

**As Reported by the Senate State and Local Government and
Veterans Affairs Committee**

**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 101.02, 101.23, 101.27, 101.83, 1
101.84, 101.85, 101.86, 122.011, 122.133, 122.40, 2
123.151, 149.56, 164.07, 307.674, 340.02, 1501.04, 3
1502.04, 1502.05, 1502.11, 1502.12, 1506.30, 4
1506.34, 1506.35, 1517.02, 1517.05, 1517.23, 5
1518.01, 1518.03, 1551.35, 2505.02, 3358.10, 6
3375.61, 3375.62, 3383.01, 3383.02, 3383.03, 7
3383.04, 3383.05, 3383.06, 3383.07, 3383.08, 8
3383.09, 3746.04, 3746.09, 3746.35, 3747.02, 9
3748.01, 3748.02, 3748.04, 3748.05, 3748.16, 10
3929.482, 3929.682, 3929.85, 3931.01, 3955.05, 11
3960.06, 4117.01, 4121.442, 4167.09, 4167.25, 12
4167.27, 4582.12, 4731.143, 4741.03, 4755.481, 13
4981.03, 5123.35, and 5123.352 and to repeal 14
sections 122.09, 125.24, 149.32, 149.321, 149.322, 15
1502.10, 1506.37, 1517.03, 1517.04, 3354.161, 16
3355.121, 3357.161, 3375.47, 3746.08, 3747.04, 17
3747.05, 3747.06, 3747.061, 3747.07, 3747.08, 18
3747.09, 3747.10, 3747.11, 3747.12, 3747.13, 19
3747.14, 3747.15, 3747.16, 3747.17, 3747.18, 20
3747.19, 3747.20, 3747.21, 3747.22, 3748.09, 21

3929.71, 3929.72, 3929.721, 3929.73, 3929.75,	22
3929.76, 3929.77, 3929.78, 3929.79, 3929.80,	23
3929.81, 3929.82, 3929.83, 3929.84, 4121.443,	24
4167.26, 5101.93, 5119.81, 5119.82, and 5123.353	25
of the Revised Code, and to repeal Section 6 of	26
Am. Sub. S.B. 163 of the 124th General Assembly,	27
Section 6 of Sub. S.B. 27 of the 124th General	28
Assembly, Section 10 of Sub. H.B. 548 of the 123rd	29
General Assembly, Section 3 of Am. H.B. 280 of the	30
121st General Assembly, Section 27 of Sub. H.B.	31
670 of the 121st General Assembly, Section 3 of	32
Am. S.B. 208 of the 120th General Assembly, and	33
Section 3 of Sub. H.B. 508 of the 119th General	34
Assembly, to implement the report of the Sunset	35
Review Committee by abolishing, retaining, and	36
changing 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, to specify the salary for certain Senate	44
leadership positions, to authorize former	45
presiding officers of either house of the General	46
Assembly to administer oaths of office to General	47
Assembly members, officers, and staff, to change	48
the membership and terms of office relative to the	49
Development Financing Advisory Council, to remove	50
from the Technical Advisory Committee to Assist	51
the Director of the Ohio Coal Development Office	52
the member designated by the Ohio Water	53
Development Authority, and to declare an	54

emergency.

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

Section 1. That sections 101.02, 101.23, 101.27, 101.83, 56
101.84, 101.85, 101.86, 122.011, 122.133, 122.40, 123.151, 149.56, 57
164.07, 307.674, 340.02, 1501.04, 1502.04, 1502.05, 1502.11, 58
1502.12, 1506.30, 1506.34, 1506.35, 1517.02, 1517.05, 1517.23, 59
1518.01, 1518.03, 1551.35, 2505.02, 3358.10, 3375.61, 3375.62, 60
3383.01, 3383.02, 3383.03, 3383.04, 3383.05, 3383.06, 3383.07, 61
3383.08, 3383.09, 3746.04, 3746.09, 3746.35, 3747.02, 3748.01, 62
3748.02, 3748.04, 3748.05, 3748.16, 3929.482, 3929.682, 3929.85, 63
3931.01, 3955.05, 3960.06, 4117.01, 4121.442, 4167.09, 4167.25, 64
4167.27, 4582.12, 4731.143, 4741.03, 4755.481, 4981.03, 5123.35, 65
and 5123.352 of the Revised Code be amended to read as follows: 66

Sec. 101.02. After the senators-elect have taken the oath of 67
office, if there is a quorum present, the senate shall elect a 68
president, president pro tempore, ~~assistant president pro tempore,~~ 69
and other officials. 70

Sec. 101.23. The oath of office of senators and 71
representatives ~~;~~ ; the president and president pro tempore of the 72
senate ~~;~~ ; the speaker and speaker pro tempore of the house of 73
representatives ~~;~~ ; and the clerk of the senate, the chief 74
administrative officer and the clerk of the house of 75
representatives, and their assistants ~~;~~ ; and the sergeant at arms 76
and assistant sergeant at arms of each house may be administered 77
by a member, by a former presiding officer of either house of the 78
general assembly, or by a person authorized to administer oaths. 79

Sec. 101.27. (A)(1) Every member of the senate, except the 80
members elected president, president pro tempore, majority floor 81

leader, assistant ~~president pro tempore~~ majority floor leader, 82
majority whip, assistant majority whip, minority leader, assistant 83
minority leader, minority whip, and assistant minority whip, shall 84
receive as compensation a salary of fifty-one thousand six hundred 85
seventy-four dollars a year during the senator's term of office. 86
Every member of the house of representatives, except the members 87
elected speaker, speaker pro tempore, majority floor leader, 88
assistant majority floor leader, majority whip, assistant majority 89
whip, minority leader, assistant minority leader, minority whip, 90
and assistant minority whip, shall receive as compensation a 91
salary of fifty-one thousand six hundred seventy-four dollars a 92
year during the representative's term of office. Such salaries 93
shall be paid in equal monthly installments during such term. All 94
monthly payments shall be made on or before the fifth day of each 95
month. Upon the death of any member of the general assembly during 96
the member's term of office, any unpaid salary due such member for 97
the remainder of the member's term shall be paid to the member's 98
surviving spouse, children, mother, or father, in the order in 99
which the relationship is set forth in this section in monthly 100
installments. 101

(2) Each member shall receive a travel reimbursement per mile 102
each way, at the same mileage rate allowed for the reimbursement 103
of travel expenses of state agents as provided by rule of the 104
director of budget and management pursuant to division (B) of 105
section 126.31 of the Revised Code, for mileage not more than once 106
a week during the session for travel incurred by a member from and 107
to the member's place of residence, by the most direct highway 108
route of public travel to and from the seat of government, to be 109
paid quarterly on the last day of March, June, September, and 110
December of each year. 111

(3) The member of the senate elected president and the member 112
of the house of representatives elected speaker shall each receive 113

as compensation a salary of eighty thousand five hundred 114
forty-nine dollars a year during the president's or speaker's term 115
of office. 116

The member of the senate elected president pro tempore, the 117
member of the senate elected minority leader, the member of the 118
house of representatives elected speaker pro tempore, and the 119
member of the house of representatives elected minority leader 120
shall each receive as compensation a salary of seventy-three 121
thousand four hundred ninety-three dollars a year during the 122
member's term of office. The member of the house of 123
representatives elected majority floor leader and the member of 124
the senate elected ~~assistant president pro tempore~~ majority floor 125
leader shall each receive as compensation a salary of sixty-nine 126
thousand two hundred twenty-seven dollars a year during the 127
member's term of office. The member of the senate elected 128
assistant minority leader and the member of the house of 129
representatives elected assistant minority leader shall each 130
receive as compensation a salary of sixty-seven thousand 131
ninety-nine dollars a year during the member's term of office. The 132
member of the senate elected assistant majority whip floor leader 133
and the member of the house of representatives elected assistant 134
majority floor leader shall each receive a salary of sixty-four 135
thousand nine hundred sixty-seven dollars a year during the 136
member's term of office. The member of the senate elected majority 137
whip, the member of the senate elected minority whip, the member 138
of the house of representatives elected majority whip, and the 139
member of the house of representatives elected minority whip shall 140
each receive as compensation a salary of sixty thousand seven 141
hundred six dollars a year during the member's term of office. The 142
member of the senate elected assistant majority whip and the 143
member of the house of representatives elected assistant majority 144
whip shall each receive as compensation a salary of fifty-six 145

thousand four hundred forty-three dollars a year during the 146
member's term of office. The member of the house of 147
representatives elected assistant minority whip and the member of 148
the senate elected assistant minority whip shall each receive a 149
salary of fifty-four thousand sixty dollars a year during the 150
member's term of office. 151

