

**As Passed by the House**

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

**Sub. H. B. No. 568**

**Representatives White, Clancy, Flowers, DeWine, Peterson, Blasdel, Buehrer,  
Carano, Collier, Domenick, C. Evans, D. Evans, Gilb, Hollister, Hoops,  
Niehaus, Otterman, Raga, J. Stewart, Wagner, Webster**

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**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, 340.02, 1501.04, 1502.04, 1502.05,	3
1502.11, 1502.12, 1506.30, 1506.34, 1506.35,	4
1517.02, 1517.05, 1517.23, 1518.01, 1518.03,	5
2505.02, 3358.10, 3375.61, 3375.62, 3383.01,	6
3383.02, 3383.03, 3383.04, 3383.05, 3383.06,	7
3383.07, 3383.08, 3383.09, 3746.04, 3746.09,	8
3746.35, 3747.02, 3748.01, 3748.02, 3748.04,	9
3748.05, 3748.16, 3929.482, 3929.682, 3929.85,	10
3931.01, 3955.05, 3960.06, 4117.01, 4121.442,	11
4167.09, 4167.25, 4167.27, 4582.12, 4731.143,	12
4741.03, 4755.481, 4981.03, 5123.35, and 5123.352	13
and to repeal sections 122.09, 125.24, 149.32,	14
149.321, 149.322, 1502.10, 1506.37, 1517.03,	15
1517.04, 3354.161, 3355.121, 3357.161, 3375.47,	16
3746.08, 3747.04, 3747.05, 3747.06, 3747.061,	17
3747.07, 3747.08, 3747.09, 3747.10, 3747.11,	18
3747.12, 3747.13, 3747.14, 3747.15, 3747.16,	19
3747.17, 3747.18, 3747.19, 3747.20, 3747.21,	20
3747.22, 3748.09, 3929.71, 3929.72, 3929.721,	21
3929.73, 3929.75, 3929.76, 3929.77, 3929.78,	22
3929.79, 3929.80, 3929.81, 3929.82, 3929.83,	23

3929.84, 4121.443, 4167.26, 4981.36, 4981.361, 24  
5101.93, 5119.81, 5119.82, and 5123.353 of the 25  
Revised Code, and to repeal Section 6 of Am. Sub. 26  
S.B. 163 of the 124th General Assembly, Section 6 27  
of Sub. S.B. 27 of the 124th General Assembly, 28  
Section 10 of Sub. H.B. 548 of the 123rd General 29  
Assembly, Section 3 of Am. H.B. 280 of the 121st 30  
General Assembly, Section 27 of Sub. H.B. 670 of 31  
the 121st General Assembly, Section 3 of Am. S.B. 32  
208 of the 120th General Assembly, and Section 3 33  
of Sub. H.B. 508 of the 119th General Assembly, to 34  
implement the report of the Sunset Review 35  
Committee by abolishing, retaining, and changing 36  
the names of various agencies and by 37  
reestablishing the Sunset Review Committee but 38  
postponing its operation until the 128th General 39  
Assembly, to terminate the operation of certain 40  
provisions of this act on December 31, 2010, by 41  
repealing sections 101.82, 101.83, 101.84, 101.85, 42  
101.86, and 101.87 of the Revised Code on that 43  
date, and to declare an 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, 340.02, 46  
1501.04, 1502.04, 1502.05, 1502.11, 1502.12, 1506.30, 1506.34, 47  
1506.35, 1517.02, 1517.05, 1517.23, 1518.01, 1518.03, 2505.02, 48  
3358.10, 3375.61, 3375.62, 3383.01, 3383.02, 3383.03, 3383.04, 49  
3383.05, 3383.06, 3383.07, 3383.08, 3383.09, 3746.04, 3746.09, 50  
3746.35, 3747.02, 3748.01, 3748.02, 3748.04, 3748.05, 3748.16, 51  
3929.482, 3929.682, 3929.85, 3931.01, 3955.05, 3960.06, 4117.01, 52

4121.442, 4167.09, 4167.25, 4167.27, 4582.12, 4731.143, 4741.03, 53  
4755.481, 4981.03, 5123.35, and 5123.352 of the Revised Code be 54  
amended to 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  
continue in effect according to their terms notwithstanding the  
agency's abolition, unless the general assembly provides otherwise  
by law. The general assembly may provide by law for the temporary  
or permanent transfer of some or all of a terminated or  
transferred agency's functions and personnel to a successor agency  
or officer.

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

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

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

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

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

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

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

**Sec. 101.85.** (A) The sunset review committee, not later than sixty days after its first meeting in ~~2001~~ 2009, shall schedule for review each agency in existence on January 1, ~~2001~~ 2009. The

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 staff required to complete that workload, and the agency's total number of staff;	176 177 178
(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	204 205

affect the public;	206
(7) Whether the agency has encouraged public participation in its rule-making and decision-making;	207 208
(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
<b>Sec. 122.011.</b> (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	230 231 232 233



local governments are coordinated with each other and the state,	234
and for such purposes may do all of the following:	235
(1) Serve as a clearinghouse for information, data, and other	236
materials that may be helpful or necessary to persons or local	237
governments, as provided in section 122.07 of the Revised Code;	238
(2) Prepare and activate plans for the retention,	239
development, expansion, and use of the resources and commerce of	240
the state, as provided in section 122.04 of the Revised Code;	241
(3) Assist and cooperate with federal, state, and local	242
governments and agencies of federal, state, and local governments	243
in the coordination of programs to carry out the functions and	244
duties of the department;	245
(4) Encourage and foster research and development activities,	246
conduct studies related to the solution of community problems, and	247
develop recommendations for administrative or legislative actions,	248
as provided in section 122.03 of the Revised Code;	249
(5) Serve as the economic and community development planning	250
agency, which shall prepare and recommend plans and programs for	251
the orderly growth and development of this state and which shall	252
provide planning assistance, as provided in section 122.06 of the	253
Revised Code;	254
(6) Cooperate with and provide technical assistance to state	255
departments, political subdivisions, regional and local planning	256
commissions, tourist associations, councils of government,	257
community development groups, community action agencies, and other	258
appropriate organizations for carrying out the functions and	259
duties of the department or for the solution of community	260
problems;	261
(7) Coordinate the activities of state agencies that have an	262
impact on carrying out the functions and duties of the department;	263

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

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

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

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

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

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

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

Revised Code for use for the purposes of the fund created by 295  
section 166.031 of the Revised Code. 296

(B) The director of development may request the attorney 297  
general to, and the attorney general, in accordance with section 298  
109.02 of the Revised Code, shall bring a civil action in any 299  
court of competent jurisdiction. The director may be sued in the 300  
director's official capacity, in connection with this chapter, in 301  
accordance with Chapter 2743. of the Revised Code. 302

~~Sec. 122.133. (A) The director of development may establish 303  
technical and advisory boards in accordance with section 122.09 of 304  
the Revised Code as the director considers appropriate to assist 305  
in the execution of the employee ownership assistance program and 306  
may obtain information and cooperation concerning the program, 307  
upon request, from any department, bureau, institution, agency, or 308  
office of the state government in accordance with section 122.10 309  
of the Revised Code. 310~~

~~(B) The director of development shall publicize the 311  
availability of the employee ownership assistance program and its 312  
services to local governments and to business and labor 313  
organizations and shall coordinate with local governments, 314  
business and labor organizations, and other state agencies in 315  
obtaining information relating to the possible relocation of 316  
operations or closing of a business establishment. 317~~

**Sec. 123.151.** (A) As used in this section, "minority business 318  
enterprise" has the same meaning ~~given as~~ in division (E)(1) of 319  
section 122.71 of the Revised Code. 320

(B)(1) The director of administrative services shall make 321  
rules in accordance with Chapter 119. of the Revised Code 322  
establishing procedures by which minority businesses may apply to 323  
the equal employment opportunity coordinator for certification as 324

minority business enterprises. 325

~~(2) Any minority business enterprise that desires to bid on a~~ 326  
~~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  
purchases materials or services. In the case of all other  
contracts, the total value of subcontracts awarded to certified  
minority businesses shall equal at least five per cent of the  
total value of the contract. The total value of both the  
subcontracts awarded to and the purchases of materials made from  
such businesses shall equal at least ten per cent of the total  
value of the contract, wherever possible and whenever the  
contractor awards subcontracts or purchases materials or services.~~

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

~~be subcontracted to minority business enterprises as established  
in this section, the total value of the subcontracts awarded to  
minority business enterprises certified under division (B) of this  
section need not exceed the actual amount of such subcontracts  
awarded.~~

~~(3) Where a contractor is unable to agree to the provision  
required by division (C)(2) of this section because, having made a  
good faith effort, the contractor is unable to locate qualified  
minority businesses available to accept subcontracts or sell  
materials or services, the contractor may apply to the coordinator  
and the set aside review board created under division (C)(4) of  
this section for a waiver or modification of the provision. The  
coordinator shall review the application and shall make a  
recommendation to the board to allow or disallow the request.  
After receipt of the coordinator's recommendation, the board shall  
review the request. If the board finds that the contractor has  
made a good faith effort to locate and reach agreement with  
minority business subcontractors and materials suppliers or  
service providers but has been unable to do so due to  
circumstances beyond the reasonable control of the contractor, it  
may authorize the contract to include, in lieu of the provision  
required by division (C)(2) of this section, a provision  
stipulating a lesser percentage of the total value of the contract  
to be designated for minority business subcontractors and  
materials suppliers or it may waive such provision entirely, or  
stipulate a higher percentage of services permissible in contracts  
specified in division (A) of section 153.50 of the Revised Code.  
If the board does not grant the contractor's application for  
waiver or modification, and if the contractor is unable to agree  
with the provision required by division (C)(2) of this section,  
the contractor's bid shall be deemed nonresponsive to the  
specifications for which the bid was submitted. Such~~

~~nonresponsiveness shall not be a basis for forfeiture of a bid 421  
guaranty or bond required by law if the contractor made 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 119. of the Revised Code requiring the following notice to be included in boldface type and capital letters in all bid notifications and specifications for any contract authorized under section 123.15 and Chapter 153. of the Revised Code and in any contract covered by division (D) of this section: "Minority business set aside requirements as specified in section 123.151 of the Revised Code apply to this project. Copies of section 123.151 of the Revised Code can be obtained from any of the offices of the department of administrative services." The rules shall specify the number of days after the date on which bids are opened by which the successful bidder shall notify the contracting agency concerning the provisions the bidder has made or reasonably can be expected to make for meeting the provisions of division (C)(2) of this section.~~

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

~~(2) All contracts for construction entered into by any state agency, other than the department of administrative services, and any port authority including contracts set aside under division (D)(1) of this section, shall contain the same provision required by division (C)(2) of this section, subject to modification or~~



~~waiver by the set aside review board in the manner specified by 484  
divisions (C)(3) and (4) of this section. The rules of the 485  
director adopted under division (C)(5) of this section shall be 486  
applicable to contracts under this division. 487~~

~~(E) In the case of contracts set aside under division (C)(1) 488  
or (D)(1) of this section, if no bid is submitted by a minority 489  
business enterprise, the contract shall be awarded according to 490  
normal bidding procedures. The contracting agency or port 491  
authority shall from time to time set aside such additional 492  
contracts for bidding only by minority business enterprises as are 493  
necessary to replace those contracts previously set aside on which 494  
no minority business enterprises bid and to ensure that, in any 495  
fiscal year, the aggregate amount of construction contracts 496  
awarded to minority business enterprises will equal approximately 497  
five per cent of the total amount of construction contracts 498  
awarded by the agency or port authority. 499~~

~~(F) This section does not preclude any minority business 500  
enterprise from bidding on any other contract not specifically set 501  
aside for minority business enterprises. 502~~

~~(G) No funds of any state agency or port authority shall be 503  
expended in any fiscal year for construction until the director of 504  
administrative services or the chairperson of the port authority, 505  
whichever is appropriate, certifies to the equal employment 506  
opportunity coordinator, the clerk of the senate, and the clerk of 507  
the house of representatives that approximately five per cent of 508  
the aggregate amount of the projected expenditure for construction 509  
in the fiscal year has been set aside as provided for in this 510  
section. 511~~

~~(H) The department of administrative services, every other 512  
state agency authorized to enter into contracts for construction 513  
or contracts for purchases of equipment, materials, supplies, 514~~

~~contracts of~~ insurance, or services, and every port authority 515  
shall file a report every ninety days with the equal employment 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. ~~ff~~ 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 549  
port authority. Upon receipt of the certification, the speaker of 550  
the house of representatives and the president of the senate shall 551  
take such action or make such recommendations to the members of 552  
the general assembly as they consider necessary to correct the 553  
situation. 554

~~(I) Any person who intentionally misrepresents self as 555  
owning, controlling, operating, or participating in a minority 556  
business enterprise for the purpose of obtaining contracts, 557  
subcontracts, or any other benefits under this section shall be 558  
guilty of theft by deception as provided for in section 2913.02 of 559  
the Revised Code. 560~~

**Sec. 149.56.** (A) As used in this section, "abandoned 561  
property" has the same meaning as in section 1506.30 of the 562  
Revised Code. 563

(B) The Ohio historical society shall establish a program to 564  
locate, identify, and evaluate abandoned property and other 565  
resources in Lake Erie. The society, in accordance with the 566  
authority granted under section 149.30 of the Revised Code, may 567  
list any abandoned property it finds to have historical 568  
significance on its Ohio archaeological inventory or Ohio 569  
historical inventory as the director of the society considers 570  
appropriate. In determining whether an item has historical 571  
significance, the director shall follow the criteria of the 572  
national register of historic places established in 36 C.F.R. 60. 573  
The director shall notify the director of natural resources of any 574  
abandoned property found to have historical significance. The 575  
society may use the services of volunteers to locate, identify, 576  
and evaluate abandoned property in Lake Erie. The director shall 577

approve any volunteer programs and may recruit, train, and  
supervise the services of volunteers.

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

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**Sec. 164.07.** (A) In awarding contracts for capital  
improvement projects to be financed in whole or in part under this  
chapter, a local subdivision shall comply with the percentage  
requirements ~~of division (C)(1) of section 123.151 and of section~~  
125.081 of the Revised Code. ~~The subdivision shall also require~~  
~~compliance by its subcontractors with the requirements of division~~  
~~(C)(2) of section 123.151 of the Revised Code in awarding~~  
~~contracts and purchasing services and materials under those~~  
~~contracts. If, after making a good faith effort, a contractor is~~  
~~unable to comply with the requirements of division (C)(2) of~~  
~~section 123.151 of the Revised Code because it is unable to locate~~  
~~minority business enterprises available to accept subcontracts or~~  
~~purchase materials or services, the contractor may apply to the~~  
~~subdivision for a waiver or modification of the requirement. If~~  
~~the subdivision determines that the contractor made a good faith~~  
~~effort to locate and use minority business enterprises but was~~  
~~unable to do so, it may waive the provisions, authorize a~~  
~~reduction in the total value of the contract designated to~~

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~~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  
or 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  
authority to satisfy any of its obligations under or arising from  
any guaranty agreements, reimbursement agreements, or other credit  
enhancement agreements described in division (C) of this section.

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

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

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

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

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

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

(a) Levy and collect a tax under division (E) and division 702  
(F) of section 5739.09 of the Revised Code for the purposes, and 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 performing arts facility from the port authority;

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

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

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

The cooperative agreement shall provide that any port authority revenue bonds shall be secured by a trust agreement between the port authority and a corporate trustee that is a trust company or bank having the powers of a trust company within or outside the state but authorized to exercise trust powers within the state. The host county may be a party to that trust agreement

for the purpose of better securing the pledge by the host county 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. 340.02.** As used in this section, "mental health 850  
professional" means a person who is qualified to work with 851  
mentally ill persons, pursuant to standards established by the 852  
director of mental health under section 5119.611 of the Revised 853  
Code. 854

For each alcohol, drug addiction, and mental health service 855  
district, there shall be appointed a board of alcohol, drug 856

addiction, and mental health services of eighteen members. Members 857  
shall be residents of the district and shall be interested in 858  
mental health programs and facilities or in alcohol or drug 859  
addiction programs. 860

The director of mental health shall appoint four members of 861  
the board, the director of alcohol and drug addiction services 862  
shall appoint four members, and the board of county commissioners 863  
shall appoint ten members. In a joint-county district, the county 864  
commissioners of each participating county shall appoint members 865  
in as nearly as possible the same proportion as that county's 866  
population bears to the total population of the district, except 867  
that at least one member shall be appointed from each 868  
participating county. 869

The director of mental health shall ensure that at least one 870  
member of the board is a psychiatrist and one member of the board 871  
is a mental health professional. ~~One member of the board may be a~~ 872  
~~voting member of the citizen's advisory council of an institution~~ 873  
~~under the control of the department of mental health which serves~~ 874  
~~a hospital district in which one or more counties in the service~~ 875  
~~district is located.~~ If the appointment of a psychiatrist is not 876  
possible, as determined under rules adopted by the director, a 877  
licensed physician may be appointed in place of the psychiatrist. 878  
If the appointment of a licensed physician is not possible, the 879  
director of mental health may waive the requirement that the 880  
psychiatrist or licensed physician be a resident of the service 881  
district and appoint a psychiatrist or licensed physician from a 882  
contiguous county. The membership of the board shall, as nearly as 883  
possible, reflect the composition of the population of the service 884  
district as to race and sex. The director of mental health shall 885  
ensure that at least one member of the board is a person who has 886  
received or is receiving mental health services paid for by public 887  
funds and at least one member is a parent or other relative of 888

such a person. 889

The director of alcohol and drug addiction services shall 890  
ensure that at least one member of the board is a professional in 891  
the field of alcohol or drug addiction services and one member of 892  
the board is an advocate for persons receiving treatment for 893  
alcohol or drug addiction. Of the members appointed by the 894  
director of alcohol and drug addiction services, at least one 895  
shall be a person who has received or is receiving services for 896  
alcohol or drug addiction, and at least one ~~member~~ shall be a 897  
parent or other relative of such a person. 898

No member or employee of a board of alcohol, drug addiction, 899  
and mental health services shall serve as a member of the board of 900  
any agency with which the board of alcohol, drug addiction, and 901  
mental health services has entered into a contract for the 902  
provision of services or facilities. No member of a board of 903  
alcohol, drug addiction, and mental health services shall be an 904  
employee of any agency with which the board has entered into a 905  
contract for the provision of services or facilities. No person 906  
shall be an employee of a board and such an agency unless the 907  
board and agency both agree in writing. 908

No person shall serve as a member of the board of alcohol, 909  
drug addiction, and mental health services whose spouse, child, 910  
parent, brother, sister, grandchild, stepparent, stepchild, 911  
stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, 912  
daughter-in-law, brother-in-law, or sister-in-law serves as a 913  
member of the board of any agency with which the board of alcohol, 914  
drug addiction, and mental health services has entered into a 915  
contract for the provision of services or facilities. No person 916  
shall serve as a member or employee of the board whose spouse, 917  
child, parent, brother, sister, stepparent, stepchild, 918  
stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, 919  
daughter-in-law, brother-in-law, or sister-in-law serves as a 920

county commissioner of a county or counties in the alcohol, drug 921  
addiction, and mental health service district. 922

Each year each board member shall attend at least one 923  
inservice training session provided or approved by the department 924  
of mental health or the department of alcohol and drug addiction 925  
services. Such training sessions shall not be considered to be 926  
regularly scheduled meetings of the board. 927

Each member shall be appointed for a term of four years, 928  
commencing the first day of July, except that one-third of initial 929  
appointments to a newly established board, and to the extent 930  
possible to expanded boards, shall be for terms of two years, 931  
one-third of initial appointments shall be for terms of three 932  
years, and one-third of initial appointments shall be for terms of 933  
four years. No member shall serve more than two consecutive 934  
four-year terms. A member may serve for three consecutive terms 935  
only if one of the terms is for less than two years. A member who 936  
has served two consecutive four-year terms or three consecutive 937  
terms totaling less than ten years is eligible for reappointment 938  
one year following the end of the second or third term, 939  
respectively. 940

When a vacancy occurs, appointment for the expired or 941  
unexpired term shall be made in the same manner as an original 942  
appointment. The appointing authority shall be notified by 943  
certified mail of any vacancy and shall fill the vacancy within 944  
sixty days following ~~such~~ that notice. 945

Any member of the board may be removed from office by the 946  
appointing authority for neglect of duty, misconduct, or 947  
malfeasance in office, and shall be removed by the appointing 948  
authority if the member's spouse, child, parent, brother, sister, 949  
stepparent, stepchild, stepbrother, stepsister, father-in-law, 950  
mother-in-law, son-in-law, daughter-in-law, brother-in-law, or 951

sister-in-law serves as a county commissioner of a county or 952  
counties in the service district or serves as a member or employee 953  
of the board of an agency with which the board of alcohol, drug 954  
addiction, and mental health services has entered a contract for 955  
the provision of services or facilities. The member shall be 956  
informed in writing of the charges and afforded an opportunity for 957  
a hearing. Upon the absence of a member within one year from 958  
either four board meetings or from two board meetings without 959  
prior notice, the board shall notify the appointing authority, 960  
which may vacate the appointment and appoint another person to 961  
complete the member's term. 962

Members of the board shall serve without compensation, but 963  
shall be reimbursed for actual and necessary expenses incurred in 964  
the performance of their official duties, as defined by rules of 965  
the departments of mental health and alcohol and drug addiction 966  
services. 967

**Sec. 1501.04.** There is hereby created in the department of 968  
natural resources a recreation and resources commission composed 969  
of the chairperson of the wildlife council created under section 970  
1531.03 of the Revised Code, the chairperson of the parks and 971  
recreation council created under section 1541.40 of the Revised 972  
Code, the chairperson of the waterways safety council created 973  
under section 1547.73 of the Revised Code, the chairperson of the 974  
technical advisory council on oil and gas created under section 975  
1509.38 of the Revised Code, the ~~chairman~~ chairperson of the 976  
forestry advisory council created under section 1503.40 of the 977  
Revised Code, the chairperson of the Ohio soil and water 978  
conservation commission created under section 1515.02 of the 979  
Revised Code, ~~the chairperson of the Ohio natural areas council~~ 980  
~~created under section 1517.03 of the Revised Code,~~ the chairperson 981  
of the Ohio water advisory council created under section 1521.031 982



of the Revised Code, the chairperson of the recycling and litter 983  
prevention advisory council created under section 1502.04 of the 984  
Revised Code, the chairperson of the Ohio geology advisory council 985  
created under section 1505.11 of the Revised Code, and five 986  
members appointed by the governor with the advice and consent of 987  
the senate, not more than three of whom shall belong to the same 988  
political party. The director of natural resources shall be an ex 989  
officio member of the commission, with a voice in its 990  
deliberations, but without the power to vote. 991

Terms of office of members of the commission appointed by the 992  
governor shall be for five years, commencing on the second day of 993  
February and ending on the first day of February. Each member 994  
shall hold office from the date of appointment until the end of 995  
the term for which the member was appointed. 996

In the event of the death, removal, resignation, or 997  
incapacity of a member of the commission, the governor, with the 998  
advice and consent of the senate, shall appoint a successor who 999  
shall hold office for the remainder of the term for which the 1000  
member's predecessor was appointed. Any member shall continue in 1001  
office subsequent to the expiration date of the member's term 1002  
until the member's successor takes office, or until a period of 1003  
sixty days has elapsed, whichever occurs first. 1004

The governor may remove any appointed member of the 1005  
commission for misfeasance, nonfeasance, or malfeasance in office. 1006

The commission shall exercise no administrative function, but 1007  
may do any of the following: 1008

(A) Advise with and recommend to the director as to plans and 1009  
programs for the management, development, utilization, and 1010  
conservation of the natural resources of the state; 1011

(B) Advise with and recommend to the director as to methods 1012  
of coordinating the work of the divisions of the department; 1013

(C) Consider and make recommendations upon any matter that 1014  
the director may submit to it; 1015

(D) Submit to the governor biennially recommendations for 1016  
amendments to the conservation laws of the state. 1017

Each member of the commission, before entering upon the 1018  
discharge of the member's duties, shall take and subscribe to an 1019  
oath of office, which oath, in writing, shall be filed in the 1020  
office of the secretary of state. 1021

The members of the commission shall serve without 1022  
compensation, but shall be entitled to receive their actual and 1023  
necessary expenses incurred in the performance of their official 1024  
duties. 1025

The commission, by a majority vote of all its members, shall 1026  
adopt and amend bylaws. 1027

To be eligible for appointment, a person shall be a citizen 1028  
of the United States and an elector of the state and shall possess 1029  
a knowledge of and have an interest in the natural resources of 1030  
this state. 1031

The commission shall hold at least four regular quarterly 1032  
meetings each year. Special meetings shall be held at such times 1033  
as the bylaws of the commission provide. Notices of all meetings 1034  
shall be given in such manner as the bylaws provide. The 1035  
commission shall choose annually from among its members a 1036  
chairperson to preside over its meetings and a secretary to keep a 1037  
record of its proceedings. A majority of the members of the 1038  
commission constitutes a quorum. No advice shall be given or 1039  
recommendation made without a majority of the members of the 1040  
commission concurring ~~therein~~ in it. 1041

**Sec. 1502.04.** There is hereby created within the division of 1042  
recycling and litter prevention the recycling and litter 1043

prevention advisory council consisting of thirteen members. The 1044  
speaker of the house of representatives shall appoint one member 1045  
of the house of representatives to the council, and the president 1046  
of the senate shall appoint one member of the senate to the 1047  
council. If the president of the senate belongs to the same 1048  
political party as the speaker of the house of representatives, 1049  
the president shall appoint a member of the senate who belongs to 1050  
a different political party as recommended by the minority leader 1051  
of the senate. The speaker of the house of representatives and the 1052  
president of the senate shall make their initial appointments to 1053  
the council within sixty days after July 20, 1994. Each member 1054  
appointed by the speaker of the house of representatives or the 1055  
president of the senate shall serve for a term of office of three 1056  
years. The appropriate appointing authority may fill any vacancy 1057  
occurring during the term of any member whom the appointing 1058  
authority has appointed to the advisory council. 1059

The remaining eleven members shall be appointed by the 1060  
governor with the advice and consent of the senate and shall be 1061  
persons with knowledge of or experience in recycling or litter 1062  
prevention programs. The council shall have broad based 1063  
representation of interests including agriculture, labor, the 1064  
environment, manufacturing, wholesale and retail industry, and the 1065  
public. One of the business members shall be from the commercial 1066  
recycling industry, and another shall be from an industry required 1067  
to pay taxes under section 5733.065 of the Revised Code. The 1068  
director of natural resources shall not be a member of the 1069  
council. The governor shall make initial appointments to the 1070  
council within thirty days after October 20, 1987. Of the 1071  
governor's initial appointments to the council, five shall be for 1072  
a term of one year, and six shall be for a term of two years. 1073  
Thereafter, terms of office shall be for three years. Each member 1074  
appointed by the governor shall hold office from the date of the 1075  
member's appointment until the end of the term for which the 1076

member was appointed. In the event of death, removal, resignation, 1077  
or incapacity of a member of the council appointed by the 1078  
governor, the governor, with the advice and consent of the senate, 1079  
shall appoint a successor who shall hold office for the remainder 1080  
of the term for which the successor's predecessor was appointed. A 1081  
member shall continue in office subsequent to the expiration date 1082  
of the member's term until the member's successor takes office, or 1083  
until a period of sixty days has elapsed, whichever occurs first. 1084  
The governor at any time may remove any of the governor's 1085  
appointees from the council for misfeasance, nonfeasance, or 1086  
malfeasance in office. 1087

