency shall contain 72
a distinct section providing a specific expiration date for the 73
agency in accordance with this division. 74

(B) If the general assembly does not renew or transfer an 75
agency on or before its expiration date, it shall expire on that 76
date. 77

The auditor of state shall not authorize the expenditure of 78
any moneys for any agency on or after the date of its expiration. 79

(C) The general assembly may provide by law for the orderly, 80
efficient, and expeditious conclusion of an agency's business and 81
operation. The rules, orders, licenses, contracts, and other 82
actions made, taken, granted, or performed by the agency shall 83
continue in effect according to their terms notwithstanding the 84

agency's abolition, unless the general assembly provides otherwise 85
by law. The general assembly may provide by law for the temporary 86
or permanent transfer of some or all of a terminated or 87
transferred agency's functions and personnel to a successor agency 88
or officer. 89

The abolition, termination, or transfer of an agency shall 90
not cause the termination or dismissal of any claim pending 91
against the agency by any person, or any claim pending against any 92
person by the agency. Unless the general assembly provides 93
otherwise by law for the substitution of parties, the attorney 94
general shall succeed the agency with reference to any pending 95
claim. 96

(D) An agency may be renewed by passage of a bill that 97
continues the statutes creating and empowering the agency, that 98
amends or repeals those statutes, or that enacts new statutes, to 99
improve agency usefulness, performance, or effectiveness. 100

Sec. 101.84. (A) There is hereby created the sunset review 101
committee, to be composed of nine members and function in calendar 102
years 2009 and 2010. The president of the senate shall appoint 103
three members of the senate to the committee, not more than two of 104
whom shall be members of the same political party. The speaker of 105
the house of representatives shall appoint three members of the 106
house of representatives to the committee, not more than two of 107
whom shall be members of the same political party. The governor, 108
with the advice and consent of the senate, shall appoint three 109
members to the committee, not more than two of whom shall be 110
members of the same political party. Members shall be appointed 111
within fifteen days after the commencement of the first regular 112
session of ~~each~~ the 128th general assembly. 113

(B) Each member of the committee who is appointed by the 114
president of the senate or the speaker of the house of 115

representatives shall serve ~~until~~ during that committee member's 116
~~successor is appointed~~ term of office or until that committee 117
member no longer is a member of the senate or the house of 118
representatives, whichever is applicable. Each member of the 119
committee who is appointed by the governor shall serve a two-year 120
term that ends on the thirty-first day of December ~~of each~~ 121
~~even-numbered year~~ in 2010. A vacancy on the committee shall be 122
filled in the same manner as the original appointment. 123

In the first regular session of a ~~the~~ 128th general assembly, 124
the chairperson of the committee shall be a member of the house of 125
representatives, and the vice-chairperson of the committee shall 126
be a member of the senate. In the second regular session of the 127
128th general assembly, the chairperson of the committee shall be 128
a member of the senate, and the vice-chairperson of the committee 129
shall be a member of the house of representatives. 130

Members of the committee shall receive no compensation, but 131
shall be reimbursed for their necessary expenses incurred in the 132
performance of their official duties. 133

(C) The committee shall meet not later than thirty days after 134
the first day of the first regular session of the 128th general 135
assembly to choose a chairperson and to commence establishment of 136
the schedule for agency review provided for in section 101.85 of 137
the Revised Code or perform other committee duties under sections 138
101.82 to 101.87 of the Revised Code. Five members of the 139
committee shall constitute a quorum for the conduct of committee 140
business. 141

Sec. 101.85. (A) The sunset review committee, not later than 142
sixty days after its first meeting in ~~2001~~ 2009, shall schedule 143
for review each agency in existence on January 1, ~~2001~~ 2009. The 144
committee, by a unanimous vote, also may schedule for review any 145
state board or commission described in division (A)(9) of section 146

101.82 of the Revised Code that is in existence on that date, and 147
any board or commission so scheduled shall be considered an agency 148
for purposes of sections 101.82 to 101.87 of the Revised Code. 149

(B) The chairperson of the committee shall send a copy of the 150
schedule for review of agencies for ~~each~~ calendar year 2009 and 151
calendar year 2010 to each of the agencies scheduled for review 152
during that year and to the director of the legislative service 153
commission. The director shall publish a copy of the schedule in 154
the Ohio Administrative Code and in the register of Ohio created 155
under section 103.051 of the Revised Code. The commission shall 156
provide the committee with a list of agencies, and state boards 157
and commissions described in division (A)(9) of section 101.82 of 158
the Revised Code, in existence on January 1, ~~2001~~ 2009, to assist 159
the committee in identifying agencies and exercising its duties 160
under sections 101.82 to 101.87 of the Revised Code with respect 161
to those agencies. 162

Sec. 101.86. (A) Not later than ~~twelve~~ six months prior to 163
the date on which an agency in existence on January 1, ~~2001~~ 2009, 164
is scheduled to expire under division (A) of section 101.83 of the 165
Revised Code, the sunset review committee shall hold hearings to 166
receive the testimony of the public and of the chief executive 167
officer of each agency scheduled for review and otherwise shall 168
consider and evaluate the usefulness, performance, and 169
effectiveness of the agency. 170

(B) Each agency that is scheduled for review shall submit to 171
the committee a report that contains all of the following 172
information: 173

(1) The agency's primary purpose and its various goals and 174
objectives; 175

(2) The agency's past and anticipated workload, the number of 176
staff required to complete that workload, and the agency's total 177

number of staff;	178
(3) The agency's past and anticipated budgets and its sources of funding;	179 180
(4) The number of members of its governing board or other <u>governing</u> entity and their compensation, if any.	181 182
(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:	183 184 185 186
(1) The extent to which the agency has permitted qualified applicants to serve the public;	187 188
(2) The cost-effectiveness of the agency in terms of number of employees, services rendered, and administrative costs incurred, both past and present;	189 190 191
(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;	192 193 194 195
(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;	196 197 198 199 200
(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;	201 202 203
(6) Whether persons regulated by the agency, if any, have been required to assess problems in their business operations that affect the public;	204 205 206
(7) Whether the agency has encouraged public participation in	207

its rule-making and decision-making;	208
(8) The efficiency with which formal public complaints filed with the agency have been processed to completion;	209 210
(9) Whether the programs or services of the agency duplicate or overlap those of other agencies;	211 212
(10) Whether the purpose for which the agency was created has been fulfilled, has changed, or no longer exists;	213 214
(11) Whether federal law requires that the agency be renewed in some form;	215 216
(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.	217 218 219
(D) In its initial review of each agency, the committee, whenever possible, shall realign agency titles to conform to the following descriptions:	220 221 222
(1) Commission: an administrative appeals or hearing agency;	223
(2) Authority: an agency empowered to issue bonds or notes;	224
(3) Board: an agency having a licensing function only;	225
(4) Council: an advisory body to a major agency or department;	226 227
(5) Committee: an advisory body to a minor agency or department.	228 229
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:	230 231 232 233 234 235

(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;	236 237 238
(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;	239 240 241
(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;	242 243 244 245
(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;	246 247 248 249
(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;	250 251 252 253 254
(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;	255 256 257 258 259 260 261
(7) Coordinate the activities of state agencies that have an impact on carrying out the functions and duties of the department;	262 263
(8) Encourage and assist the efforts of and cooperate with local governments to develop mutual and cooperative solutions to	264 265

their common problems that relate to carrying out the purposes of	266
this section;	267
(9) Study existing structure, operations, and financing of	268
regional or local government and those state activities that	269
involve significant relations with regional or local governmental	270
units, recommend to the governor and to the general assembly such	271
changes in these provisions and activities as will improve the	272
operations of regional or local government, and conduct other	273
studies of legal provisions that affect problems related to	274
carrying out the purposes of this section;	275
(10) Appoint, with the approval of the governor, technical	276
and other advisory councils as it considers appropriate, as	277
provided in section 122.09 of the Revised Code;	278
(11) Create and operate a division of community development	279
to develop and administer programs and activities that are	280
authorized by federal statute or the Revised Code;	281
(12) <u>(11)</u> Until October 15, 2005, establish fees and charges,	282
in consultation with the director of agriculture, for purchasing	283
loans from financial institutions and providing loan guarantees	284
under the family farm loan program created under sections 901.80	285
to 901.83 of the Revised Code;	286
(13) <u>(12)</u> Provide loan servicing for the loans purchased and	287
loan guarantees provided under section 901.80 of the Revised Code	288
as that section existed prior to October 15, 2005;	289
(14) <u>(13)</u> Until October 15, 2005, and upon approval by the	290
controlling board under division (A)(3) of section 901.82 of the	291
Revised Code of the release of money to be used for purchasing a	292
loan or providing a loan guarantee, request the release of that	293
money in accordance with division (B) of section 166.03 of the	294
Revised Code for use for the purposes of the fund created by	295
section 166.031 of the Revised Code.	296

(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. 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~~ 327
~~a minority business subcontractor or materials supplier under~~ 328
~~division (C)(2) or (D)(2) of this section shall first apply to the~~ 329
~~coordinator for certification.~~ The coordinator shall approve the 330
application of any minority business enterprise that complies with 331
the rules adopted under this division. Any person adversely 332
affected by an order of the coordinator denying certification as a 333
minority business enterprise may appeal as provided in Chapter 334
119. of the Revised Code. The coordinator shall prepare and 335
maintain a list of certified minority business enterprises. 336

~~(C)(1) From the contracts to be awarded under section 123.15~~ 337
~~and Chapter 153. of the Revised Code, the director shall select a~~ 338
~~number of contracts with an aggregate value of approximately five~~ 339
~~per cent of the total estimated value of contracts to be awarded~~ 340
~~in the current fiscal year. The director shall set aside the~~ 341
~~contracts so selected for bidding by minority business enterprises~~ 342
~~only. The bidding procedures for such contracts shall be the same~~ 343
~~as for all other contracts awarded under section 123.15 and~~ 344
~~Chapter 153. of the Revised Code except that only minority~~ 345
~~business enterprises certified and listed under division (B) of~~ 346
~~this section shall be qualified to submit bids.~~ 347

~~(2)(a) Any contractor awarded a contract authorized by~~ 348
~~section 123.15 and Chapter 153. of the Revised Code or a contract~~ 349
~~included under division (D) of this section shall make every~~ 350
~~effort to ensure that certified minority business subcontractors~~ 351
~~and materials suppliers participate in the contract. In the case~~ 352
~~of contracts specified in division (A) of section 153.50 of the~~ 353
~~Revised Code, the total value of subcontracts awarded to and~~ 354
~~materials and services purchased from minority businesses shall be~~ 355
~~at least ten per cent of the total value of the contract, wherever~~ 356
~~possible and whenever the contractor awards subcontracts or~~ 357
~~purchases materials or services. In the case of all other~~ 358

~~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.~~ 391
392
393

~~(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~~ 394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422

~~application to the board for a waiver or modification within ten 423
days following notification of award of the contract. 424~~

~~If a contractor requests a waiver or modification because the 425
contractor intends to contract with an enterprise that has sought 426
certification as a minority business enterprise in accordance with 427
division (B)(2) of this section, but the coordinator has not 428
rendered a decision certifying the enterprise, the board may grant 429
the modification or waiver requested, insofar as it applies to 430
that enterprise, if the enterprise's application for certification 431
was filed with the coordinator at least sixty days prior to the 432
contractor's request for waiver or modification and the contractor 433
gives assurances satisfactory to the board that the contractor 434
will award a contract to the enterprise seeking certification. 435~~

~~(4) There is hereby created in the department of 436
administrative services the set aside review board, consisting of 437
the director of administrative services or the director's 438
designee, one member of the house of representatives appointed by 439
the governor with the recommendation of the speaker of the house 440
of representatives, and one member of the senate appointed by the 441
governor with the recommendation of the president of the senate. 442
Legislative members of the board shall serve four year terms. Any 443
legislative vacancy on the board shall be filled in the same 444
manner as the original appointment. Members of the board shall not 445
receive compensation but shall be reimbursed for all necessary 446
expenses incurred in the course of their official duties. 447~~

~~The board shall hear all applications of contractors for 448
waiver or modification of the contract provision required by 449
division (C)(2) of this section and shall make a decision on each 450
such application within thirty days of its receipt by the board. 451~~

~~(5) The director shall adopt rules in accordance with Chapter 452
119. of the Revised Code requiring the following notice to be 453~~

~~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.~~

454
455
456
457
458
459
460
461
462
463
464
465
466

~~(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.~~

467
468
469
470
471
472
473
474
475
476
477
478

~~(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~~

479
480
481
482
483
484
485

~~director adopted under division (C)(5) of this section shall be
applicable to contracts under this division.~~

486
487

~~(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.~~

488
489
490
491
492
493
494
495
496
497
498
499

~~(F) This section does not preclude any minority business
enterprise from bidding on any other contract not specifically set
aside for minority business enterprises.~~

500
501
502

~~(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.~~

503
504
505
506
507
508
509
510
511

~~(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~~

512
513
514
515
516

opportunity coordinator. The report shall be filed at a time and 517
in a form prescribed by the coordinator. The report shall include 518
the name of each minority business enterprise that the agency or 519
port authority entered into a contract with during the preceding 520
ninety-day period and the total value and type of each such 521
contract. No later than thirty days after the end of each fiscal 522
year, the coordinator shall notify in writing each state agency 523
and port authority that has not complied with the reporting 524
requirements of this division for the prior fiscal year. A copy of 525
this notification regarding a state agency shall be submitted to 526
the director of budget and management. No later than thirty days 527
after the notification, the agency or port authority shall submit 528
to the coordinator the information necessary to comply with the 529
reporting requirements of this division. ~~If~~ 530

If, after the expiration of this thirty-day period, ~~the a~~ 531
state agency has not complied with the reporting requirements of 532
this division, the coordinator shall certify to the director of 533
budget and management that the agency has not complied with the 534
reporting requirements ~~of this division~~. A copy of this 535
certification shall be submitted to the agency. Thereafter, no 536
funds of the ~~state agency required to report by this division~~ 537
shall be expended during the fiscal year for construction or 538
purchases of equipment, materials, supplies, contracts of 539
insurance, or services until the coordinator certifies to the 540
director of budget and management that the agency has complied 541
with the reporting requirements of this division for the prior 542
fiscal year. 543

If any port authority has not complied with the reporting 544
requirement after the expiration of the thirty-day period, the 545
coordinator shall certify to the speaker of the house of 546
representatives and the president of the senate that the port 547
authority has not complied with the reporting requirements of this 548

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. 149.56. (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 580
division (C) of section 1506.35 of the Revised Code and any 581
appropriations, contributions, gifts, and federal grants made to 582
the Ohio historical society for the purposes of this section and 583
the applicable provisions of sections 1506.30 to ~~1506.37~~ 1506.36 584
of the Revised Code shall be placed in a separate fund within the 585
accounts of the Ohio historical society, together with moneys 586
credited to that fund under divisions (D)(2) and (3) of section 587
1506.33 of the Revised Code, to be used solely to implement and 588
administer this section and the duties assigned the society under 589
sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised Code. 590

Sec. 164.07. (A) In awarding contracts for capital 591
improvement projects to be financed in whole or in part under this 592
chapter, a local subdivision shall comply with the percentage 593
requirements ~~of division (C)(1) of section 123.151 and of section~~ 594
125.081 of the Revised Code. ~~The subdivision shall also require~~ 595
~~compliance by its subcontractors with the requirements of division~~ 596
~~(C)(2) of section 123.151 of the Revised Code in awarding~~ 597
~~contracts and purchasing services and materials under those~~ 598
~~contracts. If, after making a good faith effort, a contractor is~~ 599
~~unable to comply with the requirements of division (C)(2) of~~ 600
~~section 123.151 of the Revised Code because it is unable to locate~~ 601
~~minority business enterprises available to accept subcontracts or~~ 602
~~purchase materials or services, the contractor may apply to the~~ 603
~~subdivision for a waiver or modification of the requirement. If~~ 604
~~the subdivision determines that the contractor made a good faith~~ 605
~~effort to locate and use minority business enterprises but was~~ 606
~~unable to do so, it may waive the provisions, authorize a~~ 607
~~reduction in the total value of the contract designated to~~ 608
~~minority business enterprises, or require a greater percentage of~~ 609
~~services permissible in contracts for plumbing, gas fitting, steam~~ 610
~~and hot water heating, ventilating apparatus, steam power plant,~~ 611

~~er electrical equipment. If the subdivision denies a request for a 612
waiver or modification and the contractor is unable to comply with 613
division (C)(2) of section 123.151 of the Revised Code, the 614
contract shall be terminated by the subdivision. 615~~

(B) A capital improvement that is financed in whole or in 616
part under this chapter is a public improvement, and a subdivision 617
undertaking a capital improvement is a public authority, for 618
purposes of section 4115.03 of the Revised Code. All contractors 619
and subcontractors working on a capital improvement financed in 620
whole or in part under this chapter shall comply with sections 621
4115.03 to 4115.16 of the Revised Code. 622

Sec. 307.674. (A) As used in this section: 623

(1) "Bonds" means: 624

(a) Revenue bonds of the port authority described in division 625
(B)(2)(a) of this section; 626

(b) Securities as defined in division (KK) of section 133.01 627
of the Revised Code issued by the host municipal corporation, 628
described in division (B)(3)(a) of this section; 629

(c) Any bonds issued to refund any of those revenue bonds or 630
securities. 631

(2) "Corporation" means a nonprofit corporation that is 632
organized under the laws of this state and that includes within 633
the purposes for which it is incorporated the authorization to 634
lease and operate facilities such as a port authority educational 635
and cultural performing arts facility. 636

(3) "Cost," as applied to a port authority educational and 637
cultural performing arts facility, means the cost of acquiring, 638
constructing, renovating, rehabilitating, equipping, or improving 639
the facility, or any combination of those purposes, collectively 640
referred to in this section as "construction," and the cost of 641

acquisition of all land, rights of way, property rights, 642
easements, franchise rights, and interests required for those 643
purposes, the cost of demolishing or removing any buildings or 644
structures on land so acquired, including the cost of acquiring 645
any land to which those buildings or structures may be moved, the 646
cost of public utility and common carrier relocation or 647
duplication, the cost of all machinery, furnishings, and 648
equipment, financing charges, interest prior to and during 649
construction and for not more than three years after completion of 650
construction, costs arising under guaranty agreements, 651
reimbursement agreements, or other credit enhancement agreements 652
relating to bonds, engineering, expenses of research and 653
development with respect to such facility, legal expenses, plans, 654
specifications, surveys, studies, estimates of costs and revenues, 655
other expenses necessary or incident to determining the 656
feasibility or practicability of acquiring or constructing the 657
facility, administrative expense, and other expenses as may be 658
necessary or incident to that acquisition or construction and the 659
financing of such acquisition or construction, including, with 660
respect to the revenue bonds of a port authority, amounts to be 661
paid into any special funds from the proceeds of those bonds, and 662
repayments to the port authority, host county, host municipal 663
corporation, or corporation of any amounts advanced for the 664
foregoing purposes. 665

(4) "Debt service charges" means, for any period or payable 666
at any time, the principal of and interest and any premium due on 667
bonds for that period or payable at that time whether due at 668
maturity or upon mandatory redemption, together with any required 669
deposits to reserves for the payment of principal of and interest 670
on those bonds, and includes any payments required by the port 671
authority to satisfy any of its obligations under or arising from 672
any guaranty agreements, reimbursement agreements, or other credit 673

enhancement agreements described in division (C) of this section.

674

(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.

675

676

677

(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.

678

679

680

681

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

682

683

(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.

684

685

686

687

688

689

690

691

692

693

694

695

(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:

696

697

698

699

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

700

701

(a) Levy and collect a tax under division (E) and division (F) of section 5739.09 of the Revised Code for the purposes, and

702

703

in an amount sufficient for those purposes, described in divisions 704
(B)(1)(b) and (c) of this section; 705

(b) Pay to the port authority all or such portion as provided 706
for in the cooperative agreement of the revenue from the tax, 707
together with any investment earnings on that revenue, to be used 708
to pay a portion of the costs of acquiring, constructing, 709
renovating, rehabilitating, equipping, or improving the port 710
authority educational and cultural performing arts facility; 711

(c) Pledge and pay to the corporation all or such portion as 712
provided for in the cooperative agreement of the revenue from the 713
tax, together with any investment earnings on that revenue, to be 714
used to pay a portion of the costs to the corporation of leasing 715
the port authority educational and cultural performing arts 716
facility from the port authority. 717

(2) The port authority may agree to do any or all of the 718
following: 719

(a) Issue its revenue bonds pursuant to section 4582.48 of 720
the Revised Code for the purpose of paying all or a portion of the 721
costs of the port authority educational and cultural performing 722
arts facility; 723

(b) Acquire, construct, renovate, rehabilitate, equip, and 724
improve the port authority educational and cultural performing 725
arts facility; 726

(c) Lease the port authority educational and cultural 727
performing arts facility to the corporation; 728

(d) To the extent provided for in the cooperative agreement 729
or the lease to the corporation, authorize the corporation to 730
administer on behalf of the port authority the contracts for 731
acquiring, constructing, renovating, rehabilitating, or equipping 732
the port authority educational and cultural performing arts 733

facility; 734

(e) Use the revenue derived from the lease of the port 735
authority educational and cultural performing arts facility to the 736
corporation solely to pay debt service charges on revenue bonds of 737
the port authority issued pursuant to division (B)(2)(a) of this 738
section and to pay its obligations under or arising from any 739
guaranty agreements, reimbursement agreements, or other credit 740
enhancement agreements provided for in this section. 741

(3) The host municipal corporation may agree to do either or 742
both of the following: 743

(a) Issue its bonds for the purpose of paying all or a 744
portion of the costs of the port authority educational and 745
cultural performing arts facility, and pay the proceeds from the 746
issuance to the port authority for that purpose; 747

(b) Enter into a guaranty agreement, a reimbursement 748
agreement, or other credit enhancement agreement with the port 749
authority to provide a guaranty or other credit enhancement of the 750
port authority revenue bonds referred to in division (B)(2)(a) of 751
this section pledging taxes, other than ad valorem property taxes, 752
or other revenues for the purpose of providing the funds required 753
to satisfy the host municipal corporation's obligations under that 754
agreement. 755

The cooperative agreement may provide that the proceeds of 756
such securities or of such guaranty agreement, reimbursement 757
agreement, or other credit enhancement agreement be deposited with 758
and administered by the trustee pursuant to the trust agreement 759
authorized in division (C) of this section. 760

(4) The corporation may agree to do any or all of the 761
following: 762

(a) Lease the port authority educational and cultural 763

performing arts facility from the port authority; 764

(b) Operate and maintain the port authority educational and 765
cultural performing arts facility pursuant to the lease; 766

(c) To the extent provided for in the cooperative agreement 767
or the lease from the port authority, administer on behalf of the 768
port authority the contracts for acquiring, constructing, 769
renovating, rehabilitating, or equipping the port authority 770
educational and cultural performing arts facility. 771

(C) The pledge and payments referred to in divisions 772
(B)(1)(b) and (c) of this section and provided for in the 773
cooperative agreement shall be for the period stated in the 774
cooperative agreement but shall not extend longer than the period 775
necessary to provide for the final retirement of the port 776
authority revenue bonds referred to in division (B)(2)(a) of this 777
section, and for the satisfaction by the port authority of any of 778
its obligations under or arising from any guaranty agreements, 779
reimbursement agreements, or other credit enhancement agreements 780
relating to those bonds or to the revenues pledged to them. The 781
cooperative agreement shall provide for the termination of the 782
cooperative agreement, including the pledge and payment referred 783
to in division (B)(1)(c) of this section, if the port authority 784
revenue bonds referred to in division (B)(2)(a) of this section 785
have not been issued, sold, and delivered within five years of the 786
effective date of the cooperative agreement. 787

The cooperative agreement shall provide that any port 788
authority revenue bonds shall be secured by a trust agreement 789
between the port authority and a corporate trustee that is a trust 790
company or bank having the powers of a trust company within or 791
outside the state but authorized to exercise trust powers within 792
the state. The host county may be a party to that trust agreement 793
for the purpose of better securing the pledge by the host county 794

of its payment to the corporation pursuant to division (B)(1)(c) 795
of this section. A tax levied pursuant to section 5739.09 of the 796
Revised Code for the purposes specified in division (B)(1)(b) or 797
(c) of this section is not subject to diminution by initiative or 798
referendum or diminution by statute, unless provision is made for 799
an adequate substitute reasonably satisfactory to the trustee 800
under the trust agreement that secures the port authority revenue 801
bonds. 802