(4) The chairperson of the finance committee of each house 152
shall receive an additional sum of ten thousand dollars annually. 153
The chairperson of each standing committee of each house other 154
than the finance committee shall receive an additional sum of six 155
thousand five hundred dollars annually. The chairperson of each 156
standing subcommittee of a finance committee shall receive an 157
additional sum of six thousand five hundred dollars annually. The 158
vice-chairperson of the finance committee of each house shall 159
receive an additional sum of five thousand five hundred dollars 160
annually. The ranking minority member of the finance committee of 161
each house shall receive an additional sum of six thousand five 162
hundred dollars annually. The ranking minority member of each 163
standing subcommittee of a finance committee shall receive an 164
additional sum of five thousand dollars annually. The chairperson 165
of each standing subcommittee of each house other than a standing 166
subcommittee of the finance committee shall receive an additional 167
sum of five thousand dollars annually. The vice-chairperson and 168
ranking minority member of each standing committee of each house 169
other than the finance committee shall each receive an additional 170
sum of five thousand dollars annually. Except for the ranking 171
minority member of each standing subcommittee of a finance 172
committee, the ranking minority member of each standing 173
subcommittee of each house shall receive an additional sum of two 174
thousand five hundred dollars annually. 175

No member may receive more than one additional sum for 176
serving as chairperson, vice-chairperson, or ranking minority 177

member of a standing committee or standing subcommittee, 178
regardless of the number of standing committees or standing 179
subcommittees on which the member serves as chairperson, 180
vice-chairperson, or ranking minority member. 181

(5) If a member is absent without leave, or is not excused on 182
the member's return, there shall be deducted from the member's 183
compensation twenty dollars for each day's absence. 184

(B) Each calendar year from 2002 through 2008, the salary 185
amounts under divisions (A)(1) and (3) of this section shall be 186
increased by the lesser of the following: 187

(1) Three per cent; 188

(2) The percentage increase, if any, in the consumer price 189
index over the twelve-month period that ends on the thirtieth day 190
of September of the immediately preceding year, rounded to the 191
nearest one-tenth of one per cent. 192

(C) As used in this section: 193

(1) "Consumer price index" means the consumer price index 194
prepared by the United States bureau of labor statistics (U.S. 195
city average for urban wage earners and clerical workers: all 196
items, 1982-1984=100), or, if that index is no longer published, a 197
generally available comparable index. 198

(2) "Finance committee" means the finance committee of the 199
senate and the finance-appropriations committee of the house of 200
representatives. 201

Sec. 101.83. (A) An agency in existence on January 1, ~~2001~~ 202
2005, shall expire on December 31, ~~2004~~ 2010, unless the agency is 203
renewed in accordance with division (D) of this section and, if so 204
renewed, shall expire thereafter on the thirty-first day of 205
December of the fourth year after the year in which it was most 206
recently renewed unless the agency is renewed in accordance with 207

division (D) of this section. An agency created after January 1, 2008
~~2001~~ 2005, that is created on the thirty-first day of December 209
shall expire not later than four years after its creation, unless 210
the agency is renewed in accordance with division (D) of this 211
section. An agency created after January 1, ~~2001~~ 2005, that is 212
created on any other date shall be considered for the purpose of 213
this section to have been created on the preceding thirty-first 214
day of December, and the agency shall expire not later than four 215
years after the date it was considered to have been created, 216
unless the agency is renewed in accordance with division (D) of 217
this section. Any act creating or renewing an agency shall contain 218
a distinct section providing a specific expiration date for the 219
agency in accordance with this division. 220

(B) If the general assembly does not renew or transfer an 221
agency on or before its expiration date, it shall expire on that 222
date. 223

The auditor of state shall not authorize the expenditure of 224
any moneys for any agency on or after the date of its expiration. 225

(C) The general assembly may provide by law for the orderly, 226
efficient, and expeditious conclusion of an agency's business and 227
operation. The rules, orders, licenses, contracts, and other 228
actions made, taken, granted, or performed by the agency shall 229
continue in effect according to their terms notwithstanding the 230
agency's abolition, unless the general assembly provides otherwise 231
by law. The general assembly may provide by law for the temporary 232
or permanent transfer of some or all of a terminated or 233
transferred agency's functions and personnel to a successor agency 234
or officer. 235

The abolition, termination, or transfer of an agency shall 236
not cause the termination or dismissal of any claim pending 237
against the agency by any person, or any claim pending against any 238

person by the agency. Unless the general assembly provides 239
otherwise by law for the substitution of parties, the attorney 240
general shall succeed the agency with reference to any pending 241
claim. 242

(D) An agency may be renewed by passage of a bill that 243
continues the statutes creating and empowering the agency, that 244
amends or repeals those statutes, or that enacts new statutes, to 245
improve agency usefulness, performance, or effectiveness. 246

Sec. 101.84. (A) There is hereby created the sunset review 247
committee, to be composed of nine members and function in calendar 248
years 2009 and 2010. The president of the senate shall appoint 249
three members of the senate to the committee, not more than two of 250
whom shall be members of the same political party. The speaker of 251
the house of representatives shall appoint three members of the 252
house of representatives to the committee, not more than two of 253
whom shall be members of the same political party. The governor, 254
with the advice and consent of the senate, shall appoint three 255
members to the committee, not more than two of whom shall be 256
members of the same political party. Members shall be appointed 257
within fifteen days after the commencement of the first regular 258
session of ~~each~~ the 128th general assembly. 259

(B) Each member of the committee who is appointed by the 260
president of the senate or the speaker of the house of 261
representatives shall serve ~~until~~ during that committee member's 262
~~successor is appointed~~ term of office or until that committee 263
member no longer is a member of the senate or the house of 264
representatives, whichever is applicable. Each member of the 265
committee who is appointed by the governor shall serve a two-year 266
term that ends on the thirty-first day of December ~~of each~~ 267
~~even-numbered year~~ in 2010. A vacancy on the committee shall be 268
filled in the same manner as the original appointment. 269

In the first regular session of a the 128th general assembly, 270
the chairperson of the committee shall be a member of the house of 271
representatives, and the vice-chairperson of the committee shall 272
be a member of the senate. In the second regular session of the 273
128th general assembly, the chairperson of the committee shall be 274
a member of the senate, and the vice-chairperson of the committee 275
shall be a member of the house of representatives. 276

Members of the committee shall receive no compensation, but 277
shall be reimbursed for their necessary expenses incurred in the 278
performance of their official duties. 279

(C) The committee shall meet not later than thirty days after 280
the first day of the first regular session of the 128th general 281
assembly to choose a chairperson and to commence establishment of 282
the schedule for agency review provided for in section 101.85 of 283
the Revised Code or perform other committee duties under sections 284
101.82 to 101.87 of the Revised Code. Five members of the 285
committee shall constitute a quorum for the conduct of committee 286
business. 287

Sec. 101.85. (A) The sunset review committee, not later than 288
sixty days after its first meeting in ~~2001~~ 2009, shall schedule 289
for review each agency in existence on January 1, ~~2001~~ 2009. The 290
committee, by a unanimous vote, also may schedule for review any 291
state board or commission described in division (A)(9) of section 292
101.82 of the Revised Code that is in existence on that date, and 293
any board or commission so scheduled shall be considered an agency 294
for purposes of sections 101.82 to 101.87 of the Revised Code. 295

(B) The chairperson of the committee shall send a copy of the 296
schedule for review of agencies for ~~each~~ calendar year 2009 and 297
calendar year 2010 to each of the agencies scheduled for review 298
during that year and to the director of the legislative service 299
commission. The director shall publish a copy of the schedule in 300

the Ohio Administrative Code and in the register of Ohio created 301
under section 103.051 of the Revised Code. The commission shall 302
provide the committee with a list of agencies, and state boards 303
and commissions described in division (A)(9) of section 101.82 of 304
the Revised Code, in existence on January 1, ~~2001~~ 2009, to assist 305
the committee in identifying agencies and exercising its duties 306
under sections 101.82 to 101.87 of the Revised Code with respect 307
to those agencies. 308