Members of the council may be reappointed. 1088

The council shall hold at least four regular quarterly 1089  
meetings each year. Special meetings may be held at the behest of 1090  
the chairperson or a majority of the members. The council annually 1091  
shall select from among its members a chairperson, a 1092  
vice-chairperson, and a secretary to keep a record of its 1093  
proceedings. 1094

A majority vote of the members of the council is necessary to 1095  
take action in any matter. 1096

A member of the council shall serve without compensation for 1097  
attending council meetings, but shall be reimbursed for all 1098  
traveling, hotel, and other ordinary and necessary expenses 1099  
incurred in the performance of the member's work as a member of 1100  
the council. 1101

Membership on the council does not constitute holding a 1102  
public office or position of employment under the laws of this 1103  
state and does not constitute grounds for removal of public 1104  
officers or employees from their offices or positions of 1105  
employment. 1106

The council shall do all of the following: 1107

~~(A) Assist the interagency recycling market development  
workgroup created in section 1502.10 of the Revised Code in  
executing its duties under division (A) of that section;~~ 1108  
1109  
1110

~~(B)~~ In conjunction with the chief of recycling and litter 1111  
prevention and with the approval of the director of natural 1112  
resources, establish criteria by which to certify, and certify, 1113  
agencies of the state, municipal corporations with a population of 1114  
more than fifty thousand, counties, and solid waste management 1115  
districts as eligible to receive grants under section 1502.05 of 1116  
the Revised Code; 1117

~~(C)~~(B) In conjunction with the chief and with the approval of 1118  
the director, establish criteria by which to certify, and certify, 1119  
political subdivisions for receipt of special grants for 1120  
activities or projects that are intended to accomplish the 1121  
purposes of any of the programs established under section 1502.03 1122  
of the Revised Code; 1123

~~(D)~~(C) Advise the chief in carrying out the chief's duties 1124  
under this chapter. 1125

**Sec. 1502.05.** (A) The chief of recycling and litter 1126  
prevention, pursuant to division ~~(B)~~(A) of section 1502.04 of the 1127  
Revised Code and with the approval of the director of natural 1128  
resources, may make grants from the recycling and litter 1129  
prevention fund created in section 1502.02 of the Revised Code to 1130  
accomplish the purposes of the programs established under section 1131  
1502.03 of the Revised Code. 1132

(B) Except as provided in division (C) of this section, the 1133  
chief, with the approval of the director, may require any eligible 1134  
applicant certified by the recycling and litter prevention 1135  
advisory council under division ~~(B)~~(A) of section 1502.04 of the 1136  
Revised Code that applies for a grant for an activity or project 1137

that is intended to further the purposes of any program 1138  
established under division (A)(1), (2), or (4) of section 1502.03 1139  
of the Revised Code to provide a matching contribution of not more 1140  
than fifty per cent of the grant. 1141

(C) Notwithstanding division (B) of this section, any grant 1142  
awarded under division (A) of this section to foster cooperative 1143  
research and development regarding recycling or the cooperative 1144  
establishment or expansion of private recycling facilities or 1145  
programs shall be made in conjunction with a contribution to the 1146  
project by a cooperating enterprise that maintains or proposes to 1147  
maintain a relevant research and development or recycling facility 1148  
or program in this state or by an agency of the state, provided 1149  
that funding provided by a state agency shall not be provided from 1150  
general revenue funds appropriated by the general assembly. No 1151  
grant made under division (A) of this section for the purposes 1152  
described in this division shall exceed the contribution made by 1153  
the cooperating enterprise or state agency. The chief may consider 1154  
cooperating contributions in the form of state of the art new 1155  
equipment or in other forms if the chief determines that the 1156  
contribution is essential to the successful implementation of the 1157  
project. 1158

Grants made under division (A) of this section for the 1159  
purposes described in this division shall be made in such form and 1160  
conditioned on such terms as the chief considers to be 1161  
appropriate. 1162

(D)(1) The chief, with the approval of the director, may 1163  
require any eligible applicant certified by the recycling and 1164  
litter prevention advisory council under division ~~(B)~~(A) of 1165  
section 1502.04 of the Revised Code that applies for a grant that 1166  
is intended to further the purposes of the program established 1167  
under division (A)(3) of section 1502.03 of the Revised Code, 1168  
except any eligible applicant that is or is located in a county 1169

that has a per capita income equal to or below ninety per cent of 1170  
the median county per capita income of the state as determined by 1171  
the chief using the most recently available figures from the 1172  
United States census bureau, to provide a matching contribution as 1173  
follows: 1174

(a) Up to ten per cent of the grant from any eligible 1175  
applicant that is or is located in a county that has a per capita 1176  
income above ninety per cent of the median county per capita 1177  
income of the state, but equal to or below one hundred per cent of 1178  
the median county per capita income of the state; 1179

(b) Up to twenty per cent of the grant from any eligible 1180  
applicant that is or is located in a county that has a per capita 1181  
income above the median county per capita income of the state. 1182

(2) If the eligible applicant is a joint solid waste 1183  
management district or is filing a joint application on behalf of 1184  
two or more counties, the matching contribution required under 1185  
division (D)(1) of this section shall be the average of the 1186  
matching contributions of all of the counties covered by the 1187  
application as determined in accordance with that division. The 1188  
matching contribution of a county that has a per capita income 1189  
equal to or below ninety per cent of the median county per capita 1190  
income of the state shall be included as zero in calculating the 1191  
average matching contribution. 1192

(E) After receiving notice from the director of environmental 1193  
protection that each county within the state is subject to the 1194  
solid waste management plan of a solid waste management district, 1195  
the chief shall ensure that not less than fifty per cent of the 1196  
moneys distributed as grants under this section shall be expended 1197  
for the purposes of recycling and recycling market development. 1198

**Sec. 1502.11.** (A) ~~Not later than December 31, 1994, the~~ 1199  
~~interagency recycling market development workgroup~~ The chief of 1200

recycling and litter prevention shall prepare, with the assistance 1201  
of the recycling and litter prevention advisory council, and the 1202  
director of natural resources shall approve ~~the initial Ohio~~ 1203  
~~recycling market development plan. Thereafter,~~ a revised Ohio 1204  
recycling market development plan ~~shall be prepared and approved~~ 1205  
not later than the thirty-first day of December every two years. 1206  
The 1207

~~The Ohio recycling market development~~ plan shall do all of 1208  
the following: 1209

(1) Identify the types of recyclables, the recycling of which 1210  
will receive assistance under the plan; 1211

(2) Assess the need for and recommend specific types of 1212  
direct financial assistance to be provided by the state, including 1213  
grants, low-interest loans, bonds, and rebates and guarantees for 1214  
projects such as retooling costs for manufacturers and industrial 1215  
plants to use recycled materials, capitalization business 1216  
incubators, new product research and development, demonstration 1217  
projects, and the application and uses of recycled materials; 1218

(3) Assess the need for and recommend specific types of other 1219  
assistance to be provided by the state, including the creation of 1220  
enterprise zones and other tax incentives and exemptions, job 1221  
training and managerial assistance, facilitation of technology 1222  
transfers, provision of technical information to industries and to 1223  
counties, townships, municipal corporations, and solid waste 1224  
management districts, provision of consumer information, and 1225  
establishment of a computer information network; 1226

(4) Designate a specific state agency to administer each 1227  
component of the plan recommended under divisions (A)(2) and (3) 1228  
of this section; 1229

(5) Determine the funding level needed for each component of 1230  
the plan recommended under divisions (A)(2) and (3) of this 1231



section, and establish biennial budget estimates for the main 1232  
operating biennial budget needed by the state agency designated to 1233  
administer the component under division (A)(4) of this section; 1234

(6) Recommend necessary statutory changes, provided that the 1235  
changes have been endorsed by a two-thirds vote of the recycling 1236  
and litter prevention advisory council. 1237

~~(B) In preparing the initial plan under division (A) of this 1238  
section, the workgroup shall review existing programs of state 1239  
agencies to determine which programs can be used to increase state 1240  
support of recycling and recycling market development. In 1241  
particular, the workgroup shall do all of the following: 1242~~

~~(1) With regard to the department of natural resources, 1243  
review the types and amounts of grants awarded by the chief of 1244  
recycling and litter prevention under section 1502.05 of the 1245  
Revised Code to determine which of those grants should be 1246  
continued using moneys appropriated from the recycling and litter 1247  
prevention fund created in section 1502.02 of the Revised Code; 1248~~

~~(2) With regard to the department of development, determine 1249  
which existing industrial development programs administered by the 1250  
department can be used to implement any of the components of the 1251  
plan recommended under divisions (A)(2) and (3) of this section; 1252~~

~~(3) With regard to the environmental protection agency: 1253~~

~~(a) Review recycling information obtained through solid waste 1254  
management plans prepared by solid waste management districts 1255  
under sections 3734.50 to 3734.575 of the Revised Code; 1256~~

~~(b) Determine the feasibility of authorizing solid waste 1257  
management districts to provide revolving loans for local 1258  
recycling industrial development. 1259~~

~~(C) Each revised plan prepared under division (A) of this 1260  
section shall do both of the following: 1261~~

(1) Review the relevant activities of each state agency designated to administer a component of the previous plan;	1262 1263
(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.	1264 1265 1266
<del>(D)</del> (C) Each state agency that is designated under the plan to administer a component of the plan shall do both of the following:	1267 1268
(1) Administer <del>each such</del> <u>that</u> component as provided in the plan;	1269 1270
(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.	1271 1272 1273
<del>(E)</del> (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.	1274 1275 1276
<b>Sec. 1502.12.</b> (A) There is hereby created in the state treasury the scrap tire grant fund, consisting of moneys transferred to the fund under section 3734.82 of the Revised Code. The chief of the division of recycling and litter prevention, with the approval of the director of natural resources, may make grants from the fund for the purpose of supporting market development activities for scrap tires. The grants may be awarded to individuals, businesses, and entities certified under division <del>(B)</del> (A) of section 1502.04 of the Revised Code.	1277 1278 1279 1280 1281 1282 1283 1284 1285
(B) Projects and activities that are eligible for grants under this section shall be evaluated for funding using, at a minimum, the following criteria:	1286 1287 1288
(1) The degree to which a proposed project contributes to the increased use of scrap tires generated in this state;	1289 1290

(2) The degree of local financial support for a proposed project;	1291 1292
(3) The technical merit and quality of a proposed project.	1293
<b>Sec. 1506.30.</b> As used in sections 1506.30 to <del>1506.37</del> <u>1506.36</u> of the Revised Code:	1294 1295
(A) "Abandoned property" means a submerged aircraft; a submerged watercraft, including a ship, boat, canoe, skiff, raft, or barge; the rigging, gear, fittings, trappings, and equipment of a submerged aircraft or watercraft; the personal property of the officers, crew, and passengers of a submerged aircraft or watercraft; the cargo of a submerged aircraft or watercraft that has been deserted, relinquished, cast away, or left behind and for which attempts at reclamation have been abandoned by the owners and insurers; and submerged materials resulting from activities of prehistoric and historic native Americans.	1296 1297 1298 1299 1300 1301 1302 1303 1304 1305
(B) "Lake Erie" means that portion of the waters and lands of Lake Erie belonging to the state as provided in section 1506.10 of the Revised Code.	1306 1307 1308
(C) "Historical value" means the quality of significance exemplified by an object, structure, site, or district that is included in or eligible for inclusion in the state registry of archaeological landmarks authorized under section 149.51 of the Revised Code, the state registry of historic landmarks authorized under section 149.55 of the Revised Code, or the national register of historic places.	1309 1310 1311 1312 1313 1314 1315
(D) "Marine surveyor" means a person engaged in the business of mapping or surveying submerged lands and abandoned property.	1316 1317
(E) "Mechanical or other assistance" means all <del>manmade</del> <u>artificial</u> devices used to raise or remove artifacts from abandoned property, including pry bars, wrenches and other hand or	1318 1319 1320

power tools, cutting torches, explosives, winches, flotation bags, 1321  
lines to surface, extra divers buoyancy devices, and other 1322  
buoyancy devices. 1323

(F) "Recreational value" means value relating to an activity 1324  
in which the public engages or may engage for recreation or sport, 1325  
including scuba diving and fishing, as determined by the director 1326  
of natural resources. 1327

**Sec. 1506.34.** (A) The director of natural resources, with the 1328  
approval of the director of the Ohio historical society, shall 1329  
establish policies and may adopt rules necessary to implement and 1330  
administer sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised 1331  
Code. Not less than forty-five days prior to adopting a rule under 1332  
this section or section 1506.31 of the Revised Code, the director 1333  
of natural resources shall send a copy of the proposed rule to the 1334  
director of the Ohio historical society, who shall promptly review 1335  
it. Not more than thirty days after receiving the proposed rule, 1336  
the director of the Ohio historical society shall return the rule 1337  
to the director of natural resources together with ~~his~~ the former 1338  
director's written approval or disapproval of the proposed rule. 1339  
If ~~he~~ the director of the Ohio historical society disapproves the 1340  
rule, ~~he~~ the director shall explain the reasons for ~~his~~ the 1341  
disapproval and any amendments to the rule ~~he~~ the director 1342  
considers necessary to obtain ~~his~~ the director's approval. The 1343  
director of natural resources shall not adopt a rule under those 1344  
sections that has not been approved by the director of the Ohio 1345  
historical society. If the director of the Ohio historical society 1346  
does not respond within thirty days as prescribed in this section, 1347  
the rule is deemed approved by ~~him~~ the director. 1348

(B) The director of natural resources shall inform the public 1349  
of the requirements of sections 1506.30 to ~~1506.37~~ 1506.36 of the 1350  
Revised Code and any policies established and rules adopted under 1351

them. In complying with this section, the director may establish 1352  
or conduct educational programs or seminars, print and distribute 1353  
informational pamphlets, and provide detailed information to 1354  
organizations that conduct scuba diving training programs. 1355

(C) The director of natural resources may hire or contract 1356  
with a marine archaeologist, a marine historian, a marine 1357  
surveyor, or any combination ~~thereof~~ of these persons for the 1358  
purposes of implementing and administering sections 1506.30 to 1359  
~~1506.37~~ 1506.36 of the Revised Code and any rules adopted under 1360  
them. 1361

**Sec. 1506.35.** (A) The director of natural resources may 1362  
suspend or revoke, in accordance with Chapter 119. of the Revised 1363  
Code, a permit issued under section 1506.32 of the Revised Code if 1364  
the permit holder has done either of the following: 1365

(1) Failed to comply with sections 1506.30 to ~~1506.37~~ 1506.36 1366  
of the Revised Code, any rules adopted under those sections, or 1367  
any provision or condition of ~~his~~ the holder's permit; 1368

(2) Damaged abandoned property other than in accordance with 1369  
the provisions or conditions of the permit. 1370

(B) Any motor vehicle, as defined in section 4501.01 of the 1371  
Revised Code, watercraft, as defined in section 1547.01 of the 1372  
Revised Code, mechanical or other assistance, scuba gear, sonar 1373  
equipment, or other equipment used by any person in the course of 1374  
committing a third or subsequent violation of division (K) of 1375  
section 1506.32 of the Revised Code shall be considered contraband 1376  
for the purposes of sections 2933.42 and 2933.43 of the Revised 1377  
Code, except that proceeds from the sale of such contraband shall 1378  
be disposed of in the following order: 1379

(1) To the payment of the costs incurred in the forfeiture 1380  
proceedings under section 2933.43 of the Revised Code; 1381

(2) To the payment of the balance due on any security 1382  
interest preserved under division (C) of section 2933.43 of the 1383  
Revised Code; 1384

(3) To the payment of any costs incurred by the seizing 1385  
agency under section 2933.43 of the Revised Code in connection 1386  
with the storage, maintenance, security, and forfeiture of the 1387  
contraband; 1388

(4) Fifty per cent of the remaining money to the credit of 1389  
the Lake Erie submerged lands preserves fund created in division 1390  
(C) of this section, and fifty per cent of the remaining money to 1391  
the Ohio historical society for deposit into the fund created 1392  
pursuant to division (C) of section 149.56 of the Revised Code. 1393

(C) There is hereby created in the state treasury the Lake 1394  
Erie submerged lands preserves fund. The fund shall be composed of 1395  
moneys credited to it under division (B)(4) of this section and 1396  
division (D)(2) of section 1506.33 of the Revised Code, all 1397  
appropriations, contributions, and gifts made to it, and any 1398  
federal grants received by the department of natural resources for 1399  
the purposes of sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised 1400  
Code. The director shall use the moneys in the Lake Erie submerged 1401  
lands preserves fund solely to implement and administer sections 1402  
1506.30 to ~~1506.37~~ 1506.36 of the Revised Code. 1403

(D) The director may request the attorney general to, and the 1404  
attorney general shall, bring a civil action in any court of 1405  
competent jurisdiction for any of the following purposes: 1406

(1) To enforce compliance with or restrain violation of 1407  
sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised Code, any rules 1408  
adopted under those sections, or any permit issued under section 1409  
1506.32 of the Revised Code; 1410

(2) To enjoin the further removal of abandoned property or 1411  
archaeological material from Lake Erie; 1412

(3) To order the restoration of an area affected by a 1413  
violation of sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised 1414  
Code or of a permit issued under section 1506.32 of the Revised 1415  
Code to its prior condition. 1416

Any action under this division is a civil action, governed by 1417  
the Rules of Civil Procedure. 1418

(E) A peace officer of a county, township, or municipal 1419  
corporation, and a preserve officer, wildlife officer, park 1420  
officer, or watercraft officer designated under section 1517.10, 1421  
1531.13, 1541.10, or 1547.521 of the Revised Code, as applicable, 1422  
may enforce compliance with sections 1506.30 to ~~1506.37~~ 1506.36 of 1423  
the Revised Code, any rules adopted under those sections, and any 1424  
permit issued under section 1506.32 of the Revised Code and may 1425  
make arrests for violation of those laws, rules, and permits. 1426

**Sec. 1517.02.** There is hereby created in the department of 1427  
natural resources the division of natural areas and preserves, 1428  
which shall be administered by the chief of ~~the division of~~ 1429  
natural areas and preserves. The chief shall take an oath of 1430  
office and shall file in the office of the secretary of state a 1431  
bond signed by ~~him~~ the chief and by a surety approved by the 1432  
governor for a sum fixed pursuant to section 121.11 of the Revised 1433  
Code. 1434

The chief shall, ~~in consultation from time to time with the~~ 1435  
~~Ohio natural areas council,~~ administer a system of nature 1436  
preserves and wild, scenic, and recreational river areas. The 1437  
chief shall establish a system of nature preserves through 1438  
acquisition and dedication of natural areas of state or national 1439  
significance, which shall include, but not be limited to, areas 1440  
which represent characteristic examples of Ohio's natural 1441  
landscape types and its natural vegetation and geological history. 1442  
The chief shall encourage landowners to dedicate areas of unusual 1443

significance as nature preserves, and shall establish and maintain 1444  
a registry of natural areas of unusual significance. 1445

The chief may supervise, operate, protect, and maintain wild, 1446  
scenic, and recreational river areas, as designated by the 1447  
director of natural resources. The chief may cooperate with 1448  
federal agencies administering any federal program concerning 1449  
wild, scenic, or recreational river areas. 1450

The chief may, with the approval of the director, enter into 1451  
an agreement with the United States department of commerce under 1452  
the "Coastal Zone Management Act of 1972," 86 Stat. 1280, 16 1453  
U.S.C.A. 1451, as amended, for the purpose of receiving grants to 1454  
continue the management, operation, research, and programming at 1455  
old woman creek national estuarine research reserve. 1456

The chief shall do the following: 1457

(A) Formulate policies and plans for the acquisition, use, 1458  
management, and protection of nature preserves; 1459

(B) Formulate policies for the selection of areas suitable 1460  
for registration; 1461

(C) Formulate policies for the dedication of areas as nature 1462  
preserves; 1463

(D) Prepare and maintain surveys and inventories of natural 1464  
areas and habitats of rare and endangered species of plants and 1465  
animals; 1466

(E) Adopt rules for the use, visitation, and protection of 1467  
nature preserves, "natural areas owned or managed through 1468  
easement, license, or lease by the department and administered by 1469  
the division," and lands owned "or managed through easement, 1470  
license, or lease" by the department and administered by the 1471  
division which are within or adjacent to any wild, scenic, or 1472  
recreational river area, in accordance with Chapter 119. of the 1473



Revised Code;	1474
(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;	1475 1476 1477 1478
<del>(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;</del>	1479 1480 1481
<del>(H)</del> Provide interpretive programs and publish and disseminate information pertaining to nature preserves and natural areas for their visitation and use;	1482 1483 1484
<del>(I)</del> <u>(H)</u> Conduct and grant permits to qualified persons for the conduct of scientific research and investigations within nature preserves;	1485 1486 1487
<del>(J)</del> <u>(I)</u> Establish an appropriate system for marking nature preserves;	1488 1489
<del>(K)</del> <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.	1490 1491 1492 1493
<b>Sec. 1517.05.</b> The department of natural resources, for and on behalf of the state, shall acquire a system of nature preserves for the following uses and purposes:	1494 1495 1496
(A) For scientific research in such fields as ecology, taxonomy, genetics, forestry, pharmacology, agriculture, soil science, geology, paleontology, conservation, and similar fields;	1497 1498 1499
(B) For the teaching of biology, natural history, ecology, geology, conservation, and other subjects;	1500 1501
(C) As habitats for plant and animal species and communities	1502

and other natural objects;	1503
(D) As reservoirs of natural materials;	1504
(E) As places of natural interest and beauty;	1505
(F) For visitation whereby persons may observe and experience	1506
natural biotic and environmental systems of the earth and their	1507
processes;	1508
(G) To promote understanding and appreciation of the	1509
aesthetic, cultural, scientific, and spiritual values of such	1510
areas by the people of the state;	1511
(H) For the preservation and protection of nature preserves	1512
against modification or encroachment resulting from occupation,	1513
development, or other use that would destroy their natural or	1514
aesthetic conditions.	1515
The director of natural resources, <del>upon the advice and</del>	1516
<del>concurrence of the Ohio natural areas council,</del> shall accept	1517
natural areas by articles of dedication or gift, provided that	1518
funds and services are available for their preservation and	1519
protection.	1520
A nature preserve is established when articles of dedication	1521
have been filed by or at the direction of the owner of land, or a	1522
governmental agency having ownership or control thereof, in the	1523
office of the county recorder of the county in which the land is	1524
located.	1525
Articles of dedication shall be executed by the owner of the	1526
land in the same manner and with the same effect as a conveyance	1527
of an interest in land and shall be irrevocable except as provided	1528
in this section. The county recorder may not accept articles of	1529
dedication for recording unless they have been accepted by the	1530
director of natural resources. The director may not accept	1531
articles of dedication unless they contain terms restricting the	1532

use of the land that adequately provide for its preservation and 1533  
protection against modification or encroachment resulting from 1534  
occupation, development, or other use that would destroy its 1535  
natural or aesthetic conditions for one or more of the uses and 1536  
purposes set forth in this section. Wherever possible and 1537  
consistent with such preservation and protection of the land, the 1538  
articles shall provide for public access in order that the maximum 1539  
benefit be obtained for the uses and purposes stated in this 1540  
section. 1541

Articles of dedication may contain provisions for the 1542  
management, custody, and transfer of land, provisions defining the 1543  
rights of the owner or operating agency, and the department, and 1544  
~~such~~ other provisions ~~as may be~~ necessary or advisable to carry 1545  
out the uses and purposes for which the land is dedicated. They 1546  
may contain conditions under which the owner and the director of 1547  
natural resources may agree to rescind the articles. 1548

The attorney general, upon request of the director of natural 1549  
resources, may bring an action for injunction in any court of 1550  
competent jurisdiction to enforce the terms of articles of 1551  
dedication. 1552

The department may make or accept amendments of any articles 1553  
of dedication upon terms and conditions that will not destroy the 1554  
natural or aesthetic conditions of a preserve. If the fee simple 1555  
interest in the area or preserve is not held by the state, no 1556  
amendments shall be made without the written consent of the owner. 1557  
Each amendment shall be recorded in the same manner as the 1558  
articles of dedication. 1559

**Sec. 1517.23.** ~~With the advice of the Ohio natural areas~~ 1560  
~~council created under section 1517.03 of the Revised Code, the~~ The 1561  
chief of the division of natural areas and preserves shall do both 1562  
of the following: 1563

(A) Formulate policies and plans and establish a program 1564  
incorporating them for the identification and protection of the 1565  
state's cave resources and adopt, amend, or rescind rules in 1566  
accordance with Chapter 119. of the Revised Code to implement that 1567  
program; 1568

(B) Provide technical assistance and management advice to 1569  
owners upon request concerning the protection of caves on their 1570  
land. 1571

~~Sec. 1518.01. With the advice of the natural areas council,~~ 1572  
~~the~~ The chief of ~~the division of~~ natural areas and preserves shall 1573  
adopt and may amend or rescind rules, in accordance with Chapter 1574  
119. of the Revised Code, setting forth criteria for identifying 1575  
and designating species of plants native to ~~Ohio which~~ this state 1576  
that are in danger of extirpation or ~~which~~ are threatened with 1577  
becoming endangered. The chief shall adopt and may amend or 1578  
rescind rules, in accordance with Chapter 119. of the Revised 1579  
Code, setting forth a list of the plants that ~~he~~ the chief 1580  
determines to be endangered or threatened with extirpation from 1581  
this state, applying the criteria so developed. This list shall 1582  
identify the common and scientific names of each species. The list 1583  
shall include all species native to this state ~~which~~ that are 1584  
listed on the "United States list of endangered and threatened 1585  
wildlife and plants" pursuant to the "Endangered Species Act of 1586  
1973," 87 Stat. 884, 16 U.S.C. 1531-1543, as amended. Further, the 1587  
chief may produce for public education purposes, lists of plant 1588  
species, which shall include the names of species of plants, ~~which~~ 1589  
that may become threatened in the future through habitat loss, 1590  
commercial exploitation, or other means. 1591

~~Sec. 1518.03. With the advice of the natural areas council,~~ 1592  
~~the~~ The chief of ~~the division of~~ natural areas and preserves shall 1593

adopt and may amend or repeal rules, in accordance with Chapter 1594  
119. of the Revised Code, restricting the taking, possessing, 1595  
transportation, sale, offering for sale, or exposure for sale, for 1596  
commercial purposes of native Ohio species of wild plants or parts 1597  
~~thereof of them~~, that are listed as endangered or threatened by 1598  
rule adopted under section 1518.01 of the Revised Code. The rules 1599  
may prohibit the taking of any endangered or threatened plant, or 1600  
parts ~~thereof of it~~, for commercial purposes, from any wood lot, 1601  
field, or forest, or from any other location in which ~~such that~~ 1602  
plant is found growing in its native habitat. This section does 1603  
not prevent any ~~nurseryman~~ nurseryperson or dealer who is licensed 1604  
under Chapter 927. of the Revised Code, from selling, offering for 1605  
sale, shipping, or otherwise disposing of any endangered or 1606  
threatened plants or parts ~~thereof of them~~ when ~~such those~~ plants 1607  
have been commercially grown by a licensed nursery or legally 1608  
imported into this state. For the purposes of this section, 1609  
"commercial purposes" means with intent to sell or trade 1610  
endangered or threatened plants for gain or profit. "Commercially 1611  
grown" means to grow plants under cultivation in tilled plots or 1612  
in a greenhouse. 1613