(D) A pledge of money by a host county under this section 803
shall not be net indebtedness of the host county for purposes of 804
section 133.07 of the Revised Code. A guaranty or other credit 805
enhancement by a host municipal corporation under this section 806
shall not be net indebtedness of the host municipal corporation 807
for purposes of section 133.05 of the Revised Code. 808

(E) If the terms of the cooperative agreement so provide, any 809
contract for the acquisition, construction, renovation, 810
rehabilitation, equipping, or improving of a port authority 811
educational and cultural performing arts facility shall be made in 812
such manner as is determined by the board of directors of the port 813
authority, and unless the cooperative agreement provides 814
otherwise, such a contract is not subject to division (R)(2) of 815
section 4582.31 of the Revised Code. The port authority may take 816
the assignment of and assume any contracts for the acquisition, 817
construction, renovation, rehabilitation, equipping, or improving 818
of a port authority educational and cultural performing arts 819
facility that had previously been authorized by any of the host 820
county, the host municipality, or the corporation. Such contracts 821
are not subject to division (R)(2) of section 4582.31 of the 822
Revised Code. 823

Any contract for the acquisition, construction, renovation, 824
rehabilitation, equipping, or improving of a port authority 825
educational and cultural performing arts facility entered into, 826

assigned, or assumed pursuant to this division shall provide that 827
all laborers and mechanics employed for the acquisition, 828
construction, renovation, rehabilitation, equipping, or improving 829
of that facility shall be paid at the prevailing rates of wages of 830
laborers and mechanics for the class of work called for by the 831
port authority educational and cultural performing arts facility, 832
which wages shall be determined in accordance with the 833
requirements of Chapter 4115. of the Revised Code for the 834
determination of prevailing wage rates. 835

Notwithstanding any provisions to the contrary in section 836
3383.07 of the Revised Code, construction services and general 837
building services for a port authority educational and cultural 838
performing arts facility funded completely or in part with money 839
appropriated by the state to the Ohio ~~arts and sports~~ cultural 840
facilities commission may be provided by a port authority or a 841
corporation that occupies, will occupy, or is responsible for that 842
facility, as determined by the commission. The construction 843
services and general building services to be provided by the port 844
authority or the corporation shall be specified in an agreement 845
between the commission and the port authority or corporation. That 846
agreement, or any actions taken under it, are not subject to 847
Chapters 123. or 153. of the Revised Code, but are subject to 848
Chapter 4115. of the Revised Code. 849

Sec. 1501.04. There is hereby created in the department of 850
natural resources a recreation and resources commission composed 851
of the chairperson of the wildlife council created under section 852
1531.03 of the Revised Code, the chairperson of the parks and 853
recreation council created under section 1541.40 of the Revised 854
Code, the chairperson of the waterways safety council created 855
under section 1547.73 of the Revised Code, the chairperson of the 856
technical advisory council on oil and gas created under section 857

1509.38 of the Revised Code, the ~~chairman~~ chairperson of the 858
forestry advisory council created under section 1503.40 of the 859
Revised Code, the chairperson of the Ohio soil and water 860
conservation commission created under section 1515.02 of the 861
Revised Code, ~~the chairperson of the Ohio natural areas council~~ 862
~~created under section 1517.03 of the Revised Code,~~ the chairperson 863
of the Ohio water advisory council created under section 1521.031 864
of the Revised Code, the chairperson of the recycling and litter 865
prevention advisory council created under section 1502.04 of the 866
Revised Code, the chairperson of the Ohio geology advisory council 867
created under section 1505.11 of the Revised Code, and five 868
members appointed by the governor with the advice and consent of 869
the senate, not more than three of whom shall belong to the same 870
political party. The director of natural resources shall be an ex 871
officio member of the commission, with a voice in its 872
deliberations, but without the power to vote. 873

Terms of office of members of the commission appointed by the 874
governor shall be for five years, commencing on the second day of 875
February and ending on the first day of February. Each member 876
shall hold office from the date of appointment until the end of 877
the term for which the member was appointed. 878

In the event of the death, removal, resignation, or 879
incapacity of a member of the commission, the governor, with the 880
advice and consent of the senate, shall appoint a successor who 881
shall hold office for the remainder of the term for which the 882
member's predecessor was appointed. Any member shall continue in 883
office subsequent to the expiration date of the member's term 884
until the member's successor takes office, or until a period of 885
sixty days has elapsed, whichever occurs first. 886

The governor may remove any appointed member of the 887
commission for misfeasance, nonfeasance, or malfeasance in office. 888

The commission shall exercise no administrative function, but 889

may do any of the following:

890

(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;

891

892

893

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

894

895

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

896

897

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

898

899

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.

900

901

902

903

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.

904

905

906

907

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

908

909

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.

910

911

912

913

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

914

915

916

917

918

919

record of its proceedings. A majority of the members of the 920
commission constitutes a quorum. No advice shall be given or 921
recommendation made without a majority of the members of the 922
commission concurring ~~therein~~ in it. 923

Sec. 1502.04. There is hereby created within the division of 924
recycling and litter prevention the recycling and litter 925
prevention advisory council consisting of thirteen members. The 926
speaker of the house of representatives shall appoint one member 927
of the house of representatives to the council, and the president 928
of the senate shall appoint one member of the senate to the 929
council. If the president of the senate belongs to the same 930
political party as the speaker of the house of representatives, 931
the president shall appoint a member of the senate who belongs to 932
a different political party as recommended by the minority leader 933
of the senate. The speaker of the house of representatives and the 934
president of the senate shall make their initial appointments to 935
the council within sixty days after July 20, 1994. Each member 936
appointed by the speaker of the house of representatives or the 937
president of the senate shall serve for a term of office of three 938
years. The appropriate appointing authority may fill any vacancy 939
occurring during the term of any member whom the appointing 940
authority has appointed to the advisory council. 941

The remaining eleven members shall be appointed by the 942
governor with the advice and consent of the senate and shall be 943
persons with knowledge of or experience in recycling or litter 944
prevention programs. The council shall have broad based 945
representation of interests including agriculture, labor, the 946
environment, manufacturing, wholesale and retail industry, and the 947
public. One of the business members shall be from the commercial 948
recycling industry, and another shall be from an industry required 949
to pay taxes under section 5733.065 of the Revised Code. The 950

director of natural resources shall not be a member of the 951
council. The governor shall make initial appointments to the 952
council within thirty days after October 20, 1987. Of the 953
governor's initial appointments to the council, five shall be for 954
a term of one year, and six shall be for a term of two years. 955
Thereafter, terms of office shall be for three years. Each member 956
appointed by the governor shall hold office from the date of the 957
member's appointment until the end of the term for which the 958
member was appointed. In the event of death, removal, resignation, 959
or incapacity of a member of the council appointed by the 960
governor, the governor, with the advice and consent of the senate, 961
shall appoint a successor who shall hold office for the remainder 962
of the term for which the successor's predecessor was appointed. A 963
member shall continue in office subsequent to the expiration date 964
of the member's term until the member's successor takes office, or 965
until a period of sixty days has elapsed, whichever occurs first. 966
The governor at any time may remove any of the governor's 967
appointees from the council for misfeasance, nonfeasance, or 968
malfeasance in office. 969

Members of the council may be reappointed. 970

The council shall hold at least four regular quarterly 971
meetings each year. Special meetings may be held at the behest of 972
the chairperson or a majority of the members. The council annually 973
shall select from among its members a chairperson, a 974
vice-chairperson, and a secretary to keep a record of its 975
proceedings. 976

A majority vote of the members of the council is necessary to 977
take action in any matter. 978

A member of the council shall serve without compensation for 979
attending council meetings, but shall be reimbursed for all 980
traveling, hotel, and other ordinary and necessary expenses 981

incurred in the performance of the member's work as a member of 982
the council. 983

Membership on the council does not constitute holding a 984
public office or position of employment under the laws of this 985
state and does not constitute grounds for removal of public 986
officers or employees from their offices or positions of 987
employment. 988

The council shall do all of the following: 989

~~(A) Assist the interagency recycling market development 990
workgroup created in section 1502.10 of the Revised Code in 991
executing its duties under division (A) of that section; 992~~

~~(B)~~ In conjunction with the chief of recycling and litter 993
prevention and with the approval of the director of natural 994
resources, establish criteria by which to certify, and certify, 995
agencies of the state, municipal corporations with a population of 996
more than fifty thousand, counties, and solid waste management 997
districts as eligible to receive grants under section 1502.05 of 998
the Revised Code; 999

~~(C)~~(B) In conjunction with the chief and with the approval of 1000
the director, establish criteria by which to certify, and certify, 1001
political subdivisions for receipt of special grants for 1002
activities or projects that are intended to accomplish the 1003
purposes of any of the programs established under section 1502.03 1004
of the Revised Code; 1005

~~(D)~~(C) Advise the chief in carrying out the chief's duties 1006
under this chapter. 1007

Sec. 1502.05. (A) The chief of recycling and litter 1008
prevention, pursuant to division ~~(B)~~(A) of section 1502.04 of the 1009
Revised Code and with the approval of the director of natural 1010
resources, may make grants from the recycling and litter 1011

prevention fund created in section 1502.02 of the Revised Code to 1012
accomplish the purposes of the programs established under section 1013
1502.03 of the Revised Code. 1014

(B) Except as provided in division (C) of this section, the 1015
chief, with the approval of the director, may require any eligible 1016
applicant certified by the recycling and litter prevention 1017
advisory council under division ~~(B)~~(A) of section 1502.04 of the 1018
Revised Code that applies for a grant for an activity or project 1019
that is intended to further the purposes of any program 1020
established under division (A)(1), (2), or (4) of section 1502.03 1021
of the Revised Code to provide a matching contribution of not more 1022
than fifty per cent of the grant. 1023

(C) Notwithstanding division (B) of this section, any grant 1024
awarded under division (A) of this section to foster cooperative 1025
research and development regarding recycling or the cooperative 1026
establishment or expansion of private recycling facilities or 1027
programs shall be made in conjunction with a contribution to the 1028
project by a cooperating enterprise that maintains or proposes to 1029
maintain a relevant research and development or recycling facility 1030
or program in this state or by an agency of the state, provided 1031
that funding provided by a state agency shall not be provided from 1032
general revenue funds appropriated by the general assembly. No 1033
grant made under division (A) of this section for the purposes 1034
described in this division shall exceed the contribution made by 1035
the cooperating enterprise or state agency. The chief may consider 1036
cooperating contributions in the form of state of the art new 1037
equipment or in other forms if the chief determines that the 1038
contribution is essential to the successful implementation of the 1039
project. 1040

Grants made under division (A) of this section for the 1041
purposes described in this division shall be made in such form and 1042
conditioned on such terms as the chief considers to be 1043

appropriate. 1044

(D)(1) The chief, with the approval of the director, may 1045
require any eligible applicant certified by the recycling and 1046
litter prevention advisory council under division ~~(B)~~(A) of 1047
section 1502.04 of the Revised Code that applies for a grant that 1048
is intended to further the purposes of the program established 1049
under division (A)(3) of section 1502.03 of the Revised Code, 1050
except any eligible applicant that is or is located in a county 1051
that has a per capita income equal to or below ninety per cent of 1052
the median county per capita income of the state as determined by 1053
the chief using the most recently available figures from the 1054
United States census bureau, to provide a matching contribution as 1055
follows: 1056

(a) Up to ten per cent of the grant from any eligible 1057
applicant that is or is located in a county that has a per capita 1058
income above ninety per cent of the median county per capita 1059
income of the state, but equal to or below one hundred per cent of 1060
the median county per capita income of the state; 1061

(b) Up to twenty per cent of the grant from any eligible 1062
applicant that is or is located in a county that has a per capita 1063
income above the median county per capita income of the state. 1064

(2) If the eligible applicant is a joint solid waste 1065
management district or is filing a joint application on behalf of 1066
two or more counties, the matching contribution required under 1067
division (D)(1) of this section shall be the average of the 1068
matching contributions of all of the counties covered by the 1069
application as determined in accordance with that division. The 1070
matching contribution of a county that has a per capita income 1071
equal to or below ninety per cent of the median county per capita 1072
income of the state shall be included as zero in calculating the 1073
average matching contribution. 1074

(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 1105
counties, townships, municipal corporations, and solid waste 1106
management districts, provision of consumer information, and 1107
establishment of a computer information network; 1108

(4) Designate a specific state agency to administer each 1109
component of the plan recommended under divisions (A)(2) and (3) 1110
of this section; 1111

(5) Determine the funding level needed for each component of 1112
the plan recommended under divisions (A)(2) and (3) of this 1113
section, and establish biennial budget estimates for the main 1114
operating biennial budget needed by the state agency designated to 1115
administer the component under division (A)(4) of this section; 1116

(6) Recommend necessary statutory changes, provided that the 1117
changes have been endorsed by a two-thirds vote of the recycling 1118
and litter prevention advisory council. 1119

~~(B) In preparing the initial plan under division (A) of this 1120
section, the workgroup shall review existing programs of state 1121
agencies to determine which programs can be used to increase state 1122
support of recycling and recycling market development. In 1123
particular, the workgroup shall do all of the following: 1124~~

~~(1) With regard to the department of natural resources, 1125
review the types and amounts of grants awarded by the chief of 1126
recycling and litter prevention under section 1502.05 of the 1127
Revised Code to determine which of those grants should be 1128
continued using moneys appropriated from the recycling and litter 1129
prevention fund created in section 1502.02 of the Revised Code; 1130~~

~~(2) With regard to the department of development, determine 1131
which existing industrial development programs administered by the 1132
department can be used to implement any of the components of the 1133
plan recommended under divisions (A)(2) and (3) of this section; 1134~~

(3) With regard to the environmental protection agency:	1135
(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:	1136
(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:	1137
(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:	1138
(b) Determine the feasibility of authorizing solid waste management districts to provide revolving loans for local recycling industrial development.	1139
(b) Determine the feasibility of authorizing solid waste management districts to provide revolving loans for local recycling industrial development.	1140
(b) Determine the feasibility of authorizing solid waste management districts to provide revolving loans for local recycling industrial development.	1141
(C) Each revised plan prepared under division (A) of this section shall do both of the following:	1142
(C) Each revised plan prepared under division (A) of this section shall do both of the following:	1143
(1) Review the relevant activities of each state agency designated to administer a component of the previous plan;	1144
(1) Review the relevant activities of each state agency designated to administer a component of the previous plan;	1145
(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.	1146
(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.	1147
(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.	1148
(D)(C) Each state agency that is designated under the plan to administer a component of the plan shall do both of the following:	1149
(D)(C) Each state agency that is designated under the plan to administer a component of the plan shall do both of the following:	1150
(1) Administer each such <u>that</u> component as provided in the plan;	1151
(1) Administer each such <u>that</u> component as provided in the plan;	1152
(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.	1153
(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.	1154
(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.	1155
(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.	1156
(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.	1157
(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.	1158
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	1159
(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	1160
(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	1161
(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	1162
(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	1163

from the fund for the purpose of supporting market development 1164
activities for scrap tires. The grants may be awarded to 1165
individuals, businesses, and entities certified under division 1166
(~~B~~)(A) of section 1502.04 of the Revised Code. 1167

(B) Projects and activities that are eligible for grants 1168
under this section shall be evaluated for funding using, at a 1169
minimum, the following criteria: 1170

(1) The degree to which a proposed project contributes to the 1171
increased use of scrap tires generated in this state; 1172

(2) The degree of local financial support for a proposed 1173
project; 1174

(3) The technical merit and quality of a proposed project. 1175

Sec. 1506.30. As used in sections 1506.30 to ~~1506.37~~ 1506.36 1176
of the Revised Code: 1177

(A) "Abandoned property" means a submerged aircraft; a 1178
submerged watercraft, including a ship, boat, canoe, skiff, raft, 1179
or barge; the rigging, gear, fittings, trappings, and equipment of 1180
a submerged aircraft or watercraft; the personal property of the 1181
officers, crew, and passengers of a submerged aircraft or 1182
watercraft; the cargo of a submerged aircraft or watercraft that 1183
has been deserted, relinquished, cast away, or left behind and for 1184
which attempts at reclamation have been abandoned by the owners 1185
and insurers; and submerged materials resulting from activities of 1186
prehistoric and historic native Americans. 1187

(B) "Lake Erie" means that portion of the waters and lands of 1188
Lake Erie belonging to the state as provided in section 1506.10 of 1189
the Revised Code. 1190

(C) "Historical value" means the quality of significance 1191
exemplified by an object, structure, site, or district that is 1192

included in or eligible for inclusion in the state registry of 1193
archaeological landmarks authorized under section 149.51 of the 1194
Revised Code, the state registry of historic landmarks authorized 1195
under section 149.55 of the Revised Code, or the national register 1196
of historic places. 1197

(D) "Marine surveyor" means a person engaged in the business 1198
of mapping or surveying submerged lands and abandoned property. 1199

(E) "Mechanical or other assistance" means all ~~manmade~~ 1200
artificial devices used to raise or remove artifacts from 1201
abandoned property, including pry bars, wrenches and other hand or 1202
power tools, cutting torches, explosives, winches, flotation bags, 1203
lines to surface, extra divers buoyancy devices, and other 1204
buoyancy devices. 1205

(F) "Recreational value" means value relating to an activity 1206
in which the public engages or may engage for recreation or sport, 1207
including scuba diving and fishing, as determined by the director 1208
of natural resources. 1209

Sec. 1506.34. (A) The director of natural resources, with the 1210
approval of the director of the Ohio historical society, shall 1211
establish policies and may adopt rules necessary to implement and 1212
administer sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised 1213
Code. Not less than forty-five days prior to adopting a rule under 1214
this section or section 1506.31 of the Revised Code, the director 1215
of natural resources shall send a copy of the proposed rule to the 1216
director of the Ohio historical society, who shall promptly review 1217
it. Not more than thirty days after receiving the proposed rule, 1218
the director of the Ohio historical society shall return the rule 1219
to the director of natural resources together with ~~his~~ the former 1220
director's written approval or disapproval of the proposed rule. 1221
If ~~he~~ the director of the Ohio historical society disapproves the 1222
rule, ~~he~~ the director shall explain the reasons for ~~his~~ the 1223

disapproval and any amendments to the rule ~~he~~ the director 1224
considers necessary to obtain ~~his~~ the director's approval. The 1225
director of natural resources shall not adopt a rule under those 1226
sections that has not been approved by the director of the Ohio 1227
historical society. If the director of the Ohio historical society 1228
does not respond within thirty days as prescribed in this section, 1229
the rule is deemed approved by ~~him~~ the director. 1230

(B) The director of natural resources shall inform the public 1231
of the requirements of sections 1506.30 to ~~1506.37~~ 1506.36 of the 1232
Revised Code and any policies established and rules adopted under 1233
them. In complying with this section, the director may establish 1234
or conduct educational programs or seminars, print and distribute 1235
informational pamphlets, and provide detailed information to 1236
organizations that conduct scuba diving training programs. 1237

(C) The director of natural resources may hire or contract 1238
with a marine archaeologist, a marine historian, a marine 1239
surveyor, or any combination ~~thereof~~ of these persons for the 1240
purposes of implementing and administering sections 1506.30 to 1241
~~1506.37~~ 1506.36 of the Revised Code and any rules adopted under 1242
them. 1243

Sec. 1506.35. (A) The director of natural resources may 1244
suspend or revoke, in accordance with Chapter 119. of the Revised 1245
Code, a permit issued under section 1506.32 of the Revised Code if 1246
the permit holder has done either of the following: 1247

(1) Failed to comply with sections 1506.30 to ~~1506.37~~ 1506.36 1248
of the Revised Code, any rules adopted under those sections, or 1249
any provision or condition of ~~his~~ the holder's permit; 1250

(2) Damaged abandoned property other than in accordance with 1251
the provisions or conditions of the permit. 1252

(B) Any motor vehicle, as defined in section 4501.01 of the 1253

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. 1285

(D) The director may request the attorney general to, and the 1286
attorney general shall, bring a civil action in any court of 1287
competent jurisdiction for any of the following purposes: 1288

(1) To enforce compliance with or restrain violation of 1289
sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised Code, any rules 1290
adopted under those sections, or any permit issued under section 1291
1506.32 of the Revised Code; 1292

(2) To enjoin the further removal of abandoned property or 1293
archaeological material from Lake Erie; 1294

(3) To order the restoration of an area affected by a 1295
violation of sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised 1296
Code or of a permit issued under section 1506.32 of the Revised 1297
Code to its prior condition. 1298

Any action under this division is a civil action, governed by 1299
the Rules of Civil Procedure. 1300

(E) A peace officer of a county, township, or municipal 1301
corporation, and a preserve officer, wildlife officer, park 1302
officer, or watercraft officer designated under section 1517.10, 1303
1531.13, 1541.10, or 1547.521 of the Revised Code, as applicable, 1304
may enforce compliance with sections 1506.30 to ~~1506.37~~ 1506.36 of 1305
the Revised Code, any rules adopted under those sections, and any 1306
permit issued under section 1506.32 of the Revised Code and may 1307
make arrests for violation of those laws, rules, and permits. 1308

Sec. 1517.02. There is hereby created in the department of 1309
natural resources the division of natural areas and preserves, 1310
which shall be administered by the chief of ~~the division of~~ 1311
natural areas and preserves. The chief shall take an oath of 1312
office and shall file in the office of the secretary of state a 1313
bond signed by ~~him~~ the chief and by a surety approved by the 1314

governor for a sum fixed pursuant to section 121.11 of the Revised Code. 1315
1316

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. 1317
1318
1319
1320
1321
1322
1323
1324
1325
1326
1327

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. 1328
1329
1330
1331
1332

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. 1333
1334
1335
1336
1337
1338

The chief shall do the following: 1339

(A) Formulate policies and plans for the acquisition, use, management, and protection of nature preserves; 1340
1341

(B) Formulate policies for the selection of areas suitable for registration; 1342
1343

(C) Formulate policies for the dedication of areas as nature preserves; 1344
1345

(D) Prepare and maintain surveys and inventories of natural areas and habitats of rare and endangered species of plants and animals;	1346 1347 1348
(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;	1349 1350 1351 1352 1353 1354 1355 1356
(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;	1357 1358 1359 1360
(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;	1361 1362 1363
(H) Provide interpretive programs and publish and disseminate information pertaining to nature preserves and natural areas for their visitation and use;	1364 1365 1366
(I) <u>(H)</u> Conduct and grant permits to qualified persons for the conduct of scientific research and investigations within nature preserves;	1367 1368 1369
(J) <u>(I)</u> Establish an appropriate system for marking nature preserves;	1370 1371
(K) <u>(J)</u> 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.	1372 1373 1374 1375

Sec. 1517.05. The department of natural resources, for and on 1376
behalf of the state, shall acquire a system of nature preserves 1377
for the following uses and purposes: 1378

(A) For scientific research in such fields as ecology, 1379
taxonomy, genetics, forestry, pharmacology, agriculture, soil 1380
science, geology, paleontology, conservation, and similar fields; 1381

(B) For the teaching of biology, natural history, ecology, 1382
geology, conservation, and other subjects; 1383

(C) As habitats for plant and animal species and communities 1384
and other natural objects; 1385

(D) As reservoirs of natural materials; 1386

(E) As places of natural interest and beauty; 1387

(F) For visitation whereby persons may observe and experience 1388
natural biotic and environmental systems of the earth and their 1389
processes; 1390

(G) To promote understanding and appreciation of the 1391
aesthetic, cultural, scientific, and spiritual values of such 1392
areas by the people of the state; 1393

(H) For the preservation and protection of nature preserves 1394
against modification or encroachment resulting from occupation, 1395
development, or other use that would destroy their natural or 1396
aesthetic conditions. 1397

The director of natural resources, ~~upon the advice and~~ 1398
~~concurrence of the Ohio natural areas council,~~ shall accept 1399
natural areas by articles of dedication or gift, provided that 1400
funds and services are available for their preservation and 1401
protection. 1402