Sec. 101.86. (A) Not later than ~~twelve~~ six months prior to 309
the date on which an agency in existence on January 1, ~~2001~~ 2009, 310
is scheduled to expire under division (A) of section 101.83 of the 311
Revised Code, the sunset review committee shall hold hearings to 312
receive the testimony of the public and of the chief executive 313
officer of each agency scheduled for review and otherwise shall 314
consider and evaluate the usefulness, performance, and 315
effectiveness of the agency. 316

(B) Each agency that is scheduled for review shall submit to 317
the committee a report that contains all of the following 318
information: 319

(1) The agency's primary purpose and its various goals and 320
objectives; 321

(2) The agency's past and anticipated workload, the number of 322
staff required to complete that workload, and the agency's total 323
number of staff; 324

(3) The agency's past and anticipated budgets and its sources 325
of funding; 326

(4) The number of members of its governing board or other 327
governing entity and their compensation, if any. 328

(C) Each agency shall have the burden of demonstrating to the 329
committee a public need for its continued existence. In 330

determining whether an agency has demonstrated that need, the	331
committee shall consider all of the following:	332
(1) The extent to which the agency has permitted qualified	333
applicants to serve the public;	334
(2) The cost-effectiveness of the agency in terms of number	335
of employees, services rendered, and administrative costs	336
incurred, both past and present;	337
(3) The extent to which the agency has operated in the public	338
interest, and whether its operation has been impeded or enhanced	339
by existing statutes and procedures and by budgetary, resource,	340
and personnel practices;	341
(4) Whether the agency has recommended statutory changes to	342
the general assembly that would benefit the public as opposed to	343
the persons regulated by the agency, if any, and whether its	344
recommendations and other policies have been adopted and	345
implemented;	346
(5) Whether the agency has required any persons it regulates	347
to report to it the impact of agency rules and decisions on the	348
public as they affect service costs and service delivery;	349
(6) Whether persons regulated by the agency, if any, have	350
been required to assess problems in their business operations that	351
affect the public;	352
(7) Whether the agency has encouraged public participation in	353
its rule-making and decision-making;	354
(8) The efficiency with which formal public complaints filed	355
with the agency have been processed to completion;	356
(9) Whether the programs or services of the agency duplicate	357
or overlap those of other agencies;	358
(10) Whether the purpose for which the agency was created has	359
been fulfilled, has changed, or no longer exists;	360

(11) Whether federal law requires that the agency be renewed 361
in some form; 362

(12) Changes needed in the enabling laws of the agency in 363
order for it to comply with the criteria suggested by the 364
considerations listed in divisions (C)(1) to (11) of this section. 365

(D) In its initial review of each agency, the committee, 366
whenever possible, shall realign agency titles to conform to the 367
following descriptions: 368

(1) Commission: an administrative appeals or hearing agency; 369

(2) Authority: an agency empowered to issue bonds or notes; 370

(3) Board: an agency having a licensing function only; 371

(4) Council: an advisory body to a major agency or 372
department; 373

(5) Committee: an advisory body to a minor agency or 374
department. 375

Sec. 122.011. (A) The department of development shall develop 376
and promote plans and programs designed to assure that state 377
resources are efficiently used, economic growth is properly 378
balanced, community growth is developed in an orderly manner, and 379
local governments are coordinated with each other and the state, 380
and for such purposes may do all of the following: 381

(1) Serve as a clearinghouse for information, data, and other 382
materials that may be helpful or necessary to persons or local 383
governments, as provided in section 122.07 of the Revised Code; 384

(2) Prepare and activate plans for the retention, 385
development, expansion, and use of the resources and commerce of 386
the state, as provided in section 122.04 of the Revised Code; 387

(3) Assist and cooperate with federal, state, and local 388
governments and agencies of federal, state, and local governments 389

in the coordination of programs to carry out the functions and	390
duties of the department;	391
(4) Encourage and foster research and development activities,	392
conduct studies related to the solution of community problems, and	393
develop recommendations for administrative or legislative actions,	394
as provided in section 122.03 of the Revised Code;	395
(5) Serve as the economic and community development planning	396
agency, which shall prepare and recommend plans and programs for	397
the orderly growth and development of this state and which shall	398
provide planning assistance, as provided in section 122.06 of the	399
Revised Code;	400
(6) Cooperate with and provide technical assistance to state	401
departments, political subdivisions, regional and local planning	402
commissions, tourist associations, councils of government,	403
community development groups, community action agencies, and other	404
appropriate organizations for carrying out the functions and	405
duties of the department or for the solution of community	406
problems;	407
(7) Coordinate the activities of state agencies that have an	408
impact on carrying out the functions and duties of the department;	409
(8) Encourage and assist the efforts of and cooperate with	410
local governments to develop mutual and cooperative solutions to	411
their common problems that relate to carrying out the purposes of	412
this section;	413
(9) Study existing structure, operations, and financing of	414
regional or local government and those state activities that	415
involve significant relations with regional or local governmental	416
units, recommend to the governor and to the general assembly such	417
changes in these provisions and activities as will improve the	418
operations of regional or local government, and conduct other	419
studies of legal provisions that affect problems related to	420

carrying out the purposes of this section;	421
(10) Appoint, with the approval of the governor, technical	422
and other advisory councils as it considers appropriate, as	423
provided in section 122.09 of the Revised Code;	424
(11) Create and operate a division of community development	425
to develop and administer programs and activities that are	426
authorized by federal statute or the Revised Code;	427
(12) <u>(11)</u> Until October 15, 2005, establish fees and charges,	428
in consultation with the director of agriculture, for purchasing	429
loans from financial institutions and providing loan guarantees	430
under the family farm loan program created under sections 901.80	431
to 901.83 of the Revised Code;	432
(13) <u>(12)</u> Provide loan servicing for the loans purchased and	433
loan guarantees provided under section 901.80 of the Revised Code	434
as that section existed prior to October 15, 2005;	435
(14) <u>(13)</u> Until October 15, 2005, and upon approval by the	436
controlling board under division (A)(3) of section 901.82 of the	437
Revised Code of the release of money to be used for purchasing a	438
loan or providing a loan guarantee, request the release of that	439
money in accordance with division (B) of section 166.03 of the	440
Revised Code for use for the purposes of the fund created by	441
section 166.031 of the Revised Code.	442
(B) The director of development may request the attorney	443
general to, and the attorney general, in accordance with section	444
109.02 of the Revised Code, shall bring a civil action in any	445
court of competent jurisdiction. The director may be sued in the	446
director's official capacity, in connection with this chapter, in	447
accordance with Chapter 2743. of the Revised Code.	448
Sec. 122.133. (A) The director of development may establish	449
technical and advisory boards in accordance with section 122.09 of	450

~~the Revised Code as the director considers appropriate to assist 451
in the execution of the employee ownership assistance program and 452
may obtain information and cooperation concerning the program, 453
upon request, from any department, bureau, institution, agency, or 454
office of the state government in accordance with section 122.10 455
of the Revised Code. 456~~

~~(B) The director of development shall publicize the 457
availability of the employee ownership assistance program and its 458
services to local governments and to business and labor 459
organizations and shall coordinate with local governments, 460
business and labor organizations, and other state agencies in 461
obtaining information relating to the possible relocation of 462
operations or closing of a business establishment. 463~~

Sec. 122.40. (A) There is hereby created the development 464
financing advisory council to assist in carrying out the programs 465
created pursuant to sections 122.39 to 122.62 and Chapter 166. of 466
the Revised Code. 467

(B) The council shall consist of seven members appointed by 468
the governor, with the advice and consent of the senate ~~and, who~~ 469
are selected for their knowledge of and experience in economic 470
development financing, one member of the senate appointed by the 471
president of the senate, ~~and~~ one member of the house of 472
representatives appointed by the speaker of the house of 473
representatives, and the director of development or the director's 474
designee. With respect to the council: 475

(1) No more than four members of the council appointed by the 476
governor shall be members of the same political party. 477

(2) Each member shall hold office from the date of the 478
member's appointment until the end of the term for which the 479
member was appointed. 480

(3) The terms of office for the seven members appointed by 481
the governor shall be for ~~seven~~ five years commencing on the first 482
day of January and ending on the thirty-first day of December. The 483
seven members appointed by the governor who are serving terms of 484
office of seven years on the effective date of this amendment 485
shall continue to serve those terms, but their successors in 486
office, including the filling of a vacancy occurring prior to the 487
expiration of those terms, shall be appointed for terms of five 488
years in accordance with this division. 489