The rules shall provide for the taking of species endangered 1614  
or threatened with statewide extirpation for botanical, 1615  
educational, and scientific purposes, and for propagation in 1616  
captivity to preserve the species, with written permission from 1617  
the chief. The rules shall not prohibit the taking or possession 1618  
of species listed on the "United States list of endangered and 1619  
threatened wildlife and plants" for botanical, educational, or 1620  
scientific purposes, or for propagation in captivity to preserve 1621  
the species, under a permit or license from the United States or 1622  
any instrumentality ~~thereof of the United States~~. 1623

**Sec. 2505.02.** (A) As used in this section: 1624

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

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

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

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

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

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

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

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

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

(b) The appealing party would not be afforded a meaningful or 1655  
effective remedy by an appeal following final judgment as to all 1656  
proceedings, issues, claims, and parties in the action. 1657

(5) An order that determines that an action may or may not be 1658  
maintained as a class action; 1659

(6) An order determining the constitutionality of any changes 1660  
to the Revised Code made by Am. Sub. S.B. 281 of the 124th general 1661  
assembly, including the amendment of sections 1751.67, 2117.06, 1662  
2305.11, 2305.15, 2305.234, 2317.02, 2317.54, 2323.56, 2711.21, 1663  
2711.22, 2711.23, 2711.24, 2743.02, 2743.43, 2919.16, 3923.63, 1664  
3923.64, ~~3929.71~~, 4705.15, and 5111.018, and the enactment of 1665  
sections 2305.113, 2323.41, 2323.43, and 2323.55 of the Revised 1666  
Code. 1667

(C) When a court issues an order that vacates or sets aside a 1668  
judgment or grants a new trial, the court, upon the request of 1669  
either party, shall state in the order the grounds upon which the 1670  
new trial is granted or the judgment vacated or set aside. 1671

(D) This section applies to and governs any action, including 1672  
an appeal, that is pending in any court on July 22, 1998, and all 1673  
claims filed or actions commenced on or after July 22, 1998, 1674  
notwithstanding any provision of any prior statute or rule of law 1675  
of this state. 1676

**Sec. 3358.10.** Sections 3354.10, 3354.121, 3354.15, and 1677  
3354.16, ~~and 3354.161~~ of the Revised Code apply to state community 1678  
college districts and their boards of trustees. 1679

**Sec. 3375.61.** In recognition of the work the ~~Martha Kinney~~ 1680  
~~Cooper~~ Ohioana Library Association, Martha Kinney Cooper Memorial, 1681  
a corporation organized not for profit under the laws of this 1682  
state, has done and is doing to collect, promote, publicize, and 1683  
make available to the public the cultural, literary, scientific, 1684

social, and economic achievements of Ohioans, the state may grant 1685  
financial aid to ~~said~~ that corporation in order that the purposes 1686  
for which it was instituted may be fostered and its services to 1687  
the public improved and expanded. 1688

**Sec. 3375.62.** The governor shall appoint four members of the 1689  
board of trustees of the ~~Martha Kinney Cooper~~ Ohioana Library 1690  
Association, Martha Kinney Cooper Memorial. Terms of office shall 1691  
be for four years, commencing on the sixteenth day of September 1692  
and ending on the fifteenth day of September, ~~except that upon~~ 1693  
~~expiration of the term ending January 8, 1976, the new term which~~ 1694  
~~succeeds it shall commence on January 9, 1976 and end on September~~ 1695  
~~15, 1979.~~ Each member shall hold office from the date of ~~his~~ 1696  
appointment until the end of the term for which ~~he was~~ appointed. 1697  
Any member appointed to fill a vacancy occurring prior to the 1698  
expiration of the term for which ~~his~~ the member's predecessor was 1699  
appointed shall hold office for the remainder of ~~such~~ that term. 1700  
Any member shall continue in office subsequent to the expiration 1701  
date of ~~his~~ the member's term until ~~his~~ the member's successor 1702  
takes office, or until a period of sixty days has elapsed, 1703  
whichever occurs first. ~~Said~~ The gubernatorial appointees shall 1704  
serve as members of the board of trustees ~~of the Martha Kinney~~ 1705  
~~Cooper Ohioana Library Association~~ in addition to the regular 1706  
constituted board of trustees of the corporation. 1707

**Sec. 3383.01.** As used in this chapter: 1708

(A) "~~Arts~~ Culture" means any of the following: 1709

(1) Visual, musical, dramatic, graphic, design, and other 1710  
arts, including, but not limited to, architecture, dance, 1711  
literature, motion pictures, music, painting, photography, 1712  
sculpture, and theater, and the provision of training or education 1713  
in these arts; 1714



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

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

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

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

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

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

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

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

(1) Those amounts either:	1745
(a) Have been committed to a fund dedicated to that purpose;	1746
(b) Equal the principal of any endowment fund, the income from which is dedicated to that purpose.	1747 1748
(2) The commission and the <del>arts</del> <u>cultural</u> organization have executed an agreement with respect to either of those funds.	1749 1750
(F) "General building services" means general building services for an Ohio <del>arts</del> <u>cultural</u> facility or an Ohio sports facility, including, but not limited to, general custodial care, security, maintenance, repair, painting, decoration, cleaning, utilities, fire safety, grounds and site maintenance and upkeep, and plumbing.	1751 1752 1753 1754 1755 1756
(G) "Governmental agency" means a state agency, a state-supported or state-assisted institution of higher education, a municipal corporation, county, township, or school district, a port authority created under Chapter 4582. of the Revised Code, any other political subdivision or special district in this state established by or pursuant to law, or any combination of these entities; except where otherwise indicated, the United States or any department, division, or agency of the United States, or any agency, commission, or authority established pursuant to an interstate compact or agreement.	1757 1758 1759 1760 1761 1762 1763 1764 1765 1766
(H) "Local contributions" means the value of an asset provided by or on behalf of <del>an-arts</del> <u>a cultural</u> organization from sources other than the state, the value and nature of which shall be approved by the Ohio <del>arts and sports</del> <u>cultural</u> facilities commission, in its sole discretion. "Local contributions" may include the value of the site where <del>an-arts</del> <u>a cultural</u> project is to be constructed. All "local contributions," except a contribution attributable to such a site, shall be for the costs of construction of <del>an-arts</del> <u>a cultural</u> project or the <u>creation or</u>	1767 1768 1769 1770 1771 1772 1773 1774 1775

expansion of an endowment for the costs of operation of an ~~arts~~ a 1776  
cultural facility. 1777

(I) "Local historical facility" means a site or facility, 1778  
other than a state historical facility, of archaeological, 1779  
architectural, environmental, or historical interest or 1780  
significance, or a facility, including a storage facility, 1781  
appurtenant to the operations of such a site or facility, that is 1782  
owned by ~~an arts~~ a cultural organization, provided the facility 1783  
meets the requirements of division (K)(2)(b) of this section, is 1784  
managed by or pursuant to a contract with the Ohio ~~arts and sports~~ 1785  
cultural facilities commission, and is used for or in connection 1786  
with the activities of the commission, including the presentation 1787  
or making available of ~~arts~~ culture to the public. 1788

(J) "Manage," "operate," or "management" means the provision 1789  
of, or the exercise of control over the provision of, activities: 1790

(1) Relating to ~~the arts~~ culture for an Ohio ~~arts~~ cultural 1791  
facility, including as applicable, but not limited to, providing 1792  
for displays, exhibitions, specimens, and models; booking of 1793  
artists, performances, or presentations; scheduling; and hiring or 1794  
contracting for directors, curators, technical and scientific 1795  
staff, ushers, stage managers, and others directly related to the 1796  
~~arts~~ cultural activities in the facility; but not including 1797  
general building services; 1798

(2) Relating to sports and athletic events for an Ohio sports 1799  
facility, including as applicable, but not limited to, providing 1800  
for booking of athletes, teams, and events; scheduling; and hiring 1801  
or contracting for staff, ushers, managers, and others directly 1802  
related to the sports and athletic events in the facility; but not 1803  
including general building services. 1804

(K) "Ohio ~~arts~~ cultural facility" means any of the following: 1805

(1) The ~~three~~ theaters located in the state office tower at 1806

77 South High street in Columbus; 1807

(2) Any capital facility in this state to which both of the 1808  
following apply: 1809

(a) The construction of ~~an arts~~ a cultural project related to 1810  
the facility was authorized or funded by the general assembly 1811  
pursuant to division (D)(3) of section 3383.07 of the Revised Code 1812  
and proceeds of state bonds are used for costs of the ~~arts~~ 1813  
cultural project. 1814

(b) The facility is managed directly by, or is subject to a 1815  
cooperative or management contract with, the Ohio ~~arts and sports~~ 1816  
cultural facilities commission, and is used for or in connection 1817  
with the activities of the commission, including the presentation 1818  
or making available of ~~arts~~ culture to the public and the 1819  
provision of training or education in ~~the arts~~ culture. 1820

(3) A state historical facility or a local historical 1821  
facility. 1822

(L) "State agency" means the state or any of its branches, 1823  
officers, boards, commissions, authorities, departments, 1824  
divisions, or other units or agencies. 1825

(M) "Construction" includes acquisition, including 1826  
acquisition by lease-purchase, demolition, reconstruction, 1827  
alteration, renovation, remodeling, enlargement, improvement, site 1828  
improvements, and related equipping and furnishing. 1829

(N) "State historical facility" means a site or facility of 1830  
archaeological, architectural, environmental, or historical 1831  
interest or significance, or a facility, including a storage 1832  
facility, appurtenant to the operations of such a site or 1833  
facility, that is owned by or is located on real property owned by 1834  
the state or by ~~an arts~~ a cultural organization, so long as the 1835  
real property of the ~~arts~~ cultural organization is contiguous to 1836  
state-owned real property that is in the care, custody, and 1837

control of ~~an arts~~ a cultural organization, and that is managed 1838  
directly by or is subject to a cooperative or management contract 1839  
with the Ohio ~~arts and sports~~ cultural facilities commission and 1840  
is used for or in connection with the activities of the 1841  
commission, including the presentation or making available of ~~arts~~ 1842  
culture to the public. 1843

(O) "Ohio sports facility" means all or a portion of a 1844  
stadium, arena, motorsports complex, or other capital facility in 1845  
this state, a primary purpose of which is to provide a site or 1846  
venue for the presentation to the public of either motorsports 1847  
events or events of one or more major or minor league professional 1848  
athletic or sports teams that are associated with the state or 1849  
with a city or region of the state, which facility is, in the case 1850  
of a motorsports complex, owned by the state or governmental 1851  
agency, or in all other instances, is owned by or is located on 1852  
real property owned by the state or a governmental agency, and 1853  
including all parking facilities, walkways, and other auxiliary 1854  
facilities, equipment, furnishings, and real and personal property 1855  
and interests and rights therein, that may be appropriate for or 1856  
used for or in connection with the facility or its operation, for 1857  
capital costs of which state funds are spent pursuant to this 1858  
chapter. A facility constructed as an Ohio sports facility may be 1859  
both an Ohio ~~arts~~ cultural facility and an Ohio sports facility. 1860

(P) "Motorsports" means sporting events in which motor 1861  
vehicles are driven on a clearly demarcated tracked surface. 1862

**Sec. 3383.02.** (A) There is hereby created the Ohio ~~arts and~~ 1863  
~~sports~~ cultural facilities commission. Notwithstanding any 1864  
provision to the contrary contained in Chapter 152. of the Revised 1865  
Code, the commission shall engage in and provide for the 1866  
development, performance, and presentation or making available of 1867  
~~the arts~~ culture and professional sports and athletics to the 1868

public in this state, and the provision of training or education 1869  
in ~~the arts~~ culture, by the exercise of its powers under this 1870  
chapter, including the provision, operation, management, and 1871  
cooperative use of Ohio ~~arts~~ cultural facilities and Ohio sports 1872  
facilities. The commission is a body corporate and politic, an 1873  
agency of state government and an instrumentality of the state, 1874  
performing essential governmental functions of this state. The 1875  
carrying out of the purposes and the exercise by the commission of 1876  
its powers conferred by this chapter are essential public 1877  
functions and public purposes of the state and of state 1878  
government. The commission may, in its own name, sue and be sued, 1879  
enter into contracts, and perform all the powers and duties given 1880  
to it by this chapter; however, it does not have and shall not 1881  
exercise the power of eminent domain. 1882

(B) The commission shall consist of ten members, seven of 1883  
whom shall be voting members and three of whom shall be nonvoting 1884  
members. The seven voting members shall be appointed by the 1885  
governor, with the advice and consent of the senate, from 1886  
different geographical regions of the state. In addition, one of 1887  
the voting members shall represent the state architect. Not more 1888  
than four of the members appointed by the governor shall be 1889  
affiliated with the same political party. The nonvoting members 1890  
shall be the staff director of the Ohio arts council, a member of 1891  
the senate appointed by the president of the senate, and a member 1892  
of the house of representatives appointed by the speaker of the 1893  
house. 1894

(C) Of the five initial appointments made by the governor, 1895  
one shall be for a term expiring December 31, 1989, two shall be 1896  
for terms expiring December 31, 1990, and two shall be for terms 1897  
expiring December 31, 1991. Of the initial appointments of the 1898  
sixth and seventh voting members ~~appointed~~ made by the governor ~~as~~ 1899  
~~a result of this amendment~~, one shall be for a term expiring 1900

December 31, 2003, and one shall be for a term expiring December 1901  
31, 2004. Thereafter, each such term shall be for three years, 1902  
commencing on the first day of January and ending on the 1903  
thirty-first day of December. Each appointment by the president of 1904  
the senate and by the speaker of the house of representatives 1905  
shall be for the balance of the then legislative biennium. Each 1906  
member shall hold office from the date of the member's appointment 1907  
until the end of the term for which the member was appointed. Any 1908  
member appointed to fill a vacancy occurring prior to the 1909  
expiration of the term for which the member's predecessor was 1910  
appointed shall hold office for the remainder of such term. Any 1911  
member shall continue in office subsequent to the expiration date 1912  
of the member's term until the member's successor takes office, or 1913  
until a period of sixty days has elapsed, whichever occurs first. 1914

(D) Members of the commission shall serve without 1915  
compensation. 1916

(E) Organizational meetings of the commission shall be held 1917  
at the first meeting of each calendar year. At each organizational 1918  
meeting, the commission shall elect from among its voting members 1919  
a chairperson, a vice-chairperson, and a secretary-treasurer, who 1920  
shall serve until the next annual meeting. The commission shall 1921  
adopt rules pursuant to section 111.15 of the Revised Code for the 1922  
conduct of its internal business and shall keep a journal of its 1923  
proceedings. 1924

(F) Four voting members of the commission constitute a 1925  
quorum, and the affirmative vote of four members is necessary for 1926  
approval of any action taken by the commission. A vacancy in the 1927  
membership of the commission does not impair a quorum from 1928  
exercising all the rights and performing all the duties of the 1929  
commission. Meetings of the commission may be held anywhere in the 1930  
state, and shall be held in compliance with section 121.22 of the 1931  
Revised Code. 1932

(G) All expenses incurred in carrying out this chapter are 1933  
payable solely from money accrued under this chapter or 1934  
appropriated for these purposes by the general assembly, and the 1935  
commission shall incur no liability or obligation beyond such 1936  
money. 1937

(H) The commission shall file an annual report of its 1938  
activities and finances with the governor, director of budget and 1939  
management, speaker of the house of representatives, president of 1940  
the senate, and chairpersons of the house and senate finance 1941  
committees. 1942

(I) There is hereby established in the state treasury the 1943  
Ohio ~~arts and sports~~ cultural facilities commission administration 1944  
fund. All revenues of the commission shall be credited to that 1945  
fund and to any accounts created in the fund with the commission's 1946  
approval. All expenses of the commission, including reimbursement 1947  
of, or payment to, any other fund or any governmental agency for 1948  
advances made or services rendered to or on behalf of the 1949  
commission, shall be paid from the Ohio ~~arts and sports~~ cultural 1950  
facilities commission administration fund as determined by or 1951  
pursuant to directions of the commission. All investment earnings 1952  
of the administration fund shall be credited to the fund and shall 1953  
be allocated among any accounts created in the fund in the manner 1954  
determined by the commission. 1955

(J) Title to all real property and lesser interests in real 1956  
property acquired by the commission, including leasehold and other 1957  
interests, pursuant to this chapter shall be taken in the name of 1958  
the state and shall be held for the use and benefit of the 1959  
commission. The commission shall not mortgage such real property 1960  
and interests in real property. Title to other property and 1961  
interests in it acquired by the commission pursuant to this 1962  
chapter shall be taken in its name. 1963



**Sec. 3383.03.** The Ohio ~~arts and sports~~ cultural facilities 1964  
commission shall do the following: 1965

(A) From time to time, determine the need for ~~arts~~ cultural 1966  
projects, Ohio ~~arts~~ cultural facilities, and Ohio sports 1967  
facilities, and report to the governor and the general assembly on 1968  
the need for any additional ~~arts~~ cultural projects, Ohio ~~arts~~ 1969  
cultural facilities, and Ohio sports facilities. This division 1970  
does not apply to state historical facilities. 1971

(B) Have jurisdiction, control, and possession of, and 1972  
supervision over the use and disposition of, all property, rights, 1973  
licenses, money, contracts, accounts, liens, books, records, and 1974  
other property rights and interests conveyed, delivered, 1975  
transferred, or assigned to it; 1976

(C) Use, and provide for the use of, Ohio ~~arts~~ cultural 1977  
facilities and Ohio sports facilities for the commission's 1978  
purposes and functions, and conduct reviews necessary to ensure 1979  
that uses of those facilities are consistent with statewide 1980  
interests and the commission's purposes, including the 1981  
presentation or making available of ~~the arts~~ culture and 1982  
professional athletics and sports to the public in this state and 1983  
the provision of training or education in ~~the arts~~ culture; 1984

(D) Hold a meeting, including the organizational meeting 1985  
required by division (E) of section 3383.02 of the Revised Code, 1986  
at least quarterly to conduct its business; 1987

(E) Cooperate with any governmental agency or ~~arts~~ cultural 1988  
organization that provides services in, to, or for an Ohio ~~arts~~ 1989  
cultural facility, and cooperate with any governmental agency or 1990  
nonprofit corporation for the provision or operation of any Ohio 1991  
sports facilities. 1992

**Sec. 3383.04.** The Ohio ~~arts and sports~~ cultural facilities 1993

commission may <u>do the following</u> :	1994
(A) Employ and fix the compensation of an executive director	1995
and such other employees as will facilitate the activities and	1996
purposes of the commission. Any executive director shall serve at	1997
the pleasure of the commission and may serve part-time. Other	1998
employees shall be employed by and serve at the pleasure of the	1999
commission or the executive director, as determined by the	2000
commission.	2001
(B) Adopt, amend, and rescind, pursuant to section 111.15 of	2002
the Revised Code, rules for the management and operation of Ohio	2003
<del>arts</del> <u>cultural</u> facilities and Ohio sports facilities and for the	2004
exercise of all of the commission's rights with respect to those	2005
facilities;	2006
(C) Own, construct or provide for the construction of, lease,	2007
equip, furnish, administer, and manage or provide for the	2008
operation and management of, and cooperate in the use of, Ohio	2009
<del>arts</del> <u>cultural</u> facilities and Ohio sports facilities;	2010
(D) Dispose of, whether by sale, lease, lease-purchase,	2011
sublease, re-lease, or otherwise, real and personal property, and	2012
lesser interests in it, held or owned by the state for the use and	2013
benefit of the commission or held or owned by the commission, if	2014
not needed for the commission's purposes, upon such terms as the	2015
commission determines, subject to approval by the governor in the	2016
case of real property and interests in it;	2017
(E) Grant such easements and other interests in real or	2018
personal property of the commission as will not interfere with the	2019
use of the property as an Ohio <del>arts</del> <u>cultural</u> facility or an Ohio	2020
sports facility;	2021
(F) Fix, alter, and collect rentals and other charges for the	2022
use or availability for use of Ohio <del>arts</del> <u>cultural</u> facilities or an	2023
Ohio sports facility, as determined solely by the commission, for	2024

the purpose of providing for all or a portion of the costs and 2025  
expenses of the commission, and the costs to be paid by the 2026  
commission of leasing, constructing, equipping, repairing, 2027  
maintaining, administering, managing, and cooperating in the use 2028  
of Ohio ~~arts~~ cultural facilities, including rentals to be paid by 2029  
the commission for any Ohio ~~arts~~ cultural facilities or for any 2030  
Ohio sports facility; 2031

(G) Lease, sublease, cooperate in the use of, or otherwise 2032  
make available to ~~an arts~~ a cultural organization, Ohio ~~arts~~ 2033  
cultural facilities, and to any governmental agency or nonprofit 2034  
corporation, Ohio sports facilities, including real and personal 2035  
property, or any interests in it, to carry out the purposes of 2036  
this chapter; 2037

(H) Contract with, retain the services of, or designate, and 2038  
fix the compensation of, ~~such~~ agents, accountants, attorneys, 2039  
consultants, advisers, and other independent contractors ~~as may be~~ 2040  
necessary or desirable to carry out the purposes of this chapter; 2041

(I) Procure insurance against loss to the commission by 2042  
reason of damages to or nonusability of its property resulting 2043  
from fire, theft, accident, or other casualties, or by reason of 2044  
its liability for any damages to persons or property, including, 2045  
but not limited to, general liability insurance, business 2046  
interruption insurance, liability insurance for members, officers, 2047  
and employees, and copyright liability insurance; 2048

(J) Receive and accept gifts, grants, devises, bequests, 2049  
loans, and any other financial or other form of aid or assistance 2050  
from any governmental agency or other person and enter into any 2051  
contract or agreement with any such agency or other person in 2052  
connection therewith, and receive and accept aid or contributions 2053  
from any other source of money, real or personal property, labor, 2054  
or other things of value, to be held, used, and applied only for 2055  
the purposes for which the aid and contributions are made and 2056

according to their terms and conditions, all within the purposes 2057  
of this chapter; 2058

(K) Make and enter into all contracts, commitments, and 2059  
agreements, and execute all instruments, necessary or incidental 2060  
to the performance of its duties and the execution of its rights 2061  
and powers under this chapter; 2062

(L) Do anything necessary or appropriate to carry out the 2063  
purposes of and exercise the powers granted in this chapter; 2064

(M) Contract with any governmental agency or nonprofit 2065  
corporation to provide or cause to be provided services, including 2066  
general building services, in, to, or for an Ohio ~~arts~~ cultural 2067  
facility or any Ohio sports facility, or with ~~an arts~~ a cultural 2068  
organization for the management of an Ohio ~~arts~~ cultural facility, 2069  
or with a governmental agency or nonprofit corporation for the 2070  
management of an Ohio sports facility, all in furtherance of the 2071  
state function, and make contracts pursuant to divisions (A) and 2072  
(B) of section 3383.07 of the Revised Code, except that nothing in 2073  
this chapter limits the exercise of the care, custody, control, 2074  
and management of those state historical facilities specified in 2075  
section 149.30 of the Revised Code. 2076

**Sec. 3383.05.** (A) Upon the request of the Ohio ~~arts and~~ 2077  
~~sports~~ cultural facilities commission, any governmental agency may 2078  
lease, sublease, grant by lease-purchase or otherwise, convey, or 2079  
grant the right to use, to the commission or to a state agency 2080  
designated by the commission, any real or personal property or 2081  
interests in property, including improvements to it and public 2082  
roads, owned or controlled by the governmental agency, which are 2083  
necessary or convenient to an Ohio ~~arts~~ cultural facility or an 2084  
Ohio sports facility, upon such terms and conditions as they agree 2085  
upon. The lease, sublease, grant, conveyance, or grant of use may 2086  
be made without the necessity for advertisement, auction, 2087

competitive bidding, court order, or other action or formality 2088  
otherwise required by law, except that the consent of the 2089  
governing body of the governmental agency shall be obtained, or, 2090  
if title to the property is in the state, the consent of the 2091  
governor shall be obtained. Any governmental agency may enter into 2092  
agreements with the Ohio ~~arts and sports~~ cultural facilities 2093  
commission for furnishing any supplies, equipment, or services to 2094  
the commission pursuant to such terms and for such compensation as 2095  
agreed upon by the governmental agency and the commission. 2096

(B) Leases, contracts, agreements, or conveyances entered 2097  
into pursuant to this section are not public contracts for 2098  
purposes of section 2921.42 of the Revised Code. 2099

**Sec. 3383.06.** All property purchased, acquired, constructed, 2100  
owned, leased, or subleased by the Ohio ~~arts and sports~~ cultural 2101  
facilities commission for the exercise of its powers and duties is 2102  
public property used exclusively for a public purpose, and this 2103  
property and the income derived by the commission from it are 2104  
exempt, except as may otherwise be provided by the commission with 2105  
respect to Ohio sports facilities, from all taxation within this 2106  
state, including, without limitation, ad valorem and excise taxes. 2107

**Sec. 3383.07.** (A) The department of administrative services 2108  
shall provide for the construction of ~~an arts~~ a cultural project 2109  
in conformity with Chapter 153. of the Revised Code, except as 2110  
follows: 2111

(1) For ~~an arts~~ a cultural project that has an estimated 2112  
construction cost, excluding the cost of acquisition, of 2113  
twenty-five million dollars or more, and that is financed by the 2114  
Ohio building authority, construction services may be provided by 2115  
the authority if the authority determines it should provide those 2116  
services. 2117

(2) For ~~an arts~~ a cultural project other than a state 2118  
historical facility, construction services may be provided on 2119  
behalf of the state by the Ohio ~~arts and sports~~ cultural 2120  
facilities commission, or by a governmental agency or ~~an arts~~ a 2121  
cultural organization that occupies, will occupy, or is 2122  
responsible for the Ohio ~~arts~~ cultural facility, as determined by 2123  
the commission. Construction services to be provided by a 2124  
governmental agency or ~~an arts~~ a cultural organization shall be 2125  
specified in an agreement between the commission and the 2126  
governmental agency or ~~arts~~ cultural organization. The agreement, 2127  
or any actions taken under it, are not subject to Chapter 123. or 2128  
153. of the Revised Code, except for sections ~~123.151~~ 123.081 and 2129  
153.011 of the Revised Code, and shall be subject to Chapter 4115. 2130  
of the Revised Code. 2131

(3) For ~~an arts~~ a cultural project that is a state historical 2132  
facility, construction services may be provided by the Ohio ~~arts~~ 2133  
~~and sports~~ cultural facilities commission or by ~~an arts~~ a cultural 2134  
organization that occupies, will occupy, or is responsible for the 2135  
facility, as determined by the commission. The construction 2136  
services to be provided by the ~~arts~~ cultural organization shall be 2137  
specified in an agreement between the commission and the ~~arts~~ 2138  
cultural organization. That agreement, and any actions taken under 2139  
it, are not subject to Chapter 123., 153., or 4115. of the Revised 2140  
Code. 2141

(B) For an Ohio sports facility that is financed in part by 2142  
the Ohio building authority, construction services shall be 2143  
provided on behalf of the state by or at the direction of the 2144  
governmental agency or nonprofit corporation that will own or be 2145  
responsible for the management of the facility, all as determined 2146  
by the Ohio ~~arts and sports~~ cultural facilities commission. Any 2147  
construction services to be provided by a governmental agency or 2148  
nonprofit corporation shall be specified in an agreement between 2149

the commission and the governmental agency or nonprofit 2150  
corporation. That agreement, and any actions taken under it, are 2151  
not subject to Chapter 123. or 153. of the Revised Code, except 2152  
for sections ~~123.151~~ 123.081 and 153.011 of the Revised Code, and 2153  
shall be subject to Chapter 4115. of the Revised Code. 2154

(C) General building services for an Ohio ~~arts~~ cultural 2155  
facility shall be provided by the Ohio ~~arts and sports~~ cultural 2156  
facilities commission or by an ~~arts~~ a cultural organization that 2157  
occupies, will occupy, or is responsible for the facility, as 2158  
determined by the commission, except that the Ohio building 2159  
authority may elect to provide those services for Ohio ~~arts~~ 2160  
cultural facilities financed with proceeds of state bonds issued 2161  
by the authority. The costs of management and general building 2162  
services shall be paid by the ~~arts~~ cultural organization that 2163  
occupies, will occupy, or is responsible for the facility as 2164  
provided in an agreement between the commission and the ~~arts~~ 2165  
cultural organization, except that the state may pay for general 2166  
building services for state-owned ~~arts~~ cultural facilities 2167  
constructed on state-owned land. 2168

General building services for an Ohio sports facility shall 2169  
be provided by or at the direction of the governmental agency or 2170  
nonprofit corporation that will be responsible for the management 2171  
of the facility, all as determined by the commission. Any general 2172  
building services to be provided by a governmental agency or 2173  
nonprofit corporation for an Ohio sports facility shall be 2174  
specified in an agreement between the commission and the 2175  
governmental agency or nonprofit corporation. That agreement, and 2176  
any actions taken under it, are not subject to Chapter 123. or 2177  
153. of the Revised Code, except for sections ~~123.151~~ 123.081 and 2178  
153.011 of the Revised Code, and shall be subject to Chapter 4115. 2179  
of the Revised Code. 2180

(D) This division does not apply to a state historical 2181

facility. No state funds, including any state bond proceeds, shall  
be spent on the construction of any ~~arts~~ cultural project under  
this chapter unless, with respect to the ~~arts~~ cultural project and  
to the Ohio ~~arts~~ cultural facility related to the project, all of  
the following apply:

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

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

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

(E) No state funds, including any state bond proceeds, shall  
be spent on the construction of any state historical facility  
under this chapter unless the general assembly has specifically  
authorized the spending of money on, or made an appropriation for,  
the construction of the ~~arts~~ state historical project related to  
the facility, or for rental payments relating to the financing of  
the construction of the ~~arts~~ state historical project.