A nature preserve is established when articles of dedication 1403
have been filed by or at the direction of the owner of land, or a 1404

governmental agency having ownership or control thereof, in the 1405
office of the county recorder of the county in which the land is 1406
located. 1407

Articles of dedication shall be executed by the owner of the 1408
land in the same manner and with the same effect as a conveyance 1409
of an interest in land and shall be irrevocable except as provided 1410
in this section. The county recorder may not accept articles of 1411
dedication for recording unless they have been accepted by the 1412
director of natural resources. The director may not accept 1413
articles of dedication unless they contain terms restricting the 1414
use of the land that adequately provide for its preservation and 1415
protection against modification or encroachment resulting from 1416
occupation, development, or other use that would destroy its 1417
natural or aesthetic conditions for one or more of the uses and 1418
purposes set forth in this section. Wherever possible and 1419
consistent with such preservation and protection of the land, the 1420
articles shall provide for public access in order that the maximum 1421
benefit be obtained for the uses and purposes stated in this 1422
section. 1423

Articles of dedication may contain provisions for the 1424
management, custody, and transfer of land, provisions defining the 1425
rights of the owner or operating agency, and the department, and 1426
~~such~~ other provisions ~~as may be~~ necessary or advisable to carry 1427
out the uses and purposes for which the land is dedicated. They 1428
may contain conditions under which the owner and the director of 1429
natural resources may agree to rescind the articles. 1430

The attorney general, upon request of the director of natural 1431
resources, may bring an action for injunction in any court of 1432
competent jurisdiction to enforce the terms of articles of 1433
dedication. 1434

The department may make or accept amendments of any articles 1435

of dedication upon terms and conditions that will not destroy the 1436
natural or aesthetic conditions of a preserve. If the fee simple 1437
interest in the area or preserve is not held by the state, no 1438
amendments shall be made without the written consent of the owner. 1439
Each amendment shall be recorded in the same manner as the 1440
articles of dedication. 1441

~~Sec. 1517.23. With the advice of the Ohio natural areas~~ 1442
~~council created under section 1517.03 of the Revised Code, the~~ The 1443
chief of the division of natural areas and preserves shall do both 1444
of the following: 1445

(A) Formulate policies and plans and establish a program 1446
incorporating them for the identification and protection of the 1447
state's cave resources and adopt, amend, or rescind rules in 1448
accordance with Chapter 119. of the Revised Code to implement that 1449
program; 1450

(B) Provide technical assistance and management advice to 1451
owners upon request concerning the protection of caves on their 1452
land. 1453

~~Sec. 1518.01. With the advice of the natural areas council,~~ 1454
~~the~~ The chief of ~~the division of~~ natural areas and preserves shall 1455
adopt and may amend or rescind rules, in accordance with Chapter 1456
119. of the Revised Code, setting forth criteria for identifying 1457
and designating species of plants native to ~~Ohio which~~ this state 1458
that are in danger of extirpation or ~~which~~ are threatened with 1459
becoming endangered. The chief shall adopt and may amend or 1460
rescind rules, in accordance with Chapter 119. of the Revised 1461
Code, setting forth a list of the plants that ~~he~~ the chief 1462
determines to be endangered or threatened with extirpation from 1463
this state, applying the criteria so developed. This list shall 1464
identify the common and scientific names of each species. The list 1465

shall include all species native to this state ~~which~~ that are 1466
listed on the "United States list of endangered and threatened 1467
wildlife and plants" pursuant to the "Endangered Species Act of 1468
1973," 87 Stat. 884, 16 U.S.C. 1531-1543, as amended. Further, the 1469
chief may produce for public education purposes, lists of plant 1470
species, ~~which~~ which shall include the names of species of plants, ~~which~~ 1471
that may become threatened in the future through habitat loss, 1472
commercial exploitation, or other means. 1473

Sec. 1518.03. ~~With the advice of the natural areas council,~~ 1474
~~the~~ The chief of ~~the division of~~ natural areas and preserves shall 1475
adopt and may amend or repeal rules, in accordance with Chapter 1476
119. of the Revised Code, restricting the taking, possessing, 1477
transportation, sale, offering for sale, or exposure for sale, for 1478
commercial purposes of native Ohio species of wild plants or parts 1479
~~thereof of them~~, that are listed as endangered or threatened by 1480
rule adopted under section 1518.01 of the Revised Code. The rules 1481
may prohibit the taking of any endangered or threatened plant, or 1482
parts ~~thereof of it~~, for commercial purposes, from any wood lot, 1483
field, or forest, or from any other location in which ~~such~~ that 1484
plant is found growing in its native habitat. This section does 1485
not prevent any ~~nurseryman~~ nurseryperson or dealer who is licensed 1486
under Chapter 927. of the Revised Code, ~~from~~ selling, offering for 1487
sale, shipping, or otherwise disposing of any endangered or 1488
threatened plants or parts ~~thereof of them~~ when ~~such~~ those plants 1489
have been commercially grown by a licensed nursery or legally 1490
imported into this state. For the purposes of this section, 1491
"commercial purposes" means with intent to sell or trade 1492
endangered or threatened plants for gain or profit. "Commercially 1493
grown" means to grow plants under cultivation in tilled plots or 1494
in a greenhouse. 1495

The rules shall provide for the taking of species endangered 1496
or threatened with statewide extirpation for botanical, 1497

educational, and scientific purposes, and for propagation in 1498
captivity to preserve the species, with written permission from 1499
the chief. The rules shall not prohibit the taking or possession 1500
of species listed on the "United States list of endangered and 1501
threatened wildlife and plants" for botanical, educational, or 1502
scientific purposes, or for propagation in captivity to preserve 1503
the species, under a permit or license from the United States or 1504
any instrumentality ~~thereof~~ of the United States. 1505

Sec. 2505.02. (A) As used in this section: 1506

(1) "Substantial right" means a right that the United States 1507
Constitution, the Ohio Constitution, a statute, the common law, or 1508
a rule of procedure entitles a person to enforce or protect. 1509

(2) "Special proceeding" means an action or proceeding that 1510
is specially created by statute and that prior to 1853 was not 1511
denoted as an action at law or a suit in equity. 1512

(3) "Provisional remedy" means a proceeding ancillary to an 1513
action, including, but not limited to, a proceeding for a 1514
preliminary injunction, attachment, discovery of privileged 1515
matter, suppression of evidence, ~~or~~ a prima-facie showing pursuant 1516
to section 2307.85 or 2307.86 of the Revised Code, a prima-facie 1517
showing pursuant to section 2307.92 of the Revised Code, or a 1518
finding made pursuant to division (A)(3) of section 2307.93 of the 1519
Revised Code. 1520

(B) An order is a final order that may be reviewed, affirmed, 1521
modified, or reversed, with or without retrial, when it is one of 1522
the following: 1523

(1) An order that affects a substantial right in an action 1524
that in effect determines the action and prevents a judgment; 1525

(2) An order that affects a substantial right made in a 1526
special proceeding or upon a summary application in an action 1527

after judgment;	1528
(3) An order that vacates or sets aside a judgment or grants a new trial;	1529 1530
(4) An order that grants or denies a provisional remedy and to which both of the following apply:	1531 1532
(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.	1533 1534 1535 1536
(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.	1537 1538 1539
(5) An order that determines that an action may or may not be maintained as a class action;	1540 1541
(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.	1542 1543 1544 1545 1546 1547 1548 1549
(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.	1550 1551 1552 1553
(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	1554 1555 1556 1557

of this state.

1558

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.

1559

1560

1561

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.

1562

1563

1564

1565

1566

1567

1568

1569

1570

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~~

1571

1572

1573

1574

1575

1576

1577

1578

1579

1580

1581

1582

1583

1584

1585

1586

1587

~~Cooper Ohioana Library Association~~ in addition to the regular 1588
constituted board of trustees of the corporation. 1589

Sec. 3383.01. As used in this chapter: 1590

(A) "~~Arts~~ Culture" means any of the following: 1591

(1) Visual, musical, dramatic, graphic, design, and other 1592
arts, including, but not limited to, architecture, dance, 1593
literature, motion pictures, music, painting, photography, 1594
sculpture, and theater, and the provision of training or education 1595
in these arts; 1596

(2) The presentation or making available, in museums or other 1597
indoor or outdoor facilities, of principles of science and their 1598
development, use, or application in business, industry, or 1599
commerce or of the history, heritage, development, presentation, 1600
and uses of the arts described in division (A)(1) of this section 1601
and of transportation; 1602

(3) The preservation, presentation, or making available of 1603
features of archaeological, architectural, environmental, or 1604
historical interest or significance in a state historical facility 1605
or a local historical facility. 1606

(B) "~~Arts~~ Cultural organization" means either of the 1607
following: 1608

(1) A governmental agency or Ohio nonprofit corporation that 1609
provides programs or activities in areas directly concerned with 1610
~~the arts~~ culture; 1611

(2) A regional arts and cultural district as defined in 1612
section 3381.01 of the Revised Code. 1613

(C) "~~Arts~~ Cultural project" means all or any portion of an 1614
Ohio ~~arts~~ cultural facility for which the general assembly has 1615
specifically authorized the spending of money, or made an 1616
appropriation, pursuant to division (D)(3) or (E) of section 1617

3383.07 of the Revised Code. 1618

(D) "Cooperative contract" means a contract between the Ohio 1619
~~arts and sports~~ cultural facilities commission and ~~an arts a~~ 1620
cultural organization providing the terms and conditions of the 1621
cooperative use of an Ohio ~~arts~~ cultural facility. 1622

(E) "Costs of operation" means amounts required to manage an 1623
Ohio ~~arts~~ cultural facility that are incurred following the 1624
completion of construction of its ~~arts~~ cultural project, provided 1625
that both of the following apply: 1626

(1) Those amounts either: 1627

(a) Have been committed to a fund dedicated to that purpose; 1628

(b) Equal the principal of any endowment fund, the income 1629
from which is dedicated to that purpose. 1630

(2) The commission and the ~~arts~~ cultural organization have 1631
executed an agreement with respect to either of those funds. 1632

(F) "General building services" means general building 1633
services for an Ohio ~~arts~~ cultural facility or an Ohio sports 1634
facility, including, but not limited to, general custodial care, 1635
security, maintenance, repair, painting, decoration, cleaning, 1636
utilities, fire safety, grounds and site maintenance and upkeep, 1637
and plumbing. 1638

(G) "Governmental agency" means a state agency, a 1639
state-supported or state-assisted institution of higher education, 1640
a municipal corporation, county, township, or school district, a 1641
port authority created under Chapter 4582. of the Revised Code, 1642
any other political subdivision or special district in this state 1643
established by or pursuant to law, or any combination of these 1644
entities; except where otherwise indicated, the United States or 1645
any department, division, or agency of the United States, or any 1646
agency, commission, or authority established pursuant to an 1647

interstate compact or agreement.

1648

(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.

1649

1650

1651

1652

1653

1654

1655

1656

1657

1658

1659

(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.

1660

1661

1662

1663

1664

1665

1666

1667

1668

1669

1670

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

1671

1672

(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

1673

1674

1675

1676

1677

1678

~~arts~~ cultural activities in the facility; but not including 1679
general building services; 1680

(2) Relating to sports and athletic events for an Ohio sports 1681
facility, including as applicable, but not limited to, providing 1682
for booking of athletes, teams, and events; scheduling; and hiring 1683
or contracting for staff, ushers, managers, and others directly 1684
related to the sports and athletic events in the facility; but not 1685
including general building services. 1686

(K) "Ohio ~~arts~~ cultural facility" means any of the following: 1687

(1) The ~~three~~ theaters located in the state office tower at 1688
77 South High street in Columbus; 1689

(2) Any capital facility in this state to which both of the 1690
following apply: 1691

(a) The construction of ~~an arts~~ a cultural project related to 1692
the facility was authorized or funded by the general assembly 1693
pursuant to division (D)(3) of section 3383.07 of the Revised Code 1694
and proceeds of state bonds are used for costs of the ~~arts~~ 1695
cultural project. 1696

(b) The facility is managed directly by, or is subject to a 1697
cooperative or management contract with, the Ohio ~~arts and sports~~ 1698
cultural facilities commission, and is used for or in connection 1699
with the activities of the commission, including the presentation 1700
or making available of ~~arts~~ culture to the public and the 1701
provision of training or education in ~~the arts~~ culture. 1702

(3) A state historical facility or a local historical 1703
facility. 1704

(L) "State agency" means the state or any of its branches, 1705
officers, boards, commissions, authorities, departments, 1706
divisions, or other units or agencies. 1707

(M) "Construction" includes acquisition, including 1708

acquisition by lease-purchase, demolition, reconstruction, 1709
alteration, renovation, remodeling, enlargement, improvement, site 1710
improvements, and related equipping and furnishing. 1711

(N) "State historical facility" means a site or facility of 1712
archaeological, architectural, environmental, or historical 1713
interest or significance, or a facility, including a storage 1714
facility, appurtenant to the operations of such a site or 1715
facility, that is owned by or is located on real property owned by 1716
the state or by ~~an arts~~ a cultural organization, so long as the 1717
real property of the ~~arts~~ cultural organization is contiguous to 1718
state-owned real property that is in the care, custody, and 1719
control of ~~an arts~~ a cultural organization, and that is managed 1720
directly by or is subject to a cooperative or management contract 1721
with the Ohio ~~arts and sports~~ cultural facilities commission and 1722
is used for or in connection with the activities of the 1723
commission, including the presentation or making available of ~~arts~~ 1724
culture to the public. 1725

(O) "Ohio sports facility" means all or a portion of a 1726
stadium, arena, motorsports complex, or other capital facility in 1727
this state, a primary purpose of which is to provide a site or 1728
venue for the presentation to the public of either motorsports 1729
events or events of one or more major or minor league professional 1730
athletic or sports teams that are associated with the state or 1731
with a city or region of the state, which facility is, in the case 1732
of a motorsports complex, owned by the state or governmental 1733
agency, or in all other instances, is owned by or is located on 1734
real property owned by the state or a governmental agency, and 1735
including all parking facilities, walkways, and other auxiliary 1736
facilities, equipment, furnishings, and real and personal property 1737
and interests and rights therein, that may be appropriate for or 1738
used for or in connection with the facility or its operation, for 1739
capital costs of which state funds are spent pursuant to this 1740

chapter. A facility constructed as an Ohio sports facility may be 1741
both an Ohio ~~arts~~ cultural facility and an Ohio sports facility. 1742

(P) "Motorsports" means sporting events in which motor 1743
vehicles are driven on a clearly demarcated tracked surface. 1744

Sec. 3383.02. (A) There is hereby created the Ohio ~~arts and~~ 1745
~~sports~~ cultural facilities commission. Notwithstanding any 1746
provision to the contrary contained in Chapter 152. of the Revised 1747
Code, the commission shall engage in and provide for the 1748
development, performance, and presentation or making available of 1749
~~the arts culture~~ and professional sports and athletics to the 1750
public in this state, and the provision of training or education 1751
in ~~the arts culture~~, by the exercise of its powers under this 1752
chapter, including the provision, operation, management, and 1753
cooperative use of Ohio ~~arts~~ cultural facilities and Ohio sports 1754
facilities. The commission is a body corporate and politic, an 1755
agency of state government and an instrumentality of the state, 1756
performing essential governmental functions of this state. The 1757
carrying out of the purposes and the exercise by the commission of 1758
its powers conferred by this chapter are essential public 1759
functions and public purposes of the state and of state 1760
government. The commission may, in its own name, sue and be sued, 1761
enter into contracts, and perform all the powers and duties given 1762
to it by this chapter; however, it does not have and shall not 1763
exercise the power of eminent domain. 1764

(B) The commission shall consist of ten members, seven of 1765
whom shall be voting members and three of whom shall be nonvoting 1766
members. The seven voting members shall be appointed by the 1767
governor, with the advice and consent of the senate, from 1768
different geographical regions of the state. In addition, one of 1769
the voting members shall represent the state architect. Not more 1770
than four of the members appointed by the governor shall be 1771

affiliated with the same political party. The nonvoting members 1772
shall be the staff director of the Ohio arts council, a member of 1773
the senate appointed by the president of the senate, and a member 1774
of the house of representatives appointed by the speaker of the 1775
house. 1776

(C) Of the five initial appointments made by the governor, 1777
one shall be for a term expiring December 31, 1989, two shall be 1778
for terms expiring December 31, 1990, and two shall be for terms 1779
expiring December 31, 1991. Of the initial appointments of the 1780
sixth and seventh voting members ~~appointed~~ made by the governor ~~as~~ 1781
~~a result of this amendment~~, one shall be for a term expiring 1782
December 31, 2003, and one shall be for a term expiring December 1783
31, 2004. Thereafter, each such term shall be for three years, 1784
commencing on the first day of January and ending on the 1785
thirty-first day of December. Each appointment by the president of 1786
the senate and by the speaker of the house of representatives 1787
shall be for the balance of the then legislative biennium. Each 1788
member shall hold office from the date of the member's appointment 1789
until the end of the term for which the member was appointed. Any 1790
member appointed to fill a vacancy occurring prior to the 1791
expiration of the term for which the member's predecessor was 1792
appointed shall hold office for the remainder of such term. Any 1793
member shall continue in office subsequent to the expiration date 1794
of the member's term until the member's successor takes office, or 1795
until a period of sixty days has elapsed, whichever occurs first. 1796

(D) Members of the commission shall serve without 1797
compensation. 1798

(E) Organizational meetings of the commission shall be held 1799
at the first meeting of each calendar year. At each organizational 1800
meeting, the commission shall elect from among its voting members 1801
a chairperson, a vice-chairperson, and a secretary-treasurer, who 1802
shall serve until the next annual meeting. The commission shall 1803

adopt rules pursuant to section 111.15 of the Revised Code for the 1804
conduct of its internal business and shall keep a journal of its 1805
proceedings. 1806

(F) Four voting members of the commission constitute a 1807
quorum, and the affirmative vote of four members is necessary for 1808
approval of any action taken by the commission. A vacancy in the 1809
membership of the commission does not impair a quorum from 1810
exercising all the rights and performing all the duties of the 1811
commission. Meetings of the commission may be held anywhere in the 1812
state, and shall be held in compliance with section 121.22 of the 1813
Revised Code. 1814

(G) All expenses incurred in carrying out this chapter are 1815
payable solely from money accrued under this chapter or 1816
appropriated for these purposes by the general assembly, and the 1817
commission shall incur no liability or obligation beyond such 1818
money. 1819

(H) The commission shall file an annual report of its 1820
activities and finances with the governor, director of budget and 1821
management, speaker of the house of representatives, president of 1822
the senate, and chairpersons of the house and senate finance 1823
committees. 1824

(I) There is hereby established in the state treasury the 1825
Ohio ~~arts and sports~~ cultural facilities commission administration 1826
fund. All revenues of the commission shall be credited to that 1827
fund and to any accounts created in the fund with the commission's 1828
approval. All expenses of the commission, including reimbursement 1829
of, or payment to, any other fund or any governmental agency for 1830
advances made or services rendered to or on behalf of the 1831
commission, shall be paid from the Ohio ~~arts and sports~~ cultural 1832
facilities commission administration fund as determined by or 1833
pursuant to directions of the commission. All investment earnings 1834

of the administration fund shall be credited to the fund and shall 1835
be allocated among any accounts created in the fund in the manner 1836
determined by the commission. 1837

(J) Title to all real property and lesser interests in real 1838
property acquired by the commission, including leasehold and other 1839
interests, pursuant to this chapter shall be taken in the name of 1840
the state and shall be held for the use and benefit of the 1841
commission. The commission shall not mortgage such real property 1842
and interests in real property. Title to other property and 1843
interests in it acquired by the commission pursuant to this 1844
chapter shall be taken in its name. 1845

Sec. 3383.03. The Ohio ~~arts and sports~~ cultural facilities 1846
commission shall do the following: 1847

(A) From time to time, determine the need for ~~arts~~ cultural 1848
projects, Ohio ~~arts~~ cultural facilities, and Ohio sports 1849
facilities, and report to the governor and the general assembly on 1850
the need for any additional ~~arts~~ cultural projects, Ohio ~~arts~~ 1851
cultural facilities, and Ohio sports facilities. This division 1852
does not apply to state historical facilities. 1853

(B) Have jurisdiction, control, and possession of, and 1854
supervision over the use and disposition of, all property, rights, 1855
licenses, money, contracts, accounts, liens, books, records, and 1856
other property rights and interests conveyed, delivered, 1857
transferred, or assigned to it; 1858

(C) Use, and provide for the use of, Ohio ~~arts~~ cultural 1859
facilities and Ohio sports facilities for the commission's 1860
purposes and functions, and conduct reviews necessary to ensure 1861
that uses of those facilities are consistent with statewide 1862
interests and the commission's purposes, including the 1863
presentation or making available of ~~the arts~~ culture and 1864
professional athletics and sports to the public in this state and 1865

the provision of training or education in ~~the arts~~ culture; 1866

(D) Hold a meeting, including the organizational meeting 1867
required by division (E) of section 3383.02 of the Revised Code, 1868
at least quarterly to conduct its business; 1869

(E) Cooperate with any governmental agency or ~~arts~~ cultural 1870
organization that provides services in, to, or for an Ohio ~~arts~~ 1871
cultural facility, and cooperate with any governmental agency or 1872
nonprofit corporation for the provision or operation of any Ohio 1873
sports facilities. 1874

Sec. 3383.04. The Ohio ~~arts and sports~~ cultural facilities 1875
commission may do the following: 1876

(A) Employ and fix the compensation of an executive director 1877
and such other employees as will facilitate the activities and 1878
purposes of the commission. Any executive director shall serve at 1879
the pleasure of the commission and may serve part-time. Other 1880
employees shall be employed by and serve at the pleasure of the 1881
commission or the executive director, as determined by the 1882
commission. 1883

(B) Adopt, amend, and rescind, pursuant to section 111.15 of 1884
the Revised Code, rules for the management and operation of Ohio 1885
~~arts~~ cultural facilities and Ohio sports facilities and for the 1886
exercise of all of the commission's rights with respect to those 1887
facilities; 1888

(C) Own, construct or provide for the construction of, lease, 1889
equip, furnish, administer, and manage or provide for the 1890
operation and management of, and cooperate in the use of, Ohio 1891
~~arts~~ cultural facilities and Ohio sports facilities; 1892

(D) Dispose of, whether by sale, lease, lease-purchase, 1893
sublease, re-lease, or otherwise, real and personal property, and 1894
lesser interests in it, held or owned by the state for the use and 1895

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, 1927
but not limited to, general liability insurance, business 1928
interruption insurance, liability insurance for members, officers, 1929
and employees, and copyright liability insurance; 1930

(J) Receive and accept gifts, grants, devises, bequests, 1931
loans, and any other financial or other form of aid or assistance 1932
from any governmental agency or other person and enter into any 1933
contract or agreement with any such agency or other person in 1934
connection therewith, and receive and accept aid or contributions 1935
from any other source of money, real or personal property, labor, 1936
or other things of value, to be held, used, and applied only for 1937
the purposes for which the aid and contributions are made and 1938
according to their terms and conditions, all within the purposes 1939
of this chapter; 1940

(K) Make and enter into all contracts, commitments, and 1941
agreements, and execute all instruments, necessary or incidental 1942
to the performance of its duties and the execution of its rights 1943
and powers under this chapter; 1944

(L) Do anything necessary or appropriate to carry out the 1945
purposes of and exercise the powers granted in this chapter; 1946