(4) Any member of the council is eligible for reappointment. 490

(5) As a term of a member of the council appointed by the 491
governor expires, the governor shall appoint a successor with the 492
advice and consent of the senate. 493

(6) ~~Any~~ Except as otherwise provided in division (B)(3) of 494
this section, any member appointed to fill a vacancy occurring 495
prior to the expiration of the term for which the member's 496
predecessor was appointed shall hold office for the remainder of 497
the predecessor's term. 498

(7) Any member shall continue in office subsequent to the 499
expiration date of the member's term until the member's successor 500
takes office, or until a period of sixty days has elapsed, 501
whichever occurs first. 502

(8) Before entering upon duties as a member of the council, 503
each member shall take an oath provided by Section 7 of Article 504
XV, Ohio Constitution. 505

(9) The governor may, at any time, remove any nonlegislative 506
member pursuant to section 3.04 of the Revised Code. 507

(10) Members of the council, notwithstanding section 101.26 508
of the Revised Code with respect to members who are members of the 509
general assembly, shall receive their necessary and actual 510

expenses while engaged in the business of the council and shall be 511
paid at the per diem rate of step 1, pay range 31, of section 512
124.15 of the Revised Code. 513

(11) ~~Five~~ Four members of the council constitute a quorum. 514

(12) In the event of the absence of a member appointed by the 515
president of the senate or by the speaker of the house of 516
representatives, the following persons may serve in the member's 517
absence: the president of the senate or the speaker of the house, 518
as the case may be, or a member of the senate or of the house of 519
representatives, of the same political party as the development 520
financing advisory council member, designated by the president of 521
the senate or the speaker of the house. 522

Sec. 123.151. (A) As used in this section, "minority business 523
enterprise" has the same meaning ~~given as~~ in division (E)(1) of 524
section 122.71 of the Revised Code. 525

(B)(1) The director of administrative services shall make 526
rules in accordance with Chapter 119. of the Revised Code 527
establishing procedures by which minority businesses may apply to 528
the equal employment opportunity coordinator for certification as 529
minority business enterprises. 530

(2) ~~Any minority business enterprise that desires to bid on a 531
contract under division (C)(1) or (D)(1) of this section or to be 532
a minority business subcontractor or materials supplier under 533
division (C)(2) or (D)(2) of this section shall first apply to the 534
coordinator for certification. The coordinator shall approve the 535
application of any minority business enterprise that complies with 536
the rules adopted under this division. Any person adversely 537
affected by an order of the coordinator denying certification as a 538
minority business enterprise may appeal as provided in Chapter 539
119. of the Revised Code. The coordinator shall prepare and 540~~

maintain a list of certified minority business enterprises. 541

~~(C)(1) From the contracts to be awarded under section 123.15 542
and Chapter 153. of the Revised Code, the director shall select a 543
number of contracts with an aggregate value of approximately five 544
per cent of the total estimated value of contracts to be awarded 545
in the current fiscal year. The director shall set aside the 546
contracts so selected for bidding by minority business enterprises 547
only. The bidding procedures for such contracts shall be the same 548
as for all other contracts awarded under section 123.15 and 549
Chapter 153. of the Revised Code except that only minority 550
business enterprises certified and listed under division (B) of 551
this section shall be qualified to submit bids. 552~~

~~(2)(a) Any contractor awarded a contract authorized by 553
section 123.15 and Chapter 153. of the Revised Code or a contract 554
included under division (D) of this section shall make every 555
effort to ensure that certified minority business subcontractors 556
and materials suppliers participate in the contract. In the case 557
of contracts specified in division (A) of section 153.50 of the 558
Revised Code, the total value of subcontracts awarded to and 559
materials and services purchased from minority businesses shall be 560
at least ten per cent of the total value of the contract, wherever 561
possible and whenever the contractor awards subcontracts or 562
purchases materials or services. In the case of all other 563
contracts, the total value of subcontracts awarded to certified 564
minority businesses shall equal at least five per cent of the 565
total value of the contract. The total value of both the 566
subcontracts awarded to and the purchases of materials made from 567
such businesses shall equal at least ten per cent of the total 568
value of the contract, wherever possible and whenever the 569
contractor awards subcontracts or purchases materials or services. 570~~

~~(b) Except as provided in divisions (C)(3) and (4) of this 571
section, the department of administrative services shall not enter 572~~

~~into any contract authorized under section 123.15 and Chapter 153.~~ 573
~~of the Revised Code, including any contract set aside under~~ 574
~~division (C)(1) of this section, unless the contract contains a~~ 575
~~provision stipulating that the contractor, to the extent that it~~ 576
~~subcontracts work, will award subcontracts totaling no less than~~ 577
~~five per cent of the total value of the contract to minority~~ 578
~~businesses certified under division (B) of this section and that~~ 579
~~the total value of both the materials purchased from minority~~ 580
~~businesses certified under division (B) of this section and of the~~ 581
~~subcontracts awarded, to the extent that it subcontracts work, to~~ 582
~~such minority businesses will equal at least seven per cent of the~~ 583
~~total value of the contract; except that in the case of contracts~~ 584
~~specified in division (A) of section 153.50 of the Revised Code,~~ 585
~~the contractor shall stipulate that the total value of both the~~ 586
~~subcontracts awarded to and the materials and services purchased~~ 587
~~from minority businesses certified under division (B) of this~~ 588
~~section will equal at least seven per cent of the total value of~~ 589
~~the contract; but for the purposes of meeting the seven per cent~~ 590
~~requirement, the value of services shall not be more than five per~~ 591
~~cent of the total value of the contract. To the extent that the~~ 592
~~contractor subcontracts work less than the percentages required to~~ 593
~~be subcontracted to minority business enterprises as established~~ 594
~~in this section, the total value of the subcontracts awarded to~~ 595
~~minority business enterprises certified under division (B) of this~~ 596
~~section need not exceed the actual amount of such subcontracts~~ 597
~~awarded.~~ 598

~~(3) Where a contractor is unable to agree to the provision~~ 599
~~required by division (C)(2) of this section because, having made a~~ 600
~~good faith effort, the contractor is unable to locate qualified~~ 601
~~minority businesses available to accept subcontracts or sell~~ 602
~~materials or services, the contractor may apply to the coordinator~~ 603
~~and the set aside review board created under division (C)(4) of~~ 604

~~this section for a waiver or modification of the provision. The
coordinator shall review the application and shall make a
recommendation to the board to allow or disallow the request.
After receipt of the coordinator's recommendation, the board shall
review the request. If the board finds that the contractor has
made a good faith effort to locate and reach agreement with
minority business subcontractors and materials suppliers or
service providers but has been unable to do so due to
circumstances beyond the reasonable control of the contractor, it
may authorize the contract to include, in lieu of the provision
required by division (C)(2) of this section, a provision
stipulating a lesser percentage of the total value of the contract
to be designated for minority business subcontractors and
materials suppliers or it may waive such provision entirely, or
stipulate a higher percentage of services permissible in contracts
specified in division (A) of section 153.50 of the Revised Code.
If the board does not grant the contractor's application for
waiver or modification, and if the contractor is unable to agree
with the provision required by division (C)(2) of this section,
the contractor's bid shall be deemed nonresponsive to the
specifications for which the bid was submitted. Such
nonresponsiveness shall not be a basis for forfeiture of a bid
guaranty or bond required by law if the contractor made
application to the board for a waiver or modification within ten
days following notification of award of the contract.~~

~~If a contractor requests a waiver or modification because the
contractor intends to contract with an enterprise that has sought
certification as a minority business enterprise in accordance with
division (B)(2) of this section, but the coordinator has not
rendered a decision certifying the enterprise, the board may grant
the modification or waiver requested, insofar as it applies to
that enterprise, if the enterprise's application for certification~~

~~was filed with the coordinator at least sixty days prior to the
contractor's request for waiver or modification and the contractor
gives assurances satisfactory to the board that the contractor
will award a contract to the enterprise seeking certification.~~

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

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

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~~(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~~