Authorization to spend money, or an appropriation, for planning 2213  
the ~~arts~~ state historical project does not constitute 2214  
authorization to spend money on, or an appropriation for, the 2215  
construction of the ~~arts~~ state historical project. 2216

(F) State funds shall not be used to pay or reimburse more 2217  
than fifteen per cent of the initial estimated construction cost 2218  
of an Ohio sports facility, excluding any site acquisition cost, 2219  
and no state funds, including any state bond proceeds, shall be 2220  
spent on any Ohio sports facility under this chapter unless, with 2221  
respect to that facility, all of the following apply: 2222

(1) The Ohio ~~arts and sports~~ cultural facilities commission 2223  
has determined that there is a need for the facility in the region 2224  
of the state for which the facility is proposed to provide the 2225  
function of an Ohio sports facility as provided for in this 2226  
chapter. 2227

(2) As an indication of substantial local support for the 2228  
facility, the commission has received a financial and development 2229  
plan satisfactory to it, and provision has been made, by agreement 2230  
or otherwise, satisfactory to the commission, for a contribution 2231  
amounting to not less than eighty-five per cent of the total 2232  
estimated construction cost of the facility, excluding any site 2233  
acquisition cost, from sources other than the state. 2234

(3) The general assembly has specifically authorized the 2235  
spending of money on, or made an appropriation for, the 2236  
construction of the facility, or for rental payments relating to 2237  
state financing of all or a portion of the costs of constructing 2238  
the facility. Authorization to spend money, or an appropriation, 2239  
for planning or determining the feasibility of or need for the 2240  
facility does not constitute authorization to spend money on, or 2241  
an appropriation for, costs of constructing the facility. 2242

(4) If state bond proceeds are being used for the Ohio sports 2243

facility, the state or a governmental agency owns or has 2244  
sufficient property interests in the facility or in the site of 2245  
the facility or in the portion or portions of the facility 2246  
financed from proceeds of state bonds, which may include, but is 2247  
not limited to, the right to use or to require the use of the 2248  
facility for the presentation of sport and athletic events to the 2249  
public at the facility. 2250

(G) In addition to the requirements of division (F) of this 2251  
section, no state funds, including any state bond proceeds, shall 2252  
be spent on any Ohio sports facility that is a motorsports 2253  
complex, unless, with respect to that facility, both of the 2254  
following apply: 2255

(1) Motorsports events shall be presented at the facility 2256  
pursuant to a lease entered into with the owner of the facility. 2257  
The term of the lease shall be for a period of not less than the 2258  
greater of the useful life of the portion of the facility financed 2259  
from proceeds of state bonds as determined using the guidelines 2260  
for maximum maturities as provided under divisions (B) and (C) of 2261  
section 133.20 of the Revised Code, or the period of time 2262  
remaining to the date of payment or provision for payment of 2263  
outstanding state bonds allocable to costs of the facility, all as 2264  
determined by the director of budget and management and certified 2265  
by the director to the Ohio ~~arts and sports~~ cultural facilities 2266  
commission and to the Ohio building authority. 2267

(2) Any motorsports organization that commits to using the 2268  
facility for an established period of time shall give the 2269  
political subdivision in which the facility is located not less 2270  
than six months' advance notice if the organization intends to 2271  
cease utilizing the facility prior to the expiration of that 2272  
established period. Such a motorsports organization shall be 2273  
liable to the state for any state funds used on the construction 2274  
costs of the facility. 2275

**Sec. 3383.08.** There is hereby created in the state treasury 2276  
the capital donations fund, which shall be administered by the 2277  
Ohio ~~arts and sports~~ cultural facilities commission. The fund 2278  
shall consist of gifts, grants, devises, bequests, and other 2279  
financial contributions made to the commission for the 2280  
construction or improvement of ~~arts~~ cultural and sports facilities 2281  
and shall be used in accordance with the specific purposes for 2282  
which the gifts, grants, devises, bequests, or other financial 2283  
contributions are made. All investment earnings of the fund shall 2284  
be credited to the fund. Chapters 123., 125., 127., and 153. and 2285  
section 3517.13 of the Revised Code do not apply to contracts paid 2286  
from the fund, notwithstanding anything to the contrary in those 2287  
chapters or that section. 2288

Not later than one month following the end of each quarter of 2289  
the fiscal year, the commission shall allocate the amounts 2290  
credited to the fund from investment earnings during that 2291  
preceding quarter of the fiscal year among the specific projects 2292  
for which they are to be used and shall certify this information 2293  
to the director of budget and management. 2294

If the amounts credited to the fund for a particular project 2295  
exceed what is required to complete that project, the commission 2296  
may refund any of those excess amounts, including unexpended 2297  
investment earnings attributable to those amounts, to the entity 2298  
from which they were received. 2299

**Sec. 3383.09.** (A) There is hereby created in the state 2300  
treasury the ~~arts~~ cultural and sports facilities building fund, 2301  
which shall consist of proceeds of obligations authorized to pay 2302  
costs of Ohio ~~arts~~ cultural facilities and Ohio sports facilities 2303  
for which appropriations are made by the general assembly. All 2304  
investment earnings of the fund shall be credited to the fund. 2305

(B) The director of budget and management may transfer, to 2306  
the Ohio ~~arts and sports~~ cultural facilities commission 2307  
administration fund, investment earnings credited to the ~~arts~~ 2308  
cultural and sports facilities building fund that exceed the 2309  
amounts required to meet estimated federal arbitrage rebate 2310  
requirements when requested of the director of budget and 2311  
management by the chairperson or executive director of the 2312  
commission. 2313

**Sec. 3746.04.** Within one year after September 28, 1994, the 2314  
director of environmental protection, in accordance with Chapter 2315  
119. of the Revised Code and with the advice of the 2316  
multidisciplinary council appointed under section 3746.03 of the 2317  
Revised Code, shall adopt, and subsequently may amend, suspend, or 2318  
rescind, rules that do both of the following: 2319

(A) Revise the rules adopted under Chapters 3704., 3714., 2320  
3734., 6109., and 6111. of the Revised Code to incorporate the 2321  
provisions necessary to conform those rules to the requirements of 2322  
this chapter. The amended rules adopted under this division also 2323  
shall establish response times for all submittals to the 2324  
environmental protection agency required under this chapter or 2325  
rules adopted under it. 2326

(B) Establish requirements and procedures that are reasonably 2327  
necessary for the implementation and administration of this 2328  
chapter, including, without limitation, all of the following: 2329

(1) Appropriate generic numerical clean-up standards for the 2330  
treatment or removal of soils, sediments, and water media for 2331  
hazardous substances and petroleum. The rules shall establish 2332  
separate generic numerical clean-up standards based upon the 2333  
intended use of properties after the completion of voluntary 2334  
actions, including industrial, commercial, and residential uses 2335  
and such other categories of land use as the director considers to 2336

be appropriate. The generic numerical clean-up standards 2337  
established for each category of land use shall be the 2338  
concentration of each contaminant that may be present on a 2339  
property that shall ensure protection of public health and safety 2340  
and the environment for the reasonable exposure for that category 2341  
of land use. When developing the standards, the director shall 2342  
consider such factors as all of the following: 2343

(a) Scientific information, including, without limitation, 2344  
toxicological information and realistic assumptions regarding 2345  
human and environmental exposure to hazardous substances or 2346  
petroleum; 2347

(b) Climatic factors; 2348

(c) Human activity patterns; 2349

(d) Current statistical techniques; 2350

(e) For petroleum at industrial property, alternatives to the 2351  
use of total petroleum hydrocarbons. 2352

The generic numerical clean-up standards established under 2353  
division (B)(1) of this section shall be consistent with and 2354  
equivalent in scope, content, and coverage to any applicable 2355  
standard established by federal environmental laws and regulations 2356  
adopted under them, including, without limitation, the "Federal 2357  
Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 2358  
U.S.C.A. 1251, as amended; the "Resource Conservation and Recovery 2359  
Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended; the 2360  
"Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2361  
2601, as amended; the "Comprehensive Environmental Response, 2362  
Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 2363  
U.S.C.A. 9601, as amended; and the "Safe Drinking Water Act," 88 2364  
Stat. 1660 (1974), 42 U.S.C.A. 300f, as amended. 2365

In order for the rules adopted under division (B)(1) of this 2366

section to require that any such federal environmental standard 2367  
apply to a property, the property shall meet the requirements of 2368  
the particular federal statute or regulation involved in the 2369  
manner specified by the statute or regulation. 2370

The generic numerical clean-up standards for petroleum at 2371  
commercial or residential property shall be the standards 2372  
established in rules adopted under division (B) of section 2373  
3737.882 of the Revised Code. 2374

(2)(a) Procedures for performing property-specific risk 2375  
assessments that would be performed at a property to demonstrate 2376  
that the remedy evaluated in a risk assessment results in 2377  
protection of public health and safety and the environment instead 2378  
of complying with the generic numerical clean-up standards 2379  
established in the rules adopted under division (B)(1) of this 2380  
section. The risk assessment procedures shall describe a 2381  
methodology to establish, on a property-specific basis, allowable 2382  
levels of contamination to remain at a property to ensure 2383  
protection of public health and safety and the environment on the 2384  
property and off the property when the contamination is emanating 2385  
off the property, taking into account all of the following: 2386

(i) The implementation of treatment, storage, or disposal, or 2387  
a combination thereof, of hazardous substances or petroleum; 2388

(ii) The existence of institutional controls that eliminate 2389  
or mitigate exposure to hazardous substances or petroleum through 2390  
the restriction of access to hazardous substances or petroleum, 2391  
including, without limitation, deed and water use restrictions; 2392

(iii) The existence of engineering controls that eliminate or 2393  
mitigate exposure to hazardous substances or petroleum through 2394  
containment of, control of, or restrictions of access to hazardous 2395  
substances or petroleum, including, without limitation, fences, 2396  
cap systems, cover systems, and landscaping. 2397

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

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

(ii) Locational and climatic factors;

(iii) Surrounding land use and human activities;

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

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

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

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

(b) A review and analysis of any previous environmental assessments, property assessments, environmental studies, or geologic studies of the property and any land within two thousand

feet of the boundaries of the property that are publicly available	2428
or that are known to and reasonably available to the owner or	2429
operator;	2430
(c) A review of current and past environmental compliance	2431
histories of persons who owned or operated the property;	2432
(d) A review of aerial photographs of the property that	2433
indicate prior uses of the property;	2434
(e) Interviews with managers of activities conducted at the	2435
property who have knowledge of environmental conditions at the	2436
property;	2437
(f) Conducting an inspection of the property consisting of a	2438
walkover;	2439
(g) Identifying the current and past uses of the property,	2440
adjoining tracts of land, and the area surrounding the property,	2441
including, without limitation, interviews with persons who reside	2442
or have resided, or who are or were employed, within the area	2443
surrounding the property regarding the current and past uses of	2444
the property and adjacent tracts of land.	2445
The rules adopted under division (B)(3) of this section shall	2446
establish criteria to determine when a phase II property	2447
assessment shall be conducted when a phase I property assessment	2448
reveals facts that establish a reason to believe that hazardous	2449
substances or petroleum have been treated, stored, managed, or	2450
disposed of on the property if the person undertaking the phase I	2451
property assessment wishes to obtain a covenant not to sue under	2452
section 3746.12 of the Revised Code.	2453
(4) Minimum standards for phase II property assessments. The	2454
standards shall specify the information needed to demonstrate that	2455
any contamination present at the property does not exceed	2456
applicable standards or that the remedial activities conducted at	2457



the property have achieved compliance with applicable standards. 2458  
The rules adopted under division (B)(4) of this section, at a 2459  
minimum, shall require that a phase II property assessment include 2460  
all of the following: 2461

(a) A review and analysis of all documentation prepared in 2462  
connection with a phase I property assessment conducted within the 2463  
one hundred eighty days before the phase II property assessment 2464  
begins. The rules adopted under division (B)(4)(a) of this section 2465  
shall require that if a period of more than one hundred eighty 2466  
days has passed between the time that the phase I assessment of 2467  
the property was completed and the phase II assessment begins, the 2468  
phase II assessment shall include a reasonable inquiry into the 2469  
change in the environmental condition of the property during the 2470  
intervening period. 2471

(b) Quality assurance objectives for measurements taken in 2472  
connection with a phase II assessment; 2473

(c) Sampling procedures to ensure the representative sampling 2474  
of potentially contaminated environmental media; 2475

(d) Quality assurance and quality control requirements for 2476  
samples collected in connection with phase II assessments; 2477

(e) Analytical and data assessment procedures; 2478

(f) Data objectives to ensure that samples collected in 2479  
connection with phase II assessments are biased toward areas where 2480  
information indicates that contamination by hazardous substances 2481  
or petroleum is likely to exist. 2482

(5) Standards governing the conduct of certified 2483  
professionals, criteria and procedures for the certification of 2484  
professionals to issue no further action letters under section 2485  
3746.11 of the Revised Code, and criteria for the suspension and 2486  
revocation of those certifications. The issuance, denial, 2487

suspension, and revocation of those certifications are subject to 2488  
Chapter 3745. of the Revised Code, and the director shall take any 2489  
such action regarding a certification as a final action. 2490

The rules adopted under division (B)(5) of this section shall 2491  
do all of the following: 2492

(a) Provide for the certification of environmental 2493  
professionals to issue no further action letters pertaining to 2494  
investigations and remedies in accordance with the criteria and 2495  
procedures set forth in the rules. The rules adopted under 2496  
division (B)(5)(a) of this section shall do at least all of the 2497  
following: 2498

(i) Authorize the director to consider such factors as an 2499  
environmental professional's previous performance record regarding 2500  
such investigations and remedies and the environmental 2501  
professional's environmental compliance history when determining 2502  
whether to certify the environmental professional; 2503

(ii) Ensure that an application for certification is reviewed 2504  
in a timely manner; 2505

(iii) Require the director to certify any environmental 2506  
professional who the director determines complies with those 2507  
criteria; 2508

(iv) Require the director to deny certification for any 2509  
environmental professional who does not comply with those 2510  
criteria. 2511

(b) Establish an annual fee to be paid by environmental 2512  
professionals certified pursuant to the rules adopted under 2513  
division (B)(5)(a) of this section. The fee shall be established 2514  
at an amount calculated to defray the costs to the environmental 2515  
protection agency for the required reviews of the qualifications 2516  
of environmental professionals for certification and for the 2517

issuance of the certifications.	2518
(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:	2519
(i) Ensure that the review is conducted in a timely fashion;	2520
(ii) Require the director to certify any such environmental professional who the director determines complies with those criteria;	2521
(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;	2522
(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;	2523
(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.	2524
(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;	2525
(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	2526
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resulted in the issuance of no further action letters under 2548  
section 3746.11 of the Revised Code that are not consistent with 2549  
applicable standards or finds that the certified environmental 2550  
professional has not substantially complied with section 3746.31 2551  
of the Revised Code; 2552

(f) Authorize the director to suspend for a period of not 2553  
more than five years or to permanently revoke a certified 2554  
environmental professional's certification for any violation of or 2555  
failure to comply with an ethical standard established in rules 2556  
adopted under division (B)(5) of this section. 2557

(g) Require the director to revoke the certification of an 2558  
environmental professional if the director finds that the 2559  
environmental professional falsified any information on the 2560  
environmental professional's application for certification 2561  
regarding the environmental professional's credentials or 2562  
qualifications or any other information generated for the purposes 2563  
of or use under this chapter or rules adopted under it; 2564

(h) Require the director permanently to revoke the 2565  
certification of an environmental professional who has violated or 2566  
is violating division (A) of section 3746.18 of the Revised Code; 2567

(i) Preclude the director from revoking the certification of 2568  
an environmental professional who only conducts investigations and 2569  
remedies at property contaminated solely with petroleum unless the 2570  
director first consults with the director of commerce. 2571

(6) Criteria and procedures for the certification of 2572  
laboratories to perform analyses under this chapter and rules 2573  
adopted under it. The issuance, denial, suspension, and revocation 2574  
of those certifications are subject to Chapter 3745. of the 2575  
Revised Code, and the director of environmental protection shall 2576  
take any such action regarding a certification as a final action. 2577

The rules adopted under division (B)(6) of this section shall 2578

do all of the following: 2579

(a) Provide for the certification to perform analyses of 2580  
laboratories in accordance with the criteria and procedures 2581  
established in the rules adopted under division (B)(6)(a) of this 2582  
section and establish an annual fee to be paid by those 2583  
laboratories. The fee shall be established at an amount calculated 2584  
to defray the costs to the agency for the review of the 2585  
qualifications of those laboratories for certification and for the 2586  
issuance of the certifications. The rules adopted under division 2587  
(B)(6)(a) of this section may provide for the certification of 2588  
those laboratories to perform only particular types or categories 2589  
of analyses, specific test parameters or group of test parameters, 2590  
or a specific matrix or matrices under this chapter. 2591

(b) Develop a schedule for and establish requirements 2592  
governing the review by the director of the operations of 2593  
laboratories that were deemed to be certified laboratories under 2594  
division (E) of section 3746.07 of the Revised Code in order to 2595  
determine if they comply with the criteria established in rules 2596  
adopted under division (B)(6) of this section. The rules adopted 2597  
under division (B)(6)(b) of this section shall do at least all of 2598  
the following: 2599

(i) Ensure that the review is conducted in a timely fashion; 2600

(ii) Require the director to certify any such laboratory that 2601  
the director determines complies with those criteria; 2602

(iii) Require any such laboratory initially to pay the fee 2603  
established in the rules adopted under division (B)(6)(a) of this 2604  
section at the time that the laboratory is so certified by the 2605  
director; 2606

(iv) Establish a time period within which any such laboratory 2607  
that does not comply with those criteria may make changes in its 2608  
operations necessary for the performance of analyses under this 2609

chapter and rules adopted under it in order to be certified by the 2610  
director; 2611

(v) Require the director to deny certification for any such 2612  
laboratory that does not comply with those criteria and that fails 2613  
to make the necessary changes in its operations within the 2614  
established time period. 2615

(c) Require that any information submitted to the director 2616  
for the purposes of division (B)(6)(a) or (b) of this section 2617  
comply with division (A) of section 3746.20 of the Revised Code; 2618

(d) Authorize the director to suspend or revoke the 2619  
certification of a laboratory if the director finds that the 2620  
laboratory's performance has resulted in the issuance of no 2621  
further action letters under section 3746.11 of the Revised Code 2622  
that are not consistent with applicable standards; 2623

(e) Authorize the director to suspend or revoke the 2624  
certification of a laboratory if the director finds that the 2625  
laboratory falsified any information on its application for 2626  
certification regarding its credentials or qualifications; 2627

(f) Require the director permanently to revoke the 2628  
certification of a laboratory that has violated or is violating 2629  
division (A) of section 3746.18 of the Revised Code. 2630

(7) Information to be included in a no further action letter 2631  
prepared under section 3746.11 of the Revised Code, including, 2632  
without limitation, all of the following: 2633

(a) A summary of the information required to be submitted to 2634  
the certified environmental professional preparing the no further 2635  
action letter under division (C) of section 3746.10 of the Revised 2636  
Code; 2637

(b) Notification that a risk assessment was performed in 2638  
accordance with rules adopted under division (B)(2) of this 2639

section if such an assessment was used in lieu of generic 2640  
numerical clean-up standards established in rules adopted under 2641  
division (B)(1) of this section; 2642

(c) The contaminants addressed at the property, if any, their 2643  
source, if known, and their levels prior to remediation; 2644

(d) The identity of any other person who performed work to 2645  
support the request for the no further action letter as provided 2646  
in division (B)(2) of section 3746.10 of the Revised Code and the 2647  
nature and scope of the work performed by that person; 2648

(e) A list of the data, information, records, and documents 2649  
relied upon by the certified environmental professional in 2650  
preparing the no further action letter. 2651

(8) Methods for determining fees to be paid for the following 2652  
services provided by the agency under this chapter and rules 2653  
adopted under it: 2654

(a) Site- or property-specific technical assistance in 2655  
developing or implementing plans in connection with a voluntary 2656  
action; 2657

(b) Reviewing applications for and issuing consolidated 2658  
standards permits under section 3746.15 of the Revised Code and 2659  
monitoring compliance with those permits; 2660

(c) Negotiating, preparing, and entering into agreements 2661  
necessary for the implementation and administration of this 2662  
chapter and rules adopted under it; 2663

(d) Reviewing no further action letters, issuing covenants 2664  
not to sue, and monitoring compliance with any terms and 2665  
conditions of those covenants and with operation and maintenance 2666  
agreements entered into pursuant to those covenants, including, 2667  
without limitation, conducting audits of properties where 2668  
voluntary actions are being or were conducted under this chapter 2669

and rules adopted under it. 2670

The fees established pursuant to the rules adopted under 2671  
division (B)(8) of this section shall be at a level sufficient to 2672  
defray the direct and indirect costs incurred by the agency for 2673  
the administration and enforcement of this chapter and rules 2674  
adopted under it other than the provisions regarding the 2675  
certification of professionals and laboratories. 2676

(9) Criteria for selecting the no further action letters 2677  
issued under section 3746.11 of the Revised Code that will be 2678  
audited under section 3746.17 of the Revised Code, and the scope 2679  
and procedures for conducting those audits. The rules adopted 2680  
under division (B)(9) of this section, at a minimum, shall require 2681  
the director to establish priorities for auditing no further 2682  
action letters to which any of the following applies: 2683

(a) The letter was prepared by an environmental professional 2684  
who was deemed to be a certified professional under division (D) 2685  
of section 3746.07 of the Revised Code, but who does not comply 2686  
with the criteria established in rules adopted under division 2687  
(B)(5) of this section as determined pursuant to rules adopted 2688  
under division (B)(5)(d) of this section; 2689

(b) The letter was submitted fraudulently; 2690

(c) The letter was prepared by a certified environmental 2691  
professional whose certification subsequently was revoked in 2692  
accordance with rules adopted under division (B)(5) of this 2693  
section, or analyses were performed for the purposes of the no 2694  
further action letter by a certified laboratory whose 2695  
certification subsequently was revoked in accordance with rules 2696  
adopted under division (B)(6) of this section; 2697

(d) A covenant not to sue that was issued pursuant to the 2698  
letter was revoked under this chapter; 2699



(e) The letter was for a voluntary action that was conducted 2700  
pursuant to a risk assessment in accordance with rules adopted 2701  
under division (B)(2) of this section; 2702

(f) The letter was for a voluntary action that included as 2703  
remedial activities engineering controls authorized under section 2704  
3746.05 of the Revised Code or restrictions on the use of the 2705  
relevant property identified pursuant to division (C)(3) of 2706  
section 3746.10 of the Revised Code. 2707

The rules adopted under division (B)(9) of this section shall 2708  
provide for random audits of no further action letters to which 2709  
the rules adopted under divisions (B)(9)(a) to (f) of this section 2710  
do not apply. 2711

(10) A classification system to characterize ground water 2712  
according to its capability to be used for human use and its 2713  
impact on the environment and a methodology that shall be used to 2714  
determine when ground water that has become contaminated from 2715  
sources on a property for which a covenant not to sue is requested 2716  
under section 3746.11 of the Revised Code shall be remediated to 2717  
the standards established under division (B)(1) or (2) of this 2718  
section. 2719

(a) In adopting rules under division (B)(10) of this section 2720  
to characterize ground water according to its capability for human 2721  
use, the director shall consider all of the following: 2722

(i) The presence of legally enforceable, reliable 2723  
restrictions on the use of ground water, including, without 2724  
limitation, local rules or ordinances; 2725

(ii) The presence of regional commingled contamination from 2726  
multiple sources that diminishes the quality of ground water; 2727

(iii) The natural quality of ground water; 2728

(iv) Regional availability of ground water and reasonable 2729

alternative sources of drinking water;	2730
(v) The productivity of the aquifer;	2731
(vi) The presence of restrictions on the use of ground water implemented under this chapter and rules adopted under it;	2732 2733
(vii) The existing use of ground water.	2734
(b) In adopting rules under division (B)(10) of this section to characterize ground water according to its impacts on the environment, the director shall consider both of the following:	2735 2736 2737
(i) The risks posed to humans, fauna, surface water, sediments, soil, air, and other resources by the continuing presence of contaminated ground water;	2738 2739 2740
(ii) The availability and feasibility of technology to remedy ground water contamination.	2741 2742
(11) Governing the application for and issuance of variances under section 3746.09 of the Revised Code;	2743 2744
(12)(a) In the case of voluntary actions involving contaminated ground water, specifying the circumstances under which the generic numerical clean-up standards established in rules adopted under division (B)(1) of this section and standards established through a risk assessment conducted pursuant to rules adopted under division (B)(2) of this section shall be inapplicable to the remediation of contaminated ground water and under which the standards for remediating contaminated ground water shall be established on a case-by-case basis prior to the commencement of the voluntary action pursuant to rules adopted under division (B)(12)(b) of this section;	2745 2746 2747 2748 2749 2750 2751 2752 2753 2754 2755
(b) Criteria and procedures for the case-by-case establishment of standards for the remediation of contaminated ground water under circumstances in which the use of the generic numerical clean-up standards and standards established through a	2756 2757 2758 2759

risk assessment are precluded by the rules adopted under division 2760  
(B)(12)(a) of this section. The rules governing the procedures for 2761  
the case-by-case development of standards for the remediation of 2762  
contaminated ground water shall establish application, public 2763  
participation, adjudication, and appeals requirements and 2764  
procedures that are equivalent to the requirements and procedures 2765  
established in section 3746.09 of the Revised Code and rules 2766  
adopted under division (B)(11) of this section, except that the 2767  
procedural rules shall not require an applicant to make the 2768  
demonstrations set forth in divisions (A)(1) to (3) of section 2769  
3746.09 of the Revised Code ~~and shall not require the director to~~ 2770  
~~obtain the advice of the property revitalization board created in~~ 2771  
~~section 3746.08 of the Revised Code regarding any application~~ 2772  
~~submitted pursuant to the rules adopted under division (B)(12)(b)~~ 2773  
~~of this section.~~ 2774