(M) Contract with any governmental agency or nonprofit 1947
corporation to provide or cause to be provided services, including 1948
general building services, in, to, or for an Ohio ~~arts~~ cultural 1949
facility or any Ohio sports facility, or with ~~an arts~~ a cultural 1950
organization for the management of an Ohio ~~arts~~ cultural facility, 1951
or with a governmental agency or nonprofit corporation for the 1952
management of an Ohio sports facility, all in furtherance of the 1953
state function, and make contracts pursuant to divisions (A) and 1954
(B) of section 3383.07 of the Revised Code, except that nothing in 1955
this chapter limits the exercise of the care, custody, control, 1956
and management of those state historical facilities specified in 1957

section 149.30 of the Revised Code. 1958

Sec. 3383.05. (A) Upon the request of the Ohio ~~arts and~~ 1959
~~sports~~ cultural facilities commission, any governmental agency may 1960
lease, sublease, grant by lease-purchase or otherwise, convey, or 1961
grant the right to use, to the commission or to a state agency 1962
designated by the commission, any real or personal property or 1963
interests in property, including improvements to it and public 1964
roads, owned or controlled by the governmental agency, which are 1965
necessary or convenient to an Ohio ~~arts~~ cultural facility or an 1966
Ohio sports facility, upon such terms and conditions as they agree 1967
upon. The lease, sublease, grant, conveyance, or grant of use may 1968
be made without the necessity for advertisement, auction, 1969
competitive bidding, court order, or other action or formality 1970
otherwise required by law, except that the consent of the 1971
governing body of the governmental agency shall be obtained, or, 1972
if title to the property is in the state, the consent of the 1973
governor shall be obtained. Any governmental agency may enter into 1974
agreements with the Ohio ~~arts and sports~~ cultural facilities 1975
commission for furnishing any supplies, equipment, or services to 1976
the commission pursuant to such terms and for such compensation as 1977
agreed upon by the governmental agency and the commission. 1978

(B) Leases, contracts, agreements, or conveyances entered 1979
into pursuant to this section are not public contracts for 1980
purposes of section 2921.42 of the Revised Code. 1981

Sec. 3383.06. All property purchased, acquired, constructed, 1982
owned, leased, or subleased by the Ohio ~~arts and sports~~ cultural 1983
facilities commission for the exercise of its powers and duties is 1984
public property used exclusively for a public purpose, and this 1985
property and the income derived by the commission from it are 1986
exempt, except as may otherwise be provided by the commission with 1987
respect to Ohio sports facilities, from all taxation within this 1988

state, including, without limitation, ad valorem and excise taxes. 1989

Sec. 3383.07. (A) The department of administrative services 1990
shall provide for the construction of ~~an arts~~ a cultural project 1991
in conformity with Chapter 153. of the Revised Code, except as 1992
follows: 1993

(1) For ~~an arts~~ a cultural project that has an estimated 1994
construction cost, excluding the cost of acquisition, of 1995
twenty-five million dollars or more, and that is financed by the 1996
Ohio building authority, construction services may be provided by 1997
the authority if the authority determines it should provide those 1998
services. 1999

(2) For ~~an arts~~ a cultural project other than a state 2000
historical facility, construction services may be provided on 2001
behalf of the state by the Ohio ~~arts and sports~~ cultural 2002
facilities commission, or by a governmental agency or ~~an arts~~ a 2003
cultural organization that occupies, will occupy, or is 2004
responsible for the Ohio ~~arts~~ cultural facility, as determined by 2005
the commission. Construction services to be provided by a 2006
governmental agency or ~~an arts~~ a cultural organization shall be 2007
specified in an agreement between the commission and the 2008
governmental agency or ~~arts~~ cultural organization. The agreement, 2009
or any actions taken under it, are not subject to Chapter 123. or 2010
153. of the Revised Code, except for sections ~~123.151~~ 123.081 and 2011
153.011 of the Revised Code, and shall be subject to Chapter 4115. 2012
of the Revised Code. 2013

(3) For ~~an arts~~ a cultural project that is a state historical 2014
facility, construction services may be provided by the Ohio ~~arts~~ 2015
~~and sports~~ cultural facilities commission or by ~~an arts~~ a cultural 2016
organization that occupies, will occupy, or is responsible for the 2017
facility, as determined by the commission. The construction 2018
services to be provided by the ~~arts~~ cultural organization shall be 2019

specified in an agreement between the commission and the ~~arts~~ 2020
cultural organization. That agreement, and any actions taken under 2021
it, are not subject to Chapter 123., 153., or 4115. of the Revised 2022
Code. 2023

(B) For an Ohio sports facility that is financed in part by 2024
the Ohio building authority, construction services shall be 2025
provided on behalf of the state by or at the direction of the 2026
governmental agency or nonprofit corporation that will own or be 2027
responsible for the management of the facility, all as determined 2028
by the Ohio ~~arts and sports~~ cultural facilities commission. Any 2029
construction services to be provided by a governmental agency or 2030
nonprofit corporation shall be specified in an agreement between 2031
the commission and the governmental agency or nonprofit 2032
corporation. That agreement, and any actions taken under it, are 2033
not subject to Chapter 123. or 153. of the Revised Code, except 2034
for sections ~~123.151~~ 123.081 and 153.011 of the Revised Code, and 2035
shall be subject to Chapter 4115. of the Revised Code. 2036

(C) General building services for an Ohio ~~arts~~ cultural 2037
facility shall be provided by the Ohio ~~arts and sports~~ cultural 2038
facilities commission or by ~~an arts~~ a cultural organization that 2039
occupies, will occupy, or is responsible for the facility, as 2040
determined by the commission, except that the Ohio building 2041
authority may elect to provide those services for Ohio ~~arts~~ 2042
cultural facilities financed with proceeds of state bonds issued 2043
by the authority. The costs of management and general building 2044
services shall be paid by the ~~arts~~ cultural organization that 2045
occupies, will occupy, or is responsible for the facility as 2046
provided in an agreement between the commission and the ~~arts~~ 2047
cultural organization, except that the state may pay for general 2048
building services for state-owned ~~arts~~ cultural facilities 2049
constructed on state-owned land. 2050

General building services for an Ohio sports facility shall 2051

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.

2052
2053
2054
2055
2056
2057
2058
2059
2060
2061
2062

(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:

2063
2064
2065
2066
2067
2068

(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.

2069
2070
2071
2072
2073

(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.

2074
2075
2076
2077
2078
2079

(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

2080
2081
2082

relating to the financing of the construction of the ~~arts~~ cultural 2083
project. Authorization to spend money, or an appropriation, for 2084
planning the ~~arts~~ cultural project does not constitute 2085
authorization to spend money on, or an appropriation for, 2086
construction of the ~~arts~~ cultural project. 2087

(E) No state funds, including any state bond proceeds, shall 2088
be spent on the construction of any state historical facility 2089
under this chapter unless the general assembly has specifically 2090
authorized the spending of money on, or made an appropriation for, 2091
the construction of the ~~arts~~ state historical project related to 2092
the facility, or for rental payments relating to the financing of 2093
the construction of the ~~arts~~ state historical project. 2094
Authorization to spend money, or an appropriation, for planning 2095
the ~~arts~~ state historical project does not constitute 2096
authorization to spend money on, or an appropriation for, the 2097
construction of the ~~arts~~ state historical project. 2098

(F) State funds shall not be used to pay or reimburse more 2099
than fifteen per cent of the initial estimated construction cost 2100
of an Ohio sports facility, excluding any site acquisition cost, 2101
and no state funds, including any state bond proceeds, shall be 2102
spent on any Ohio sports facility under this chapter unless, with 2103
respect to that facility, all of the following apply: 2104

(1) The Ohio ~~arts and sports~~ cultural facilities commission 2105
has determined that there is a need for the facility in the region 2106
of the state for which the facility is proposed to provide the 2107
function of an Ohio sports facility as provided for in this 2108
chapter. 2109

(2) As an indication of substantial local support for the 2110
facility, the commission has received a financial and development 2111
plan satisfactory to it, and provision has been made, by agreement 2112
or otherwise, satisfactory to the commission, for a contribution 2113
amounting to not less than eighty-five per cent of the total 2114

estimated construction cost of the facility, excluding any site 2115
acquisition cost, from sources other than the state. 2116

(3) The general assembly has specifically authorized the 2117
spending of money on, or made an appropriation for, the 2118
construction of the facility, or for rental payments relating to 2119
state financing of all or a portion of the costs of constructing 2120
the facility. Authorization to spend money, or an appropriation, 2121
for planning or determining the feasibility of or need for the 2122
facility does not constitute authorization to spend money on, or 2123
an appropriation for, costs of constructing the facility. 2124

(4) If state bond proceeds are being used for the Ohio sports 2125
facility, the state or a governmental agency owns or has 2126
sufficient property interests in the facility or in the site of 2127
the facility or in the portion or portions of the facility 2128
financed from proceeds of state bonds, which may include, but is 2129
not limited to, the right to use or to require the use of the 2130
facility for the presentation of sport and athletic events to the 2131
public at the facility. 2132

(G) In addition to the requirements of division (F) of this 2133
section, no state funds, including any state bond proceeds, shall 2134
be spent on any Ohio sports facility that is a motorsports 2135
complex, unless, with respect to that facility, both of the 2136
following apply: 2137

(1) Motorsports events shall be presented at the facility 2138
pursuant to a lease entered into with the owner of the facility. 2139
The term of the lease shall be for a period of not less than the 2140
greater of the useful life of the portion of the facility financed 2141
from proceeds of state bonds as determined using the guidelines 2142
for maximum maturities as provided under divisions (B) and (C) of 2143
section 133.20 of the Revised Code, or the period of time 2144
remaining to the date of payment or provision for payment of 2145

outstanding state bonds allocable to costs of the facility, all as 2146
determined by the director of budget and management and certified 2147
by the director to the Ohio ~~arts and sports~~ cultural facilities 2148
commission and to the Ohio building authority. 2149

(2) Any motorsports organization that commits to using the 2150
facility for an established period of time shall give the 2151
political subdivision in which the facility is located not less 2152
than six months' advance notice if the organization intends to 2153
cease utilizing the facility prior to the expiration of that 2154
established period. Such a motorsports organization shall be 2155
liable to the state for any state funds used on the construction 2156
costs of the facility. 2157

Sec. 3383.08. There is hereby created in the state treasury 2158
the capital donations fund, which shall be administered by the 2159
Ohio ~~arts and sports~~ cultural facilities commission. The fund 2160
shall consist of gifts, grants, devises, bequests, and other 2161
financial contributions made to the commission for the 2162
construction or improvement of ~~arts~~ cultural and sports facilities 2163
and shall be used in accordance with the specific purposes for 2164
which the gifts, grants, devises, bequests, or other financial 2165
contributions are made. All investment earnings of the fund shall 2166
be credited to the fund. Chapters 123., 125., 127., and 153. and 2167
section 3517.13 of the Revised Code do not apply to contracts paid 2168
from the fund, notwithstanding anything to the contrary in those 2169
chapters or that section. 2170

Not later than one month following the end of each quarter of 2171
the fiscal year, the commission shall allocate the amounts 2172
credited to the fund from investment earnings during that 2173
preceding quarter of the fiscal year among the specific projects 2174
for which they are to be used and shall certify this information 2175
to the director of budget and management. 2176

If the amounts credited to the fund for a particular project 2177
exceed what is required to complete that project, the commission 2178
may refund any of those excess amounts, including unexpended 2179
investment earnings attributable to those amounts, to the entity 2180
from which they were received. 2181

Sec. 3383.09. (A) There is hereby created in the state 2182
treasury the ~~arts~~ cultural and sports facilities building fund, 2183
which shall consist of proceeds of obligations authorized to pay 2184
costs of Ohio ~~arts~~ cultural facilities and Ohio sports facilities 2185
for which appropriations are made by the general assembly. All 2186
investment earnings of the fund shall be credited to the fund. 2187

(B) The director of budget and management may transfer, to 2188
the Ohio ~~arts and sports~~ cultural facilities commission 2189
administration fund, investment earnings credited to the ~~arts~~ 2190
cultural and sports facilities building fund that exceed the 2191
amounts required to meet estimated federal arbitrage rebate 2192
requirements when requested of the director of budget and 2193
management by the chairperson or executive director of the 2194
commission. 2195

Sec. 3746.04. Within one year after September 28, 1994, the 2196
director of environmental protection, in accordance with Chapter 2197
119. of the Revised Code and with the advice of the 2198
multidisciplinary council appointed under section 3746.03 of the 2199
Revised Code, shall adopt, and subsequently may amend, suspend, or 2200
rescind, rules that do both of the following: 2201

(A) Revise the rules adopted under Chapters 3704., 3714., 2202
3734., 6109., and 6111. of the Revised Code to incorporate the 2203
provisions necessary to conform those rules to the requirements of 2204
this chapter. The amended rules adopted under this division also 2205
shall establish response times for all submittals to the 2206

environmental protection agency required under this chapter or 2207
rules adopted under it. 2208

(B) Establish requirements and procedures that are reasonably 2209
necessary for the implementation and administration of this 2210
chapter, including, without limitation, all of the following: 2211

(1) Appropriate generic numerical clean-up standards for the 2212
treatment or removal of soils, sediments, and water media for 2213
hazardous substances and petroleum. The rules shall establish 2214
separate generic numerical clean-up standards based upon the 2215
intended use of properties after the completion of voluntary 2216
actions, including industrial, commercial, and residential uses 2217
and such other categories of land use as the director considers to 2218
be appropriate. The generic numerical clean-up standards 2219
established for each category of land use shall be the 2220
concentration of each contaminant that may be present on a 2221
property that shall ensure protection of public health and safety 2222
and the environment for the reasonable exposure for that category 2223
of land use. When developing the standards, the director shall 2224
consider such factors as all of the following: 2225

(a) Scientific information, including, without limitation, 2226
toxicological information and realistic assumptions regarding 2227
human and environmental exposure to hazardous substances or 2228
petroleum; 2229

(b) Climatic factors; 2230

(c) Human activity patterns; 2231

(d) Current statistical techniques; 2232

(e) For petroleum at industrial property, alternatives to the 2233
use of total petroleum hydrocarbons. 2234

The generic numerical clean-up standards established under 2235
division (B)(1) of this section shall be consistent with and 2236

equivalent in scope, content, and coverage to any applicable 2237
standard established by federal environmental laws and regulations 2238
adopted under them, including, without limitation, the "Federal 2239
Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 2240
U.S.C.A. 1251, as amended; the "Resource Conservation and Recovery 2241
Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended; the 2242
"Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2243
2601, as amended; the "Comprehensive Environmental Response, 2244
Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 2245
U.S.C.A. 9601, as amended; and the "Safe Drinking Water Act," 88 2246
Stat. 1660 (1974), 42 U.S.C.A. 300f, as amended. 2247

In order for the rules adopted under division (B)(1) of this 2248
section to require that any such federal environmental standard 2249
apply to a property, the property shall meet the requirements of 2250
the particular federal statute or regulation involved in the 2251
manner specified by the statute or regulation. 2252

The generic numerical clean-up standards for petroleum at 2253
commercial or residential property shall be the standards 2254
established in rules adopted under division (B) of section 2255
3737.882 of the Revised Code. 2256

(2)(a) Procedures for performing property-specific risk 2257
assessments that would be performed at a property to demonstrate 2258
that the remedy evaluated in a risk assessment results in 2259
protection of public health and safety and the environment instead 2260
of complying with the generic numerical clean-up standards 2261
established in the rules adopted under division (B)(1) of this 2262
section. The risk assessment procedures shall describe a 2263
methodology to establish, on a property-specific basis, allowable 2264
levels of contamination to remain at a property to ensure 2265
protection of public health and safety and the environment on the 2266
property and off the property when the contamination is emanating 2267
off the property, taking into account all of the following: 2268

(i) The implementation of treatment, storage, or disposal, or a combination thereof, of hazardous substances or petroleum;	2269 2270
(ii) The existence of institutional controls 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;	2271 2272 2273 2274
(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.	2275 2276 2277 2278 2279
(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:	2280 2281 2282
(i) Scientific information, including, without limitation, toxicological information and actual or proposed human and environmental exposure;	2283 2284 2285
(ii) Locational and climatic factors;	2286
(iii) Surrounding land use and human activities;	2287
(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.	2288 2289 2290
(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.	2291 2292 2293 2294 2295 2296
(3) Minimum standards for phase I property assessments. The standards shall specify the information needed to demonstrate that	2297 2298

there is no reason to believe that contamination exists on a 2299
property. The rules adopted under division (B)(3) of this section, 2300
at a minimum, shall require that a phase I property assessment 2301
include all of the following: 2302

(a) A review and analysis of deeds, mortgages, easements of 2303
record, and similar documents relating to the chain of title to 2304
the property that are publicly available or that are known to and 2305
reasonably available to the owner or operator; 2306

(b) A review and analysis of any previous environmental 2307
assessments, property assessments, environmental studies, or 2308
geologic studies of the property and any land within two thousand 2309
feet of the boundaries of the property that are publicly available 2310
or that are known to and reasonably available to the owner or 2311
operator; 2312

(c) A review of current and past environmental compliance 2313
histories of persons who owned or operated the property; 2314

(d) A review of aerial photographs of the property that 2315
indicate prior uses of the property; 2316

(e) Interviews with managers of activities conducted at the 2317
property who have knowledge of environmental conditions at the 2318
property; 2319

(f) Conducting an inspection of the property consisting of a 2320
walkover; 2321

(g) Identifying the current and past uses of the property, 2322
adjoining tracts of land, and the area surrounding the property, 2323
including, without limitation, interviews with persons who reside 2324
or have resided, or who are or were employed, within the area 2325
surrounding the property regarding the current and past uses of 2326
the property and adjacent tracts of land. 2327

The rules adopted under division (B)(3) of this section shall 2328

establish criteria to determine when a phase II property 2329
assessment shall be conducted when a phase I property assessment 2330
reveals facts that establish a reason to believe that hazardous 2331
substances or petroleum have been treated, stored, managed, or 2332
disposed of on the property if the person undertaking the phase I 2333
property assessment wishes to obtain a covenant not to sue under 2334
section 3746.12 of the Revised Code. 2335

(4) Minimum standards for phase II property assessments. The 2336
standards shall specify the information needed to demonstrate that 2337
any contamination present at the property does not exceed 2338
applicable standards or that the remedial activities conducted at 2339
the property have achieved compliance with applicable standards. 2340
The rules adopted under division (B)(4) of this section, at a 2341
minimum, shall require that a phase II property assessment include 2342
all of the following: 2343

(a) A review and analysis of all documentation prepared in 2344
connection with a phase I property assessment conducted within the 2345
one hundred eighty days before the phase II property assessment 2346
begins. The rules adopted under division (B)(4)(a) of this section 2347
shall require that if a period of more than one hundred eighty 2348
days has passed between the time that the phase I assessment of 2349
the property was completed and the phase II assessment begins, the 2350
phase II assessment shall include a reasonable inquiry into the 2351
change in the environmental condition of the property during the 2352
intervening period. 2353

(b) Quality assurance objectives for measurements taken in 2354
connection with a phase II assessment; 2355

(c) Sampling procedures to ensure the representative sampling 2356
of potentially contaminated environmental media; 2357

(d) Quality assurance and quality control requirements for 2358
samples collected in connection with phase II assessments; 2359

(e) Analytical and data assessment procedures; 2360

(f) Data objectives to ensure that samples collected in 2361
connection with phase II assessments are biased toward areas where 2362
information indicates that contamination by hazardous substances 2363
or petroleum is likely to exist. 2364

(5) Standards governing the conduct of certified 2365
professionals, criteria and procedures for the certification of 2366
professionals to issue no further action letters under section 2367
3746.11 of the Revised Code, and criteria for the suspension and 2368
revocation of those certifications. The issuance, denial, 2369
suspension, and revocation of those certifications are subject to 2370
Chapter 3745. of the Revised Code, and the director shall take any 2371
such action regarding a certification as a final action. 2372

The rules adopted under division (B)(5) of this section shall 2373
do all of the following: 2374

(a) Provide for the certification of environmental 2375
professionals to issue no further action letters pertaining to 2376
investigations and remedies in accordance with the criteria and 2377
procedures set forth in the rules. The rules adopted under 2378
division (B)(5)(a) of this section shall do at least all of the 2379
following: 2380

(i) Authorize the director to consider such factors as an 2381
environmental professional's previous performance record regarding 2382
such investigations and remedies and the environmental 2383
professional's environmental compliance history when determining 2384
whether to certify the environmental professional; 2385

(ii) Ensure that an application for certification is reviewed 2386
in a timely manner; 2387

(iii) Require the director to certify any environmental 2388
professional who the director determines complies with those 2389

criteria;	2390
(iv) Require the director to deny certification for any environmental professional who does not comply with those criteria.	2391 2392 2393
(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.	2394 2395 2396 2397 2398 2399 2400
(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:	2401 2402 2403 2404 2405 2406 2407 2408
(i) Ensure that the review is conducted in a timely fashion;	2409
(ii) Require the director to certify any such environmental professional who the director determines complies with those criteria;	2410 2411 2412
(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;	2413 2414 2415 2416
(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;	2417 2418 2419

(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 2451
remedies at property contaminated solely with petroleum unless the 2452
director first consults with the director of commerce. 2453

(6) Criteria and procedures for the certification of 2454
laboratories to perform analyses under this chapter and rules 2455
adopted under it. The issuance, denial, suspension, and revocation 2456
of those certifications are subject to Chapter 3745. of the 2457
Revised Code, and the director of environmental protection shall 2458
take any such action regarding a certification as a final action. 2459

The rules adopted under division (B)(6) of this section shall 2460
do all of the following: 2461

(a) Provide for the certification to perform analyses of 2462
laboratories in accordance with the criteria and procedures 2463
established in the rules adopted under division (B)(6)(a) of this 2464
section and establish an annual fee to be paid by those 2465
laboratories. The fee shall be established at an amount calculated 2466
to defray the costs to the agency for the review of the 2467
qualifications of those laboratories for certification and for the 2468
issuance of the certifications. The rules adopted under division 2469
(B)(6)(a) of this section may provide for the certification of 2470
those laboratories to perform only particular types or categories 2471
of analyses, specific test parameters or group of test parameters, 2472
or a specific matrix or matrices under this chapter. 2473

(b) Develop a schedule for and establish requirements 2474
governing the review by the director of the operations of 2475
laboratories that were deemed to be certified laboratories under 2476
division (E) of section 3746.07 of the Revised Code in order to 2477
determine if they comply with the criteria established in rules 2478
adopted under division (B)(6) of this section. The rules adopted 2479
under division (B)(6)(b) of this section shall do at least all of 2480
the following: 2481

(i) Ensure that the review is conducted in a timely fashion;	2482
(ii) Require the director to certify any such laboratory that the director determines complies with those criteria;	2483 2484
(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;	2485 2486 2487 2488
(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;	2489 2490 2491 2492 2493
(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.	2494 2495 2496 2497
(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;	2498 2499 2500
(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;	2501 2502 2503 2504 2505
(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;	2506 2507 2508 2509
(f) Require the director permanently to revoke the certification of a laboratory that has violated or is violating	2510 2511

division (A) of section 3746.18 of the Revised Code.	2512
(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:	2513 2514 2515
(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;	2516 2517 2518 2519
(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;	2520 2521 2522 2523 2524
(c) The contaminants addressed at the property, if any, their source, if known, and their levels prior to remediation;	2525 2526
(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;	2527 2528 2529 2530
(e) A list of the data, information, records, and documents relied upon by the certified environmental professional in preparing the no further action letter.	2531 2532 2533
(8) Methods for determining fees to be paid for the following services provided by the agency under this chapter and rules adopted under it:	2534 2535 2536
(a) Site- or property-specific technical assistance in developing or implementing plans in connection with a voluntary action;	2537 2538 2539
(b) Reviewing applications for and issuing consolidated standards permits under section 3746.15 of the Revised Code and	2540 2541

monitoring compliance with those permits;	2542
(c) Negotiating, preparing, and entering into agreements	2543
necessary for the implementation and administration of this	2544
chapter and rules adopted under it;	2545
(d) Reviewing no further action letters, issuing covenants	2546
not to sue, and monitoring compliance with any terms and	2547
conditions of those covenants and with operation and maintenance	2548
agreements entered into pursuant to those covenants, including,	2549
without limitation, conducting audits of properties where	2550
voluntary actions are being or were conducted under this chapter	2551
and rules adopted under it.	2552
The fees established pursuant to the rules adopted under	2553
division (B)(8) of this section shall be at a level sufficient to	2554
defray the direct and indirect costs incurred by the agency for	2555
the administration and enforcement of this chapter and rules	2556
adopted under it other than the provisions regarding the	2557
certification of professionals and laboratories.	2558
(9) Criteria for selecting the no further action letters	2559
issued under section 3746.11 of the Revised Code that will be	2560
audited under section 3746.17 of the Revised Code, and the scope	2561
and procedures for conducting those audits. The rules adopted	2562
under division (B)(9) of this section, at a minimum, shall require	2563
the director to establish priorities for auditing no further	2564
action letters to which any of the following applies:	2565
(a) The letter was prepared by an environmental professional	2566
who was deemed to be a certified professional under division (D)	2567
of section 3746.07 of the Revised Code, but who does not comply	2568
with the criteria established in rules adopted under division	2569
(B)(5) of this section as determined pursuant to rules adopted	2570
under division (B)(5)(d) of this section;	2571
(b) The letter was submitted fraudulently;	2572