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~~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.~~ 669
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~~(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.~~ 672
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~~(2) All contracts for construction entered into by any state
agency, other than the department of administrative services, and
any port authority including contracts set aside under division
(D)(1) of this section, shall contain the same provision required
by division (C)(2) of this section, subject to modification or
waiver by the set aside review board in the manner specified by
divisions (C)(3) and (4) of this section. The rules of the
director adopted under division (C)(5) of this section shall be
applicable to contracts under this division.~~ 684
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~~(E) In the case of contracts set aside under division (C)(1)
or (D)(1) of this section, if no bid is submitted by a minority
business enterprise, the contract shall be awarded according to
normal bidding procedures. The contracting agency or port
authority shall from time to time set aside such additional
contracts for bidding only by minority business enterprises as are
necessary to replace those contracts previously set aside on which
no minority business enterprises bid and to ensure that, in any~~ 693
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~~fiscal year, the aggregate amount of construction contracts
awarded to minority business enterprises will equal approximately
five per cent of the total amount of construction contracts
awarded by the agency or port authority.~~

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

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

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

after the notification, the agency or port authority shall submit 733
to the coordinator the information necessary to comply with the 734
reporting requirements of this division. ~~If~~ 735

If, after the expiration of this thirty-day period, ~~the a~~ 736
state agency has not complied with the reporting requirements of 737
this division, the coordinator shall certify to the director of 738
budget and management that the agency has not complied with the 739
reporting requirements ~~of this division~~. A copy of this 740
certification shall be submitted to the agency. Thereafter, no 741
funds of the ~~state agency required to report by this division~~ 742
shall be expended during the fiscal year for construction or 743
purchases of equipment, materials, supplies, contracts of 744
insurance, or services until the coordinator certifies to the 745
director of budget and management that the agency has complied 746
with the reporting requirements of this division for the prior 747
fiscal year. 748

If any port authority has not complied with the reporting 749
requirement after the expiration of the thirty-day period, the 750
coordinator shall certify to the speaker of the house of 751
representatives and the president of the senate that the port 752
authority has not complied with the reporting requirements of this 753
division. A copy of this certification shall be submitted to the 754
port authority. Upon receipt of the certification, the speaker of 755
the house of representatives and the president of the senate shall 756
take such action or make such recommendations to the members of 757
the general assembly as they consider necessary to correct the 758
situation. 759

~~(I) Any person who intentionally misrepresents self as 760
owning, controlling, operating, or participating in a minority 761
business enterprise for the purpose of obtaining contracts, 762
subcontracts, or any other benefits under this section shall be 763
guilty of theft by deception as provided for in section 2913.02 of 764~~

~~the Revised Code.~~

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

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

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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 796
improvement projects to be financed in whole or in part under this 797
chapter, a local subdivision shall comply with the percentage 798
requirements of division (C)(1) of section 123.151 and of section 799
125.081 of the Revised Code. The subdivision shall also require 800
compliance by its subcontractors with the requirements of division 801
(C)(2) of section 123.151 of the Revised Code in awarding 802
contracts and purchasing services and materials under those 803
contracts. If, after making a good faith effort, a contractor is 804
unable to comply with the requirements of division (C)(2) of 805
section 123.151 of the Revised Code because it is unable to locate 806
minority business enterprises available to accept subcontracts or 807
purchase materials or services, the contractor may apply to the 808
subdivision for a waiver or modification of the requirement. If 809
the subdivision determines that the contractor made a good faith 810
effort to locate and use minority business enterprises but was 811
unable to do so, it may waive the provisions, authorize a 812
reduction in the total value of the contract designated to 813
minority business enterprises, or require a greater percentage of 814
services permissible in contracts for plumbing, gas fitting, steam 815
and hot water heating, ventilating apparatus, steam power plant, 816
or electrical equipment. If the subdivision denies a request for a 817
waiver or modification and the contractor is unable to comply with 818
division (C)(2) of section 123.151 of the Revised Code, the 819
contract shall be terminated by the subdivision. 820~~

(B) A capital improvement that is financed in whole or in 821
part under this chapter is a public improvement, and a subdivision 822
undertaking a capital improvement is a public authority, for 823
purposes of section 4115.03 of the Revised Code. All contractors 824
and subcontractors working on a capital improvement financed in 825
whole or in part under this chapter shall comply with sections 826
4115.03 to 4115.16 of the Revised Code. 827

Sec. 307.674. (A) As used in this section:	828
(1) "Bonds" means:	829
(a) Revenue bonds of the port authority described in division	830
(B)(2)(a) of this section;	831
(b) Securities as defined in division (KK) of section 133.01	832
of the Revised Code issued by the host municipal corporation,	833
described in division (B)(3)(a) of this section;	834
(c) Any bonds issued to refund any of those revenue bonds or	835
securities.	836
(2) "Corporation" means a nonprofit corporation that is	837
organized under the laws of this state and that includes within	838
the purposes for which it is incorporated the authorization to	839
lease and operate facilities such as a port authority educational	840
and cultural performing arts facility.	841
(3) "Cost," as applied to a port authority educational and	842
cultural performing arts facility, means the cost of acquiring,	843
constructing, renovating, rehabilitating, equipping, or improving	844
the facility, or any combination of those purposes, collectively	845
referred to in this section as "construction," and the cost of	846
acquisition of all land, rights of way, property rights,	847
easements, franchise rights, and interests required for those	848
purposes, the cost of demolishing or removing any buildings or	849
structures on land so acquired, including the cost of acquiring	850
any land to which those buildings or structures may be moved, the	851
cost of public utility and common carrier relocation or	852
duplication, the cost of all machinery, furnishings, and	853
equipment, financing charges, interest prior to and during	854
construction and for not more than three years after completion of	855
construction, costs arising under guaranty agreements,	856
reimbursement agreements, or other credit enhancement agreements	857

relating to bonds, engineering, expenses of research and 858
development with respect to such facility, legal expenses, plans, 859
specifications, surveys, studies, estimates of costs and revenues, 860
other expenses necessary or incident to determining the 861
feasibility or practicability of acquiring or constructing the 862
facility, administrative expense, and other expenses as may be 863
necessary or incident to that acquisition or construction and the 864
financing of such acquisition or construction, including, with 865
respect to the revenue bonds of a port authority, amounts to be 866
paid into any special funds from the proceeds of those bonds, and 867
repayments to the port authority, host county, host municipal 868
corporation, or corporation of any amounts advanced for the 869
foregoing purposes. 870

(4) "Debt service charges" means, for any period or payable 871
at any time, the principal of and interest and any premium due on 872
bonds for that period or payable at that time whether due at 873
maturity or upon mandatory redemption, together with any required 874
deposits to reserves for the payment of principal of and interest 875
on those bonds, and includes any payments required by the port 876
authority to satisfy any of its obligations under or arising from 877
any guaranty agreements, reimbursement agreements, or other credit 878
enhancement agreements described in division (C) of this section. 879

(5) "Host county" means the county within the boundaries of 880
which the port authority educational and cultural performing arts 881
facility is or will be located. 882

(6) "Host municipal corporation" means the municipal 883
corporation within the boundaries of which the port authority 884
educational and cultural performing arts facility is or will be 885
located. 886

(7) "Port authority" means a port authority created pursuant 887
to section 4582.22 of the Revised Code. 888

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

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

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

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

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

(c) Pledge and pay to the corporation all or such portion as provided for in the cooperative agreement of the revenue from the tax, together with any investment earnings on that revenue, to be

used to pay a portion of the costs to the corporation of leasing 920
the port authority educational and cultural performing arts 921
facility from the port authority. 922

(2) The port authority may agree to do any or all of the 923
following: 924

(a) Issue its revenue bonds pursuant to section 4582.48 of 925
the Revised Code for the purpose of paying all or a portion of the 926
costs of the port authority educational and cultural performing 927
arts facility; 928

(b) Acquire, construct, renovate, rehabilitate, equip, and 929
improve the port authority educational and cultural performing 930
arts facility; 931

(c) Lease the port authority educational and cultural 932
performing arts facility to the corporation; 933

(d) To the extent provided for in the cooperative agreement 934
or the lease to the corporation, authorize the corporation to 935
administer on behalf of the port authority the contracts for 936
acquiring, constructing, renovating, rehabilitating, or equipping 937
the port authority educational and cultural performing arts 938
facility; 939

(e) Use the revenue derived from the lease of the port 940
authority educational and cultural performing arts facility to the 941
corporation solely to pay debt service charges on revenue bonds of 942
the port authority issued pursuant to division (B)(2)(a) of this 943
section and to pay its obligations under or arising from any 944
guaranty agreements, reimbursement agreements, or other credit 945
enhancement agreements provided for in this section. 946

(3) The host municipal corporation may agree to do either or 947
both of the following: 948