(13) A definition of the evidence that constitutes sufficient 2775  
evidence for the purpose of division (A)(5) of section 3746.02 of 2776  
the Revised Code. 2777

At least thirty days before filing the proposed rules 2778  
required to be adopted under this section with the secretary of 2779  
state, director of the legislative service commission, and joint 2780  
committee on agency rule review in accordance with divisions (B) 2781  
and (H) of section 119.03 of the Revised Code, the director of 2782  
environmental protection shall hold at least one public meeting on 2783  
the proposed rules in each of the five districts into which the 2784  
agency has divided the state for administrative purposes. 2785

**Sec. 3746.09.** (A) A person who proposes to enter into or who 2786  
is participating in the voluntary action program under this 2787  
chapter and rules adopted under it, in accordance with this 2788  
section and rules adopted under division (B)(11) of section 2789  
3746.04 of the Revised Code, may apply to the director of 2790

environmental protection for a variance from applicable standards 2791  
otherwise established in this chapter and rules adopted under it. 2792  
The application for a variance shall be prepared by a certified 2793  
professional. The director shall issue a variance from those 2794  
applicable standards only if the application makes all of the 2795  
following demonstrations to the director's satisfaction: 2796

(1) Either or both of the following: 2797

(a) It is technically infeasible to comply with the 2798  
applicable standards otherwise established at the property named 2799  
in the application; 2800

(b) The costs of complying with the applicable standards 2801  
otherwise established at the property substantially exceed the 2802  
economic benefits~~+~~. 2803

(2) The proposed alternative standard or set of standards and 2804  
terms and conditions set forth in the application will result in 2805  
an improvement of environmental conditions at the property and 2806  
ensure that public health and safety will be protected~~+~~. 2807

(3) The establishment of and compliance with the alternative 2808  
standard or set of standards and terms and conditions are 2809  
necessary to promote, protect, preserve, or enhance employment 2810  
opportunities or the reuse of the property named in the 2811  
application. 2812

A variance issued under this section shall state the specific 2813  
standard or standards whose terms are being varied and shall set 2814  
forth the specific alternative standard or set of standards and 2815  
the terms and conditions imposed on the applicant in their place. 2816  
A variance issued under this section shall include only standards 2817  
and terms and conditions proposed by the applicant in ~~his~~ the 2818  
application, except that the director may impose any additional or 2819  
alternative terms and conditions that ~~he~~ the director determines 2820  
to be necessary to ensure that public health and safety will be 2821

protected. If the director finds that compliance with any standard 2822  
or term or condition proposed by the applicant will not protect 2823  
public health and safety and that the imposition of additional or 2824  
alternative terms and conditions will not ensure that public 2825  
health or safety will be protected, the director shall disapprove 2826  
the application and shall include in the order of denial the 2827  
specific findings on which the denial was based. 2828

(B) Variances shall be issued or denied in accordance with 2829  
this section, rules adopted under division (B)(11) of section 2830  
3746.04 of the Revised Code, and Chapter 3745. of the Revised 2831  
Code. Upon determining that an application for a variance is 2832  
complete, the director shall ~~do both of the following:~~ 2833

~~(1) Transmit a copy of the application to the property 2834  
revitalization board created in section 3746.08 of the Revised 2835  
Code;~~ 2836

~~(2) Schedule schedule a public meeting on the application to 2837  
be held within ninety days after the director determines that the 2838  
application is complete in the county in which is located the 2839  
property to which the application pertains. 2840~~

(C) Not less than thirty days before the date scheduled for 2841  
the public meeting on an application for a variance, the director 2842  
shall publish notice of the public meeting and that the director 2843  
will receive written comments on the application for a period of 2844  
forty-five days commencing on the date of the publication of the 2845  
notice. The notice shall contain all of the following information, 2846  
at a minimum: 2847

(1) The address of the property to which the application 2848  
pertains; 2849

(2) A brief summary of the alternative standards and terms 2850  
and conditions proposed by the applicant; 2851

(3) The date, time, and location of the public meeting. 2852

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

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

(E) Within ninety days after conducting the public meeting on  
an application for a variance under division (D) of this section,  
the director shall issue a proposed action to the applicant in  
accordance with section 3745.07 of the Revised Code that indicates

the director's intent with regard to the issuance or denial of the application. When considering whether to issue or deny the application or whether to impose terms and conditions of the variance that are in addition or alternative to those proposed by the applicant, the director shall consider ~~the advice provided by the property revitalization board,~~ comments on the application made by the public at the public meeting, and written comments on the application received from the public.

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

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

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

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

set forth in a variance issued under section 3746.09 of the Revised Code. 2916  
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(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: 2918  
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(a) The address of the property and the name of the person to whom the variance was issued; 2921  
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(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; 2923  
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(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. 2928  
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(3) The number of audits performed under section 3746.17 of the Revised Code during the preceding calendar year and, in connection with each of them, at least the following information: 2934  
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(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; 2937  
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(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; 2940  
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(c) A brief summary of the findings of the audit and any 2946  
action taken by the environmental protection agency as a result of 2947  
those findings. 2948

(4) The number of covenants not to sue revoked during the 2949  
preceding calendar year through the operation of divisions 2950  
(A)(2)(c) and (B) of section 3746.12, division (B)(2) of section 2951  
3746.18, and division (B) of section 3746.19 of the Revised Code 2952  
and for each property for which a covenant was revoked, at least 2953  
both of the following: 2954

(a) The address of the property affected by the revocation 2955  
and name of the person who undertook the voluntary action at the 2956  
property; 2957

(b) The reason for the revocation. 2958

(5) The amount of money credited to the voluntary action 2959  
administration fund created in section 3746.16 of the Revised Code 2960  
during the preceding fiscal year from the fees established in 2961  
divisions (D) and (H) of section 3746.07 and division (C) of 2962  
section 3746.13 of the Revised Code ~~and pursuant to rules adopted~~ 2963  
~~under divisions (B)(5) and (8) of section 3746.08 of the Revised~~ 2964  
~~Code~~ and from civil penalties imposed under section 3746.22 of the 2965  
Revised Code. The report shall indicate the amount of money that 2966  
arose from each of the fees and from the civil penalties. The 2967  
report also shall include the amount of money expended from the 2968  
fund during the preceding fiscal year by program category, 2969  
including, without limitation, the amount expended for conducting 2970  
audits under section 3746.17 of the Revised Code during the 2971  
preceding fiscal year. 2972

(6) For each property that is receiving a tax abatement under 2973  
section 5709.87 of the Revised Code for the preceding tax year, 2974  
the amount of the valuation exempted from real property taxation 2975  
for that tax year under that section. In order to comply with 2976

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 ~~inlcude~~ include it  
in the annual report prepared under division (A) of this section.

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

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

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

(b) The amount of the valuation of the property that was 3008  
exempted from real property taxation under that section. 3009

Not later than the thirty-first day of March of each 3010  
subsequent year, each such county auditor shall report the 3011  
information described in those divisions to the director of 3012  
development for each property within the county that is receiving 3013  
a tax abatement under that section for the preceding tax year. 3014

(2) Not later than July 1, 1996, and not later than the first 3015  
day of July of each subsequent year, the director of development 3016  
shall compile the information provided to ~~him~~ the director under 3017  
division (B)(1) of this section applicable to the preceding tax 3018  
year into a report covering all of the counties in the state in 3019  
which are located properties receiving a tax abatement under 3020  
section 5709.87 of the Revised Code for the preceding tax year and 3021  
shall forward the report to the director of environmental 3022  
protection. The sole responsibility of the director of development 3023  
in preparing the report is to compile the information submitted to 3024  
~~him~~ the director by the county auditors under division (B)(1) of 3025  
this section. 3026

(C) Not later than July 1, 1996, and not later than the first 3027  
day of July of each subsequent year, the director of development 3028  
shall compile the information provided to ~~him~~ the director by 3029  
municipal corporations and counties under division (A) of section 3030  
5709.882 of the Revised Code applicable to the preceding calendar 3031  
year into a report covering, by county, all of the municipal 3032  
corporations and counties in this state in which are located 3033  
properties receiving a tax abatement pursuant to an agreement 3034  
entered into under section 5709.88 of the Revised Code and shall 3035  
forward the report to the director of environmental protection. 3036  
The sole responsibility of the director of development in 3037  
preparing the report is to compile the information submitted to 3038  
him by municipal corporations and counties under division (A) of 3039

section 5709.882 of the Revised Code. 3040

**Sec. 3747.02.** (A)(1) The governor, with the advice and 3041  
consent of the senate, shall appoint the Ohio member of the 3042  
midwest interstate low-level radioactive waste commission. The 3043  
commissioner shall serve at the pleasure of the governor and shall 3044  
be reimbursed for actual and necessary expenses incurred in the 3045  
performance of ~~his~~ official duties. 3046

(2) As used in this section, "compact" means the midwest 3047  
interstate compact on low-level radioactive waste entered into 3048  
under section 3747.01 of the Revised Code. 3049

(B) The representative from this state on the commission 3050  
shall not cast a vote contrary to Ohio law. 3051

(C) The representative from this state on the commission 3052  
shall not cast an affirmative vote on the following matters before 3053  
the commission without the prior approval of ~~a majority of the~~ 3054  
~~members of the board of directors of the Ohio low level~~ 3055  
~~radioactive waste facility development authority created in~~ 3056  
~~section 3747.05 of the Revised Code~~ the governor: 3057

(1) Approval by the commission of the amount of the long-term 3058  
care fund established by this state pursuant to Article VI(O) of 3059  
the compact ~~and division (B) of section 3747.18 of the Revised~~ 3060  
~~Code~~; 3061

(2) Relief of a party state to the compact of its 3062  
responsibility to serve as a host state under Article VI(E) of the 3063  
compact; 3064

(3) A requirement pursuant to Article VI(F) of the compact 3065  
that this state use alternate technology to that proposed by this 3066  
state for a compact facility in this state; 3067

(4) ~~Disposal of any of the waste described in division (B) of~~ 3068  
~~section 3747.13 of the Revised Code in a compact facility in a~~ 3069

<del>party state in the compact other than this state;</del>	3070
<del>(5)</del> Authorization of the early closing of a compact facility under Article III(H)(7) of the compact;	3071 3072
<del>(6)</del> <u>(5)</u> Any agreement between this state and the commission or a state other than Ohio that determines or alters the rights, powers, or obligations of this state under the compact;	3073 3074 3075
<del>(7)</del> <u>(6)</u> Modification of the requirements of Article VI(L)(2), (3), or (5) of the compact if the then operating compact facility is in this state;	3076 3077 3078
<del>(8)</del> <u>(7)</u> Admission by the commission of a new party state to the compact;	3079 3080
<del>(9)</del> <u>(8)</u> Revocation by the commission of the membership of a party state in the compact.	3081 3082
(D) A vote by the representative from this state on the commission that is inconsistent with division (B) or (C) of this section is void and is not enforceable.	3083 3084 3085
<b>Sec. 3748.01.</b> As used in this chapter:	3086
(A) "Byproduct material" means either of the following:	3087
(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;	3088 3089 3090 3091
(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.	3092 3093 3094
(B) "Certified radiation expert" means an individual who has complied with all of the following:	3095 3096
(1) Applied to the director of health for certification as a radiation expert under section 3748.12 of the Revised Code;	3097 3098

(2) Met minimum education and experience requirements	3099
established in rules adopted under division (C) of section 3748.04	3100
of the Revised Code;	3101
(3) Been granted a certificate as a radiation expert by the	3102
director under section 3748.12 of the Revised Code.	3103
(C) "Closure" or "site closure" refers to a facility for the	3104
disposal of low-level radioactive waste or a byproduct material	3105
site, as "byproduct material" is defined in division (A)(2) of	3106
this section, and means all activities performed at a licensed	3107
operation, such as stabilization and contouring, to ensure that	3108
the site where the operation occurred is in a stable condition so	3109
that only minor custodial care, surveillance, and monitoring are	3110
necessary at the site following the termination of the licensed	3111
operation.	3112
(D) "Decommissioning" means to safely remove any licensed	3113
operation from service and reduce residual radioactivity to a	3114
level that permits release of the licensee's property for	3115
unrestricted use. With regard to a facility for the disposal of	3116
low-level radioactive waste or a byproduct material site, as	3117
"byproduct material" is defined in division (A)(2) of this	3118
section, "decommissioning" does not include the reduction of	3119
residual radioactivity to a level that permits release of the	3120
facility for unrestricted use.	3121
(E) "Director of health" includes a designee or authorized	3122
representative of the director.	3123
(F) "Disposal," with regard to low-level radioactive waste,	3124
means the permanent isolation of that waste in accordance with	3125
requirements established by the United States nuclear regulatory	3126
commission or the licensing agreement state.	3127
(G) "Disposal site" <del>has the same meaning as in section</del>	3128
<del>3747.04 of the Revised Code</del> <u>means that portion of a facility that</u>	3129

is used for the disposal of low-level radioactive waste and that 3130  
consists of disposal units and a buffer zone. "Disposal unit" 3131  
means a discrete portion of such a facility into which low-level 3132  
radioactive waste is placed for disposal. 3133

(H)(1) Except as provided in division (H)(2) of this section, 3134  
"facility" means the state, any political subdivision, person, 3135  
public or private institution, or group, or any unit of one of 3136  
those entities, but does not include the federal government or any 3137  
of its agencies. 3138

(2) For the purposes of the disposal of low-level radioactive 3139  
waste, "facility" has the same meaning as in section 3747.01 of 3140  
the Revised Code. 3141

(I) "Handle" means receive, possess, use, store, transfer, 3142  
install, service, or dispose of sources of radiation unless 3143  
possession is solely for the purpose of transportation. 3144

(J) "Handler" means a facility that handles sources of 3145  
radiation unless possession is solely for the purpose of 3146  
transportation. 3147

(K) "Inspection" means an official review, examination, or 3148  
observation, including, without limitation, tests, surveys, and 3149  
monitoring, that is used to determine compliance with rules, 3150  
orders, requirements, and conditions of the department of health 3151  
and that is conducted by the director of health. 3152

(L) "Low-level radioactive waste" has the same meaning as in 3153  
section 3747.01 of the Revised Code with regard to the disposal of 3154  
low-level radioactive waste. In regard to regulatory control at 3155  
locations other than a disposal facility, "low-level radioactive 3156  
waste" has the same meaning as in 42 U.S.C.A. 2021b. 3157

(M) "Quality assurance program" means a program providing for 3158  
verification by written procedures such as testing, auditing, and 3159  
inspection to ensure that deficiencies, deviations, defective 3160

equipment, or unsafe practices, or a combination thereof, relating 3161  
to the use, disposal, management, or manufacture of radiation 3162  
sources are identified, promptly corrected, and reported to the 3163  
appropriate regulatory authorities. 3164

(N) "Radiation" means ionizing and nonionizing radiation. 3165

(1) "Ionizing radiation" means gamma rays and X-rays, alpha 3166  
and beta particles, high-speed electrons, neutrons, protons, and 3167  
other nuclear particles, but does not include sound or radio waves 3168  
or visible, infrared, or ultraviolet light. 3169

(2) "Nonionizing radiation" means any electromagnetic 3170  
radiation, other than ionizing electromagnetic radiation, or any 3171  
sonic, ultrasonic, or infrasonic wave. 3172

(O) "Radioactive material" means any solid, liquid, or 3173  
gaseous material that emits ionizing radiation spontaneously. 3174  
"Radioactive material" includes accelerator-produced and naturally 3175  
occurring materials and byproduct, source, and special nuclear 3176  
material. 3177

(P) "Radiation-generating equipment" means any manufactured 3178  
product or device, or component of such a product or device, or 3179  
any machine or system that during operation can generate or emit 3180  
radiation, except those that emit radiation only from radioactive 3181  
material. "Radiation-generating equipment" does not include either 3182  
of the following: 3183

(1) Diathermy machines; 3184

(2) Microwave ovens, including food service microwave ovens 3185  
used for commercial and industrial uses, television receivers, 3186  
electric lamps, and other household appliances and products that 3187  
generate very low levels of radiation. 3188

(Q) "Source material" means uranium, thorium, or any 3189  
combination thereof in any physical or chemical form, or any ores 3190



that contain by weight at least one-twentieth of one per cent of 3191  
uranium, thorium, or any combination thereof. "Source material" 3192  
does not include special nuclear material. 3193

(R) "Source of radiation" means radioactive material or 3194  
radiation-generating equipment. 3195

(S) "Special nuclear material" means either of the following: 3196

(1) Plutonium, uranium 233, uranium enriched in the isotope 3197  
233 or in the isotope 235, and any other material that the United 3198  
States nuclear regulatory commission determines to be special 3199  
nuclear material, but does not include source material pursuant to 3200  
section 51 of the "Atomic Energy Act of 1954," 68 Stat. 919, 42 3201  
U.S.C.A. 2071." 3202

(2) Except for any source material, any material artificially 3203  
enriched by any of the materials identified in division (S)(1) of 3204  
this section. 3205

(T) "Storage" means the retention of radioactive materials, 3206  
including low-level radioactive waste, prior to disposal in a 3207  
manner that allows for surveillance, control, and subsequent 3208  
retrieval. 3209

**Sec. 3748.02.** (A) The department of health is hereby 3210  
designated the Ohio radiation control agency. 3211

(B) In accordance with the laws of this state, the director 3212  
of health may employ, compensate, and prescribe the duties of 3213  
individuals necessary to implement and administer this chapter and 3214  
~~the rules adopted under it and for the purposes of division (A)(4)~~ 3215  
~~of section 3747.06 and section 3747.15 of the Revised Code.~~ 3216

**Sec. 3748.04.** The public health council, in accordance with 3217  
Chapter 119. of the Revised Code, shall adopt and may amend or 3218  
rescind rules doing all of the following: 3219

(A) Listing types of radioactive material for which licensure 3220  
by its handler is required and types of radiation-generating 3221  
equipment for which registration by its handler is required, and 3222  
establishing requirements governing them. Rules adopted under 3223  
division (A) of this section shall be compatible with applicable 3224  
federal regulations and shall establish all of the following, 3225  
without limitation: 3226

(1) Requirements governing both of the following: 3227

(a) The licensing and inspection of handlers of radioactive 3228  
material. Standards established in rules adopted under division 3229  
(A)(1)(a) of this section regarding byproduct material or any 3230  
activity that results in the production of that material, to the 3231  
extent practicable, shall be equivalent to or more stringent than 3232  
applicable standards established by the United States nuclear 3233  
regulatory commission. 3234

(b) The registration and inspection of handlers of 3235  
radiation-generating equipment. Standards established in rules 3236  
adopted under division (A)(1)(b) of this section, to the extent 3237  
practicable, shall be equivalent to applicable standards 3238  
established by the food and drug administration in the United 3239  
States department of health and human services. 3240

(2) Identification of and requirements governing possession 3241  
and use of specifically licensed and generally licensed quantities 3242  
of radioactive material as either sealed sources or unsealed 3243  
sources; 3244

(3) A procedure for the issuance of and the frequency of 3245  
renewal of the licenses of handlers of radioactive material, other 3246  
than a license for a facility for the disposal of low-level 3247  
radioactive waste, and of the certificates of registration of 3248  
handlers of radiation-generating equipment; 3249

(4) Procedures for suspending and revoking the licenses of 3250

handlers of radioactive material and the certificates of	3251
registration of handlers of radiation-generating equipment;	3252
(5) Criteria to be used by the director of health in amending	3253
the license of a handler of radioactive material or the	3254
certificate of registration of a handler of radiation-generating	3255
equipment subsequent to its issuance;	3256
(6) Criteria for achieving and maintaining compliance with	3257
this chapter and rules adopted under it by licensees and	3258
registrants;	3259
(7) Criteria governing environmental monitoring of licensed	3260
and registered activities to assess compliance with this chapter	3261
and rules adopted under it;	3262
(8) Except as otherwise provided in division (A)(8) of this	3263
section, fees for the licensing of handlers of radioactive	3264
material, other than a facility for the disposal of low-level	3265
radioactive waste, and the registration of handlers of	3266
radiation-generating equipment and a fee schedule for their	3267
inspection. Rules adopted under division (A)(8) of this section	3268
shall not revise any fees established in section 3748.07 or	3269
3748.13 of the Revised Code to be paid by any handler of	3270
radiation-generating equipment that is a medical practitioner or a	3271
corporation, partnership, or other business entity consisting of	3272
medical practitioners, other than a hospital as defined in section	3273
3727.01 of the Revised Code.	3274
As used in division (A)(8) of this section, "medical	3275
practitioner" means a person who is authorized to practice	3276
dentistry pursuant to Chapter 4715. of the Revised Code; medicine	3277
and surgery, osteopathic medicine and surgery, or podiatry	3278
pursuant to Chapter 4731. of the Revised Code; or chiropractic	3279
pursuant to Chapter 4734. of the Revised Code.	3280
<del>(9) With regard to a facility for the disposal of low-level</del>	3281

~~radioactive waste, an application fee to cover the costs incurred 3282  
by the department of health for review of the license application 3283  
submitted by the contractor selected under division (A)(6) of 3284  
section 3747.06 and section 3747.10 of the Revised Code by the 3285  
board of directors of the Ohio low level radioactive waste 3286  
facility development authority created in section 3747.05 of the 3287  
Revised Code to develop and operate the facility, which shall be 3288  
paid by the contractor at the time of receipt of an invoice from 3289  
the department; a license review fee to cover the costs of the 3290  
department for review of that license, which shall be paid by the 3291  
contractor every five years after the issuance of the license; and 3292  
a fee for routine compliance monitoring, which shall be paid 3293  
annually by the contractor. Fees collected pursuant to rules 3294  
adopted under division (A)(9) of this section shall be deposited 3295  
into the state treasury to the credit of the general operations 3296  
fund created in section 3701.83 of the Revised Code. The fees 3297  
shall be used solely to administer and enforce this chapter and 3298  
rules adopted under it. A fee for routine compliance monitoring 3299  
required pursuant to rules adopted under division (A)(9) of this 3300  
section that has not been paid within ninety days after the 3301  
invoice date shall be assessed at two times the original invoiced 3302  
fee. Any such fee that has not been paid within one hundred eighty 3303  
days after the invoice date shall be assessed at five times the 3304  
original invoiced fee. 3305~~

(B)(1) Identifying sources of radiation, circumstances of 3306  
possession, use, or disposal of sources of radiation, and levels 3307  
of radiation that constitute an unreasonable or unnecessary risk 3308  
to human health or the environment; 3309

(2) Establishing requirements for the achievement and 3310  
maintenance of compliance with standards for the receipt, 3311  
possession, use, storage, installation, transfer, servicing, and 3312  
disposal of sources of radiation to prevent levels of radiation 3313

that constitute an unreasonable or unnecessary risk to human health or the environment;	3314 3315
(3) Requiring the maintenance of records on the receipt, use, storage, transfer, and disposal of radioactive material and on the radiological safety aspects of the use and maintenance of radiation-generating equipment.	3316 3317 3318 3319
In adopting rules under divisions (A) and (B) of this section, the council shall use standards no less stringent than the "suggested state regulations for control of radiation" prepared by the conference of radiation control program directors, inc., and regulations adopted by the United States nuclear regulatory commission, the United States environmental protection agency, and the United States department of health and human services and shall consider reports of the national council on radiation protection and measurement and the relevant standards of the American national standards institute.	3320 3321 3322 3323 3324 3325 3326 3327 3328 3329
(C) Establishing fees, procedures, and requirements for certification as a radiation expert, including all of the following, without limitation:	3330 3331 3332
(1) Minimum training and experience requirements;	3333
(2) Procedures for applying for certification;	3334
(3) Procedures for review of applications and issuance of certificates;	3335 3336
(4) Procedures for suspending and revoking certification.	3337
(D) Establishing a schedule for inspection of sources of radiation and their shielding and surroundings;	3338 3339
(E) Establishing the responsibilities of a radiation expert;	3340
(F) Establishing criteria for quality assurance programs for licensees of radioactive material and registrants of radiation-generating equipment;	3341 3342 3343

(G) Establishing fees to be paid by any facility that, on 3344  
September 8, 1995, holds a license from the United States nuclear 3345  
regulatory commission in order to provide moneys necessary for the 3346  
transfer of licensing and other regulatory authority from the 3347  
commission to the state pursuant to section 3748.03 of the Revised 3348  
Code. Rules adopted under this division shall stipulate that fees 3349  
so established do not apply to any functions dealing specifically 3350  
with a facility for the disposal of low-level radioactive waste. 3351  
Fees collected under this division shall be deposited into the 3352  
state treasury to the credit of the general operations fund 3353  
created in section 3701.83 of the Revised Code. The fees shall be 3354  
used solely to administer and enforce this chapter and rules 3355  
adopted under it. 3356

(H) Establishing fees to be collected annually from 3357  
generators of low-level radioactive waste, which shall be based 3358  
upon the volume and radioactivity of the waste generated and the 3359  
costs of administering low-level radioactive waste management 3360  
activities under this chapter and rules adopted under it. All fees 3361  
collected under this division shall be deposited into the state 3362  
treasury to the credit of the general operations fund created in 3363  
section 3701.83 of the Revised Code. The fees shall be used solely 3364  
to administer and enforce this chapter and rules adopted under it. 3365  
Any fee required under this division that has not been paid within 3366  
ninety days after the invoice date shall be assessed at two times 3367  
the original invoiced fee. Any fee that has not been paid within 3368  
one hundred eighty days after the invoice date shall be assessed 3369  
at five times the original invoiced fee. 3370

(I) Establishing requirements governing closure, 3371  
decontamination, decommissioning, reclamation, and long-term 3372  
surveillance and care of a facility licensed under this chapter 3373  
and rules adopted under it. Rules adopted under division (I) of 3374  
this section shall include, without limitation, all of the 3375

following: 3376

(1) Standards and procedures to ensure that a licensee 3377  
prepares a decommissioning funding plan that provides an adequate 3378  
financial guaranty to permit the completion of all requirements 3379  
governing the closure, decontamination, decommissioning, and 3380  
reclamation of sites, structures, and equipment used in 3381  
conjunction with a licensed activity; 3382

(2) For licensed activities where radioactive material that 3383  
will require surveillance or care is likely to remain at the site 3384  
after the licensed activities cease, as indicated in the 3385  
application for the license submitted under section 3748.07 of the 3386  
Revised Code, standards and procedures to ensure that the licensee 3387  
prepares an additional decommissioning funding plan for long-term 3388  
surveillance and care, before termination of the license, that 3389  
provides an additional adequate financial guaranty as necessary to 3390  
provide for that surveillance and care; 3391

(3) For the purposes of the decommissioning funding plans 3392  
required in rules adopted under divisions (I)(1) and (2) of this 3393  
section, the types of acceptable financial guaranties, which shall 3394  
include bonds issued by fidelity or surety companies authorized to 3395  
do business in the state, certificates of deposit, deposits of 3396  
government securities, irrevocable letters or lines of credit, 3397  
trust funds, escrow accounts, or other similar types of 3398  
arrangements, but shall not include any arrangement that 3399  
constitutes self-insurance; 3400

(4) A requirement that the decommissioning funding plans 3401  
required in rules adopted under divisions (I)(1) and (2) of this 3402  
section contain financial guaranties in amounts sufficient to 3403  
ensure compliance with any standards established by the United 3404  
States nuclear regulatory commission, or by the state if it has 3405  
become an agreement state pursuant to section 3748.03 of the 3406

Revised Code, pertaining to closure, decontamination, 3407  
decommissioning, reclamation, and long-term surveillance and care 3408  
of licensed activities and sites of licensees. 3409

Standards established in rules adopted under division (I) of 3410  
this section regarding any activity that resulted in the 3411  
production of byproduct material, as defined in division (A)(2) of 3412  
section 3748.01 of the Revised Code, to the extent practicable, 3413  
shall be equivalent to or more stringent than standards 3414  
established by the United States nuclear regulatory commission for 3415  
sites at which ores were processed primarily for their source 3416  
material content and at which byproduct material, as defined in 3417  
division (A)(2) of section 3748.01 of the Revised Code, is 3418  
deposited. 3419

~~(J) Establishing qualifications for members of the license 3420  
review board appointed under division (B) of section 3748.09 of 3421  
the Revised Code; 3422~~

~~(K) Establishing criteria governing inspections of a facility 3423  
for the disposal of low-level radioactive waste, including, 3424  
without limitation, the establishment of a resident inspector 3425  
program at such a facility; 3426~~

~~(L)(K) Establishing requirements and procedures governing the 3427  
filing of complaints under section 3748.16 of the Revised Code, 3428  
including, without limitation, those governing intervention in a 3429  
hearing held under division (B)(3) of that section; 3430~~

~~(M) Establishing requirements and procedures for entering 3431  
into an agreement with the board of directors of the Ohio 3432  
low-level radioactive waste facility development authority created 3433  
in section 3747.05 of the Revised Code for the payment of the 3434  
department's costs incurred pursuant to division (A)(4) of section 3435  
3747.06 of the Revised Code and Article III(I)(5) of the midwest 3436  
interstate compact on low-level radioactive waste established 3437~~



~~under section 3747.01 of the Revised Code.~~ 3438

**Sec. 3748.05.** (A) The director of health shall do all of the 3439  
following: 3440

(1) Administer and enforce this chapter and the rules adopted 3441  
under it; 3442

(2) Collect and make available information relating to 3443  
sources of radiation; 3444

(3) Ensure the review of plans and specifications, submitted 3445  
in accordance with rules adopted by the public health council, for 3446  
the control of radiation that constitutes an unreasonable or 3447  
unnecessary risk to human health or the environment; 3448

(4) Review reports of quality assurance audits performed by 3449  
certified radiation experts under this chapter and the rules 3450  
adopted under it; 3451

(5) Ensure that programs for the control of sources of 3452  
radiation are developed with due regard for compatibility with 3453  
federal programs for the regulation of byproduct, source, and 3454  
special nuclear materials; 3455

(6) In accordance with Chapter 119. of the Revised Code, 3456  
adopt, and subsequently may amend and rescind, rules providing for 3457  
the administrative assessment and collection of monetary penalties 3458  
for failure by any facility licensed under this chapter and rules 3459  
adopted under it to comply with this chapter and those rules. The 3460  
director may require the submission of compliance schedules and 3461  
other related information. Any orders issued or payments or other 3462  
requirements imposed pursuant to rules adopted under division 3463  
(A)(6) of this section shall not affect any civil or criminal 3464  
enforcement proceeding brought under this chapter or any other 3465  
provision of state or local law. Moneys collected as 3466  
administrative penalties imposed pursuant to rules adopted under 3467

division (A)(6) of this section shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The moneys shall be used solely to administer and enforce this chapter and the rules adopted under it.