(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 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: 2604

(i) The presence of legally enforceable, reliable 2605
restrictions on the use of ground water, including, without 2606
limitation, local rules or ordinances; 2607

(ii) The presence of regional commingled contamination from 2608
multiple sources that diminishes the quality of ground water; 2609

(iii) The natural quality of ground water; 2610

(iv) Regional availability of ground water and reasonable 2611
alternative sources of drinking water; 2612

(v) The productivity of the aquifer; 2613

(vi) The presence of restrictions on the use of ground water 2614
implemented under this chapter and rules adopted under it; 2615

(vii) The existing use of ground water. 2616

(b) In adopting rules under division (B)(10) of this section 2617
to characterize ground water according to its impacts on the 2618
environment, the director shall consider both of the following: 2619

(i) The risks posed to humans, fauna, surface water, 2620
sediments, soil, air, and other resources by the continuing 2621
presence of contaminated ground water; 2622

(ii) The availability and feasibility of technology to remedy 2623
ground water contamination. 2624

(11) Governing the application for and issuance of variances 2625
under section 3746.09 of the Revised Code; 2626

(12)(a) In the case of voluntary actions involving 2627
contaminated ground water, specifying the circumstances under 2628
which the generic numerical clean-up standards established in 2629
rules adopted under division (B)(1) of this section and standards 2630
established through a risk assessment conducted pursuant to rules 2631
adopted under division (B)(2) of this section shall be 2632

inapplicable to the remediation of contaminated ground water and 2633
under which the standards for remediating contaminated ground 2634
water shall be established on a case-by-case basis prior to the 2635
commencement of the voluntary action pursuant to rules adopted 2636
under division (B)(12)(b) of this section; 2637

(b) Criteria and procedures for the case-by-case 2638
establishment of standards for the remediation of contaminated 2639
ground water under circumstances in which the use of the generic 2640
numerical clean-up standards and standards established through a 2641
risk assessment are precluded by the rules adopted under division 2642
(B)(12)(a) of this section. The rules governing the procedures for 2643
the case-by-case development of standards for the remediation of 2644
contaminated ground water shall establish application, public 2645
participation, adjudication, and appeals requirements and 2646
procedures that are equivalent to the requirements and procedures 2647
established in section 3746.09 of the Revised Code and rules 2648
adopted under division (B)(11) of this section, except that the 2649
procedural rules shall not require an applicant to make the 2650
demonstrations set forth in divisions (A)(1) to (3) of section 2651
3746.09 of the Revised Code ~~and shall not require the director to~~ 2652
~~obtain the advice of the property revitalization board created in~~ 2653
~~section 3746.08 of the Revised Code regarding any application~~ 2654
~~submitted pursuant to the rules adopted under division (B)(12)(b)~~ 2655
~~of this section.~~ 2656

(13) A definition of the evidence that constitutes sufficient 2657
evidence for the purpose of division (A)(5) of section 3746.02 of 2658
the Revised Code. 2659

At least thirty days before filing the proposed rules 2660
required to be adopted under this section with the secretary of 2661
state, director of the legislative service commission, and joint 2662
committee on agency rule review in accordance with divisions (B) 2663
and (H) of section 119.03 of the Revised Code, the director of 2664

environmental protection shall hold at least one public meeting on 2665
the proposed rules in each of the five districts into which the 2666
agency has divided the state for administrative purposes. 2667

Sec. 3746.09. (A) A person who proposes to enter into or who 2668
is participating in the voluntary action program under this 2669
chapter and rules adopted under it, in accordance with this 2670
section and rules adopted under division (B)(11) of section 2671
3746.04 of the Revised Code, may apply to the director of 2672
environmental protection for a variance from applicable standards 2673
otherwise established in this chapter and rules adopted under it. 2674
The application for a variance shall be prepared by a certified 2675
professional. The director shall issue a variance from those 2676
applicable standards only if the application makes all of the 2677
following demonstrations to the director's satisfaction: 2678

(1) Either or both of the following: 2679

(a) It is technically infeasible to comply with the 2680
applicable standards otherwise established at the property named 2681
in the application; 2682

(b) The costs of complying with the applicable standards 2683
otherwise established at the property substantially exceed the 2684
economic benefits; 2685

(2) The proposed alternative standard or set of standards and 2686
terms and conditions set forth in the application will result in 2687
an improvement of environmental conditions at the property and 2688
ensure that public health and safety will be protected; 2689

(3) The establishment of and compliance with the alternative 2690
standard or set of standards and terms and conditions are 2691
necessary to promote, protect, preserve, or enhance employment 2692
opportunities or the reuse of the property named in the 2693
application. 2694

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 2726
forty-five days commencing on the date of the publication of the 2727
notice. The notice shall contain all of the following information, 2728
at a minimum: 2729

(1) The address of the property to which the application 2730
pertains; 2731

(2) A brief summary of the alternative standards and terms 2732
and conditions proposed by the applicant; 2733

(3) The date, time, and location of the public meeting. 2734

The notice shall be published in a newspaper of general 2735
circulation in the county in which the property is located and, if 2736
the property is located in close proximity to the boundary of the 2737
county with an adjacent county, as determined by the director, 2738
shall be published in a newspaper of general circulation in the 2739
adjacent county. Concurrently with the publication of the notice 2740
of the public meeting, the director shall mail notice of the 2741
application, comment period, and public meeting to the owner of 2742
each parcel of land that is adjacent to the affected property and 2743
to the legislative authority of the municipal corporation or 2744
township, and county, in which the affected property is located. 2745
The notices mailed to the adjacent land owners and legislative 2746
authorities shall contain the same information as the published 2747
notice. 2748

(D) At the public meeting on an application for a variance, 2749
the applicant, or a representative of the applicant who is 2750
knowledgeable about the affected property and the application, 2751
shall present information regarding the application and the basis 2752
of the request for the variance and shall respond to questions 2753
from the public regarding the affected property and the 2754
application. A representative of the environmental protection 2755
agency who is familiar with the affected property and the 2756

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. 3746.35. (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:	2788
(a) The address of the property and name of the person who undertook the voluntary action at the property;	2789 2790
(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.	2791 2792 2793 2794 2795 2796 2797 2798 2799
(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:	2800 2801 2802
(a) The address of the property and the name of the person to whom the variance was issued;	2803 2804
(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;	2805 2806 2807 2808 2809
(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.	2810 2811 2812 2813 2814 2815
(3) The number of audits performed under section 3746.17 of the Revised Code during the preceding calendar year and, in	2816 2817

connection with each of them, at least the following information:	2818
(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;	2819 2820 2821
(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;	2822 2823 2824 2825 2826 2827
(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.	2828 2829 2830
(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:	2831 2832 2833 2834 2835 2836
(a) The address of the property affected by the revocation and name of the person who undertook the voluntary action at the property;	2837 2838 2839
(b) The reason for the revocation.	2840
(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	2841 2842 2843 2844 2845 2846 2847

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.~~ 2880
2881

(B)(1) Not later than March 31, 1996, the county auditor of 2882
each county in which is located any property that is receiving a 2883
tax abatement under section 5709.87 of the Revised Code shall 2884
report to the director of development for each such property both 2885
of the following as applicable to tax year 1995: 2886

(a) The address of the property and the name of the owner as 2887
stated in the records of the county auditor of the county in which 2888
the property is located; 2889

(b) The amount of the valuation of the property that was 2890
exempted from real property taxation under that section. 2891

Not later than the thirty-first day of March of each 2892
subsequent year, each such county auditor shall report the 2893
information described in those divisions to the director of 2894
development for each property within the county that is receiving 2895
a tax abatement under that section for the preceding tax year. 2896

(2) Not later than July 1, 1996, and not later than the first 2897
day of July of each subsequent year, the director of development 2898
shall compile the information provided to ~~him~~ the director under 2899
division (B)(1) of this section applicable to the preceding tax 2900
year into a report covering all of the counties in the state in 2901
which are located properties receiving a tax abatement under 2902
section 5709.87 of the Revised Code for the preceding tax year and 2903
shall forward the report to the director of environmental 2904
protection. The sole responsibility of the director of development 2905
in preparing the report is to compile the information submitted to 2906
~~him~~ the director by the county auditors under division (B)(1) of 2907
this section. 2908

(C) Not later than July 1, 1996, and not later than the first 2909
day of July of each subsequent year, the director of development 2910

shall compile the information provided to ~~him~~ the director by 2911
municipal corporations and counties under division (A) of section 2912
5709.882 of the Revised Code applicable to the preceding calendar 2913
year into a report covering, by county, all of the municipal 2914
corporations and counties in this state in which are located 2915
properties receiving a tax abatement pursuant to an agreement 2916
entered into under section 5709.88 of the Revised Code and shall 2917
forward the report to the director of environmental protection. 2918
The sole responsibility of the director of development in 2919
preparing the report is to compile the information submitted to 2920
him by municipal corporations and counties under division (A) of 2921
section 5709.882 of the Revised Code. 2922

Sec. 3747.02. (A)(1) The governor, with the advice and 2923
consent of the senate, shall appoint the Ohio member of the 2924
midwest interstate low-level radioactive waste commission. The 2925
commissioner shall serve at the pleasure of the governor and shall 2926
be reimbursed for actual and necessary expenses incurred in the 2927
performance of ~~his~~ official duties. 2928

(2) As used in this section, "compact" means the midwest 2929
interstate compact on low-level radioactive waste entered into 2930
under section 3747.01 of the Revised Code. 2931

(B) The representative from this state on the commission 2932
shall not cast a vote contrary to Ohio law. 2933

(C) The representative from this state on the commission 2934
shall not cast an affirmative vote on the following matters before 2935
the commission without the prior approval of ~~a majority of the~~ 2936
~~members of the board of directors of the Ohio low-level~~ 2937
~~radioactive waste facility development authority created in~~ 2938
~~section 3747.05 of the Revised Code~~ the governor: 2939

(1) Approval by the commission of the amount of the long-term 2940

care fund established by this state pursuant to Article VI(O) of 2941
the compact ~~and division (B) of section 3747.18 of the Revised~~ 2942
~~Code;~~ 2943

(2) Relief of a party state to the compact of its 2944
responsibility to serve as a host state under Article VI(E) of the 2945
compact; 2946

(3) A requirement pursuant to Article VI(F) of the compact 2947
that this state use alternate technology to that proposed by this 2948
state for a compact facility in this state; 2949

~~(4) Disposal of any of the waste described in division (B) of~~ 2950
~~section 3747.13 of the Revised Code in a compact facility in a~~ 2951
~~party state in the compact other than this state;~~ 2952

~~(5)~~ Authorization of the early closing of a compact facility 2953
under Article III(H)(7) of the compact; 2954

~~(6)~~(5) Any agreement between this state and the commission or 2955
a state other than Ohio that determines or alters the rights, 2956
powers, or obligations of this state under the compact; 2957

~~(7)~~(6) Modification of the requirements of Article VI(L)(2), 2958
(3), or (5) of the compact if the then operating compact facility 2959
is in this state; 2960

~~(8)~~(7) Admission by the commission of a new party state to 2961
the compact; 2962

~~(9)~~(8) Revocation by the commission of the membership of a 2963
party state in the compact. 2964

(D) A vote by the representative from this state on the 2965
commission that is inconsistent with division (B) or (C) of this 2966
section is void and is not enforceable. 2967

Sec. 3748.01. As used in this chapter: 2968

(A) "Byproduct material" means either of the following: 2969

(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;	2970 2971 2972 2973
(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.	2974 2975 2976
(B) "Certified radiation expert" means an individual who has complied with all of the following:	2977 2978
(1) Applied to the director of health for certification as a radiation expert under section 3748.12 of the Revised Code;	2979 2980
(2) Met minimum education and experience requirements established in rules adopted under division (C) of section 3748.04 of the Revised Code;	2981 2982 2983
(3) Been granted a certificate as a radiation expert by the director under section 3748.12 of the Revised Code.	2984 2985
(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.	2986 2987 2988 2989 2990 2991 2992 2993 2994
(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	2995 2996 2997 2998 2999

"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 3090
retrieval. 3091

Sec. 3748.02. (A) The department of health is hereby 3092
designated the Ohio radiation control agency. 3093

(B) In accordance with the laws of this state, the director 3094
of health may employ, compensate, and prescribe the duties of 3095
individuals necessary to implement and administer this chapter and 3096
~~the rules adopted under it and for the purposes of division (A)(4)~~ 3097
~~of section 3747.06 and section 3747.15 of the Revised Code.~~ 3098

Sec. 3748.04. The public health council, in accordance with 3099
Chapter 119. of the Revised Code, shall adopt and may amend or 3100
rescind rules doing all of the following: 3101

(A) Listing types of radioactive material for which licensure 3102
by its handler is required and types of radiation-generating 3103
equipment for which registration by its handler is required, and 3104
establishing requirements governing them. Rules adopted under 3105
division (A) of this section shall be compatible with applicable 3106
federal regulations and shall establish all of the following, 3107
without limitation: 3108

(1) Requirements governing both of the following: 3109

(a) The licensing and inspection of handlers of radioactive 3110
material. Standards established in rules adopted under division 3111
(A)(1)(a) of this section regarding byproduct material or any 3112
activity that results in the production of that material, to the 3113
extent practicable, shall be equivalent to or more stringent than 3114
applicable standards established by the United States nuclear 3115
regulatory commission. 3116

(b) The registration and inspection of handlers of 3117
radiation-generating equipment. Standards established in rules 3118

adopted under division (A)(1)(b) of this section, to the extent 3119
practicable, shall be equivalent to applicable standards 3120
established by the food and drug administration in the United 3121
States department of health and human services. 3122

(2) Identification of and requirements governing possession 3123
and use of specifically licensed and generally licensed quantities 3124
of radioactive material as either sealed sources or unsealed 3125
sources; 3126

(3) A procedure for the issuance of and the frequency of 3127
renewal of the licenses of handlers of radioactive material, other 3128
than a license for a facility for the disposal of low-level 3129
radioactive waste, and of the certificates of registration of 3130
handlers of radiation-generating equipment; 3131

(4) Procedures for suspending and revoking the licenses of 3132
handlers of radioactive material and the certificates of 3133
registration of handlers of radiation-generating equipment; 3134

(5) Criteria to be used by the director of health in amending 3135
the license of a handler of radioactive material or the 3136
certificate of registration of a handler of radiation-generating 3137
equipment subsequent to its issuance; 3138

(6) Criteria for achieving and maintaining compliance with 3139
this chapter and rules adopted under it by licensees and 3140
registrants; 3141

(7) Criteria governing environmental monitoring of licensed 3142
and registered activities to assess compliance with this chapter 3143
and rules adopted under it; 3144

(8) Except as otherwise provided in division (A)(8) of this 3145
section, fees for the licensing of handlers of radioactive 3146
material, other than a facility for the disposal of low-level 3147
radioactive waste, and the registration of handlers of 3148

radiation-generating equipment and a fee schedule for their 3149
inspection. Rules adopted under division (A)(8) of this section 3150
shall not revise any fees established in section 3748.07 or 3151
3748.13 of the Revised Code to be paid by any handler of 3152
radiation-generating equipment that is a medical practitioner or a 3153
corporation, partnership, or other business entity consisting of 3154
medical practitioners, other than a hospital as defined in section 3155
3727.01 of the Revised Code. 3156

As used in division (A)(8) of this section, "medical 3157
practitioner" means a person who is authorized to practice 3158
dentistry pursuant to Chapter 4715. of the Revised Code; medicine 3159
and surgery, osteopathic medicine and surgery, or podiatry 3160
pursuant to Chapter 4731. of the Revised Code; or chiropractic 3161
pursuant to Chapter 4734. of the Revised Code. 3162

~~(9) With regard to a facility for the disposal of low level 3163
radioactive waste, an application fee to cover the costs incurred 3164
by the department of health for review of the license application 3165
submitted by the contractor selected under division (A)(6) of 3166
section 3747.06 and section 3747.10 of the Revised Code by the 3167
board of directors of the Ohio low level radioactive waste 3168
facility development authority created in section 3747.05 of the 3169
Revised Code to develop and operate the facility, which shall be 3170
paid by the contractor at the time of receipt of an invoice from 3171
the department; a license review fee to cover the costs of the 3172
department for review of that license, which shall be paid by the 3173
contractor every five years after the issuance of the license; and 3174
a fee for routine compliance monitoring, which shall be paid 3175
annually by the contractor. Fees collected pursuant to rules 3176
adopted under division (A)(9) of this section shall be deposited 3177
into the state treasury to the credit of the general operations 3178
fund created in section 3701.83 of the Revised Code. The fees 3179
shall be used solely to administer and enforce this chapter and 3180~~

~~rules adopted under it. A fee for routine compliance monitoring 3181
required pursuant to rules adopted under division (A)(9) of this 3182
section that has not been paid within ninety days after the 3183
invoice date shall be assessed at two times the original invoiced 3184
fee. Any such fee that has not been paid within one hundred eighty 3185
days after the invoice date shall be assessed at five times the 3186
original invoiced fee. 3187~~

(B)(1) Identifying sources of radiation, circumstances of 3188
possession, use, or disposal of sources of radiation, and levels 3189
of radiation that constitute an unreasonable or unnecessary risk 3190
to human health or the environment; 3191

(2) Establishing requirements for the achievement and 3192
maintenance of compliance with standards for the receipt, 3193
possession, use, storage, installation, transfer, servicing, and 3194
disposal of sources of radiation to prevent levels of radiation 3195
that constitute an unreasonable or unnecessary risk to human 3196
health or the environment; 3197

(3) Requiring the maintenance of records on the receipt, use, 3198
storage, transfer, and disposal of radioactive material and on the 3199
radiological safety aspects of the use and maintenance of 3200
radiation-generating equipment. 3201

In adopting rules under divisions (A) and (B) of this 3202
section, the council shall use standards no less stringent than 3203
the "suggested state regulations for control of radiation" 3204
prepared by the conference of radiation control program directors, 3205
inc., and regulations adopted by the United States nuclear 3206
regulatory commission, the United States environmental protection 3207
agency, and the United States department of health and human 3208
services and shall consider reports of the national council on 3209
radiation protection and measurement and the relevant standards of 3210
the American national standards institute. 3211

(C) Establishing fees, procedures, and requirements for certification as a radiation expert, including all of the following, without limitation:	3212
	3213
	3214
(1) Minimum training and experience requirements;	3215
(2) Procedures for applying for certification;	3216
(3) Procedures for review of applications and issuance of certificates;	3217
	3218
(4) Procedures for suspending and revoking certification.	3219
(D) Establishing a schedule for inspection of sources of radiation and their shielding and surroundings;	3220
	3221
(E) Establishing the responsibilities of a radiation expert;	3222
(F) Establishing criteria for quality assurance programs for licensees of radioactive material and registrants of radiation-generating equipment;	3223
	3224
	3225
(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.	3226
	3227
	3228
	3229
	3230
	3231
	3232
	3233
	3234
	3235
	3236
	3237
	3238
(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	3239
	3240
	3241

costs of administering low-level radioactive waste management 3242
activities under this chapter and rules adopted under it. All fees 3243
collected under this division shall be deposited into the state 3244
treasury to the credit of the general operations fund created in 3245
section 3701.83 of the Revised Code. The fees shall be used solely 3246
to administer and enforce this chapter and rules adopted under it. 3247
Any fee required under this division that has not been paid within 3248
ninety days after the invoice date shall be assessed at two times 3249
the original invoiced fee. Any fee that has not been paid within 3250
one hundred eighty days after the invoice date shall be assessed 3251
at five times the original invoiced fee. 3252

(I) Establishing requirements governing closure, 3253
decontamination, decommissioning, reclamation, and long-term 3254
surveillance and care of a facility licensed under this chapter 3255
and rules adopted under it. Rules adopted under division (I) of 3256
this section shall include, without limitation, all of the 3257
following: 3258

(1) Standards and procedures to ensure that a licensee 3259
prepares a decommissioning funding plan that provides an adequate 3260
financial guaranty to permit the completion of all requirements 3261
governing the closure, decontamination, decommissioning, and 3262
reclamation of sites, structures, and equipment used in 3263
conjunction with a licensed activity; 3264

(2) For licensed activities where radioactive material that 3265
will require surveillance or care is likely to remain at the site 3266
after the licensed activities cease, as indicated in the 3267
application for the license submitted under section 3748.07 of the 3268
Revised Code, standards and procedures to ensure that the licensee 3269
prepares an additional decommissioning funding plan for long-term 3270
surveillance and care, before termination of the license, that 3271
provides an additional adequate financial guaranty as necessary to 3272
provide for that surveillance and care; 3273

(3) For the purposes of the decommissioning funding plans 3274
required in rules adopted under divisions (I)(1) and (2) of this 3275
section, the types of acceptable financial guaranties, which shall 3276
include bonds issued by fidelity or surety companies authorized to 3277
do business in the state, certificates of deposit, deposits of 3278
government securities, irrevocable letters or lines of credit, 3279
trust funds, escrow accounts, or other similar types of 3280
arrangements, but shall not include any arrangement that 3281
constitutes self-insurance; 3282

(4) A requirement that the decommissioning funding plans 3283
required in rules adopted under divisions (I)(1) and (2) of this 3284
section contain financial guaranties in amounts sufficient to 3285
ensure compliance with any standards established by the United 3286
States nuclear regulatory commission, or by the state if it has 3287
become an agreement state pursuant to section 3748.03 of the 3288
Revised Code, pertaining to closure, decontamination, 3289
decommissioning, reclamation, and long-term surveillance and care 3290
of licensed activities and sites of licensees. 3291

Standards established in rules adopted under division (I) of 3292
this section regarding any activity that resulted in the 3293
production of byproduct material, as defined in division (A)(2) of 3294
section 3748.01 of the Revised Code, to the extent practicable, 3295
shall be equivalent to or more stringent than standards 3296
established by the United States nuclear regulatory commission for 3297
sites at which ores were processed primarily for their source 3298
material content and at which byproduct material, as defined in 3299
division (A)(2) of section 3748.01 of the Revised Code, is 3300
deposited. 3301

~~(J) Establishing qualifications for members of the license 3302
review board appointed under division (B) of section 3748.09 of 3303
the Revised Code; 3304~~

~~(K)~~ Establishing criteria governing inspections of a facility 3305
for the disposal of low-level radioactive waste, including, 3306
without limitation, the establishment of a resident inspector 3307
program at such a facility; 3308

~~(L)~~(K) Establishing requirements and procedures governing the 3309
filing of complaints under section 3748.16 of the Revised Code, 3310
including, without limitation, those governing intervention in a 3311
hearing held under division (B)(3) of that section; 3312

~~(M)~~ Establishing requirements and procedures for entering 3313
into an agreement with the board of directors of the Ohio 3314
low-level radioactive waste facility development authority created 3315
in section 3747.05 of the Revised Code for the payment of the 3316
department's costs incurred pursuant to division (A)(4) of section 3317
3747.06 of the Revised Code and Article III(I)(5) of the midwest 3318
interstate compact on low-level radioactive waste established 3319
under section 3747.01 of the Revised Code. 3320

Sec. 3748.05. (A) The director of health shall do all of the 3321
following: 3322

(1) Administer and enforce this chapter and the rules adopted 3323
under it; 3324

(2) Collect and make available information relating to 3325
sources of radiation; 3326

(3) Ensure the review of plans and specifications, submitted 3327
in accordance with rules adopted by the public health council, for 3328
the control of radiation that constitutes an unreasonable or 3329
unnecessary risk to human health or the environment; 3330

(4) Review reports of quality assurance audits performed by 3331
certified radiation experts under this chapter and the rules 3332
adopted under it; 3333