(a) Issue its bonds for the purpose of paying all or a 949

portion of the costs of the port authority educational and 950
cultural performing arts facility, and pay the proceeds from the 951
issuance to the port authority for that purpose; 952

(b) Enter into a guaranty agreement, a reimbursement 953
agreement, or other credit enhancement agreement with the port 954
authority to provide a guaranty or other credit enhancement of the 955
port authority revenue bonds referred to in division (B)(2)(a) of 956
this section pledging taxes, other than ad valorem property taxes, 957
or other revenues for the purpose of providing the funds required 958
to satisfy the host municipal corporation's obligations under that 959
agreement. 960

The cooperative agreement may provide that the proceeds of 961
such securities or of such guaranty agreement, reimbursement 962
agreement, or other credit enhancement agreement be deposited with 963
and administered by the trustee pursuant to the trust agreement 964
authorized in division (C) of this section. 965

(4) The corporation may agree to do any or all of the 966
following: 967

(a) Lease the port authority educational and cultural 968
performing arts facility from the port authority; 969

(b) Operate and maintain the port authority educational and 970
cultural performing arts facility pursuant to the lease; 971

(c) To the extent provided for in the cooperative agreement 972
or the lease from the port authority, administer on behalf of the 973
port authority the contracts for acquiring, constructing, 974
renovating, rehabilitating, or equipping the port authority 975
educational and cultural performing arts facility. 976

(C) The pledge and payments referred to in divisions 977
(B)(1)(b) and (c) of this section and provided for in the 978
cooperative agreement shall be for the period stated in the 979

cooperative agreement but shall not extend longer than the period 980
necessary to provide for the final retirement of the port 981
authority revenue bonds referred to in division (B)(2)(a) of this 982
section, and for the satisfaction by the port authority of any of 983
its obligations under or arising from any guaranty agreements, 984
reimbursement agreements, or other credit enhancement agreements 985
relating to those bonds or to the revenues pledged to them. The 986
cooperative agreement shall provide for the termination of the 987
cooperative agreement, including the pledge and payment referred 988
to in division (B)(1)(c) of this section, if the port authority 989
revenue bonds referred to in division (B)(2)(a) of this section 990
have not been issued, sold, and delivered within five years of the 991
effective date of the cooperative agreement. 992

The cooperative agreement shall provide that any port 993
authority revenue bonds shall be secured by a trust agreement 994
between the port authority and a corporate trustee that is a trust 995
company or bank having the powers of a trust company within or 996
outside the state but authorized to exercise trust powers within 997
the state. The host county may be a party to that trust agreement 998
for the purpose of better securing the pledge by the host county 999
of its payment to the corporation pursuant to division (B)(1)(c) 1000
of this section. A tax levied pursuant to section 5739.09 of the 1001
Revised Code for the purposes specified in division (B)(1)(b) or 1002
(c) of this section is not subject to diminution by initiative or 1003
referendum or diminution by statute, unless provision is made for 1004
an adequate substitute reasonably satisfactory to the trustee 1005
under the trust agreement that secures the port authority revenue 1006
bonds. 1007

(D) A pledge of money by a host county under this section 1008
shall not be net indebtedness of the host county for purposes of 1009
section 133.07 of the Revised Code. A guaranty or other credit 1010
enhancement by a host municipal corporation under this section 1011

shall not be net indebtedness of the host municipal corporation 1012
for purposes of section 133.05 of the Revised Code. 1013

(E) If the terms of the cooperative agreement so provide, any 1014
contract for the acquisition, construction, renovation, 1015
rehabilitation, equipping, or improving of a port authority 1016
educational and cultural performing arts facility shall be made in 1017
such manner as is determined by the board of directors of the port 1018
authority, and unless the cooperative agreement provides 1019
otherwise, such a contract is not subject to division (R)(2) of 1020
section 4582.31 of the Revised Code. The port authority may take 1021
the assignment of and assume any contracts for the acquisition, 1022
construction, renovation, rehabilitation, equipping, or improving 1023
of a port authority educational and cultural performing arts 1024
facility that had previously been authorized by any of the host 1025
county, the host municipality, or the corporation. Such contracts 1026
are not subject to division (R)(2) of section 4582.31 of the 1027
Revised Code. 1028

Any contract for the acquisition, construction, renovation, 1029
rehabilitation, equipping, or improving of a port authority 1030
educational and cultural performing arts facility entered into, 1031
assigned, or assumed pursuant to this division shall provide that 1032
all laborers and mechanics employed for the acquisition, 1033
construction, renovation, rehabilitation, equipping, or improving 1034
of that facility shall be paid at the prevailing rates of wages of 1035
laborers and mechanics for the class of work called for by the 1036
port authority educational and cultural performing arts facility, 1037
which wages shall be determined in accordance with the 1038
requirements of Chapter 4115. of the Revised Code for the 1039
determination of prevailing wage rates. 1040

Notwithstanding any provisions to the contrary in section 1041
3383.07 of the Revised Code, construction services and general 1042
building services for a port authority educational and cultural 1043

performing arts facility funded completely or in part with money 1044
appropriated by the state to the Ohio ~~arts and sports~~ cultural 1045
facilities commission may be provided by a port authority or a 1046
corporation that occupies, will occupy, or is responsible for that 1047
facility, as determined by the commission. The construction 1048
services and general building services to be provided by the port 1049
authority or the corporation shall be specified in an agreement 1050
between the commission and the port authority or corporation. That 1051
agreement, or any actions taken under it, are not subject to 1052
Chapters 123. or 153. of the Revised Code, but are subject to 1053
Chapter 4115. of the Revised Code. 1054

Sec. 340.02. As used in this section, "mental health 1055
professional" means a person who is qualified to work with 1056
mentally ill persons, pursuant to standards established by the 1057
director of mental health under section 5119.611 of the Revised 1058
Code. 1059

For each alcohol, drug addiction, and mental health service 1060
district, there shall be appointed a board of alcohol, drug 1061
addiction, and mental health services of eighteen members. Members 1062
shall be residents of the district and shall be interested in 1063
mental health programs and facilities or in alcohol or drug 1064
addiction programs. 1065

The director of mental health shall appoint four members of 1066
the board, the director of alcohol and drug addiction services 1067
shall appoint four members, and the board of county commissioners 1068
shall appoint ten members. In a joint-county district, the county 1069
commissioners of each participating county shall appoint members 1070
in as nearly as possible the same proportion as that county's 1071
population bears to the total population of the district, except 1072
that at least one member shall be appointed from each 1073
participating county. 1074

The director of mental health shall ensure that at least one 1075
member of the board is a psychiatrist and one member of the board 1076
is a mental health professional. ~~One member of the board may be a~~ 1077
~~voting member of the citizen's advisory council of an institution~~ 1078
~~under the control of the department of mental health which serves~~ 1079
~~a hospital district in which one or more counties in the service~~ 1080
~~district is located.~~ If the appointment of a psychiatrist is not 1081
possible, as determined under rules adopted by the director, a 1082
licensed physician may be appointed in place of the psychiatrist. 1083
If the appointment of a licensed physician is not possible, the 1084
director of mental health may waive the requirement that the 1085
psychiatrist or licensed physician be a resident of the service 1086
district and appoint a psychiatrist or licensed physician from a 1087
contiguous county. The membership of the board shall, as nearly as 1088
possible, reflect the composition of the population of the service 1089
district as to race and sex. The director of mental health shall 1090
ensure that at least one member of the board is a person who has 1091
received or is receiving mental health services paid for by public 1092
funds and at least one member is a parent or other relative of 1093
such a person. 1094

The director of alcohol and drug addiction services shall 1095
ensure that at least one member of the board is a professional in 1096
the field of alcohol or drug addiction services and one member of 1097
the board is an advocate for persons receiving treatment for 1098
alcohol or drug addiction. Of the members appointed by the 1099
director of alcohol and drug addiction services, at least one 1100
shall be a person who has received or is receiving services for 1101
alcohol or drug addiction, and at least one ~~member~~ shall be a 1102
parent or other relative of such a person. 1103

No member or employee of a board of alcohol, drug addiction, 1104
and mental health services shall serve as a member of the board of 1105
any agency with which the board of alcohol, drug addiction, and 1106

mental health services has entered into a contract for the 1107
provision of services or facilities. No member of a board of 1108
alcohol, drug addiction, and mental health services shall be an 1109
employee of any agency with which the board has entered into a 1110
contract for the provision of services or facilities. No person 1111
shall be an employee of a board and such an agency unless the 1112
board and agency both agree in writing. 1113