(7) Maintain files of both of the following:

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

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

~~(8) In accordance with chapter 119. of the Revised Code, adopt, and subsequently may amend and rescind, rules of procedure to govern any adjudication conducted by the license review board under division (B)(3)(c) of section 3748.09 of the Revised Code. The rules adopted under division (A)(8) of this section shall be in substantial conformity with the procedural rules established in 10 C.F.R. 2.705-2.759.~~

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

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

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

(3) Encourage, participate in, or conduct studies,

investigations, training, research, and demonstrations relating to 3498  
the detection and control of radiation that constitutes an 3499  
unreasonable or unnecessary risk to human health or the 3500  
environment, the measurement of radiation, the evaluation of 3501  
potential effects on health of cumulative or acute exposure to 3502  
radiation, the development and improvement of methods to limit and 3503  
reduce the generation of radioactive waste, and related problems 3504  
as the director considers necessary or advisable; 3505

(4) In accordance with Chapter 119. of the Revised Code, 3506  
adopt rules establishing criteria under which other agencies of 3507  
the state or private entities may perform inspections of x-ray 3508  
equipment at registered dental ~~facilities~~ facilities at the request 3509  
of the facility or pursuant to contract with the department; 3510

(5) Exercise all incidental powers necessary to carry out the 3511  
purposes of this chapter and the rules adopted under it, 3512  
including, without limitation, the issuance of orders. 3513

**Sec. 3748.16.** (A)(1) The director of health shall conduct 3514  
regular inspections of the facility for the disposal of low-level 3515  
radioactive waste in accordance with rules adopted under division 3516  
(~~K~~)(J) of section 3748.04 of the Revised Code and, in accordance 3517  
with those rules, shall provide for at least one resident 3518  
inspector at the facility. 3519

(2) Concentrations of radioactive materials released into the 3520  
environment during operation, closure, institutional control, and 3521  
long-term care of the facility shall be kept as low as are 3522  
reasonably achievable and shall not exceed levels established in 3523  
rules adopted under division (A)(7) of section 3748.04 of the 3524  
Revised Code or the standards set forth in 10 C.F.R. 61.41, 3525  
whichever are more stringent. The director shall establish a 3526  
program to monitor concentrations of radioactive materials so 3527  
released and shall conduct an investigation if monitoring results 3528

indicate concentrations of radioactive materials at levels that 3529  
are greater than the established background for a monitoring point 3530  
to determine ~~both of the following:~~ 3531

~~(a) The source of the increased radiation level;~~ 3532

~~(b) If violations of this chapter or Chapter 3747. of the 3533  
Revised Code, rules adopted under them, or conditions of the 3534  
license issued for the facility under section 3748.09 and rules 3535  
adopted under division (A) of section 3748.04 of the Revised Code 3536  
resulted in the increase. 3537~~

~~The director shall identify corrective actions to be taken 3538  
based on the findings of the investigation and shall require the 3539  
contractor selected under division (A)(6) of section 3747.06 and 3540  
section 3747.10 of the Revised Code by the board of directors of 3541  
the Ohio low level radioactive waste facility development 3542  
authority created in section 3747.05 of the Revised Code to submit 3543  
a corrective action plan in writing. 3544~~

(B)(1) An officer of an agency of the state or of a political 3545  
subdivision, acting in the officer's representative capacity, or 3546  
any person may file a written complaint with the director, in 3547  
accordance with rules adopted under division ~~(L)~~(K) of section 3548  
3748.04 of the Revised Code, regarding the failure or alleged 3549  
failure of the facility for the disposal of low-level radioactive 3550  
waste to comply with health or safety requirements established 3551  
under this chapter or Chapter 3747. of the Revised Code or rules 3552  
adopted under them. The complaint shall be verified by an 3553  
affidavit of the complainant or the complainant's agent or 3554  
attorney. The affidavit may be made before any person authorized 3555  
by law to administer oaths and shall be signed by the officer or 3556  
person who makes it. The person before whom it was taken shall 3557  
certify that it was sworn to before that person and signed in that 3558  
person's presence, and the certificate signed officially by that 3559

person shall be evidence that the affidavit was made, that the 3560  
name of the officer or person was written by that officer or 3561  
person, and that the signer was that officer or person. 3562

(2) Upon receipt of a complaint under division (B)(1) of this 3563  
section, the director shall cause a prompt investigation to be 3564  
conducted as is reasonably necessary to determine whether the 3565  
facility has failed or is failing to comply with the health or 3566  
safety requirements identified in the complaint. The investigation 3567  
shall include a discussion of the complaint with the contractor. 3568

(3) The director may hold a hearing on the complaint. Not 3569  
less than twenty days before the hearing, the director shall cause 3570  
publication of a notice of the hearing in the county in which the 3571  
facility is located and shall mail written notice by certified 3572  
mail, return receipt requested, to the complainant and to the 3573  
contractor. The hearing shall be conducted before the director or 3574  
a hearing examiner designated by the director. The department of 3575  
health and the contractor shall be parties. The complainant may 3576  
participate as a party by filing with the director, at any time 3577  
prior to the hearing, a written notice of the complainant's intent 3578  
to participate. Any other person may be permitted to intervene 3579  
upon the granting by the director or hearing examiner of a motion 3580  
to intervene filed in accordance with rules adopted under division 3581  
(~~L~~)(K) of section 3748.04 of the Revised Code. 3582

If the director does not hold a hearing, the director shall 3583  
provide an opportunity to the complainant and the contractor to 3584  
attend a conference with the director concerning the complaint. 3585

(4) Following the completion of the investigation under 3586  
division (B)(2) of this section and the hearing or conference 3587  
under division (B)(3) of this section, if the director determines 3588  
that the facility is in compliance with the health or safety 3589  
requirements identified in the complaint, the director shall 3590  
dismiss the complaint. If the director determines that the 3591

facility is not in compliance with those requirements, the 3592  
director shall issue an order under division (B)(4) of section 3593  
3748.05 of the Revised Code requiring the contractor to bring the 3594  
facility into compliance and to submit a written discussion of how 3595  
that will be accomplished. The director also may do any or all of 3596  
the following: 3597

(a) Suspend or revoke the facility's license in accordance 3598  
with rules adopted under division (A) of section 3748.04 of the 3599  
Revised Code; 3600

(b) Issue an order assessing an administrative penalty in 3601  
accordance with rules adopted under division (A)(6) of section 3602  
3748.05 of the Revised Code; 3603

(c) Request the attorney general, in writing, to commence 3604  
appropriate legal proceedings, including a civil action for 3605  
imposition of a civil penalty under section 3748.19 of the Revised 3606  
Code and criminal prosecution. 3607

(C) If the director suspends or revokes the license of the 3608  
facility for the disposal of low-level radioactive waste for any 3609  
reason in accordance with rules adopted under division (A) or (B) 3610  
of section 3748.04 of the Revised Code, the contractor shall 3611  
indemnify the state for any loss suffered by the state as a result 3612  
of the lack of disposal capacity for low-level radioactive waste 3613  
that otherwise would have been disposed of at the facility. 3614

(D) The provisions of division (A) of this section 3615  
establishing requirements governing the director and divisions (B) 3616  
and (C) of this section apply only if the state becomes an 3617  
agreement state pursuant to section 3748.03 of the Revised Code. 3618

**Sec. 3929.482.** (A) ~~The Ohio fair plan underwriting 3619  
association by action of its board of governors, with the approval 3620  
of the superintendent of insurance, is authorized to enter into a 3621~~

~~contract with any association formed under a medical professional 3622  
liability insurance plan created by authority of section 3929.72 3623  
of the Revised Code, whereby Ohio fair plan underwriting 3624  
association will perform administrative services necessary or 3625  
incidental to the operation of the medical professional liability 3626  
insurance plan. Such contract shall provide that the Ohio fair 3627  
plan underwriting association will be reimbursed for its actual 3628  
expenses incurred in performing such services. Common expenses 3629  
applicable both to the Ohio fair plan and to the medical 3630  
professional liability insurance plan shall be allocated between 3631  
them on an equitable basis approved by the superintendent of 3632  
insurance. 3633~~

~~(B)~~ The Ohio fair plan underwriting association by action of 3634  
its board of governors, with the approval of the superintendent of 3635  
insurance, is authorized to enter into a contract with the Ohio 3636  
mine subsidence insurance underwriting association to provide 3637  
administrative and claims adjusting services required by it. Such 3638  
contract shall provide indemnification by the Ohio mine subsidence 3639  
insurance underwriting association to the Ohio fair plan 3640  
underwriting association, its members, members of its board of 3641  
governors, and its officers, employees, and agents against all 3642  
liability, loss, and expense resulting from acts done or omitted 3643  
in good faith in performing such contract. Such contract shall 3644  
also provide that the Ohio fair plan underwriting association will 3645  
be reimbursed for its actual expenses incurred in performing such 3646  
services. Common expenses applicable both to the Ohio fair plan 3647  
and to the mine subsidence insurance underwriting association 3648  
shall be allocated between them on an equitable basis approved by 3649  
the superintendent of insurance. 3650

~~(C)~~(B) The Ohio fair plan underwriting association by action 3651  
of its board of governors, with the approval of the superintendent 3652  
of insurance, is authorized to enter into a contract with the Ohio 3653

commercial joint underwriting association to provide 3654  
administrative and claims adjusting services required by it. Such 3655  
contract shall provide indemnification by the Ohio commercial 3656  
joint underwriting association to the Ohio fair plan underwriting 3657  
association, its members, members of its board of governors, and 3658  
its officers, employees, and agents against all liability, loss, 3659  
and expenses resulting from acts done or omitted in good faith in 3660  
performing such contract. Such contract shall also provide that 3661  
the Ohio fair plan underwriting association will be reimbursed for 3662  
its actual expenses incurred in performing such services. Common 3663  
expenses applicable both to the Ohio fair plan and to the Ohio 3664  
commercial joint underwriting association shall be allocated 3665  
between them on an equitable basis approved by the superintendent 3666  
of insurance. 3667

**Sec. 3929.682.** ~~(A)~~ A medical liability fund is hereby created 3668  
in the state treasury. The medical liability fund shall ~~consist of~~ 3669  
~~the remaining funds of the joint underwriting association, the~~ 3670  
~~association created under section 3929.72 of the Revised Code and~~ 3671  
~~dissolved under section 3929.721 of the Revised Code, and shall be~~ 3672  
used for the purposes of funding the medical liability 3673  
underwriting association that is created in accordance with 3674  
sections 3929.62 to 3929.70 of the Revised Code or for funding 3675  
another medical malpractice initiative with the approval of the 3676  
general assembly. 3677

~~(B) As used in this section, "remaining funds of the joint~~ 3678  
~~underwriting association" means funds paid to the treasurer of~~ 3679  
~~state in accordance with section 3929.721 of the Revised Code and~~ 3680  
~~any plan of dissolution or trust agreement adopted under section~~ 3681  
~~3929.721 of the Revised Code.~~ 3682

**Sec. 3929.85.** No insurer licensed to carry on the business of 3683  
insurance in this state that is required by law to contribute to 3684



or participate in, or ~~which that~~ that can be assessed by the Ohio 3685  
insurance guaranty association pursuant to sections 3955.01 to 3686  
3955.19 of the Revised Code, or by the plan for apportionment of 3687  
applicants for motor vehicle insurance pursuant to section 4509.70 3688  
of the Revised Code, or by the Ohio fair plan underwriting 3689  
association pursuant to sections 3929.43 to 3929.61 of the Revised 3690  
Code, ~~or by the joint underwriting association pursuant to~~ 3691  
~~sections 3929.71 to 3929.85 of the Revised Code,~~ or by the Ohio 3692  
commercial insurance joint underwriting association pursuant to 3693  
sections 3930.03 to 3930.18 of the Revised Code shall in any 3694  
calendar year be required to contribute to, participate in, or be 3695  
assessed by any one or more of ~~the aforementioned~~ those plans or 3696  
associations in an amount or amounts totaling in excess of two and 3697  
one-half per cent of its net direct Ohio premium volume for the 3698  
year next preceding the year in which the assessment or 3699  
assessments are made or the contributions or participations are 3700  
required. 3701

**Sec. 3931.01.** Individuals, partnerships, and corporations of 3702  
this state, designated in sections 3931.01 to 3931.12 of the 3703  
Revised Code, as "subscribers," may exchange reciprocal or 3704  
interinsurance contracts with each other, and with individuals, 3705  
partnerships, and corporations of other states, districts, 3706  
provinces, and countries, providing indemnity among themselves 3707  
from any loss which may be legally insured against by any fire or 3708  
casualty insurance company or association provided that contracts 3709  
of indemnity against property damage and bodily injury arising out 3710  
of the ownership, maintenance or use of a singly owned private 3711  
passenger automobile principally used for nonbusiness purposes may 3712  
not be exchanged through a reciprocal insurer which maintains a 3713  
surplus over all liabilities of less than two and one-half million 3714  
dollars and provided that this exception shall not prohibit the 3715  
exchanging of contracts of indemnity against any form of liability 3716

otherwise authorized and arising out of any business or commercial 3717  
enterprise. Such contracts and the exchange thereof and such 3718  
subscribers, their attorneys, and representatives shall be 3719  
regulated by such sections, and no law enacted after July 4, 1917, 3720  
shall apply to them, unless they are expressly designated therein. 3721

Such a contract may be executed by an attorney or other 3722  
representative designated "attorney," in sections 3931.01 to 3723  
3931.12 of the Revised Code, authorized by and acting for such 3724  
subscribers under powers of attorney. Such attorney may be a 3725  
corporation. The principal office of such attorney shall be 3726  
maintained at the place designated by the subscribers in the 3727  
powers of attorney. 3728

Except for such limitations on assessability as are approved 3729  
by the superintendent of insurance, every reciprocal or 3730  
interinsurance contract written pursuant to this chapter for 3731  
medical malpractice insurance ~~as defined in division (A) of~~ 3732  
~~section 3929.71 of the Revised Code~~ shall be fully assessable and 3733  
shall contain a statement, in boldface capital letters and in type 3734  
more prominent than that of the balance of the contract, setting 3735  
forth such terms of ~~accessability~~ assessability. As used in this 3736  
section, "medical malpractice insurance" means insurance coverage 3737  
against the legal liability of the insured and against loss, 3738  
damage, or expense incident to a claim arising out of the death, 3739  
disease, or injury of any person as the result of negligence or 3740  
malpractice in rendering professional service by any licensed 3741  
physician, podiatrist, or hospital, as those terms are defined in 3742  
section 2305.113 of the Revised Code. 3743

**Sec. 3955.05.** Sections 3955.01 to 3955.19 of the Revised Code 3744  
apply to all kinds of direct insurance, except: 3745

(A) Title insurance; 3746

(B) Fidelity or surety bonds, or any other bonding 3747

obligations;	3748
(C) Credit insurance, vendors' single interest insurance,	3749
collateral protection insurance, or any similar insurance	3750
protecting the interests of a creditor arising out of a	3751
creditor-debtor transaction;	3752
(D) Mortgage guaranty, financial guaranty, residual value, or	3753
other forms of insurance offering protection against investment	3754
risks;	3755
(E) Ocean marine insurance;	3756
(F) Any insurance provided by or guaranteed by government,	3757
including, but not limited to, any department, board, office,	3758
commission, agency, institution, or other instrumentality or	3759
entity of any branch of state government, any political	3760
subdivision of this state, the United States or any agency of the	3761
United States, or any separate or joint governmental	3762
self-insurance or risk-pooling program, plan, or pool;	3763
(G) Contracts of any corporation by which health services are	3764
to be provided to its subscribers;	3765
(H) Life, annuity, health, or disability insurance, including	3766
sickness and accident insurance written pursuant to Chapter 3923.	3767
of the Revised Code;	3768
(I) Fraternal benefit insurance;	3769
(J) Mutual protective insurance of persons or property;	3770
(K) Reciprocal or interinsurance contracts written pursuant	3771
to Chapter 3931. of the Revised Code for medical malpractice	3772
insurance <del>as defined in division (A) of section 3929.71 of the</del>	3773
<del>Revised Code</del> ; <u>As used in this division, "medical malpractice</u>	3774
<u>insurance" means insurance coverage against the legal liability of</u>	3775
<u>the insured and against loss, damage, or expense incident to a</u>	3776
<u>claim arising out of the death, disease, or injury of any person</u>	3777

as the result of negligence or malpractice in rendering 3778  
professional service by any licensed physician, podiatrist, or 3779  
hospital, as those terms are defined in section 2305.113 of the 3780  
Revised Code. 3781

(L) Any political subdivision self-insurance program or joint 3782  
political subdivision self-insurance pool established under 3783  
Chapter 2744. of the Revised Code; 3784

(M) Warranty or service contracts, or the insurance of ~~such~~ 3785  
those contracts; 3786

(N) Any state university or college self-insurance program 3787  
established under section 3345.202 of the Revised Code; 3788

(O) Any transaction, or combination of transactions, between 3789  
a person, including affiliates of such person, and an insurer, 3790  
including affiliates of such insurer, that involves the transfer 3791  
of investment or credit risk unaccompanied by a transfer of 3792  
insurance risk; 3793

(P) Credit union share guaranty insurance issued pursuant to 3794  
Chapter 1761. of the Revised Code; 3795

(Q) Insurance issued by risk retention groups as defined in 3796  
Chapter 3960. of the Revised Code; 3797

(R) Workers' compensation insurance, including any contract 3798  
indemnifying an employer who pays compensation directly to 3799  
employees. 3800

**Sec. 3960.06.** (A) A purchasing group and its insurer or 3801  
insurers are subject to all applicable laws of this state, except 3802  
that a purchasing group and its insurer or insurers, in regard to 3803  
liability insurance for the purchasing group, are exempt from any 3804  
law that does any of the following: 3805

(1) Prohibits the establishment of a purchasing group; 3806

(2) Makes it unlawful for an insurer to provide or offer to provide insurance on a basis providing, to a purchasing group or its members, advantages based on their loss and expense experience not afforded to other persons with respect to rates, policy forms, coverages, or other matters;

(3) Prohibits a purchasing group or its members from purchasing insurance on a group basis described in division (A)(2) of this section;

(4) Prohibits a purchasing group from obtaining insurance on a group basis because the group has not been in existence for a minimum period of time or because any member has not belonged to the group for a minimum period of time;

(5) Requires that a purchasing group have a minimum number of members, common ownership or affiliation, or a certain legal form;

(6) Requires that a certain percentage of a purchasing group obtain insurance on a group basis;

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

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

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

<b>Sec. 4117.01.</b> As used in this chapter:	3837
(A) "Person," in addition to those included in division (C) of section 1.59 of the Revised Code, includes employee organizations, public employees, and public employers.	3838 3839 3840
(B) "Public employer" means the state or any political subdivision of the state located entirely within the state, including, without limitation, any municipal corporation with a population of at least five thousand according to the most recent federal decennial census; county; township with a population of at least five thousand in the unincorporated area of the township according to the most recent federal decennial census; school district; governing authority of a community school established under Chapter 3314. of the Revised Code; state institution of higher learning; public or special district; state agency, authority, commission, or board; or other branch of public employment.	3841 3842 3843 3844 3845 3846 3847 3848 3849 3850 3851 3852
(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:	3853 3854 3855 3856 3857 3858
(1) Persons holding elective office;	3859
(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;	3860 3861 3862 3863
(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	3864 3865 3866

the governor or the chief executive;	3867
(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;	3868 3869 3870
(5) Employees of the state employment relations board;	3871
(6) Confidential employees;	3872
(7) Management level employees;	3873
(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;	3874 3875 3876
(9) Employees of a public official who act in a fiduciary capacity, appointed pursuant to section 124.11 of the Revised Code;	3877 3878 3879
(10) Supervisors;	3880
(11) Students whose primary purpose is educational training, including graduate assistants or associates, residents, interns, or other students working as part-time public employees less than fifty per cent of the normal year in the employee's bargaining unit;	3881 3882 3883 3884 3885
(12) Employees of county boards of election;	3886
(13) Seasonal and casual employees as determined by the state employment relations board;	3887 3888
(14) Part-time faculty members of an institution of higher education;	3889 3890
(15) Employees of the state personnel board of review;	3891
(16) <del>Employees of the board of directors of the Ohio low level radioactive waste facility development authority created in section 3747.05 of the Revised Code;</del>	3892 3893 3894

~~(17)~~ Participants in a work activity, developmental activity, 3895  
or alternative work activity under sections 5107.40 to 5107.69 of 3896  
the Revised Code who perform a service for a public employer that 3897  
the public employer needs but is not performed by an employee of 3898  
the public employer if the participant is not engaged in paid 3899  
employment or subsidized employment pursuant to the activity; 3900

~~(18)~~(17) Employees included in the career professional 3901  
service of the department of transportation under section 5501.20 3902  
of the Revised Code; 3903

~~(19)~~(18) Employees who must be licensed to practice law in 3904  
this state to perform their duties as employees. 3905

(D) "Employee organization" means any labor or bona fide 3906  
organization in which public employees participate and that exists 3907  
for the purpose, in whole or in part, of dealing with public 3908  
employers concerning grievances, labor disputes, wages, hours, 3909  
terms, and other conditions of employment. 3910

(E) "Exclusive representative" means the employee 3911  
organization certified or recognized as an exclusive 3912  
representative under section 4117.05 of the Revised Code. 3913

(F) "Supervisor" means any individual who has authority, in 3914  
the interest of the public employer, to hire, transfer, suspend, 3915  
lay off, recall, promote, discharge, assign, reward, or discipline 3916  
other public employees; to responsibly direct them; to adjust 3917  
their grievances; or to effectively recommend such action, if the 3918  
exercise of that authority is not of a merely routine or clerical 3919  
nature, but requires the use of independent judgment, provided 3920  
that: 3921

(1) Employees of school districts who are department 3922  
chairpersons or consulting teachers shall not be deemed 3923  
supervisors; 3924



(2) With respect to members of a police or fire department, 3925  
no person shall be deemed a supervisor except the chief of the 3926  
department or those individuals who, in the absence of the chief, 3927  
are authorized to exercise the authority and perform the duties of 3928  
the chief of the department. Where prior to June 1, 1982, a public 3929  
employer pursuant to a judicial decision, rendered in litigation 3930  
to which the public employer was a party, has declined to engage 3931  
in collective bargaining with members of a police or fire 3932  
department on the basis that those members are supervisors, those 3933  
members of a police or fire department do not have the rights 3934  
specified in this chapter for the purposes of future collective 3935  
bargaining. The state employment relations board shall decide all 3936  
disputes concerning the application of division (F)(2) of this 3937  
section. 3938

(3) With respect to faculty members of a state institution of 3939  
higher education, heads of departments or divisions are 3940  
supervisors; however, no other faculty member or group of faculty 3941  
members is a supervisor solely because the faculty member or group 3942  
of faculty members participate in decisions with respect to 3943  
courses, curriculum, personnel, or other matters of academic 3944  
policy; 3945

(4) No teacher as defined in section 3319.09 of the Revised 3946  
Code shall be designated as a supervisor or a management level 3947  
employee unless the teacher is employed under a contract governed 3948  
by section 3319.01, 3319.011, or 3319.02 of the Revised Code and 3949  
is assigned to a position for which a license deemed to be for 3950  
administrators under state board rules is required pursuant to 3951  
section 3319.22 of the Revised Code. 3952

(G) "To bargain collectively" means to perform the mutual 3953  
obligation of the public employer, by its representatives, and the 3954  
representatives of its employees to negotiate in good faith at 3955  
reasonable times and places with respect to wages, hours, terms, 3956

and other conditions of employment and the continuation, 3957  
modification, or deletion of an existing provision of a collective 3958  
bargaining agreement, with the intention of reaching an agreement, 3959  
or to resolve questions arising under the agreement. "To bargain 3960  
collectively" includes executing a written contract incorporating 3961  
the terms of any agreement reached. The obligation to bargain 3962  
collectively does not mean that either party is compelled to agree 3963  
to a proposal nor does it require the making of a concession. 3964

(H) "Strike" means continuous concerted action in failing to 3965  
report to duty; willful absence from one's position; or stoppage 3966  
of work in whole from the full, faithful, and proper performance 3967  
of the duties of employment, for the purpose of inducing, 3968  
influencing, or coercing a change in wages, hours, terms, and 3969  
other conditions of employment. "Strike" does not include a 3970  
stoppage of work by employees in good faith because of dangerous 3971  
or unhealthful working conditions at the place of employment that 3972  
are abnormal to the place of employment. 3973

(I) "Unauthorized strike" includes, but is not limited to, 3974  
concerted action during the term or extended term of a collective 3975  
bargaining agreement or during the pendency of the settlement 3976  
procedures set forth in section 4117.14 of the Revised Code in 3977  
failing to report to duty; willful absence from one's position; 3978  
stoppage of work; slowdown, or abstinence in whole or in part from 3979  
the full, faithful, and proper performance of the duties of 3980  
employment for the purpose of inducing, influencing, or coercing a 3981  
change in wages, hours, terms, and other conditions of employment. 3982  
"Unauthorized strike" includes any such action, absence, stoppage, 3983  
slowdown, or abstinence when done partially or intermittently, 3984  
whether during or after the expiration of the term or extended 3985  
term of a collective bargaining agreement or during or after the 3986  
pendency of the settlement procedures set forth in section 4117.14 3987  
of the Revised Code. 3988

(J) "Professional employee" means any employee engaged in 3989  
work that is predominantly intellectual, involving the consistent 3990  
exercise of discretion and judgment in its performance and 3991  
requiring knowledge of an advanced type in a field of science or 3992  
learning customarily acquired by a prolonged course in an 3993  
institution of higher learning or a hospital, as distinguished 3994  
from a general academic education or from an apprenticeship; or an 3995  
employee who has completed the courses of specialized intellectual 3996  
instruction and is performing related work under the supervision 3997  
of a professional person to become qualified as a professional 3998  
employee. 3999

(K) "Confidential employee" means any employee who works in 4000  
the personnel offices of a public employer and deals with 4001  
information to be used by the public employer in collective 4002  
bargaining; or any employee who works in a close continuing 4003  
relationship with public officers or representatives directly 4004  
participating in collective bargaining on behalf of the employer. 4005

(L) "Management level employee" means an individual who 4006  
formulates policy on behalf of the public employer, who 4007  
responsibly directs the implementation of policy, or who may 4008  
reasonably be required on behalf of the public employer to assist 4009  
in the preparation for the conduct of collective negotiations, 4010  
administer collectively negotiated agreements, or have a major 4011  
role in personnel administration. Assistant superintendents, 4012  
principals, and assistant principals whose employment is governed 4013  
by section 3319.02 of the Revised Code are management level 4014  
employees. With respect to members of a faculty of a state 4015  
institution of higher education, no person is a management level 4016  
employee because of the person's involvement in the formulation or 4017  
implementation of academic or institution policy. 4018

(M) "Wages" means hourly rates of pay, salaries, or other 4019  
forms of compensation for services rendered. 4020

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

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

(P) "Member of a fire department" means a person who is in the employ of a fire department of a municipal corporation or a township as a fire cadet, full-time regular firefighter, or promoted rank as the result of an appointment from a duly established civil service eligibility list or under section 505.38, 709.012, or 737.22 of the Revised Code.