(5) Ensure that programs for the control of sources of 3334

radiation are developed with due regard for compatibility with 3335
federal programs for the regulation of byproduct, source, and 3336
special nuclear materials; 3337

(6) In accordance with Chapter 119. of the Revised Code, 3338
adopt, and subsequently may amend and rescind, rules providing for 3339
the administrative assessment and collection of monetary penalties 3340
for failure by any facility licensed under this chapter and rules 3341
adopted under it to comply with this chapter and those rules. The 3342
director may require the submission of compliance schedules and 3343
other related information. Any orders issued or payments or other 3344
requirements imposed pursuant to rules adopted under division 3345
(A)(6) of this section shall not affect any civil or criminal 3346
enforcement proceeding brought under this chapter or any other 3347
provision of state or local law. Moneys collected as 3348
administrative penalties imposed pursuant to rules adopted under 3349
division (A)(6) of this section shall be deposited in the state 3350
treasury to the credit of the general operations fund created in 3351
section 3701.83 of the Revised Code. The moneys shall be used 3352
solely to administer and enforce this chapter and the rules 3353
adopted under it. 3354

(7) Maintain files of both of the following: 3355

(a) All license and registration applications, issuances, 3356
denials, amendments, renewals, suspensions, and revocations and 3357
any administrative or judicial action pertaining to them; 3358

(b) All rules adopted under this chapter, or proposed to be 3359
adopted, relating to the regulation of sources of radiation and 3360
proceedings on them. 3361

~~(8) In accordance with chapter 119. of the Revised Code, 3362
adopt, and subsequently may amend and rescind, rules of procedure 3363
to govern any adjudication conducted by the license review board 3364
under division (B)(3)(c) of section 3748.09 of the Revised Code. 3365~~

~~The rules adopted under division (A)(8) of this section shall be~~ 3366
~~in substantial conformity with the procedural rules established in~~ 3367
~~10 C.F.R. 2.705-2.759.~~ 3368

(B) The director may do any or all of the following: 3369

(1) Advise, consult, and cooperate with other agencies of the 3370
state, the federal government, other states, interstate agencies, 3371
political subdivisions, industries, and other affected groups in 3372
furtherance of the purposes of this chapter and the rules adopted 3373
under it; 3374

(2) Accept and administer grants from the federal government 3375
and from other sources, public or private, for carrying out any of 3376
the director's functions under this chapter and the rules adopted 3377
under it; 3378

(3) Encourage, participate in, or conduct studies, 3379
investigations, training, research, and demonstrations relating to 3380
the detection and control of radiation that constitutes an 3381
unreasonable or unnecessary risk to human health or the 3382
environment, the measurement of radiation, the evaluation of 3383
potential effects on health of cumulative or acute exposure to 3384
radiation, the development and improvement of methods to limit and 3385
reduce the generation of radioactive waste, and related problems 3386
as the director considers necessary or advisable; 3387

(4) In accordance with Chapter 119. of the Revised Code, 3388
adopt rules establishing criteria under which other agencies of 3389
the state or private entities may perform inspections of x-ray 3390
equipment at registered dental ~~facilites~~ facilities at the request 3391
of the facility or pursuant to contract with the department; 3392

(5) Exercise all incidental powers necessary to carry out the 3393
purposes of this chapter and the rules adopted under it, 3394
including, without limitation, the issuance of orders. 3395

Sec. 3748.16. (A)(1) The director of health shall conduct 3396
regular inspections of the facility for the disposal of low-level 3397
radioactive waste in accordance with rules adopted under division 3398
~~(K)~~(J) of section 3748.04 of the Revised Code and, in accordance 3399
with those rules, shall provide for at least one resident 3400
inspector at the facility. 3401

(2) Concentrations of radioactive materials released into the 3402
environment during operation, closure, institutional control, and 3403
long-term care of the facility shall be kept as low as are 3404
reasonably achievable and shall not exceed levels established in 3405
rules adopted under division (A)(7) of section 3748.04 of the 3406
Revised Code or the standards set forth in 10 C.F.R. 61.41, 3407
whichever are more stringent. The director shall establish a 3408
program to monitor concentrations of radioactive materials so 3409
released and shall conduct an investigation if monitoring results 3410
indicate concentrations of radioactive materials at levels that 3411
are greater than the established background for a monitoring point 3412
to determine ~~both of the following:~~ 3413

~~(a) The source of the increased radiation level;~~ 3414

~~(b) If violations of this chapter or Chapter 3747. of the 3415
Revised Code, rules adopted under them, or conditions of the 3416
license issued for the facility under section 3748.09 and rules 3417
adopted under division (A) of section 3748.04 of the Revised Code 3418
resulted in the increase.~~ 3419

~~The director shall identify corrective actions to be taken 3420
based on the findings of the investigation and shall require the 3421
contractor selected under division (A)(6) of section 3747.06 and 3422
section 3747.10 of the Revised Code by the board of directors of 3423
the Ohio low level radioactive waste facility development 3424
authority created in section 3747.05 of the Revised Code to submit 3425
a corrective action plan in writing.~~ 3426

(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 3459
prior to the hearing, a written notice of the complainant's intent 3460
to participate. Any other person may be permitted to intervene 3461
upon the granting by the director or hearing examiner of a motion 3462
to intervene filed in accordance with rules adopted under division 3463
(~~L~~)(K) of section 3748.04 of the Revised Code. 3464

If the director does not hold a hearing, the director shall 3465
provide an opportunity to the complainant and the contractor to 3466
attend a conference with the director concerning the complaint. 3467

(4) Following the completion of the investigation under 3468
division (B)(2) of this section and the hearing or conference 3469
under division (B)(3) of this section, if the director determines 3470
that the facility is in compliance with the health or safety 3471
requirements identified in the complaint, the director shall 3472
dismiss the complaint. If the director determines that the 3473
facility is not in compliance with those requirements, the 3474
director shall issue an order under division (B)(4) of section 3475
3748.05 of the Revised Code requiring the contractor to bring the 3476
facility into compliance and to submit a written discussion of how 3477
that will be accomplished. The director also may do any or all of 3478
the following: 3479

(a) Suspend or revoke the facility's license in accordance 3480
with rules adopted under division (A) of section 3748.04 of the 3481
Revised Code; 3482

(b) Issue an order assessing an administrative penalty in 3483
accordance with rules adopted under division (A)(6) of section 3484
3748.05 of the Revised Code; 3485

(c) Request the attorney general, in writing, to commence 3486
appropriate legal proceedings, including a civil action for 3487
imposition of a civil penalty under section 3748.19 of the Revised 3488
Code and criminal prosecution. 3489

(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 3521
insurance underwriting association to the Ohio fair plan 3522
underwriting association, its members, members of its board of 3523
governors, and its officers, employees, and agents against all 3524
liability, loss, and expense resulting from acts done or omitted 3525
in good faith in performing such contract. Such contract shall 3526
also provide that the Ohio fair plan underwriting association will 3527
be reimbursed for its actual expenses incurred in performing such 3528
services. Common expenses applicable both to the Ohio fair plan 3529
and to the mine subsidence insurance underwriting association 3530
shall be allocated between them on an equitable basis approved by 3531
the superintendent of insurance. 3532

~~(C)~~(B) The Ohio fair plan underwriting association by action 3533
of its board of governors, with the approval of the superintendent 3534
of insurance, is authorized to enter into a contract with the Ohio 3535
commercial joint underwriting association to provide 3536
administrative and claims adjusting services required by it. Such 3537
contract shall provide indemnification by the Ohio commercial 3538
joint underwriting association to the Ohio fair plan underwriting 3539
association, its members, members of its board of governors, and 3540
its officers, employees, and agents against all liability, loss, 3541
and expenses resulting from acts done or omitted in good faith in 3542
performing such contract. Such contract shall also provide that 3543
the Ohio fair plan underwriting association will be reimbursed for 3544
its actual expenses incurred in performing such services. Common 3545
expenses applicable both to the Ohio fair plan and to the Ohio 3546
commercial joint underwriting association shall be allocated 3547
between them on an equitable basis approved by the superintendent 3548
of insurance. 3549

Sec. 3929.682. (A) A medical liability fund is hereby created 3550
in the state treasury. The medical liability fund shall ~~consist of~~ 3551
~~the remaining funds of the joint underwriting association, the~~ 3552

~~association created under section 3929.72 of the Revised Code and 3553
dissolved under section 3929.721 of the Revised Code, and shall be 3554
used for the purposes of funding the medical liability 3555
underwriting association that is created in accordance with 3556
sections 3929.62 to 3929.70 of the Revised Code or for funding 3557
another medical malpractice initiative with the approval of the 3558
general assembly. 3559~~

~~(B) As used in this section, "remaining funds of the joint 3560
underwriting association" means funds paid to the treasurer of 3561
state in accordance with section 3929.721 of the Revised Code and 3562
any plan of dissolution or trust agreement adopted under section 3563
3929.721 of the Revised Code. 3564~~

Sec. 3929.85. No insurer licensed to carry on the business of 3565
insurance in this state that is required by law to contribute to, 3566
or participate in, or ~~which that~~ can be assessed by the Ohio 3567
insurance guaranty association pursuant to sections 3955.01 to 3568
3955.19 of the Revised Code, or by the plan for apportionment of 3569
applicants for motor vehicle insurance pursuant to section 4509.70 3570
of the Revised Code, or by the Ohio fair plan underwriting 3571
association pursuant to sections 3929.43 to 3929.61 of the Revised 3572
Code, ~~or by the joint underwriting association pursuant to 3573
sections 3929.71 to 3929.85 of the Revised Code,~~ or by the Ohio 3574
commercial insurance joint underwriting association pursuant to 3575
sections 3930.03 to 3930.18 of the Revised Code shall in any 3576
calendar year be required to contribute to, participate in, or be 3577
assessed by any one or more of ~~the aforementioned~~ those plans or 3578
associations in an amount or amounts totaling in excess of two and 3579
one-half per cent of its net direct Ohio premium volume for the 3580
year next preceding the year in which the assessment or 3581
assessments are made or the contributions or participations are 3582
required. 3583

Sec. 3931.01. Individuals, partnerships, and corporations of 3584
this state, designated in sections 3931.01 to 3931.12 of the 3585
Revised Code, as "subscribers," may exchange reciprocal or 3586
interinsurance contracts with each other, and with individuals, 3587
partnerships, and corporations of other states, districts, 3588
provinces, and countries, providing indemnity among themselves 3589
from any loss which may be legally insured against by any fire or 3590
casualty insurance company or association provided that contracts 3591
of indemnity against property damage and bodily injury arising out 3592
of the ownership, maintenance or use of a singly owned private 3593
passenger automobile principally used for nonbusiness purposes may 3594
not be exchanged through a reciprocal insurer which maintains a 3595
surplus over all liabilities of less than two and one-half million 3596
dollars and provided that this exception shall not prohibit the 3597
exchanging of contracts of indemnity against any form of liability 3598
otherwise authorized and arising out of any business or commercial 3599
enterprise. Such contracts and the exchange thereof and such 3600
subscribers, their attorneys, and representatives shall be 3601
regulated by such sections, and no law enacted after July 4, 1917, 3602
shall apply to them, unless they are expressly designated therein. 3603

Such a contract may be executed by an attorney or other 3604
representative designated "attorney," in sections 3931.01 to 3605
3931.12 of the Revised Code, authorized by and acting for such 3606
subscribers under powers of attorney. Such attorney may be a 3607
corporation. The principal office of such attorney shall be 3608
maintained at the place designated by the subscribers in the 3609
powers of attorney. 3610

Except for such limitations on assessability as are approved 3611
by the superintendent of insurance, every reciprocal or 3612
interinsurance contract written pursuant to this chapter for 3613
medical malpractice insurance ~~as defined in division (A) of~~ 3614

~~section 3929.71 of the Revised Code shall be fully assessable and~~ 3615
shall contain a statement, in boldface capital letters and in type 3616
more prominent than that of the balance of the contract, setting 3617
forth such terms of ~~accessability~~ assessability. As used in this 3618
section, "medical malpractice insurance" means insurance coverage 3619
against the legal liability of the insured and against loss, 3620
damage, or expense incident to a claim arising out of the death, 3621
disease, or injury of any person as the result of negligence or 3622
malpractice in rendering professional service by any licensed 3623
physician, podiatrist, or hospital, as those terms are defined in 3624
section 2305.113 of the Revised Code. 3625

Sec. 3955.05. Sections 3955.01 to 3955.19 of the Revised Code 3626
apply to all kinds of direct insurance, except: 3627

(A) Title insurance; 3628

(B) Fidelity or surety bonds, or any other bonding 3629
obligations; 3630

(C) Credit insurance, vendors' single interest insurance, 3631
collateral protection insurance, or any similar insurance 3632
protecting the interests of a creditor arising out of a 3633
creditor-debtor transaction; 3634

(D) Mortgage guaranty, financial guaranty, residual value, or 3635
other forms of insurance offering protection against investment 3636
risks; 3637

(E) Ocean marine insurance; 3638

(F) Any insurance provided by or guaranteed by government, 3639
including, but not limited to, any department, board, office, 3640
commission, agency, institution, or other instrumentality or 3641
entity of any branch of state government, any political 3642
subdivision of this state, the United States or any agency of the 3643
United States, or any separate or joint governmental 3644

self-insurance or risk-pooling program, plan, or pool;	3645
(G) Contracts of any corporation by which health services are to be provided to its subscribers;	3646 3647
(H) Life, annuity, health, or disability insurance, including sickness and accident insurance written pursuant to Chapter 3923. of the Revised Code;	3648 3649 3650
(I) Fraternal benefit insurance;	3651
(J) Mutual protective insurance of persons or property;	3652
(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 ; <u>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.</u>	3653 3654 3655 3656 3657 3658 3659 3660 3661 3662 3663
(L) Any political subdivision self-insurance program or joint political subdivision self-insurance pool established under Chapter 2744. of the Revised Code;	3664 3665 3666
(M) Warranty or service contracts, or the insurance of such <u>those</u> contracts;	3667 3668
(N) Any state university or college self-insurance program established under section 3345.202 of the Revised Code;	3669 3670
(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	3671 3672 3673 3674

insurance risk;	3675
(P) Credit union share guaranty insurance issued pursuant to Chapter 1761. of the Revised Code;	3676 3677
(Q) Insurance issued by risk retention groups as defined in Chapter 3960. of the Revised Code;	3678 3679
(R) Workers' compensation insurance, including any contract indemnifying an employer who pays compensation directly to employees.	3680 3681 3682
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:	3683 3684 3685 3686 3687
(1) Prohibits the establishment of a purchasing group;	3688
(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;	3689 3690 3691 3692 3693
(3) Prohibits a purchasing group or its members from purchasing insurance on a group basis described in division (A)(2) of this section;	3694 3695 3696
(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;	3697 3698 3699 3700
(5) Requires that a purchasing group have a minimum number of members, common ownership or affiliation, or a certain legal form;	3701 3702
(6) Requires that a certain percentage of a purchasing group	3703

obtain insurance on a group basis; 3704

(7) Otherwise discriminates against a purchasing group or any 3705
of its members; 3706

(8) Requires that any insurance policy issued to a purchasing 3707
group or any of its members be countersigned by an insurance agent 3708
or broker residing in this state. 3709

(B) The superintendent of insurance may require or exempt a 3710
risk retention group from participation in any joint underwriting 3711
association established under section ~~3929.72~~ or 3930.03 or in the 3712
plan established under section 4509.70 of the Revised Code. Any 3713
risk retention group that is required to participate under this 3714
division shall submit sufficient information to the superintendent 3715
to enable ~~him~~ the superintendent to apportion on a 3716
nondiscriminatory basis the risk retention group's proportionate 3717
share of losses and expenses. 3718

Sec. 4117.01. As used in this chapter: 3719

(A) "Person," in addition to those included in division (C) 3720
of section 1.59 of the Revised Code, includes employee 3721
organizations, public employees, and public employers. 3722

(B) "Public employer" means the state or any political 3723
subdivision of the state located entirely within the state, 3724
including, without limitation, any municipal corporation with a 3725
population of at least five thousand according to the most recent 3726
federal decennial census; county; township with a population of at 3727
least five thousand in the unincorporated area of the township 3728
according to the most recent federal decennial census; school 3729
district; governing authority of a community school established 3730
under Chapter 3314. of the Revised Code; state institution of 3731
higher learning; public or special district; state agency, 3732
authority, commission, or board; or other branch of public 3733

employment.	3734
(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:	3735 3736 3737 3738 3739 3740
(1) Persons holding elective office;	3741
(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;	3742 3743 3744 3745
(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;	3746 3747 3748 3749
(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;	3750 3751 3752
(5) Employees of the state employment relations board;	3753
(6) Confidential employees;	3754
(7) Management level employees;	3755
(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;	3756 3757 3758
(9) Employees of a public official who act in a fiduciary capacity, appointed pursuant to section 124.11 of the Revised Code;	3759 3760 3761
(10) Supervisors;	3762

(11) Students whose primary purpose is educational training,	3763
including graduate assistants or associates, residents, interns,	3764
or other students working as part-time public employees less than	3765
fifty per cent of the normal year in the employee's bargaining	3766
unit;	3767
(12) Employees of county boards of election;	3768
(13) Seasonal and casual employees as determined by the state	3769
employment relations board;	3770
(14) Part-time faculty members of an institution of higher	3771
education;	3772
(15) Employees of the state personnel board of review;	3773
(16) Employees of the board of directors of the Ohio	3774
low level radioactive waste facility development authority created	3775
in section 3747.05 of the Revised Code;	3776
(17) Participants in a work activity, developmental activity,	3777
or alternative work activity under sections 5107.40 to 5107.69 of	3778
the Revised Code who perform a service for a public employer that	3779
the public employer needs but is not performed by an employee of	3780
the public employer if the participant is not engaged in paid	3781
employment or subsidized employment pursuant to the activity;	3782
(18) <u>(17)</u> Employees included in the career professional	3783
service of the department of transportation under section 5501.20	3784
of the Revised Code;	3785
(19) <u>(18)</u> Employees who must be licensed to practice law in	3786
this state to perform their duties as employees.	3787
(D) "Employee organization" means any labor or bona fide	3788
organization in which public employees participate and that exists	3789
for the purpose, in whole or in part, of dealing with public	3790
employers concerning grievances, labor disputes, wages, hours,	3791
terms, and other conditions of employment.	3792

(E) "Exclusive representative" means the employee 3793
organization certified or recognized as an exclusive 3794
representative under section 4117.05 of the Revised Code. 3795

(F) "Supervisor" means any individual who has authority, in 3796
the interest of the public employer, to hire, transfer, suspend, 3797
lay off, recall, promote, discharge, assign, reward, or discipline 3798
other public employees; to responsibly direct them; to adjust 3799
their grievances; or to effectively recommend such action, if the 3800
exercise of that authority is not of a merely routine or clerical 3801
nature, but requires the use of independent judgment, provided 3802
that: 3803

(1) Employees of school districts who are department 3804
chairpersons or consulting teachers shall not be deemed 3805
supervisors; 3806

(2) With respect to members of a police or fire department, 3807
no person shall be deemed a supervisor except the chief of the 3808
department or those individuals who, in the absence of the chief, 3809
are authorized to exercise the authority and perform the duties of 3810
the chief of the department. Where prior to June 1, 1982, a public 3811
employer pursuant to a judicial decision, rendered in litigation 3812
to which the public employer was a party, has declined to engage 3813
in collective bargaining with members of a police or fire 3814
department on the basis that those members are supervisors, those 3815
members of a police or fire department do not have the rights 3816
specified in this chapter for the purposes of future collective 3817
bargaining. The state employment relations board shall decide all 3818
disputes concerning the application of division (F)(2) of this 3819
section. 3820

(3) With respect to faculty members of a state institution of 3821
higher education, heads of departments or divisions are 3822
supervisors; however, no other faculty member or group of faculty 3823

members is a supervisor solely because the faculty member or group 3824
of faculty members participate in decisions with respect to 3825
courses, curriculum, personnel, or other matters of academic 3826
policy; 3827

(4) No teacher as defined in section 3319.09 of the Revised 3828
Code shall be designated as a supervisor or a management level 3829
employee unless the teacher is employed under a contract governed 3830
by section 3319.01, 3319.011, or 3319.02 of the Revised Code and 3831
is assigned to a position for which a license deemed to be for 3832
administrators under state board rules is required pursuant to 3833
section 3319.22 of the Revised Code. 3834

(G) "To bargain collectively" means to perform the mutual 3835
obligation of the public employer, by its representatives, and the 3836
representatives of its employees to negotiate in good faith at 3837
reasonable times and places with respect to wages, hours, terms, 3838
and other conditions of employment and the continuation, 3839
modification, or deletion of an existing provision of a collective 3840
bargaining agreement, with the intention of reaching an agreement, 3841
or to resolve questions arising under the agreement. "To bargain 3842
collectively" includes executing a written contract incorporating 3843
the terms of any agreement reached. The obligation to bargain 3844
collectively does not mean that either party is compelled to agree 3845
to a proposal nor does it require the making of a concession. 3846

(H) "Strike" means continuous concerted action in failing to 3847
report to duty; willful absence from one's position; or stoppage 3848
of work in whole from the full, faithful, and proper performance 3849
of the duties of employment, for the purpose of inducing, 3850
influencing, or coercing a change in wages, hours, terms, and 3851
other conditions of employment. "Strike" does not include a 3852
stoppage of work by employees in good faith because of dangerous 3853
or unhealthful working conditions at the place of employment that 3854
are abnormal to the place of employment. 3855

(I) "Unauthorized strike" includes, but is not limited to, 3856
concerted action during the term or extended term of a collective 3857
bargaining agreement or during the pendency of the settlement 3858
procedures set forth in section 4117.14 of the Revised Code in 3859
failing to report to duty; willful absence from one's position; 3860
stoppage of work; slowdown, or abstinence in whole or in part from 3861
the full, faithful, and proper performance of the duties of 3862
employment for the purpose of inducing, influencing, or coercing a 3863
change in wages, hours, terms, and other conditions of employment. 3864
"Unauthorized strike" includes any such action, absence, stoppage, 3865
slowdown, or abstinence when done partially or intermittently, 3866
whether during or after the expiration of the term or extended 3867
term of a collective bargaining agreement or during or after the 3868
pendency of the settlement procedures set forth in section 4117.14 3869
of the Revised Code. 3870

(J) "Professional employee" means any employee engaged in 3871
work that is predominantly intellectual, involving the consistent 3872
exercise of discretion and judgment in its performance and 3873
requiring knowledge of an advanced type in a field of science or 3874
learning customarily acquired by a prolonged course in an 3875
institution of higher learning or a hospital, as distinguished 3876
from a general academic education or from an apprenticeship; or an 3877
employee who has completed the courses of specialized intellectual 3878
instruction and is performing related work under the supervision 3879
of a professional person to become qualified as a professional 3880
employee. 3881

(K) "Confidential employee" means any employee who works in 3882
the personnel offices of a public employer and deals with 3883
information to be used by the public employer in collective 3884
bargaining; or any employee who works in a close continuing 3885
relationship with public officers or representatives directly 3886
participating in collective bargaining on behalf of the employer. 3887

(L) "Management level employee" means an individual who 3888
formulates policy on behalf of the public employer, who 3889
responsibly directs the implementation of policy, or who may 3890
reasonably be required on behalf of the public employer to assist 3891
in the preparation for the conduct of collective negotiations, 3892
administer collectively negotiated agreements, or have a major 3893
role in personnel administration. Assistant superintendents, 3894
principals, and assistant principals whose employment is governed 3895
by section 3319.02 of the Revised Code are management level 3896
employees. With respect to members of a faculty of a state 3897
institution of higher education, no person is a management level 3898
employee because of the person's involvement in the formulation or 3899
implementation of academic or institution policy. 3900

(M) "Wages" means hourly rates of pay, salaries, or other 3901
forms of compensation for services rendered. 3902

(N) "Member of a police department" means a person who is in 3903
the employ of a police department of a municipal corporation as a 3904
full-time regular police officer as the result of an appointment 3905
from a duly established civil service eligibility list or under 3906
section 737.15 or 737.16 of the Revised Code, a full-time deputy 3907
sheriff appointed under section 311.04 of the Revised Code, a 3908
township constable appointed under section 509.01 of the Revised 3909
Code, or a member of a township police district police department 3910
appointed under section 505.49 of the Revised Code. 3911