No person shall serve as a member of the board of alcohol, 1114
drug addiction, and mental health services whose spouse, child, 1115
parent, brother, sister, grandchild, stepparent, stepchild, 1116
stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, 1117
daughter-in-law, brother-in-law, or sister-in-law serves as a 1118
member of the board of any agency with which the board of alcohol, 1119
drug addiction, and mental health services has entered into a 1120
contract for the provision of services or facilities. No person 1121
shall serve as a member or employee of the board whose spouse, 1122
child, parent, brother, sister, stepparent, stepchild, 1123
stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, 1124
daughter-in-law, brother-in-law, or sister-in-law serves as a 1125
county commissioner of a county or counties in the alcohol, drug 1126
addiction, and mental health service district. 1127

Each year each board member shall attend at least one 1128
inservice training session provided or approved by the department 1129
of mental health or the department of alcohol and drug addiction 1130
services. Such training sessions shall not be considered to be 1131
regularly scheduled meetings of the board. 1132

Each member shall be appointed for a term of four years, 1133
commencing the first day of July, except that one-third of initial 1134
appointments to a newly established board, and to the extent 1135
possible to expanded boards, shall be for terms of two years, 1136
one-third of initial appointments shall be for terms of three 1137
years, and one-third of initial appointments shall be for terms of 1138

four years. No member shall serve more than two consecutive 1139
four-year terms. A member may serve for three consecutive terms 1140
only if one of the terms is for less than two years. A member who 1141
has served two consecutive four-year terms or three consecutive 1142
terms totaling less than ten years is eligible for reappointment 1143
one year following the end of the second or third term, 1144
respectively. 1145

When a vacancy occurs, appointment for the expired or 1146
unexpired term shall be made in the same manner as an original 1147
appointment. The appointing authority shall be notified by 1148
certified mail of any vacancy and shall fill the vacancy within 1149
sixty days following ~~such~~ that notice. 1150

Any member of the board may be removed from office by the 1151
appointing authority for neglect of duty, misconduct, or 1152
malfeasance in office, and shall be removed by the appointing 1153
authority if the member's spouse, child, parent, brother, sister, 1154
stepparent, stepchild, stepbrother, stepsister, father-in-law, 1155
mother-in-law, son-in-law, daughter-in-law, brother-in-law, or 1156
sister-in-law serves as a county commissioner of a county or 1157
counties in the service district or serves as a member or employee 1158
of the board of an agency with which the board of alcohol, drug 1159
addiction, and mental health services has entered a contract for 1160
the provision of services or facilities. The member shall be 1161
informed in writing of the charges and afforded an opportunity for 1162
a hearing. Upon the absence of a member within one year from 1163
either four board meetings or from two board meetings without 1164
prior notice, the board shall notify the appointing authority, 1165
which may vacate the appointment and appoint another person to 1166
complete the member's term. 1167

Members of the board shall serve without compensation, but 1168
shall be reimbursed for actual and necessary expenses incurred in 1169
the performance of their official duties, as defined by rules of 1170

the departments of mental health and alcohol and drug addiction 1171
services. 1172

Sec. 1501.04. There is hereby created in the department of 1173
natural resources a recreation and resources commission composed 1174
of the chairperson of the wildlife council created under section 1175
1531.03 of the Revised Code, the chairperson of the parks and 1176
recreation council created under section 1541.40 of the Revised 1177
Code, the chairperson of the waterways safety council created 1178
under section 1547.73 of the Revised Code, the chairperson of the 1179
technical advisory council on oil and gas created under section 1180
1509.38 of the Revised Code, the ~~chairman~~ chairperson of the 1181
forestry advisory council created under section 1503.40 of the 1182
Revised Code, the chairperson of the Ohio soil and water 1183
conservation commission created under section 1515.02 of the 1184
Revised Code, ~~the chairperson of the Ohio natural areas council~~ 1185
~~created under section 1517.03 of the Revised Code,~~ the chairperson 1186
of the Ohio water advisory council created under section 1521.031 1187
of the Revised Code, the chairperson of the recycling and litter 1188
prevention advisory council created under section 1502.04 of the 1189
Revised Code, the chairperson of the Ohio geology advisory council 1190
created under section 1505.11 of the Revised Code, and five 1191
members appointed by the governor with the advice and consent of 1192
the senate, not more than three of whom shall belong to the same 1193
political party. The director of natural resources shall be an ex 1194
officio member of the commission, with a voice in its 1195
deliberations, but without the power to vote. 1196

Terms of office of members of the commission appointed by the 1197
governor shall be for five years, commencing on the second day of 1198
February and ending on the first day of February. Each member 1199
shall hold office from the date of appointment until the end of 1200
the term for which the member was appointed. 1201

In the event of the death, removal, resignation, or 1202
incapacity of a member of the commission, the governor, with the 1203
advice and consent of the senate, shall appoint a successor who 1204
shall hold office for the remainder of the term for which the 1205
member's predecessor was appointed. Any member shall continue in 1206
office subsequent to the expiration date of the member's term 1207
until the member's successor takes office, or until a period of 1208
sixty days has elapsed, whichever occurs first. 1209

The governor may remove any appointed member of the 1210
commission for misfeasance, nonfeasance, or malfeasance in office. 1211

The commission shall exercise no administrative function, but 1212
may do any of the following: 1213

(A) Advise with and recommend to the director as to plans and 1214
programs for the management, development, utilization, and 1215
conservation of the natural resources of the state; 1216

(B) Advise with and recommend to the director as to methods 1217
of coordinating the work of the divisions of the department; 1218

(C) Consider and make recommendations upon any matter that 1219
the director may submit to it; 1220

(D) Submit to the governor biennially recommendations for 1221
amendments to the conservation laws of the state. 1222

Each member of the commission, before entering upon the 1223
discharge of the member's duties, shall take and subscribe to an 1224
oath of office, which oath, in writing, shall be filed in the 1225
office of the secretary of state. 1226

The members of the commission shall serve without 1227
compensation, but shall be entitled to receive their actual and 1228
necessary expenses incurred in the performance of their official 1229
duties. 1230

The commission, by a majority vote of all its members, shall 1231

adopt and amend bylaws.

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

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

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

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occurring during the term of any member whom the appointing authority has appointed to the advisory council. 1263
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The remaining eleven members shall be appointed by the governor with the advice and consent of the senate and shall be persons with knowledge of or experience in recycling or litter prevention programs. The council shall have broad based representation of interests including agriculture, labor, the environment, manufacturing, wholesale and retail industry, and the public. One of the business members shall be from the commercial recycling industry, and another shall be from an industry required to pay taxes under section 5733.065 of the Revised Code. The director of natural resources shall not be a member of the council. The governor shall make initial appointments to the council within thirty days after October 20, 1987. Of the governor's initial appointments to the council, five shall be for a term of one year, and six shall be for a term of two years. Thereafter, terms of office shall be for three years. Each member appointed by the governor shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. In the event of death, removal, resignation, or incapacity of a member of the council appointed by the governor, the governor, with the advice and consent of the senate, shall appoint a successor who shall hold office for the remainder of the term for which the successor's predecessor was appointed. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. The governor at any time may remove any of the governor's appointees from the council for misfeasance, nonfeasance, or malfeasance in office. 1265
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Members of the council may be reappointed. 1293

The council shall hold at least four regular quarterly 1294

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

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

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

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

The council shall do all of the following:

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

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

~~(C)~~(B) In conjunction with the chief and with the approval of
the director, establish criteria by which to certify, and certify,

political subdivisions for receipt of special grants for 1325
activities or projects that are intended to accomplish the 1326
purposes of any of the programs established under section 1502.03 1327
of the Revised Code; 1328

~~(D)~~(C) Advise the chief in carrying out the chief's duties 1329
under this chapter. 1330

Sec. 1502.05. (A) The chief of recycling and litter 1331
prevention, pursuant to division ~~(B)~~(A) of section 1502.04 of the 1332
Revised Code and with the approval of the director of natural 1333
resources, may make grants from the recycling and litter 1334
prevention fund created in section 1502.02 of the Revised Code to 1335
accomplish the purposes of the programs established under section 1336
1502.03 of the Revised Code. 1337