(Q) "Day" means calendar day.

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

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

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

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

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

~~(5) One individual to represent the interests of hospitals;~~ 4051

~~(6) One chiropractor licensed pursuant to Chapter 4734. of  
the Revised Code;~~ 4052  
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~~(7) One pharmacist licensed pursuant to Chapter 4729. of the  
Revised Code;~~ 4054  
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~~(8) One physician licensed to practice osteopathic medicine  
and surgery pursuant to Chapter 4731. of the Revised Code.~~ 4056  
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~~All appointed members shall be knowledgeable in matters  
pertaining to the delivery of health care, the workers'  
compensation system, and health care administration and have at  
least three years experience in a position with primary  
responsibility for health care matters. The administrator shall  
serve as the chairperson of the council.~~ 4058  
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~~(B) The governor shall make initial appointments, from the  
lists submitted pursuant to division (C) of this section, by not  
later than thirty days after October 20, 1993. Appointed members  
shall serve at the pleasure of the governor and shall receive no  
compensation but shall receive their actual and necessary expenses  
incurred in the performance of their duties.~~ 4064  
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~~(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~~ 4070  
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~~provider organizations, for a vacancy of an individual specified  
in divisions (A)(4) to (8) of this section, shall submit to the  
governor a list of two names for each vacancy.~~

~~(D) The health care quality advisory council~~ administrator of  
workers' compensation shall develop standards for qualification of  
health care plans of the Ohio workers' compensation qualified  
health plan system to provide medical, surgical, nursing, drug,  
hospital, and rehabilitation services and supplies to an employee  
for an injury or occupational disease that is compensable under  
this chapter or Chapter 4123., 4127., or 4131. of the Revised  
Code. In adopting the standards, the ~~council~~ administrator shall  
use nationally recognized accreditation standards. The standards  
the ~~council~~ administrator adopts must provide that a qualified  
plan provides for all of the following:

(1) Criteria for selective contracting of health care  
providers;

(2) Adequate plan structure and financial stability;

(3) Procedures for the resolution of medical disputes between  
an employee and an employer, an employee and a provider, or an  
employer and a provider, prior to an appeal under section 4123.511  
of the Revised Code;

(4) Authorize employees who are dissatisfied with the health  
care services of the employer's qualified plan and do not wish to  
obtain treatment under the provisions of this section, to request  
the administrator for referral to a health care provider in the  
bureau's health care partnership program. The administrator must  
refer all requesting employees into the health care partnership  
program.

(5) Does not discriminate against any category of health care  
provider;

(6) Provide a procedure for reporting injuries to the bureau of workers' compensation and to employers by providers within the qualified plan;	4112 4113 4114
(7) Provide appropriate financial incentives to reduce service costs and utilization without sacrificing the quality of service;	4115 4116 4117
(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;	4118 4119 4120 4121
(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;	4122 4123 4124 4125
(10) Authorize necessary emergency medical treatment for an injury or occupational disease provided by a health care provider who is not a part of the qualified health care plan;	4126 4127 4128
(11) Provide an employee the right to change health care providers within the qualified health care plan;	4129 4130
(12) Provide for standardized data and reporting requirements;	4131 4132
(13) Authorize necessary medical treatment for employees who work in Ohio but reside in another state.	4133 4134
<del>(E)</del> (B) Health care plans that meet the approved qualified health plan standards shall be considered qualified plans and are eligible to become part of the Ohio workers' compensation qualified health plan system. Any employer or group of employers may provide medical, surgical, nursing, drug, hospital, and rehabilitation services and supplies to an employee for an injury or occupational disease that is compensable under this chapter or	4135 4136 4137 4138 4139 4140 4141

Chapter 4123., 4127., or 4131. of the Revised Code through a 4142  
qualified health plan. 4143

~~(F) The council shall on or before the first day of January 4144  
of each year, make recommendations to the administrator regarding 4145  
changes needed in the rules the administrator adopts to implement 4146  
the standards, and the administrator, by no later than the first 4147  
day of March of that year, shall determine whether to alter the 4148  
existing rules according to the council's recommendations. 4149~~

~~(G) By no later than twenty four months after the 4150  
establishment of the Ohio workers' compensation qualified health 4151  
plan system, and thereafter, on or before the first day of January 4152  
of every odd-numbered year, the administrator shall conduct an 4153  
appraisal of the system with respect to the system's efficiency 4154  
and cost effectiveness and the appropriateness of care rendered 4155  
under the system and shall submit a written report of the 4156  
appraisal to the governor. 4157~~

**Sec. 4167.09.** (A) Any public employer affected by a proposed 4158  
rule or Ohio employment risk reduction standard or any provision 4159  
~~thereof~~ of a standard proposed under section 4167.07, or 4167.08, 4160  
~~or 4167.26~~ of the Revised Code may apply to the director of 4161  
commerce for an order granting a temporary variance from the 4162  
standard or provision ~~thereof~~. The application for the order and 4163  
any extension ~~thereof~~ of the order shall contain a reasonable 4164  
application fee, as determined by the public employment risk 4165  
reduction advisory commission, and all of the following 4166  
information: 4167

(1) A specification of the Ohio public employment risk 4168  
reduction standard or ~~portion thereof~~ provision of it from which 4169  
the public employer seeks the temporary variance; 4170

(2) A representation by the public employer, supported by 4171  
representations from qualified persons having firsthand knowledge 4172



of the facts represented, that the public employer is unable to 4173  
comply with the Ohio employment risk reduction standard or ~~portion~~ 4174  
~~thereof~~ provision of it and a detailed statement of the reasons 4175  
~~therefor~~ for the inability to comply; 4176

(3) A statement of the steps that the public employer has 4177  
taken and will take, with dates specified, to protect employees 4178  
against the hazard covered by the standard; 4179

(4) A statement of when the public employer expects to be 4180  
able to comply fully with the Ohio employment risk reduction 4181  
standard and what steps the public employer has taken and will 4182  
take, with dates specified, to come into full compliance with the 4183  
standard; 4184

(5) A certification that the public employer has informed the 4185  
public employer's public employees of the application by giving a 4186  
copy of the application to the public employee representative, if 4187  
any, and by posting a statement giving a summary of the 4188  
application and specifying where a copy of the application may be 4189  
examined at the place or places where notices to public employees 4190  
are normally posted, and by any other appropriate means of public 4191  
employee notification. The public employer ~~must~~ also shall inform 4192  
the public employer's public employees of their rights to a 4193  
hearing under section 4167.15 of the Revised Code. The 4194  
certification also shall contain a description of how public 4195  
employees have been informed of the application and of their 4196  
rights to a hearing. 4197

(B) The director shall issue an order providing for a 4198  
temporary variance if the public employer files an application 4199  
that meets the requirements of division (A) of this section and 4200  
establishes that all of the following pertaining to the public 4201  
employer are true: 4202

(1) The public employer is unable to comply with the Ohio 4203

employment risk reduction standard or a provision ~~thereof~~ of it by 4204  
its effective date because of the unavailability of professional 4205  
or technical personnel or of materials and equipment needed to 4206  
come into compliance with the Ohio employment risk reduction 4207  
standard or provision ~~thereof~~ of it or because necessary 4208  
construction or alteration of facilities cannot be completed by 4209  
the effective date of the standard. 4210

(2) The public employer is taking all available steps to 4211  
safeguard the public employer's public employees against the 4212  
hazards covered by the Ohio employment risk reduction standard. 4213

(3) The public employer has an effective program for coming 4214  
into compliance with the Ohio employment risk reduction standard 4215  
as quickly as practicable. 4216

(4) The granting of the variance will not create an imminent 4217  
danger of death or serious physical harm to public employees. 4218

(C)(1) If the director issues an order providing for a 4219  
temporary variance under division (B) of this section, the 4220  
director shall prescribe the practices, means, methods, 4221  
operations, and processes that the public employer must adopt and 4222  
use while the order is in effect and state in detail the public 4223  
employer's program for coming into compliance with the Ohio 4224  
employment risk reduction standard. The director may issue the 4225  
order only after providing notice to affected public employees and 4226  
their public employee representative, if any, and an opportunity 4227  
for a hearing pursuant to section 4167.15 of the Revised Code, 4228  
provided that the director may issue one interim order granting a 4229  
temporary order to be effective until a decision on a hearing is 4230  
made. Except as provided in division (C)(2) of this section, no 4231  
temporary variance may be in effect for longer than the period 4232  
needed by the public employer to achieve compliance with the Ohio 4233  
employment risk reduction standard or one year, whichever is 4234

shorter.

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

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(D) Any public employer affected by an Ohio employment risk reduction standard or any provision ~~thereof~~ of it proposed, adopted, or otherwise issued under section 4167.07~~7~~ or 4167.08~~7~~ or ~~4167.26~~ of the Revised Code may apply to the director for an order granting a variance from the standard or ~~portion thereof~~ provision. The director shall provide affected public employees and their public employee representative, if any, notice of the application and shall provide an opportunity for a hearing pursuant to section 4167.15 of the Revised Code. The director shall issue the order granting the variance if the public employer files an application that meets the requirements of division (B) of this section, and after an opportunity for a hearing pursuant to section 4167.15 of the Revised Code, and if the public employer establishes to the satisfaction of the director that the conditions, practices, means, methods, operations, or processes used or proposed to be used by the public employer will provide employment and places of employment to the public employer's public employees that are as safe and healthful as those that would prevail if the public employer complied with the Ohio employment risk reduction standard. The director shall prescribe in the order granting the variance the conditions the public employer must maintain, and the practices, means, methods, operations, and processes the public employer must adopt and utilize in lieu of the Ohio employment risk reduction standard ~~which that~~ would otherwise apply. The director may modify or

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revoke the order upon application of the public employer, public 4267  
employee, or public employee representative, or upon the 4268  
director's own motion in the manner prescribed for the issuance of 4269  
an order under this division at any time during six months after 4270  
the date of issuance of the order. 4271

**Sec. 4167.25.** As used in this section and sections ~~4167.26 to~~ 4272  
4167.27 and 4767.28 of the Revised Code: 4273

(A) "Bloodborne pathogen" means a microorganism present in 4274  
human blood that can cause disease in humans, including the human 4275  
immunodeficiency virus, hepatitis B virus, hepatitis C virus, and 4276  
other pathogenic microorganisms. 4277

(B) "Engineered sharps injury protection" means either of the 4278  
following: 4279

(1) A physical attribute built into a needle device used for 4280  
withdrawing body fluids, accessing a vein or artery, or 4281  
administering medications or other fluids that effectively reduces 4282  
the risk of an exposure incident by a mechanism such as barrier 4283  
creation, blunting, encapsulation, withdrawal, retraction, 4284  
destruction, or any other effective mechanism; 4285

(2) A physical attribute built into a type of needle device 4286  
not included in division (B)(1) of this section, or built into a 4287  
non-needle sharp, that effectively reduces the risk of an exposure 4288  
incident. 4289

(C) "Exposure incident" means an occurrence of occupational 4290  
exposure to blood or other material potentially containing 4291  
bloodborne pathogens, including exposure that occurs through a 4292  
sharps injury. 4293

(D) "Needleless system" means a device that does not utilize 4294  
needles for the following: 4295

(1) Withdrawing body fluids after initial venous or arterial 4296

access is established; 4297

(2) Administering medication or fluids; 4298

(3) Performing any other procedure involving potential 4299  
exposure incidents. 4300

(E) "Public health care worker" means a person who is 4301  
employed by a public employer to provide health services that 4302  
carry with them the potential for exposure incidents, including a 4303  
person employed by a public hospital or other public health care 4304  
facility, a person employed by a public employer to provide home 4305  
health care, and a person employed by a public employer as a 4306  
firefighter, emergency medical technician-basic, emergency medical 4307  
technician-intermediate, or emergency medical 4308  
technician-paramedic. "Public health care worker" does not include 4309  
a person who is employed by a public employer to provide dental 4310  
services, treatment, or training or a dental student who is 4311  
receiving training from a public employer. 4312

(F) "Sharp" means an object used in or encountered when 4313  
providing health care services that can be reasonably anticipated 4314  
to penetrate the skin or any other part of the body and result in 4315  
an exposure incident, including objects such as needle devices, 4316  
scalpels, lancets, and broken glass. 4317

(G) "Sharps injury" means an injury caused by a sharp, 4318  
including such injuries as cuts, abrasions, and needlesticks. 4319

**Sec. 4167.27.** (A) The public employment risk reduction 4320  
advisory commission shall adopt a rule and Ohio employment risk 4321  
reduction standard for the prevention of exposure incidents. The 4322  
initial rule and standard shall be adopted not later than one 4323  
hundred eighty days after ~~the effective date of this section. In~~ 4324  
~~adopting, modifying, or rescinding the rule or standard, the~~ 4325  
~~commission shall act in accordance with recommendations submitted~~ 4326

~~by the commission's subcommittee appointed under section 4167.26~~ 4327  
~~of the Revised Code October 5, 2000.~~ 4328

(B) The commission shall provide advice to public employers 4329  
with regard to their implementation of the requirements 4330  
established by the rule and standard adopted under this section 4331  
and the requirements of section 4167.28 of the Revised Code. 4332

**Sec. 4582.12.** (A) Except as otherwise provided in division 4333  
(E) of section 307.671 of the Revised Code, division (A) of this 4334  
section does not apply to a port authority educational and 4335  
cultural facility acquired, constructed, and equipped pursuant to 4336  
a cooperative agreement entered into under section 307.671 of the 4337  
Revised Code. 4338

Except as provided in division (C) of this section, when the 4339  
cost of a contract for the construction of any building, 4340  
structure, or other improvement undertaken by a port authority 4341  
involves an expenditure exceeding twenty-five thousand dollars and 4342  
the port authority is the contracting entity, the port authority 4343  
shall make a written contract ~~after complying with section 123.151~~ 4344  
~~of the Revised Code and~~ after notice calling for bids for the 4345  
award of the contract has been given by publication twice, with at 4346  
least seven days between publications, in a newspaper of general 4347  
circulation in the area of the jurisdiction of the port authority. 4348  
Each such contract shall be let to the lowest responsive and 4349  
responsible bidder in accordance with section 9.312 of the Revised 4350  
Code. Every contract let shall be in writing and if the contract 4351  
involves work or construction, it shall be accompanied by or shall 4352  
refer to plans and specifications for the work to be done, 4353  
prepared for and approved by the port authority, signed by an 4354  
authorized officer of the port authority and by the contractor, 4355  
and shall be executed in triplicate. 4356

Each bid shall be awarded in accordance with sections 153.54, 4357

153.57, and 153.571 of the Revised Code. 4358

The port authority may reject any and all bids. 4359

(B) The board of directors of a port authority by rule may 4360  
provide criteria for the negotiation and award without competitive 4361  
bidding of any contract as to which the port authority is the 4362  
contracting entity for the construction of any building, 4363  
structure, or other improvement under any of the following 4364  
circumstances: 4365

(1) There exists a real and present emergency that threatens 4366  
damage or injury to persons or property of the port authority or 4367  
other persons, provided that a statement specifying the nature of 4368  
the emergency that is the basis for the negotiation and award of a 4369  
contract without competitive bidding shall be signed by the 4370  
officer of the port authority that executes that contract at the 4371  
time of the contract's execution and shall be attached to the 4372  
contract. 4373

(2) A commonly recognized industry or other standard or 4374  
specification does not exist and cannot objectively be articulated 4375  
for the improvement. 4376

(3) The contract is for any energy conservation measure as 4377  
defined in section 307.041 of the Revised Code. 4378

(4) With respect to material to be incorporated into the 4379  
improvement, only a single source or supplier exists for the 4380  
material. 4381

(5) A single bid is received by the port authority after 4382  
complying with the provisions of division (A) of this section. 4383

(C)(1) If a contract is to be negotiated and awarded without 4384  
competitive bidding for the reason set forth in division (B)(2) of 4385  
this section, the port authority shall publish a notice calling 4386  
for technical proposals at least twice, with at least seven days 4387

between publications, in a newspaper of general circulation in the 4388  
area of the port authority. After receipt of the technical 4389  
proposals, the port authority may negotiate with and award a 4390  
contract for the improvement to the proposer making the proposal 4391  
considered to be the most advantageous to the port authority. 4392

(2) If a contract is to be negotiated and awarded without 4393  
competitive bidding for the reason set forth in division (B)(4) of 4394  
this section, any construction activities related to the 4395  
incorporation of the material into the improvement also may be 4396  
provided without competitive bidding by the source or supplier of 4397  
that material. 4398

(D) No contract for the construction or repair of any 4399  
building, structure, or other improvement and no loan agreement 4400  
for the borrowing of funds for any such improvement undertaken by 4401  
a port authority, where the port authority is the contracting 4402  
entity, shall be executed unless laborers and mechanics employed 4403  
on such improvements are paid at the prevailing rates of wages of 4404  
laborers and mechanics for the class of work called for by the 4405  
improvement. The wages shall be determined in accordance with the 4406  
requirements of Chapter 4115. of the Revised Code for the 4407  
determination of prevailing wage rates, provided that the 4408  
requirements of this section do not apply where the federal 4409  
government or any of its agencies furnishes by loan or grant all 4410  
or any part of the funds used in connection with such project and 4411  
prescribes predetermined minimum wages to be paid to the laborers 4412  
and mechanics. 4413

**Sec. 4731.143.** (A) Each person holding a valid certificate 4414  
under this chapter authorizing the certificate holder to practice 4415  
medicine and surgery, osteopathic medicine and surgery, or 4416  
podiatric medicine and surgery, who is not covered by medical 4417  
malpractice insurance ~~as defined in section 3929.71 of the Revised~~ 4418



Code, shall provide a patient with written notice of the 4419  
certificate holder's lack of ~~such~~ that insurance coverage prior to 4420  
providing nonemergency professional services to the patient. The 4421  
notice shall be provided alone on its own page. The notice shall 4422  
provide space for the patient to acknowledge receipt of the 4423  
notice, and shall be in the following form: 4424

"N O T I C E: 4425

Dr. .... (here state the full name of the 4426  
certificate holder) is not covered by medical malpractice 4427  
insurance. 4428

The undersigned acknowledges the receipt of this notice. 4429

..... 4430

(Patient's Signature) 4431

..... 4432

(Date)" 4433

The certificate holder shall obtain the patient's signature, 4434  
acknowledging the patient's receipt of the notice, prior to 4435  
providing nonemergency professional services to the patient. The 4436  
certificate holder shall maintain the signed notice in the 4437  
patient's file. 4438

(B) This section does not apply to any officer or employee of 4439  
the state, as those terms are defined in section 9.85 of the 4440  
Revised Code, who is immune from civil liability under section 4441  
9.86 of the Revised Code or is entitled to indemnification 4442  
pursuant to section 9.87 of the Revised Code, to the extent that 4443  
the person is acting within the scope of the person's employment 4444  
or official responsibilities. 4445

This section does not apply to a person who complies with 4446  
division (B)(2) of section 2305.234 of the Revised Code. 4447

(C) As used in this section, "medical malpractice insurance" 4448

means insurance coverage against the legal liability of the 4449  
insured and against loss, damage, or expense incident to a claim 4450  
arising out of the death, disease, or injury of any person as the 4451  
result of negligence or malpractice in rendering professional 4452  
service by any licensed physician, podiatrist, or hospital, as 4453  
those terms are defined in section 2305.113 of the Revised Code. 4454

**Sec. 4741.03.** (A) The state veterinary medical licensing 4455  
board shall meet at least once in each calendar year and may hold 4456  
additional meetings as often as it considers necessary to conduct 4457  
the business of the board. The president of the board may call 4458  
special meetings, and the executive secretary shall call special 4459  
meetings upon the written request of three members of the board. 4460  
The board shall organize by electing a president and 4461  
vice-president from its veterinarian members and such other 4462  
officers as the board prescribes by rule. Each officer shall serve 4463  
for a term specified by board rule or until a successor is elected 4464  
and qualified. A quorum of the board consists of four members of 4465  
which at least three are members who are veterinarians. The 4466  
concurrence of four members is necessary for the board to take any 4467  
action. 4468

(B) The board may appoint a person, not one of its members, 4469  
to serve as its executive secretary. The executive secretary is in 4470  
the unclassified service and serves at the pleasure of the board. 4471  
The executive secretary shall serve as the board's 4472  
secretary-treasurer ex officio. The board may employ additional 4473  
employees for professional, technical, clerical, and special work 4474  
as it considers necessary. The executive secretary shall give a 4475  
surety bond to the state in the sum the board requires, 4476  
conditioned upon the faithful performance of the executive 4477  
secretary's duties. The board shall pay the cost of the bond. The 4478  
executive secretary shall keep a complete accounting of all funds 4479

received and of all vouchers presented by the board to the 4480  
director of budget and management for the disbursement of funds. 4481  
The president or executive secretary shall approve all vouchers of 4482  
the board. All money received by the board shall be credited to 4483  
the occupational licensing and regulatory fund. 4484

(C) In addition to any other duty required under this 4485  
chapter, the board shall do all of the following: 4486

(1) Prescribe a seal; 4487

(2) Hold at least one examination during each calendar year 4488  
for applicants for a license. The board shall provide public 4489  
notice of the time and place for the examination. The examination 4490  
for applicants for a license to practice veterinary medicine shall 4491  
be either written or oral, or both, as determined by the board, 4492  
and may include a practical demonstration. The examination may 4493  
include all subjects relevant to veterinary medicine the board 4494  
determines appropriate, including public health and jurisprudence. 4495

(3) Keep a record of all of its meetings and proceedings; 4496

(4) Maintain a register that records all applicants for a 4497  
certificate of license or a temporary permit, all persons who have 4498  
been denied a license or permit, all persons who have been granted 4499  
or reissued a license or permit, and all persons whose license or 4500  
permit has been revoked or suspended. The register shall also 4501  
include a record of persons licensed prior to October 17, 1975. 4502

(5) Maintain a register, in such form as the board determines 4503  
by rule, of all colleges and universities that teach veterinary 4504  
medicine and that are approved by the board; 4505

(6) Enforce this chapter, and for that purpose, make 4506  
investigations relative as provided in section 4741.26 of the 4507  
Revised Code; 4508

(7) Issue licenses and permits to persons who meet the 4509

qualifications set forth in this chapter; 4510

(8) Approve colleges and universities which meet the board's 4511  
requirements for veterinary medicine and associated fields of 4512  
study and withdraw or deny, after an adjudication conducted in 4513  
accordance with Chapter 119. of the Revised Code, approval from 4514  
colleges and universities which fail to meet those requirements; 4515

(9) Adopt rules, in accordance with Chapter 119. of the 4516  
Revised Code, which are necessary for its government and for the 4517  
administration and enforcement of this chapter. 4518

(D) The board may do all of the following: 4519

(1) Subpoena witnesses and require their attendance and 4520  
testimony, and require the production by witnesses of books, 4521  
papers, public records, animal patient records, and other 4522  
documentary evidence and examine them, in relation to any matter 4523  
~~which~~ that the board has authority to investigate, inquire into, 4524  
or hear. Except for any officer or employee of the state or any 4525  
political subdivision of the state, the treasurer of state shall 4526  
pay all witnesses in any proceeding before the board, upon 4527  
certification from the board, witness fees in the same amount as 4528  
provided in section 2335.06 of the Revised Code. 4529

(2) Examine and inspect books, papers, public records, animal 4530  
patient records, and other documentary evidence at the location 4531  
where the books, papers, records, and other evidence are normally 4532  
stored or maintained; 4533

~~(3) Create an advisory committee consisting of members of the 4534  
animal health and allied medical services in this state to confer 4535  
with and assist the board in the adoption of rules pertaining to 4536  
divisions (B) to (E) of section 4741.19 and divisions (A), (D), 4537  
(E), and (F) of section 4741.20 of the Revised Code. 4538~~

(E) All registers, books, and records kept by the board are 4539

the property of the board and are open for public examination and 4540  
inspection at all reasonable times. The registers, books, and 4541  
records are prima-facie evidence of the matters contained ~~therein~~ 4542  
in them. 4543