(O) "Members of the state highway patrol" means highway 3912
patrol troopers and radio operators appointed under section 3913
5503.01 of the Revised Code. 3914

(P) "Member of a fire department" means a person who is in 3915
the employ of a fire department of a municipal corporation or a 3916
township as a fire cadet, full-time regular firefighter, or 3917
promoted rank as the result of an appointment from a duly 3918

established civil service eligibility list or under section 3919
505.38, 709.012, or 737.22 of the Revised Code. 3920

(Q) "Day" means calendar day. 3921

~~Sec. 4121.442. (A) There is hereby created the health care 3922
quality advisory council consisting of the administrator of 3923
workers' compensation and sixteen members appointed by the 3924
governor as follows: 3925~~

~~(1) Five individuals who represent the interests of 3926
employees; 3927~~

~~(2) Five individuals who represent the interests of 3928
employers; 3929~~

~~(3) One individual who represents the governor; 3930~~

~~(4) One physician licensed to practice medicine or surgery 3931
pursuant to Chapter 4731. of the Revised Code; 3932~~

~~(5) One individual to represent the interests of hospitals; 3933~~

~~(6) One chiropractor licensed pursuant to Chapter 4734. of 3934
the Revised Code; 3935~~

~~(7) One pharmacist licensed pursuant to Chapter 4729. of the 3936
Revised Code; 3937~~

~~(8) One physician licensed to practice osteopathic medicine 3938
and surgery pursuant to Chapter 4731. of the Revised Code. 3939~~

~~All appointed members shall be knowledgeable in matters 3940
pertaining to the delivery of health care, the workers' 3941
compensation system, and health care administration and have at 3942
least three years experience in a position with primary 3943
responsibility for health care matters. The administrator shall 3944
serve as the chairperson of the council. 3945~~

~~(B) The governor shall make initial appointments, from the 3946~~

~~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;	3979
(2) Adequate plan structure and financial stability;	3980
(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;	3981 3982 3983 3984
(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.	3985 3986 3987 3988 3989 3990 3991
(5) Does not discriminate against any category of health care provider;	3992 3993
(6) Provide a procedure for reporting injuries to the bureau of workers' compensation and to employers by providers within the qualified plan;	3994 3995 3996
(7) Provide appropriate financial incentives to reduce service costs and utilization without sacrificing the quality of service;	3997 3998 3999
(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;	4000 4001 4002 4003
(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;	4004 4005 4006 4007
(10) Authorize necessary emergency medical treatment for an	4008

injury or occupational disease provided by a health care provider 4009
who is not a part of the qualified health care plan; 4010

(11) Provide an employee the right to change health care 4011
providers within the qualified health care plan; 4012

(12) Provide for standardized data and reporting 4013
requirements; 4014

(13) Authorize necessary medical treatment for employees who 4015
work in Ohio but reside in another state. 4016

~~(E)~~(B) Health care plans that meet the approved qualified 4017
health plan standards shall be considered qualified plans and are 4018
eligible to become part of the Ohio workers' compensation 4019
qualified health plan system. Any employer or group of employers 4020
may provide medical, surgical, nursing, drug, hospital, and 4021
rehabilitation services and supplies to an employee for an injury 4022
or occupational disease that is compensable under this chapter or 4023
Chapter 4123., 4127., or 4131. of the Revised Code through a 4024
qualified health plan. 4025

~~(F) The council shall on or before the first day of January 4026
of each year, make recommendations to the administrator regarding 4027
changes needed in the rules the administrator adopts to implement 4028
the standards, and the administrator, by no later than the first 4029
day of March of that year, shall determine whether to alter the 4030
existing rules according to the council's recommendations. 4031~~

~~(G) By no later than twenty four months after the 4032
establishment of the Ohio workers' compensation qualified health 4033
plan system, and thereafter, on or before the first day of January 4034
of every odd numbered year, the administrator shall conduct an 4035
appraisal of the system with respect to the system's efficiency 4036
and cost effectiveness and the appropriateness of care rendered 4037
under the system and shall submit a written report of the 4038
appraisal to the governor. 4039~~

Sec. 4167.09. (A) Any public employer affected by a proposed 4040
rule or Ohio employment risk reduction standard or any provision 4041
~~thereof of a standard~~ proposed under section 4167.07 ~~or 4167.08~~ 4042
~~er 4167.26~~ of the Revised Code may apply to the director of 4043
commerce for an order granting a temporary variance from the 4044
standard or provision ~~thereof~~. The application for the order and 4045
any extension ~~thereof~~ of the order shall contain a reasonable 4046
application fee, as determined by the public employment risk 4047
reduction advisory commission, and all of the following 4048
information: 4049

(1) A specification of the Ohio public employment risk 4050
reduction standard or ~~portion thereof~~ provision of it from which 4051
the public employer seeks the temporary variance; 4052

(2) A representation by the public employer, supported by 4053
representations from qualified persons having firsthand knowledge 4054
of the facts represented, that the public employer is unable to 4055
comply with the Ohio employment risk reduction standard or ~~portion~~ 4056
~~thereof~~ provision of it and a detailed statement of the reasons 4057
~~therefor~~ for the inability to comply; 4058

(3) A statement of the steps that the public employer has 4059
taken and will take, with dates specified, to protect employees 4060
against the hazard covered by the standard; 4061

(4) A statement of when the public employer expects to be 4062
able to comply fully with the Ohio employment risk reduction 4063
standard and what steps the public employer has taken and will 4064
take, with dates specified, to come into full compliance with the 4065
standard; 4066

(5) A certification that the public employer has informed the 4067
public employer's public employees of the application by giving a 4068
copy of the application to the public employee representative, if 4069

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 4101
temporary variance under division (B) of this section, the 4102
director shall prescribe the practices, means, methods, 4103
operations, and processes that the public employer must adopt and 4104
use while the order is in effect and state in detail the public 4105
employer's program for coming into compliance with the Ohio 4106
employment risk reduction standard. The director may issue the 4107
order only after providing notice to affected public employees and 4108
their public employee representative, if any, and an opportunity 4109
for a hearing pursuant to section 4167.15 of the Revised Code, 4110
provided that the director may issue one interim order granting a 4111
temporary order to be effective until a decision on a hearing is 4112
made. Except as provided in division (C)(2) of this section, no 4113
temporary variance may be in effect for longer than the period 4114
needed by the public employer to achieve compliance with the Ohio 4115
employment risk reduction standard or one year, whichever is 4116
shorter. 4117

(2) The director may renew an order issued under division (C) 4118
of this section up to two times provided that the requirements of 4119
divisions (A), (B), and (C)(1) of this section and section 4167.15 4120
of the Revised Code are met and the public employer files an 4121
application for renewal with the director at least ninety days 4122
prior to the expiration date of the order. 4123

(D) Any public employer affected by an Ohio employment risk 4124
reduction standard or any provision ~~thereof~~ of it proposed, 4125
adopted, or otherwise issued under section 4167.07, or 4167.08, ~~or~~ 4126
~~4167.26~~ of the Revised Code may apply to the director for an order 4127
granting a variance from the standard or ~~portion thereof~~ 4128
provision. The director shall provide affected public employees 4129
and their public employee representative, if any, notice of the 4130
application and shall provide an opportunity for a hearing 4131
pursuant to section 4167.15 of the Revised Code. The director 4132

shall issue the order granting the variance if the public employer 4133
files an application that meets the requirements of division (B) 4134
of this section, and after an opportunity for a hearing pursuant 4135
to section 4167.15 of the Revised Code, and if the public employer 4136
establishes to the satisfaction of the director that the 4137
conditions, practices, means, methods, operations, or processes 4138
used or proposed to be used by the public employer will provide 4139
employment and places of employment to the public employer's 4140
public employees that are as safe and healthful as those that 4141
would prevail if the public employer complied with the Ohio 4142
employment risk reduction standard. The director shall prescribe 4143
in the order granting the variance the conditions the public 4144
employer must maintain, and the practices, means, methods, 4145
operations, and processes the public employer must adopt and 4146
utilize in lieu of the Ohio employment risk reduction standard 4147
~~which~~ that would otherwise apply. The director may modify or 4148
revoke the order upon application of the public employer, public 4149
employee, or public employee representative, or upon the 4150
director's own motion in the manner prescribed for the issuance of 4151
an order under this division at any time during six months after 4152
the date of issuance of the order. 4153

Sec. 4167.25. As used in this section and sections ~~4167.26 to~~ 4154
4167.27 and 4767.28 of the Revised Code: 4155

(A) "Bloodborne pathogen" means a microorganism present in 4156
human blood that can cause disease in humans, including the human 4157
immunodeficiency virus, hepatitis B virus, hepatitis C virus, and 4158
other pathogenic microorganisms. 4159

(B) "Engineered sharps injury protection" means either of the 4160
following: 4161

(1) A physical attribute built into a needle device used for 4162
withdrawing body fluids, accessing a vein or artery, or 4163

administering medications or other fluids that effectively reduces 4164
the risk of an exposure incident by a mechanism such as barrier 4165
creation, blunting, encapsulation, withdrawal, retraction, 4166
destruction, or any other effective mechanism; 4167

(2) A physical attribute built into a type of needle device 4168
not included in division (B)(1) of this section, or built into a 4169
non-needle sharp, that effectively reduces the risk of an exposure 4170
incident. 4171

(C) "Exposure incident" means an occurrence of occupational 4172
exposure to blood or other material potentially containing 4173
bloodborne pathogens, including exposure that occurs through a 4174
sharps injury. 4175

(D) "Needleless system" means a device that does not utilize 4176
needles for the following: 4177

(1) Withdrawing body fluids after initial venous or arterial 4178
access is established; 4179

(2) Administering medication or fluids; 4180

(3) Performing any other procedure involving potential 4181
exposure incidents. 4182

(E) "Public health care worker" means a person who is 4183
employed by a public employer to provide health services that 4184
carry with them the potential for exposure incidents, including a 4185
person employed by a public hospital or other public health care 4186
facility, a person employed by a public employer to provide home 4187
health care, and a person employed by a public employer as a 4188
firefighter, emergency medical technician-basic, emergency medical 4189
technician-intermediate, or emergency medical 4190
technician-paramedic. "Public health care worker" does not include 4191
a person who is employed by a public employer to provide dental 4192
services, treatment, or training or a dental student who is 4193

receiving training from a public employer. 4194

(F) "Sharp" means an object used in or encountered when 4195
providing health care services that can be reasonably anticipated 4196
to penetrate the skin or any other part of the body and result in 4197
an exposure incident, including objects such as needle devices, 4198
scalpels, lancets, and broken glass. 4199

(G) "Sharps injury" means an injury caused by a sharp, 4200
including such injuries as cuts, abrasions, and needlesticks. 4201

Sec. 4167.27. (A) The public employment risk reduction 4202
advisory commission shall adopt a rule and Ohio employment risk 4203
reduction standard for the prevention of exposure incidents. The 4204
initial rule and standard shall be adopted not later than one 4205
hundred eighty days after ~~the effective date of this section. In~~ 4206
~~adopting, modifying, or rescinding the rule or standard, the~~ 4207
~~commission shall act in accordance with recommendations submitted~~ 4208
~~by the commission's subcommittee appointed under section 4167.26~~ 4209
~~of the Revised Code October 5, 2000.~~ 4210

(B) The commission shall provide advice to public employers 4211
with regard to their implementation of the requirements 4212
established by the rule and standard adopted under this section 4213
and the requirements of section 4167.28 of the Revised Code. 4214

Sec. 4582.12. (A) Except as otherwise provided in division 4215
(E) of section 307.671 of the Revised Code, division (A) of this 4216
section does not apply to a port authority educational and 4217
cultural facility acquired, constructed, and equipped pursuant to 4218
a cooperative agreement entered into under section 307.671 of the 4219
Revised Code. 4220

Except as provided in division (C) of this section, when the 4221
cost of a contract for the construction of any building, 4222
structure, or other improvement undertaken by a port authority 4223

involves an expenditure exceeding twenty-five thousand dollars and 4224
the port authority is the contracting entity, the port authority 4225
shall make a written contract after complying with section ~~123.151~~ 4226
125.081 of the Revised Code and after notice calling for bids for 4227
the award of the contract has been given by publication twice, 4228
with at least seven days between publications, in a newspaper of 4229
general circulation in the area of the jurisdiction of the port 4230
authority. Each such contract shall be let to the lowest 4231
responsive and responsible bidder in accordance with section 9.312 4232
of the Revised Code. Every contract let shall be in writing and if 4233
the contract involves work or construction, it shall be 4234
accompanied by or shall refer to plans and specifications for the 4235
work to be done, prepared for and approved by the port authority, 4236
signed by an authorized officer of the port authority and by the 4237
contractor, and shall be executed in triplicate. 4238

Each bid shall be awarded in accordance with sections 153.54, 4239
153.57, and 153.571 of the Revised Code. 4240

The port authority may reject any and all bids. 4241

(B) The board of directors of a port authority by rule may 4242
provide criteria for the negotiation and award without competitive 4243
bidding of any contract as to which the port authority is the 4244
contracting entity for the construction of any building, 4245
structure, or other improvement under any of the following 4246
circumstances: 4247

(1) There exists a real and present emergency that threatens 4248
damage or injury to persons or property of the port authority or 4249
other persons, provided that a statement specifying the nature of 4250
the emergency that is the basis for the negotiation and award of a 4251
contract without competitive bidding shall be signed by the 4252
officer of the port authority that executes that contract at the 4253
time of the contract's execution and shall be attached to the 4254

contract. 4255

(2) A commonly recognized industry or other standard or 4256
specification does not exist and cannot objectively be articulated 4257
for the improvement. 4258

(3) The contract is for any energy conservation measure as 4259
defined in section 307.041 of the Revised Code. 4260

(4) With respect to material to be incorporated into the 4261
improvement, only a single source or supplier exists for the 4262
material. 4263

(5) A single bid is received by the port authority after 4264
complying with the provisions of division (A) of this section. 4265

(C)(1) If a contract is to be negotiated and awarded without 4266
competitive bidding for the reason set forth in division (B)(2) of 4267
this section, the port authority shall publish a notice calling 4268
for technical proposals at least twice, with at least seven days 4269
between publications, in a newspaper of general circulation in the 4270
area of the port authority. After receipt of the technical 4271
proposals, the port authority may negotiate with and award a 4272
contract for the improvement to the proposer making the proposal 4273
considered to be the most advantageous to the port authority. 4274

(2) If a contract is to be negotiated and awarded without 4275
competitive bidding for the reason set forth in division (B)(4) of 4276
this section, any construction activities related to the 4277
incorporation of the material into the improvement also may be 4278
provided without competitive bidding by the source or supplier of 4279
that material. 4280

(D) No contract for the construction or repair of any 4281
building, structure, or other improvement and no loan agreement 4282
for the borrowing of funds for any such improvement undertaken by 4283
a port authority, where the port authority is the contracting 4284

entity, shall be executed unless laborers and mechanics employed 4285
on such improvements are paid at the prevailing rates of wages of 4286
laborers and mechanics for the class of work called for by the 4287
improvement. The wages shall be determined in accordance with the 4288
requirements of Chapter 4115. of the Revised Code for the 4289
determination of prevailing wage rates, provided that the 4290
requirements of this section do not apply where the federal 4291
government or any of its agencies furnishes by loan or grant all 4292
or any part of the funds used in connection with such project and 4293
prescribes predetermined minimum wages to be paid to the laborers 4294
and mechanics. 4295

Sec. 4731.143. (A) Each person holding a valid certificate 4296
under this chapter authorizing the certificate holder to practice 4297
medicine and surgery, osteopathic medicine and surgery, or 4298
podiatric medicine and surgery, who is not covered by medical 4299
malpractice insurance ~~as defined in section 3929.71 of the Revised~~ 4300
~~Code,~~ shall provide a patient with written notice of the 4301
certificate holder's lack of ~~such~~ that insurance coverage prior to 4302
providing nonemergency professional services to the patient. The 4303
notice shall be provided alone on its own page. The notice shall 4304
provide space for the patient to acknowledge receipt of the 4305
notice, and shall be in the following form: 4306

"N O T I C E: 4307

Dr. (here state the full name of the 4308
certificate holder) is not covered by medical malpractice 4309
insurance. 4310

The undersigned acknowledges the receipt of this notice. 4311

..... 4312

(Patient's Signature) 4313

..... 4314

(Date)" 4315

The certificate holder shall obtain the patient's signature, 4316
acknowledging the patient's receipt of the notice, prior to 4317
providing nonemergency professional services to the patient. The 4318
certificate holder shall maintain the signed notice in the 4319
patient's file. 4320

(B) This section does not apply to any officer or employee of 4321
the state, as those terms are defined in section 9.85 of the 4322
Revised Code, who is immune from civil liability under section 4323
9.86 of the Revised Code or is entitled to indemnification 4324
pursuant to section 9.87 of the Revised Code, to the extent that 4325
the person is acting within the scope of the person's employment 4326
or official responsibilities. 4327

This section does not apply to a person who complies with 4328
division (B)(2) of section 2305.234 of the Revised Code. 4329

(C) As used in this section, "medical malpractice insurance" 4330
means insurance coverage against the legal liability of the 4331
insured and against loss, damage, or expense incident to a claim 4332
arising out of the death, disease, or injury of any person as the 4333
result of negligence or malpractice in rendering professional 4334
service by any licensed physician, podiatrist, or hospital, as 4335
those terms are defined in section 2305.113 of the Revised Code. 4336

Sec. 4741.03. (A) The state veterinary medical licensing 4337
board shall meet at least once in each calendar year and may hold 4338
additional meetings as often as it considers necessary to conduct 4339
the business of the board. The president of the board may call 4340
special meetings, and the executive secretary shall call special 4341
meetings upon the written request of three members of the board. 4342
The board shall organize by electing a president and 4343
vice-president from its veterinarian members and such other 4344
officers as the board prescribes by rule. Each officer shall serve 4345
for a term specified by board rule or until a successor is elected 4346

and qualified. A quorum of the board consists of four members of 4347
which at least three are members who are veterinarians. The 4348
concurrence of four members is necessary for the board to take any 4349
action. 4350

(B) The board may appoint a person, not one of its members, 4351
to serve as its executive secretary. The executive secretary is in 4352
the unclassified service and serves at the pleasure of the board. 4353
The executive secretary shall serve as the board's 4354
secretary-treasurer ex officio. The board may employ additional 4355
employees for professional, technical, clerical, and special work 4356
as it considers necessary. The executive secretary shall give a 4357
surety bond to the state in the sum the board requires, 4358
conditioned upon the faithful performance of the executive 4359
secretary's duties. The board shall pay the cost of the bond. The 4360
executive secretary shall keep a complete accounting of all funds 4361
received and of all vouchers presented by the board to the 4362
director of budget and management for the disbursement of funds. 4363
The president or executive secretary shall approve all vouchers of 4364
the board. All money received by the board shall be credited to 4365
the occupational licensing and regulatory fund. 4366

(C) In addition to any other duty required under this 4367
chapter, the board shall do all of the following: 4368

(1) Prescribe a seal; 4369

(2) Hold at least one examination during each calendar year 4370
for applicants for a license. The board shall provide public 4371
notice of the time and place for the examination. The examination 4372
for applicants for a license to practice veterinary medicine shall 4373
be either written or oral, or both, as determined by the board, 4374
and may include a practical demonstration. The examination may 4375
include all subjects relevant to veterinary medicine the board 4376
determines appropriate, including public health and jurisprudence. 4377

- (3) Keep a record of all of its meetings and proceedings; 4378
- (4) Maintain a register that records all applicants for a 4379
certificate of license or a temporary permit, all persons who have 4380
been denied a license or permit, all persons who have been granted 4381
or reissued a license or permit, and all persons whose license or 4382
permit has been revoked or suspended. The register shall also 4383
include a record of persons licensed prior to October 17, 1975. 4384
- (5) Maintain a register, in such form as the board determines 4385
by rule, of all colleges and universities that teach veterinary 4386
medicine and that are approved by the board; 4387
- (6) Enforce this chapter, and for that purpose, make 4388
investigations relative as provided in section 4741.26 of the 4389
Revised Code; 4390
- (7) Issue licenses and permits to persons who meet the 4391
qualifications set forth in this chapter; 4392
- (8) Approve colleges and universities which meet the board's 4393
requirements for veterinary medicine and associated fields of 4394
study and withdraw or deny, after an adjudication conducted in 4395
accordance with Chapter 119. of the Revised Code, approval from 4396
colleges and universities which fail to meet those requirements; 4397
- (9) Adopt rules, in accordance with Chapter 119. of the 4398
Revised Code, which are necessary for its government and for the 4399
administration and enforcement of this chapter. 4400
- (D) The board may do all of the following: 4401
- (1) Subpoena witnesses and require their attendance and 4402
testimony, and require the production by witnesses of books, 4403
papers, public records, animal patient records, and other 4404
documentary evidence and examine them, in relation to any matter 4405
~~which~~ that the board has authority to investigate, inquire into, 4406
or hear. Except for any officer or employee of the state or any 4407

political subdivision of the state, the treasurer of state shall 4408
pay all witnesses in any proceeding before the board, upon 4409
certification from the board, witness fees in the same amount as 4410
provided in section 2335.06 of the Revised Code. 4411

(2) Examine and inspect books, papers, public records, animal 4412
patient records, and other documentary evidence at the location 4413
where the books, papers, records, and other evidence are normally 4414
stored or maintained. 4415

~~(3) Create an advisory committee consisting of members of the 4416
animal health and allied medical services in this state to confer 4417
with and assist the board in the adoption of rules pertaining to 4418
divisions (B) to (E) of section 4741.19 and divisions (A), (D), 4419
(E), and (F) of section 4741.20 of the Revised Code. 4420~~

(E) All registers, books, and records kept by the board are 4421
the property of the board and are open for public examination and 4422
inspection at all reasonable times. The registers, books, and 4423
records are prima-facie evidence of the matters contained ~~therein~~ 4424
in them. 4425

Sec. 4755.481. (A) If a physical therapist evaluates and 4426
treats a patient without the prescription of, or the referral of 4427
the patient by, a person who is licensed to practice medicine and 4428
surgery, chiropractic, dentistry, osteopathic medicine and 4429
surgery, podiatric medicine and surgery, or ~~to practice~~ nursing as 4430
a certified registered nurse anesthetist, clinical nurse 4431
specialist, certified nurse-midwife, or certified nurse 4432
practitioner, all of the following apply: 4433

(1) The physical therapist shall, upon consent of the 4434
patient, inform the patient's physician, chiropractor, dentist, 4435
podiatrist, certified registered nurse anesthetist, clinical nurse 4436
specialist, certified nurse-midwife, or certified nurse 4437
practitioner of the evaluation not later than five business days 4438

after the evaluation is made. 4439

(2) If the physical therapist determines, based on reasonable 4440
evidence, that no substantial progress has been made with respect 4441
to that patient during the thirty-day period immediately following 4442
the date of the patient's initial visit with the physical 4443
therapist, the physical therapist shall consult with or refer the 4444
patient to a licensed physician, chiropractor, dentist, 4445
podiatrist, certified registered nurse anesthetist, clinical nurse 4446
specialist, certified nurse-midwife, or certified nurse 4447
practitioner, unless either of the following applies: 4448

(a) The evaluation, treatment, or services are being provided 4449
for fitness, wellness, or prevention purposes. 4450

(b) The patient previously was diagnosed with chronic, 4451
neuromuscular, or developmental conditions and the evaluation, 4452
treatment, or services are being provided for problems or symptoms 4453
associated with one or more of those previously diagnosed 4454
conditions. 4455

(3) If the physical therapist determines that orthotic 4456
devices are necessary to treat the patient, the physical therapist 4457
shall be limited to the application of the following orthotic 4458
devices: 4459

(a) Upper extremity adaptive equipment used to facilitate the 4460
activities of daily living; 4461

(b) Finger splints; 4462

(c) Wrist splints; 4463

(d) Prefabricated elastic or fabric abdominal supports with 4464
or without metal or plastic reinforcing stays and other 4465
prefabricated soft goods requiring minimal fitting; 4466