**Sec. 4755.481.** (A) If a physical therapist evaluates and 4544  
treats a patient without the prescription of, or the referral of 4545  
the patient by, a person who is licensed to practice medicine and 4546  
surgery, chiropractic, dentistry, osteopathic medicine and 4547  
surgery, podiatric medicine and surgery, or ~~to practice~~ nursing as 4548  
a certified registered nurse anesthetist, clinical nurse 4549  
specialist, certified nurse-midwife, or certified nurse 4550  
practitioner, all of the following apply: 4551

(1) The physical therapist shall, upon consent of the 4552  
patient, inform the patient's physician, chiropractor, dentist, 4553  
podiatrist, certified registered nurse anesthetist, clinical nurse 4554  
specialist, certified nurse-midwife, or certified nurse 4555  
practitioner of the evaluation not later than five business days 4556  
after the evaluation is made. 4557

(2) If the physical therapist determines, based on reasonable 4558  
evidence, that no substantial progress has been made with respect 4559  
to that patient during the thirty-day period immediately following 4560  
the date of the patient's initial visit with the physical 4561  
therapist, the physical therapist shall consult with or refer the 4562  
patient to a licensed physician, chiropractor, dentist, 4563  
podiatrist, certified registered nurse anesthetist, clinical nurse 4564  
specialist, certified nurse-midwife, or certified nurse 4565  
practitioner, unless either of the following applies: 4566

(a) The evaluation, treatment, or services are being provided 4567  
for fitness, wellness, or prevention purposes. 4568

(b) The patient previously was diagnosed with chronic, 4569

neuromuscular, or developmental conditions and the evaluation, 4570  
treatment, or services are being provided for problems or symptoms 4571  
associated with one or more of those previously diagnosed 4572  
conditions. 4573

(3) If the physical therapist determines that orthotic 4574  
devices are necessary to treat the patient, the physical therapist 4575  
shall be limited to the application of the following orthotic 4576  
devices: 4577

(a) Upper extremity adaptive equipment used to facilitate the 4578  
activities of daily living; 4579

(b) Finger splints; 4580

(c) Wrist splints; 4581

(d) Prefabricated elastic or fabric abdominal supports with 4582  
or without metal or plastic reinforcing stays and other 4583  
prefabricated soft goods requiring minimal fitting; 4584

(e) Nontherapeutic accommodative inlays; 4585

(f) Shoes that are not manufactured or modified for a 4586  
particular individual; 4587

(g) Prefabricated foot care products; 4588

(h) Custom foot orthotics; 4589

(i) Durable medical equipment. 4590

(4) If, at any time, the physical therapist has reason to 4591  
believe that the patient has symptoms or conditions that require 4592  
treatment or services beyond the scope of practice of a physical 4593  
therapist, the physical therapist shall refer the patient to a 4594  
licensed health care practitioner acting within the practitioner's 4595  
scope of practice. 4596

(B) Nothing in sections 4755.40 to 4755.56 of the Revised 4597  
Code shall be construed to require reimbursement under any health 4598

insuring corporation policy, contract, or agreement, any sickness 4599  
and accident insurance policy, the medical assistance program as 4600  
defined in section 5111.01 of the Revised Code, or the health 4601  
partnership program or qualified health plans established pursuant 4602  
to sections 4121.44 to ~~4121.443~~ 4121.442 of the Revised Code, for 4603  
any physical therapy service rendered without the prescription of, 4604  
or the referral of the patient by, a licensed physician, 4605  
chiropractor, dentist, podiatrist, certified registered nurse 4606  
anesthetist, clinical nurse specialist, certified nurse-midwife, 4607  
or certified nurse practitioner. 4608

(C) For purposes of this section, "business day" means any 4609  
calendar day that is not a Saturday, Sunday, or legal holiday. 4610  
"Legal holiday" has the same meaning as in section 1.14 of the 4611  
Revised Code. 4612

**Sec. 4981.03.** (A) The Ohio rail development commission shall 4613  
do all of the following: 4614

(1) Develop, promote, and support safe, adequate, and 4615  
efficient rail service throughout the state; 4616

(2) Maintain adequate programs of investigation, research, 4617  
promotion, planning, and development for rail service, which 4618  
programs shall include the consideration of recommendations by 4619  
public or private planning organizations; 4620

(3) Provide for the participation of private corporations or 4621  
organizations and the public in the development, construction, 4622  
operation, and maintenance of rail service, and as franchisees 4623  
~~thereof~~ of rail service. 4624

(B) In regard to rail service, the Ohio rail development 4625  
commission is the successor of the Ohio high speed rail authority 4626  
and the division of rail transportation of the department of 4627  
transportation. The commission shall succeed to all federal 4628

allotments, entitlements, subsidies, and grants now existing, 4629  
whether such allotments, entitlements, subsidies, and grants are 4630  
encumbered or unencumbered, in the same manner and with the same 4631  
authority as the Ohio high speed rail authority and the division 4632  
of rail transportation exercised prior to ~~the effective date of~~ 4633  
~~this amendment~~ October 20, 1994. 4634

(C) Every authority, commission, department, or other agency 4635  
of this state shall provide the commission with data, plans, 4636  
research, and any other information that the commission requests 4637  
to assist it in performing its duties pursuant to this chapter. 4638

(D) The commission may request and contract with any railroad 4639  
to provide it with data and information necessary to carry out the 4640  
purposes of this chapter. All railroads operating within this 4641  
state shall provide the requested data and information to the 4642  
commission. The commission shall not disclose any confidential 4643  
data or information supplied to it. 4644

(E) The commission shall cooperate with the director of 4645  
development by exercising the commission's duty to promote and 4646  
develop rail service in this state in conjunction with the 4647  
director's exercise of his duty to promote the economic 4648  
development of this state. 4649

(F) The commission, when developing rail service throughout 4650  
the state, may give priority to projects undertaken within the 4651  
geographic boundaries of qualifying subdivisions. 4652

~~(G) Notwithstanding any other provision of law, the 4653  
commission is subject to section 123.151 of the Revised Code when 4654  
entering into contracts for the performance of labor, the 4655  
furnishing of materials, goods, or services, or the construction 4656  
of any structures or buildings necessary for the maintenance, 4657  
control, or management of any rail service project, as defined in 4658  
section 4981.11 of the Revised Code. 4659~~



Sec. 5123.35. (A) There is hereby created the ~~state planning~~ 4660  
Ohio developmental disabilities council, which shall serve as an 4661  
advocate for all persons with developmental disabilities. The 4662  
council shall act in accordance with the "Developmental 4663  
Disabilities Assistance and Bill of Rights Act," 98 Stat. 2662 4664  
(1984), 42 U.S.C. 6001, as amended. The governor shall appoint the 4665  
members of the council in accordance with 42 U.S.C. 6024. 4666

(B) The ~~state planning~~ Ohio developmental disabilities 4667  
council shall develop the state plan required by federal law as a 4668  
condition of receiving federal assistance under 42 U.S.C. 6021 to 4669  
6030. The department of mental retardation and developmental 4670  
disabilities, as the state agency selected by the governor for 4671  
purposes of receiving the federal assistance, shall receive, 4672  
account for, and disburse funds based on the state plan and shall 4673  
provide assurances and other administrative support services 4674  
required as a condition of receiving the federal assistance. 4675

(C) The federal funds may be disbursed through grants to or 4676  
contracts with persons and government agencies for the provision 4677  
of necessary or useful goods and services for developmentally 4678  
disabled persons. The ~~state planning~~ Ohio developmental 4679  
disabilities council may award the grants or enter into the 4680  
contracts. 4681

(D) The Ohio developmental disabilities council may award 4682  
grants to or enter into contracts with a member of the council or 4683  
an entity that the member represents if all of the following 4684  
apply: 4685

(1) The member serves on the council as a representative of 4686  
one of the principal state agencies concerned with services for 4687  
persons with developmental disabilities as specified in 42 U.S.C. 4688  
6024(b)(3), a representative of a university affiliated program as 4689  
defined in 42 U.S.C. 6001(18), or a representative of the legal 4690

rights service created under section 5123.60 of the Revised Code+. 4691

(2) The council determines that the member or the entity he 4692  
the member represents is capable of providing the goods or 4693  
services specified under the terms of the grant or contract+. 4694

(3) The member has not taken part in any discussion or vote 4695  
of the council related to awarding the grant or entering into the 4696  
contract, including service as a member of a review panel 4697  
established by the council to award grants or enter into contracts 4698  
or to make recommendations with regard to awarding grants or 4699  
entering into contracts. 4700

(E) A member of the ~~state planning~~ Ohio developmental 4701  
disabilities council is not in violation of Chapter 102. or 4702  
section 2921.42 of the Revised Code with regard to receiving a 4703  
grant or entering into a contract under this section if the 4704  
requirements of division (D) of this section have been met. 4705

**Sec. 5123.352.** There is hereby created in the state treasury 4706  
the community mental retardation and developmental disabilities 4707  
trust fund. The director of mental retardation and developmental 4708  
disabilities, not later than sixty days after the end of each 4709  
fiscal year, shall certify to the director of budget and 4710  
management the amount of all the unexpended, unencumbered balances 4711  
of general revenue fund appropriations made to the department of 4712  
mental retardation and developmental disabilities for the fiscal 4713  
year, excluding appropriations for rental payments to the Ohio 4714  
public facilities commission, and the amount of any other funds 4715  
held by the department in excess of amounts necessary to meet the 4716  
department's operating costs and obligations pursuant to this 4717  
chapter and Chapter 5126. of the Revised Code. On receipt of the 4718  
certification, the director of budget and management shall 4719  
transfer cash to the trust fund in an amount up to, but not 4720  
exceeding, the total of the amounts certified by the director of 4721

mental retardation and developmental disabilities, except in cases 4722  
in which the transfer will involve more than twenty million 4723  
dollars. In such cases, the director of budget and management 4724  
shall notify the controlling board and must receive the board's 4725  
approval of the transfer prior to making the transfer. 4726

~~Except for expenses paid under division (C) of section 4727~~  
~~5123.353 of the Revised Code, all All moneys in the trust fund 4728~~  
shall be distributed in accordance with section 5126.19 of the 4729  
Revised Code. 4730

**Section 2.** That existing sections 101.83, 101.84, 101.85, 4731  
101.86, 122.011, 122.133, 123.151, 149.56, 164.07, 307.674, 4732  
340.02, 1501.04, 1502.04, 1502.05, 1502.11, 1502.12, 1506.30, 4733  
1506.34, 1506.35, 1517.02, 1517.05, 1517.23, 1518.01, 1518.03, 4734  
2505.02, 3358.10, 3375.61, 3375.62, 3383.01, 3383.02, 3383.03, 4735  
3383.04, 3383.05, 3383.06, 3383.07, 3383.08, 3383.09, 3746.04, 4736  
3746.09, 3746.35, 3747.02, 3748.01, 3748.02, 3748.04, 3748.05, 4737  
3748.16, 3929.482, 3929.682, 3929.85, 3931.01, 3955.05, 3960.06, 4738  
4117.01, 4121.442, 4167.09, 4167.25, 4167.27, 4582.12, 4731.143, 4739  
4741.03, 4755.481, 4981.03, 5123.35, and 5123.352 and sections 4740  
122.09, 125.24, 149.32, 149.321, 149.322, 1502.10, 1506.37, 4741  
1517.03, 1517.04, 3354.161, 3355.121, 3357.161, 3375.47, 3746.08, 4742  
3747.04, 3747.05, 3747.06, 3747.061, 3747.07, 3747.08, 3747.09, 4743  
3747.10, 3747.11, 3747.12, 3747.13, 3747.14, 3747.15, 3747.16, 4744  
3747.17, 3747.18, 3747.19, 3747.20, 3747.21, 3747.22, 3748.09, 4745  
3929.71, 3929.72, 3929.721, 3929.73, 3929.75, 3929.76, 3929.77, 4746  
3929.78, 3929.79, 3929.80, 3929.81, 3929.82, 3929.83, 3929.84, 4747  
4121.443, 4167.26, 4981.36, 4981.361, 5101.93, 5119.81, 5119.82, 4748  
and 5123.353 of the Revised Code are hereby repealed. 4749

**Section 3.** That Section 27 of Sub. H.B. 670 of the 121st 4750  
General Assembly, as most recently amended by Am. Sub. H.B. 95 of 4751  
the 125th General Assembly, is hereby repealed. 4752

<b>Section 4.</b> The following agencies shall be retained pursuant		4753
to division (D) of section 101.83 of the Revised Code and shall		4754
expire on December 31, 2010:		4755
	REVISED CODE	4756
	OR	
	UNCODIFIED	4757
AGENCY NAME	SECTION	4758
Administrator, Interstate Compact on Mental Health	5119.50	4759
Administrator, Interstate Compact on	5103.20	4760
Placement of Children		4761
Advisory Board of Governor's Office of Faith-Based	107.12	4762
and Community Initiatives		
Advisory Boards to the EPA for Air Pollution	121.13	4763
Advisory Boards to the EPA for Water Pollution	121.13	4764
Advisory Committee of the State Veterinary Medical	4741.03(D)(3)	4765
Licensing Board		
Advisory Committee on Livestock Exhibitions	901.71	4766
Advisory Council on Amusement Ride Safety	1711.51	4767
Advisory Board of Directors for Prison Labor	5145.162	4768
Advisory Council for Each Wild, Scenic, or	1517.18	4769
Recreational River Area		
Advisory Councils or Boards for State Departments	107.18 or	4770
	121.13	
Advisory Group to the Ohio Water Resources Council	1521.19(C)	4771
Alzheimer's Disease Task Force	173.04(F)	4772
AMBER Alert Advisory Committee	5502.521	4773
Apprenticeship Council	4139.02	4774
Armory Board of Control	5911.09	4775
Automated Title Processing Board	4505.09(C)(1)	4776
Banking Commission	1123.01	4777
Board of Directors of the Ohio Health Reinsurance	3924.08	4778
Program		

Board of Voting Machine Examiners	3506.05(B)	4779
Board of Tax Appeals	5703.02	4780
Brain Injury Advisory Committee	3304.231	4781
Capitol Square Review and Advisory Board	105.41	4782
Child Support Guideline Advisory Council	3119.024	4783
Children's Trust Fund Board	3109.15	4784
Citizens Advisory Committee (BMV)	4501.025	4785
Citizen's Advisory Councils (Dept. of Mental Retardation and Developmental Disabilities)	5123.092	4786
Clean Ohio Trail Advisory Board	1519.06	4787
Coastal Resources Advisory Council	1506.12	4788
Commission on African-American Males	4112.12	4789
Commission on Hispanic-Latino Affairs	121.31	4790
Commission on Minority Health	3701.78	4791
Committee on Prescriptive Governance	4723.49	4792
Commodity Advisory Commission	926.32	4793
Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council	5123.353	4794
Community Oversight Council	3311.77	4795
Compassionate Care Task Force	Section 3, H.B. 474, 124th GA	4796
Consumer Advisory Committee to the Rehabilitation Services Commission	3304.24	4797
Continuing Education Committee (for Sheriffs)	109.80	4798
Controlling Board	127.12	4799
Coordinating Committee, Agricultural Commodity Marketing Programs	924.14	4800
Council on Alcohol and Drug Addiction Services	3793.09	4801
Council on Unreclaimed Strip Mined Lands	1513.29	4802
Council to Advise on the Establishment and Implementation of the Birth Defects Information System	3705.34	4803

County Sheriffs' Standard Car-Marking and Uniform Commission	311.25	4804
Credit Union Council	1733.329	4805
Criminal Sentencing Advisory Committee	181.22	4806
Day-Care Advisory Council	5104.08	4807
Dentist Loan Repayment Advisory Board	3702.92	4808
Development Financing Advisory Council	122.40	4809
Education Commission of the States (Interstate Compact for Education)	3301.48	4810
Electrical Safety Inspector Advisory Committee	3783.08	4811
Emergency Response Commission	3750.02	4812
Engineering Experiment Station Advisory Committee	3335.27	4813
Environmental Education Council	3745.21	4814
Environmental Review Appeals Commission	3745.02	4815
EPA Advisory Boards or Councils	121.13	4816
Farmland Preservation Advisory Board	901.23	4817
Financial Planning & Supervision Commission for Municipal Corporation, County, or Township	118.05	4818
Financial Planning & Supervision Commission for School District	3316.05	4819
Forestry Advisory Council	1503.40	4820
Governance Authority for a State University or College	3345.75	4821
Governor's Advisory Council on Physical Fitness, Wellness, & Sports	3701.77	4822
Governor's Council on People with Disabilities	3303.41	4823
Governor's Residence Advisory Commission	107.40	4824
Great Lakes Commission (Great Lakes Basin Compact)	6161.01	4825
Gubernatorial Transition Committee	107.29	4826
Head Start Partnership Study Council	Section 41.35, H.B. 95, 125th GA	4827
Hemophilia Advisory Subcommittee	3701.0210	4828

Housing Trust Fund Advisory Committee	175.25	4829
Industrial Commission Nominating Council	4121.04	4830
Industrial Technology and Enterprise Advisory Council	122.29	4831
Infant Hearing Screening Subcommittee	3701.507	4832
Insurance Agent Education Advisory Council	3905.483	4833
Interagency Council on Hispanic/Latino Affairs	121.32(J)	4834
Interstate Mining Commission (Interstate Mining Compact)	1514.30	4835
Interstate Rail Passenger Advisory Council (Interstate High Speed Intercity Rail Passenger Network Compact)	4981.35	4836
Joint Council on MR/DD	101.37	4837
Joint Select Committee on Volume Cap	133.021	4838
Labor-Management Government Advisory Council	4121.70	4839
Legal Rights Service Commission	5123.60	4840
Legislative Task Force on Redistricting, Reapportionment, and Demographic Research	103.51	4841
Maternal and Child Health Council	3701.025	4842
Medically Handicapped Children's Medical Advisory Council	3701.025	4843
Military Activation Task Force	5902.15	4844
Milk Sanitation Board	917.03	4845
Mine Subsidence Insurance Governing Board	3929.51	4846
Minority Development Financing Board	122.72	4847
Multi-Agency Radio Communications Systems Steering Committee	Sec. 21, H.B. 790, 120th GA	4848
Multidisciplinary Council	3746.03	4849
Muskingum River Advisory Council	1501.25	4850
National Museum of Afro-American History and Culture Planning Committee	149.303	4851
Nursing Facility Reimbursement Study Council	5111.34	4852
Ohio Advisory Council for the Aging	173.03	4853

Ohio Aerospace & Defense Advisory Council	122.98	4854
Ohio Arts Council	3379.02	4855
Ohio Business Gateway Steering Committee	5703.57	4856
Ohio Cemetery Dispute Resolution Commission	4767.05	4857
Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils	4112.04(B)	4858
Ohio Commercial Insurance Joint Underwriting Association Board Of Governors	3930.03	4859
Ohio Commercial Market Assistance Plan Executive Committee	3930.02	4860
Ohio Commission on Dispute Resolution and Conflict Management	179.02	4861
Ohio Commission to Reform Medicaid	Section 59.29, H.B. 95, 125th GA	4862
Ohio Community Service Council	121.40	4863
Ohio Council for Interstate Adult Offender Supervision	5149.22	4864
Ohio Cultural Facilities Commission	3383.02	4865
Ohio Developmental Disabilities Council	5123.35	4866
Ohio Educational Telecommunications Network Commission	3353.02	4867
Ohio Ethics Commission	102.05	4868
Ohio Expositions Commission	991.02	4869
Ohio Family and Children First Cabinet Council	121.37	4870
Ohio Geology Advisory Council	1505.11	4871
Ohio Grape Industries Committee	924.51	4872
Ohio Hepatitis C Advisory Commission	3701.92	4873
Ohio Historic Site Preservation Advisory Board	149.301	4874
Ohio Historical Society Board of Trustees	149.30	4875
Ohio Judicial Conference	105.91	4876
Ohio Lake Erie Commission	1506.21	4877
Ohio Medical Malpractice Commission	Section 4,	4878



	S.B. 281, 124th GA and Section 3, S.B. 86, 125th GA	
Ohio Medical Quality Foundation	3701.89	4879
Ohio Parks and Recreation Council	1541.40	4880
Ohio Peace Officer Training Commission	109.71	4881
Ohio Public Defender Commission	120.01	4882
Ohio Public Library Information Network Board	Sec. 69, H.B. 117, 121st GA, as amended by H.B. 284, 121st GA	4883
Ohio Public Works Commission	164.02	4884
Ohio Quarter Horse Development Commission	3769.086	4885
Ohio SchoolNet Commission	3301.80	4886
Ohio Small Government Capital Improvements Commission	164.02	4887
Ohio Soil and Water Conservation Commission	1515.02	4888
Ohio Standardbred Development Commission	3769.085	4889
Ohio Steel Industry Advisory Council	122.97	4890
Ohio Teacher Education and Licensure Advisory Council	3319.28(D)	4891
Ohio Thoroughbred Racing Advisory Committee	3769.084	4892
Ohio Tuition Trust Authority	3334.03	4893
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10	4894
Ohio Vendors Representative Committee	3304.34	4895
Ohio War Orphans Scholarship Board	5910.02	4896
Ohio Water Advisory Council	1521.031	4897
Ohio Water Resources Council	1521.19	4898
Ohioana Library Association, Martha Kinney Cooper	3375.62	4899

Memorial		
Oil and Gas Commission	1509.35	4900
Operating Committee, Agricultural Commodity Marketing Programs	924.07	4901
Organized Crime Investigations Commission	177.01	4902
Parole Board	5149.10	4903
Pharmacy and Therapeutics Committee of the Dept. of Job and Family Services	5111.81	4904
Physician Loan Repayment Advisory Board	3702.81	4905
Power Siting Board	4906.02	4906
Prequalification Review Board	5525.07	4907
Private Water Systems Advisory Council	3701.346	4908
Public Employment Risk Reduction Advisory Commission	4167.02	4909
Public Health Council	3701.33	4910
Public Utilities Commission Nominating Council	4901.021	4911
Public Utility Property Tax Study Committee	5727.85	4912
Radiation Advisory Council	3748.20	4913
Reclamation Commission	1513.05	4914
Recreation and Resources Commission	1501.04	4915
Recycling and Litter Prevention Advisory Council	1502.04	4916
Rehabilitation Services Commission Consumer Advisory Committee	3304.24	4917
Release Authority of Department of Youth Services	5139.50	4918
Savings & Loans Associations & Savings Banks Board	1181.16	4919
Schools and Ministerial Lands Divestiture Committee	501.041	4920
Second Chance Trust Fund Advisory Committee	2108.17	4921
Self-Insuring Employers Evaluation Board	4123.352	4922
Services Committee of the Workers' Compensation System	4121.06	4923
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19	4924

Solid Waste Management Advisory Council	3734.51	4925
State Agency Coordinating Group	1521.19	4926
State Board of Deposit	135.02	4927
State Board of Emergency Medical Services	4765.04	4928
Subcommittees		
State Council of Uniform State Laws	105.21	4929
State Committee for the Purchase of Products and Services Provided by Persons with Severe Disabilities	4115.32	4930
State Criminal Sentencing Commission	181.21	4931
State Employment Relations Board	4117.02	4932
State Fire Commission	3737.81	4933
State Racing Commission	3769.02	4934
State Victims Assistance Advisory Committee	109.91	4935
Student Tuition Recovery Authority	3332.081	4936
Tax Credit Authority	122.17	4937
Technical Advisory Committee to Assist the Director of the Ohio Coal Development Office	1551.35	4938
Technical Advisory Council on Oil and Gas	1509.38	4939
Transportation Review Advisory Council	5512.07	4940
Unemployment Compensation Review Commission	4141.06	4941
Unemployment Compensation Advisory Council	4141.08	4942
Utility Radiological Safety Board	4937.02	4943
Vehicle Management Commission	125.833	4944
Veterans Advisory Committee	5902.02(K)	4945
Volunteer Fire Fighters' Dependents Fund Boards (Private and Public)	146.02	4946
Water and Sewer Commission	1525.11(C)	4947
Waterways Safety Council	1547.73	4948
Wildlife Council	1531.03	4949
Workers' Compensation System Oversight Commission	4121.12	4950
Workers' Compensation Oversight Commission	4121.123	4951
Nominating Committee		

**Section 5.** That Section 10 of Sub. H.B. 548 of the 123rd  
General Assembly is hereby repealed. 4952  
4953

**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 4954  
December 31, 2010. 4955  
4956

**Section 7.** That Section 6 of Am. Sub. S.B. 163 of the 124th  
General Assembly, Section 6 of Sub. S.B. 27 of the 124th General 4957  
Assembly, Section 3 of Am. H.B. 280 of the 121st General Assembly, 4958  
as most recently amended by Sub. H.B. 670 of the 121st General 4959  
Assembly, and Section 3 of Sub. H.B. 508 of the 119th General 4960  
Assembly, as most recently amended by Sub. H.B. 670 of the 121st 4961  
General Assembly are hereby repealed. 4962  
4963

**Section 8.** (A) That Section 3 of Am. S.B. 208 of the 120th  
General Assembly is hereby repealed. 4964  
4965

(B) The repeal of section 149.32 of the Revised Code,  
effective December 30, 2004, and Section 3 of Am. S.B. 208 of the 4966  
120th General Assembly, effective December 30, 2004, is intended 4967  
to accelerate the earlier repeal, with delayed effective date, of 4968  
section 149.32 of the Revised Code. 4969  
4970

**Section 9.** (A) It is the intent of the General Assembly in  
enacting this act to implement the report of the Sunset Review 4971  
Committee that was created by Sub. H.B. 548 of the 123rd General 4972  
Assembly. That report is implemented in part as follows: 4973  
4974

(1) By the abolishment in this act, through amendments to  
relevant codified sections of law and through outright repeals of 4975  
codified or uncodified sections of law, of several agencies, as 4976  
defined in section 101.82 of the Revised Code, that were subject 4977  
to the Committee's jurisdiction; 4978  
4979

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

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

(C) Further, in addition to the means of implementing the Committee's report mentioned in divisions (A) and (B) of this section, the General Assembly hereby declares its intent to continue the existence of the following five entities, if they have not expired by operation of law prior to and are in existence on the effective date of this act. These entities were subject to the Committee's jurisdiction, and the Committee declared they should be continued in existence, but no express codified or uncodified source of law for them was found to exist by the General Assembly:

- (1) Assistance Council;
- (2) Interdepartmental Cluster for Services to Youth;
- (3) Jobs for Ohio's Graduates Board of Trustees;
- (4) Ohio Oil and Gas Energy Education Program;
- (5) Ohio Science and Technology Council

**Section 10.** Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, and 11 of this act shall take effect on December 30, 2004.

**Section 11.** Section 2505.02 of the Revised Code is presented 5010  
in this act as a composite of the section as amended by Am. Sub. 5011  
H.B. 292, Am. Sub. H.B. 342, and Sub. S.B. 187 of the 125th 5012  
General Assembly. The General Assembly, applying the principle 5013  
stated in division (B) of section 1.52 of the Revised Code that 5014  
amendments are to be harmonized if reasonably capable of 5015  
simultaneous operation, finds that the composite is the resulting 5016  
version of the section in effect prior to the effective date of 5017  
the section as presented in this act. 5018

**Section 12.** This act is hereby declared to be an emergency 5019  
measure necessary for the immediate preservation of the public 5020  
peace, health, and safety. The reason for the necessity is that, 5021  
unless this act takes immediate effect, hundreds of significant 5022  
state agencies will expire by operation of law on December 31, 5023  
2004. Therefore, this act shall go into immediate effect. 5024