(e) Nontherapeutic accommodative inlays; 4467

(f) Shoes that are not manufactured or modified for a 4468

particular individual; 4469

(g) Prefabricated foot care products; 4470

(h) Custom foot orthotics; 4471

(i) Durable medical equipment. 4472

(4) If, at any time, the physical therapist has reason to 4473
believe that the patient has symptoms or conditions that require 4474
treatment or services beyond the scope of practice of a physical 4475
therapist, the physical therapist shall refer the patient to a 4476
licensed health care practitioner acting within the practitioner's 4477
scope of practice. 4478

(B) Nothing in sections 4755.40 to 4755.56 of the Revised 4479
Code shall be construed to require reimbursement under any health 4480
insuring corporation policy, contract, or agreement, any sickness 4481
and accident insurance policy, the medical assistance program as 4482
defined in section 5111.01 of the Revised Code, or the health 4483
partnership program or qualified health plans established pursuant 4484
to sections 4121.44 to ~~4121.443~~ 4121.442 of the Revised Code, for 4485
any physical therapy service rendered without the prescription of, 4486
or the referral of the patient by, a licensed physician, 4487
chiropractor, dentist, podiatrist, certified registered nurse 4488
anesthetist, clinical nurse specialist, certified nurse-midwife, 4489
or certified nurse practitioner. 4490

(C) For purposes of this section, "business day" means any 4491
calendar day that is not a Saturday, Sunday, or legal holiday. 4492
"Legal holiday" has the same meaning as in section 1.14 of the 4493
Revised Code. 4494

Sec. 4981.03. (A) The Ohio rail development commission shall 4495
do all of the following: 4496

(1) Develop, promote, and support safe, adequate, and 4497
efficient rail service throughout the state; 4498

(2) Maintain adequate programs of investigation, research, 4499
promotion, planning, and development for rail service, which 4500
programs shall include the consideration of recommendations by 4501
public or private planning organizations; 4502

(3) Provide for the participation of private corporations or 4503
organizations and the public in the development, construction, 4504
operation, and maintenance of rail service, and as franchisees 4505
thereof of rail service. 4506

(B) In regard to rail service, the Ohio rail development 4507
commission is the successor of the Ohio high speed rail authority 4508
and the division of rail transportation of the department of 4509
transportation. The commission shall succeed to all federal 4510
allotments, entitlements, subsidies, and grants now existing, 4511
whether such allotments, entitlements, subsidies, and grants are 4512
encumbered or unencumbered, in the same manner and with the same 4513
authority as the Ohio high speed rail authority and the division 4514
of rail transportation exercised prior to ~~the effective date of~~ 4515
~~this amendment~~ October 20, 1994. 4516

(C) Every authority, commission, department, or other agency 4517
of this state shall provide the commission with data, plans, 4518
research, and any other information that the commission requests 4519
to assist it in performing its duties pursuant to this chapter. 4520

(D) The commission may request and contract with any railroad 4521
to provide it with data and information necessary to carry out the 4522
purposes of this chapter. All railroads operating within this 4523
state shall provide the requested data and information to the 4524
commission. The commission shall not disclose any confidential 4525
data or information supplied to it. 4526

(E) The commission shall cooperate with the director of 4527
development by exercising the commission's duty to promote and 4528
develop rail service in this state in conjunction with the 4529

director's exercise of his duty to promote the economic 4530
development of this state. 4531

(F) The commission, when developing rail service throughout 4532
the state, may give priority to projects undertaken within the 4533
geographic boundaries of qualifying subdivisions. 4534

(G) Notwithstanding any other provision of law, the 4535
commission is subject to section ~~123.151~~ 125.081 of the Revised 4536
Code when entering into contracts for the performance of labor, 4537
the furnishing of materials, goods, or services, or the 4538
construction of any structures or buildings necessary for the 4539
maintenance, control, or management of any rail service project, 4540
as defined in section 4981.11 of the Revised Code. 4541

Sec. 5123.35. (A) There is hereby created the ~~state planning~~ 4542
Ohio developmental disabilities council, which shall serve as an 4543
advocate for all persons with developmental disabilities. The 4544
council shall act in accordance with the "Developmental 4545
Disabilities Assistance and Bill of Rights Act," 98 Stat. 2662 4546
(1984), 42 U.S.C. 6001, as amended. The governor shall appoint the 4547
members of the council in accordance with 42 U.S.C. 6024. 4548

(B) The ~~state planning~~ Ohio developmental disabilities 4549
council shall develop the state plan required by federal law as a 4550
condition of receiving federal assistance under 42 U.S.C. 6021 to 4551
6030. The department of mental retardation and developmental 4552
disabilities, as the state agency selected by the governor for 4553
purposes of receiving the federal assistance, shall receive, 4554
account for, and disburse funds based on the state plan and shall 4555
provide assurances and other administrative support services 4556
required as a condition of receiving the federal assistance. 4557

(C) The federal funds may be disbursed through grants to or 4558
contracts with persons and government agencies for the provision 4559

of necessary or useful goods and services for developmentally 4560
disabled persons. The ~~state planning~~ Ohio developmental 4561
disabilities council may award the grants or enter into the 4562
contracts. 4563

(D) The Ohio developmental disabilities council may award 4564
grants to or enter into contracts with a member of the council or 4565
an entity that the member represents if all of the following 4566
apply: 4567

(1) The member serves on the council as a representative of 4568
one of the principal state agencies concerned with services for 4569
persons with developmental disabilities as specified in 42 U.S.C. 4570
6024(b)(3), a representative of a university affiliated program as 4571
defined in 42 U.S.C. 6001(18), or a representative of the legal 4572
rights service created under section 5123.60 of the Revised Code~~+~~. 4573

(2) The council determines that the member or the entity ~~he~~ 4574
the member represents is capable of providing the goods or 4575
services specified under the terms of the grant or contract~~+~~. 4576

(3) The member has not taken part in any discussion or vote 4577
of the council related to awarding the grant or entering into the 4578
contract, including service as a member of a review panel 4579
established by the council to award grants or enter into contracts 4580
or to make recommendations with regard to awarding grants or 4581
entering into contracts. 4582

(E) A member of the ~~state planning~~ Ohio developmental 4583
disabilities council is not in violation of Chapter 102. or 4584
section 2921.42 of the Revised Code with regard to receiving a 4585
grant or entering into a contract under this section if the 4586
requirements of division (D) of this section have been met. 4587

Sec. 5123.352. There is hereby created in the state treasury 4588
the community mental retardation and developmental disabilities 4589

trust fund. The director of mental retardation and developmental 4590
disabilities, not later than sixty days after the end of each 4591
fiscal year, shall certify to the director of budget and 4592
management the amount of all the unexpended, unencumbered balances 4593
of general revenue fund appropriations made to the department of 4594
mental retardation and developmental disabilities for the fiscal 4595
year, excluding appropriations for rental payments to the Ohio 4596
public facilities commission, and the amount of any other funds 4597
held by the department in excess of amounts necessary to meet the 4598
department's operating costs and obligations pursuant to this 4599
chapter and Chapter 5126. of the Revised Code. On receipt of the 4600
certification, the director of budget and management shall 4601
transfer cash to the trust fund in an amount up to, but not 4602
exceeding, the total of the amounts certified by the director of 4603
mental retardation and developmental disabilities, except in cases 4604
in which the transfer will involve more than twenty million 4605
dollars. In such cases, the director of budget and management 4606
shall notify the controlling board and must receive the board's 4607
approval of the transfer prior to making the transfer. 4608

~~Except for expenses paid under division (C) of section 4609
5123.353 of the Revised Code, all All moneys in the trust fund 4610
shall be distributed in accordance with section 5126.19 of the 4611
Revised Code. 4612~~

Section 2. That existing sections 101.83, 101.84, 101.85, 4613
101.86, 122.011, 122.133, 123.151, 149.56, 164.07, 307.674, 4614
1501.04, 1502.04, 1502.05, 1502.11, 1502.12, 1506.30, 1506.34, 4615
1506.35, 1517.02, 1517.05, 1517.23, 1518.01, 1518.03, 2505.02, 4616
3358.10, 3375.61, 3375.62, 3383.01, 3383.02, 3383.03, 3383.04, 4617
3383.05, 3383.06, 3383.07, 3383.08, 3383.09, 3746.04, 3746.09, 4618
3746.35, 3747.02, 3748.01, 3748.02, 3748.04, 3748.05, 3748.16, 4619
3929.482, 3929.682, 3929.85, 3931.01, 3955.05, 3960.06, 4117.01, 4620
4121.442, 4167.09, 4167.25, 4167.27, 4582.12, 4731.143, 4741.03, 4621

4755.481, 4981.03, 5123.35, and 5123.352 and sections 122.09, 4622
125.24, 149.32, 149.321, 149.322, 1502.10, 1506.37, 1517.03, 4623
1517.04, 3354.161, 3355.121, 3357.161, 3375.47, 3746.08, 3747.04, 4624
3747.05, 3747.06, 3747.061, 3747.07, 3747.08, 3747.09, 3747.10, 4625
3747.11, 3747.12, 3747.13, 3747.14, 3747.15, 3747.16, 3747.17, 4626
3747.18, 3747.19, 3747.20, 3747.21, 3747.22, 3748.09, 3929.71, 4627
3929.72, 3929.721, 3929.73, 3929.75, 3929.76, 3929.77, 3929.78, 4628
3929.79, 3929.80, 3929.81, 3929.82, 3929.83, 3929.84, 4121.443, 4629
4167.26, 4981.36, 4981.361, 5101.93, and 5123.353 of the Revised 4630
Code are hereby repealed. 4631

Section 3. That Section 27 of Sub. H.B. 670 of the 121st 4632
General Assembly, as most recently amended by Am. Sub. H.B. 95 of 4633
the 125th General Assembly, is hereby repealed. 4634

Section 4. The following agencies shall be retained pursuant 4635
to division (D) of section 101.83 of the Revised Code and shall 4636
expire on December 31, 2010: 4637

	REVISED CODE	4638
	OR	
	UNCODIFIED	4639
AGENCY NAME	SECTION	4640
Administrator, Interstate Compact on Mental Health	5119.50	4641
Administrator, Interstate Compact on	5103.20	4642
Placement of Children		4643
Advisory Board of Governor's Office of Faith-Based	107.12	4644
and Community Initiatives		
Advisory Boards to the EPA for Air Pollution	121.13	4645
Advisory Boards to the EPA for Water Pollution	121.13	4646
Advisory Committee of the State Veterinary Medical	4741.03(D)(3)	4647
Licensing Board		
Advisory Committee on Livestock Exhibitions	901.71	4648

Advisory Council on Amusement Ride Safety	1711.51	4649
Advisory Board of Directors for Prison Labor	5145.162	4650
Advisory Council for Each Wild, Scenic, or Recreational River Area	1517.18	4651
Advisory Councils or Boards for State Departments	107.18 or 121.13	4652
Advisory Group to the Ohio Water Resources Council	1521.19(C)	4653
Alzheimer's Disease Task Force	173.04(F)	4654
AMBER Alert Advisory Committee	5502.521	4655
Apprenticeship Council	4139.02	4656
Armory Board of Control	5911.09	4657
Automated Title Processing Board	4505.09(C)(1)	4658
Banking Commission	1123.01	4659
Board of Directors of the Ohio Health Reinsurance Program	3924.08	4660
Board of Voting Machine Examiners	3506.05(B)	4661
Board of Tax Appeals	5703.02	4662
Brain Injury Advisory Committee	3304.231	4663
Capitol Square Review and Advisory Board	105.41	4664
Child Support Guideline Advisory Council	3119.024	4665
Children's Trust Fund Board	3109.15	4666
Citizens Advisory Committee (BMV)	4501.025	4667
Citizen's Advisory Councils (Dept. of Mental Retardation and Developmental Disabilities)	5123.092	4668
Citizen's Advisory Councils (Dept. of Mental Health)	5119.81	4669
Clean Ohio Trail Advisory Board	1519.06	4670
Coastal Resources Advisory Council	1506.12	4671
Commission on African-American Males	4112.12	4672
Commission on Hispanic-Latino Affairs	121.31	4673
Commission on Minority Health	3701.78	4674
Committee on Prescriptive Governance	4723.49	4675
Commodity Advisory Commission	926.32	4676

Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council	5123.353	4677
Community Oversight Council	3311.77	4678
Compassionate Care Task Force	Section 3, H.B. 474, 124th GA	4679
Consumer Advisory Committee to the Rehabilitation Services Commission	3304.24	4680
Continuing Education Committee (for Sheriffs)	109.80	4681
Controlling Board	127.12	4682
Coordinating Committee, Agricultural Commodity Marketing Programs	924.14	4683
Council on Alcohol and Drug Addiction Services	3793.09	4684
Council on Unreclaimed Strip Mined Lands	1513.29	4685
Council to Advise on the Establishment and Implementation of the Birth Defects Information System	3705.34	4686
County Sheriffs' Standard Car-Marking and Uniform Commission	311.25	4687
Credit Union Council	1733.329	4688
Criminal Sentencing Advisory Committee	181.22	4689
Day-Care Advisory Council	5104.08	4690
Dentist Loan Repayment Advisory Board	3702.92	4691
Development Financing Advisory Council	122.40	4692
Education Commission of the States (Interstate Compact for Education)	3301.48	4693
Electrical Safety Inspector Advisory Committee	3783.08	4694
Emergency Response Commission	3750.02	4695
Engineering Experiment Station Advisory Committee	3335.27	4696
Environmental Education Council	3745.21	4697
Environmental Review Appeals Commission	3745.02	4698
EPA Advisory Boards or Councils	121.13	4699
Farmland Preservation Advisory Board	901.23	4700

Financial Planning & Supervision Commission for Municipal Corporation, County, or Township	118.05	4701
Financial Planning & Supervision Commission for School District	3316.05	4702
Forestry Advisory Council	1503.40	4703
Governance Authority for a State University or College	3345.75	4704
Governor's Advisory Council on Physical Fitness, Wellness, & Sports	3701.77	4705
Governor's Council on People with Disabilities	3303.41	4706
Governor's Residence Advisory Commission	107.40	4707
Great Lakes Commission (Great Lakes Basin Compact)	6161.01	4708
Gubernatorial Transition Committee	107.29	4709
Head Start Partnership Study Council	Section 41.35, H.B. 95, 125th GA	4710
Hemophilia Advisory Subcommittee	3701.0210	4711
Housing Trust Fund Advisory Committee	175.25	4712
Industrial Commission Nominating Council	4121.04	4713
Industrial Technology and Enterprise Advisory Council	122.29	4714
Infant Hearing Screening Subcommittee	3701.507	4715
Insurance Agent Education Advisory Council	3905.483	4716
Interagency Council on Hispanic/Latino Affairs	121.32(J)	4717
Interstate Mining Commission (Interstate Mining Compact)	1514.30	4718
Interstate Rail Passenger Advisory Council (Interstate High Speed Intercity Rail Passenger Network Compact)	4981.35	4719
Joint Council on MR/DD	101.37	4720
Joint Select Committee on Volume Cap	133.021	4721
Labor-Management Government Advisory Council	4121.70	4722
Legal Rights Service Commission	5123.60	4723

Legislative Task Force on Redistricting, Reapportionment, and Demographic Research	103.51	4724
Maternal and Child Health Council	3701.025	4725
Medically Handicapped Children's Medical Advisory Council	3701.025	4726
Military Activation Task Force	5902.15	4727
Milk Sanitation Board	917.03	4728
Mine Subsidence Insurance Governing Board	3929.51	4729
Minority Development Financing Board	122.72	4730
Multi-Agency Radio Communications Systems Steering Committee	Sec. 21, H.B. 790, 120th GA	4731
Multidisciplinary Council	3746.03	4732
Muskingum River Advisory Council	1501.25	4733
National Museum of Afro-American History and Culture Planning Committee	149.303	4734
Nursing Facility Reimbursement Study Council	5111.34	4735
Ohio Advisory Council for the Aging	173.03	4736
Ohio Aerospace & Defense Advisory Council	122.98	4737
Ohio Arts Council	3379.02	4738
Ohio Business Gateway Steering Committee	5703.57	4739
Ohio Cemetery Dispute Resolution Commission	4767.05	4740
Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils	4112.04(B)	4741
Ohio Commercial Insurance Joint Underwriting Association Board Of Governors	3930.03	4742
Ohio Commercial Market Assistance Plan Executive Committee	3930.02	4743
Ohio Commission on Dispute Resolution and Conflict Management	179.02	4744
Ohio Commission to Reform Medicaid	Section 59.29, H.B. 95, 125th GA	4745
Ohio Community Service Council	121.40	4746

Ohio Council for Interstate Adult Offender Supervision	5149.22	4747
Ohio Cultural Facilities Commission	3383.02	4748
Ohio Developmental Disabilities Council	5123.35	4749
Ohio Educational Telecommunications Network Commission	3353.02	4750
Ohio Ethics Commission	102.05	4751
Ohio Expositions Commission	991.02	4752
Ohio Family and Children First Cabinet Council	121.37	4753
Ohio Geology Advisory Council	1505.11	4754
Ohio Grape Industries Committee	924.51	4755
Ohio Hepatitis C Advisory Commission	3701.92	4756
Ohio Historic Site Preservation Advisory Board	149.301	4757
Ohio Historical Society Board of Trustees	149.30	4758
Ohio Judicial Conference	105.91	4759
Ohio Lake Erie Commission	1506.21	4760
Ohio Medical Malpractice Commission	Section 4, S.B. 281, 124th GA and Section 3, S.B. 86, 125th GA	4761
Ohio Medical Quality Foundation	3701.89	4762
Ohio Parks and Recreation Council	1541.40	4763
Ohio Peace Officer Training Commission	109.71	4764
Ohio Public Defender Commission	120.01	4765
Ohio Public Library Information Network Board	Sec. 69, H.B. 117, 121st GA, as amended by H.B. 284, 121st GA	4766
Ohio Public Works Commission	164.02	4767
Ohio Quarter Horse Development Commission	3769.086	4768

Ohio SchoolNet Commission	3301.80	4769
Ohio Small Government Capital Improvements Commission	164.02	4770
Ohio Soil and Water Conservation Commission	1515.02	4771
Ohio Standardbred Development Commission	3769.085	4772
Ohio Steel Industry Advisory Council	122.97	4773
Ohio Teacher Education and Licensure Advisory Council	3319.28(D)	4774
Ohio Thoroughbred Racing Advisory Committee	3769.084	4775
Ohio Tuition Trust Authority	3334.03	4776
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10	4777
Ohio Vendors Representative Committee	3304.34	4778
Ohio War Orphans Scholarship Board	5910.02	4779
Ohio Water Advisory Council	1521.031	4780
Ohio Water Resources Council	1521.19	4781
Ohioana Library Association, Martha Kinney Cooper Memorial	3375.62	4782
Oil and Gas Commission	1509.35	4783
Operating Committee, Agricultural Commodity Marketing Programs	924.07	4784
Organized Crime Investigations Commission	177.01	4785
Parole Board	5149.10	4786
Pharmacy and Therapeutics Committee of the Dept. of Job and Family Services	5111.81	4787
Physician Loan Repayment Advisory Board	3702.81	4788
Power Siting Board	4906.02	4789
Prequalification Review Board	5525.07	4790
Private Water Systems Advisory Council	3701.346	4791
Public Employment Risk Reduction Advisory Commission	4167.02	4792
Public Health Council	3701.33	4793
Public Utilities Commission Nominating Council	4901.021	4794

Public Utility Property Tax Study Committee	5727.85	4795
Radiation Advisory Council	3748.20	4796
Reclamation Commission	1513.05	4797
Recreation and Resources Commission	1501.04	4798
Recycling and Litter Prevention Advisory Council	1502.04	4799
Rehabilitation Services Commission Consumer Advisory Committee	3304.24	4800
Release Authority of Department of Youth Services	5139.50	4801
Savings & Loans Associations & Savings Banks Board	1181.16	4802
Schools and Ministerial Lands Divestiture Committee	501.041	4803
Second Chance Trust Fund Advisory Committee	2108.17	4804
Self-Insuring Employers Evaluation Board	4123.352	4805
Services Committee of the Workers' Compensation System	4121.06	4806
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19	4807
Solid Waste Management Advisory Council	3734.51	4808
State Agency Coordinating Group	1521.19	4809
State Board of Deposit	135.02	4810
State Board of Emergency Medical Services Subcommittees	4765.04	4811
State Council of Uniform State Laws	105.21	4812
State Committee for the Purchase of Products and Services Provided by Persons with Severe Disabilities	4115.32	4813
State Criminal Sentencing Commission	181.21	4814
State Employment Relations Board	4117.02	4815
State Fire Commission	3737.81	4816
State Racing Commission	3769.02	4817
State Victims Assistance Advisory Committee	109.91	4818
Student Tuition Recovery Authority	3332.081	4819
Tax Credit Authority	122.17	4820

Technical Advisory Committee to Assist the Director of the Ohio Coal Development Office	1551.35	4821
Technical Advisory Council on Oil and Gas	1509.38	4822
Transportation Review Advisory Council	5512.07	4823
Unemployment Compensation Review Commission	4141.06	4824
Unemployment Compensation Advisory Council	4141.08	4825
Utility Radiological Safety Board	4937.02	4826
Vehicle Management Commission	125.833	4827
Veterans Advisory Committee	5902.02(K)	4828
Volunteer Fire Fighters' Dependents Fund Boards (Private and Public)	146.02	4829
Water and Sewer Commission	1525.11(C)	4830
Waterways Safety Council	1547.73	4831
Wildlife Council	1531.03	4832
Workers' Compensation System Oversight Commission	4121.12	4833
Workers' Compensation Oversight Commission	4121.123	4834
Nominating Committee		

Section 5. That Section 10 of Sub. H.B. 548 of the 123rd
General Assembly is hereby repealed. 4835
4836

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 4837
December 31, 2010. 4838
4839

Section 7. That Section 3 of Sub. H.B. 508 of the 119th 4840
General Assembly, as most recently amended by Sub. H.B. 670 of the 4841
121st General Assembly, Section 3 of Am. H.B. 280 of the 121st 4842
General Assembly, as most recently amended by Sub. H.B. 670 of the 4843
121st General Assembly, Section 6 of Sub. S.B. 27 of the 124th 4844
General Assembly, and Section 6 of Am. Sub. S.B. 163 of the 124th 4845
General Assembly are hereby repealed. 4846

Section 8. (A) That Section 3 of Am. S.B. 208 of the 120th
General Assembly is hereby repealed. 4847
4848

(B) The repeal of section 149.32 of the Revised Code, 4849
effective December 30, 2004, and Section 3 of Am. S.B. 208 of the 4850
120th General Assembly, effective December 30, 2004, is intended 4851
to accelerate the earlier repeal, with delayed effective date, of 4852
section 149.32 of the Revised Code. 4853

Section 9. (A) It is the intent of the General Assembly in 4854
enacting this act to implement the report of the Sunset Review 4855
Committee that was created by Sub. H.B. 548 of the 123rd General 4856
Assembly. That report is implemented in part as follows: 4857

(1) By the abolishment in this act, through amendments to 4858
relevant codified sections of law and through outright repeals of 4859
codified or uncodified sections of law, of several agencies, as 4860
defined in section 101.82 of the Revised Code, that were subject 4861
to the Committee's jurisdiction; 4862

(2) By the continuation, through the amendment or enactment 4863
of codified or uncodified sections of law, of the existence of 4864
numerous agencies, as defined in section 101.82 of the Revised 4865
Code, that were subject to the Committee's jurisdiction. 4866

(B) In addition to the means of implementing the Committee's 4867
report mentioned in division (A) of this section, the General 4868
Assembly hereby declares its intent to abolish the Department of 4869
Health's Citizen's Advisory Council and the Environmental 4870
Protection Agency's Public Response Group. These entities were 4871
subject to the Committee's jurisdiction, and the Committee 4872
declared that they should be abolished, but no express codified or 4873
uncodified source of law for them was found to exist by the 4874
General Assembly. 4875

(C) Further, in addition to the means of implementing the 4876

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 10 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,

4906

2004. Therefore, this act shall go into immediate effect.

4907