(B) Except as provided in division (C) of this section, the 1338
chief, with the approval of the director, may require any eligible 1339
applicant certified by the recycling and litter prevention 1340
advisory council under division ~~(B)~~(A) of section 1502.04 of the 1341
Revised Code that applies for a grant for an activity or project 1342
that is intended to further the purposes of any program 1343
established under division (A)(1), (2), or (4) of section 1502.03 1344
of the Revised Code to provide a matching contribution of not more 1345
than fifty per cent of the grant. 1346

(C) Notwithstanding division (B) of this section, any grant 1347
awarded under division (A) of this section to foster cooperative 1348
research and development regarding recycling or the cooperative 1349
establishment or expansion of private recycling facilities or 1350
programs shall be made in conjunction with a contribution to the 1351
project by a cooperating enterprise that maintains or proposes to 1352
maintain a relevant research and development or recycling facility 1353
or program in this state or by an agency of the state, provided 1354
that funding provided by a state agency shall not be provided from 1355

general revenue funds appropriated by the general assembly. No 1356
grant made under division (A) of this section for the purposes 1357
described in this division shall exceed the contribution made by 1358
the cooperating enterprise or state agency. The chief may consider 1359
cooperating contributions in the form of state of the art new 1360
equipment or in other forms if the chief determines that the 1361
contribution is essential to the successful implementation of the 1362
project. 1363

Grants made under division (A) of this section for the 1364
purposes described in this division shall be made in such form and 1365
conditioned on such terms as the chief considers to be 1366
appropriate. 1367

(D)(1) The chief, with the approval of the director, may 1368
require any eligible applicant certified by the recycling and 1369
litter prevention advisory council under division ~~(B)~~(A) of 1370
section 1502.04 of the Revised Code that applies for a grant that 1371
is intended to further the purposes of the program established 1372
under division (A)(3) of section 1502.03 of the Revised Code, 1373
except any eligible applicant that is or is located in a county 1374
that has a per capita income equal to or below ninety per cent of 1375
the median county per capita income of the state as determined by 1376
the chief using the most recently available figures from the 1377
United States census bureau, to provide a matching contribution as 1378
follows: 1379

(a) Up to ten per cent of the grant from any eligible 1380
applicant that is or is located in a county that has a per capita 1381
income above ninety per cent of the median county per capita 1382
income of the state, but equal to or below one hundred per cent of 1383
the median county per capita income of the state; 1384

(b) Up to twenty per cent of the grant from any eligible 1385
applicant that is or is located in a county that has a per capita 1386

income above the median county per capita income of the state. 1387

(2) If the eligible applicant is a joint solid waste 1388
management district or is filing a joint application on behalf of 1389
two or more counties, the matching contribution required under 1390
division (D)(1) of this section shall be the average of the 1391
matching contributions of all of the counties covered by the 1392
application as determined in accordance with that division. The 1393
matching contribution of a county that has a per capita income 1394
equal to or below ninety per cent of the median county per capita 1395
income of the state shall be included as zero in calculating the 1396
average matching contribution. 1397

(E) After receiving notice from the director of environmental 1398
protection that each county within the state is subject to the 1399
solid waste management plan of a solid waste management district, 1400
the chief shall ensure that not less than fifty per cent of the 1401
moneys distributed as grants under this section shall be expended 1402
for the purposes of recycling and recycling market development. 1403

Sec. 1502.11. (A) ~~Not later than December 31, 1994, the~~ 1404
~~interagency recycling market development workgroup~~ The chief of 1405
recycling and litter prevention shall prepare, with the assistance 1406
of the recycling and litter prevention advisory council, and the 1407
director of natural resources shall approve ~~the initial Ohio~~ 1408
~~recycling market development plan. Thereafter, a revised Ohio~~ 1409
recycling market development plan shall be prepared and approved 1410
not later than the thirty-first day of December every two years. 1411
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~~The Ohio recycling market development~~ plan shall do all of 1413
the following: 1414

(1) Identify the types of recyclables, the recycling of which 1415
will receive assistance under the plan; 1416

(2) Assess the need for and recommend specific types of 1417
direct financial assistance to be provided by the state, including 1418
grants, low-interest loans, bonds, and rebates and guarantees for 1419
projects such as retooling costs for manufacturers and industrial 1420
plants to use recycled materials, capitalization business 1421
incubators, new product research and development, demonstration 1422
projects, and the application and uses of recycled materials; 1423

(3) Assess the need for and recommend specific types of other 1424
assistance to be provided by the state, including the creation of 1425
enterprise zones and other tax incentives and exemptions, job 1426
training and managerial assistance, facilitation of technology 1427
transfers, provision of technical information to industries and to 1428
counties, townships, municipal corporations, and solid waste 1429
management districts, provision of consumer information, and 1430
establishment of a computer information network; 1431

(4) Designate a specific state agency to administer each 1432
component of the plan recommended under divisions (A)(2) and (3) 1433
of this section; 1434

(5) Determine the funding level needed for each component of 1435
the plan recommended under divisions (A)(2) and (3) of this 1436
section, and establish biennial budget estimates for the main 1437
operating biennial budget needed by the state agency designated to 1438
administer the component under division (A)(4) of this section; 1439

(6) Recommend necessary statutory changes, provided that the 1440
changes have been endorsed by a two-thirds vote of the recycling 1441
and litter prevention advisory council. 1442

~~(B) In preparing the initial plan under division (A) of this 1443
section, the workgroup shall review existing programs of state 1444
agencies to determine which programs can be used to increase state 1445
support of recycling and recycling market development. In 1446
particular, the workgroup shall do all of the following: 1447~~

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

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

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

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

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

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

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

~~(2) Recommend any needed changes in the components of the previous plan prepared under divisions (A)(1) to (6) of this section, including the addition or deletion of any components.~~

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

~~(1) Administer each such that component as provided in the plan;~~

~~(2) Include in its biennial budget estimates for the main operating biennial budget the budget estimates established~~

pursuant to division (A)(5) of this section. 1478

~~(E)~~(D) A copy of each plan prepared under this section shall 1479
be submitted upon completion to the governor, the speaker of the 1480
house of representatives, and the president of the senate. 1481

Sec. 1502.12. (A) There is hereby created in the state 1482
treasury the scrap tire grant fund, consisting of moneys 1483
transferred to the fund under section 3734.82 of the Revised Code. 1484
The chief of the division of recycling and litter prevention, with 1485
the approval of the director of natural resources, may make grants 1486
from the fund for the purpose of supporting market development 1487
activities for scrap tires. The grants may be awarded to 1488
individuals, businesses, and entities certified under division 1489
~~(B)~~(A) of section 1502.04 of the Revised Code. 1490

(B) Projects and activities that are eligible for grants 1491
under this section shall be evaluated for funding using, at a 1492
minimum, the following criteria: 1493

(1) The degree to which a proposed project contributes to the 1494
increased use of scrap tires generated in this state; 1495

(2) The degree of local financial support for a proposed 1496
project; 1497

(3) The technical merit and quality of a proposed project. 1498

Sec. 1506.30. As used in sections 1506.30 to ~~1506.37~~ 1506.36 1499
of the Revised Code: 1500

(A) "Abandoned property" means a submerged aircraft; a 1501
submerged watercraft, including a ship, boat, canoe, skiff, raft, 1502
or barge; the rigging, gear, fittings, trappings, and equipment of 1503
a submerged aircraft or watercraft; the personal property of the 1504
officers, crew, and passengers of a submerged aircraft or 1505
watercraft; the cargo of a submerged aircraft or watercraft that 1506

has been deserted, relinquished, cast away, or left behind and for
which attempts at reclamation have been abandoned by the owners
and insurers; and submerged materials resulting from activities of
prehistoric and historic native Americans.

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

(C) "Historical value" means the quality of significance
exemplified by an object, structure, site, or district that is
included in or eligible for inclusion in the state registry of
archaeological landmarks authorized under section 149.51 of the
Revised Code, the state registry of historic landmarks authorized
under section 149.55 of the Revised Code, or the national register
of historic places.

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

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

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

Sec. 1506.34. (A) The director of natural resources, with the
approval of the director of the Ohio historical society, shall
establish policies and may adopt rules necessary to implement and
administer sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised

Code. Not less than forty-five days prior to adopting a rule under 1537
this section or section 1506.31 of the Revised Code, the director 1538
of natural resources shall send a copy of the proposed rule to the 1539
director of the Ohio historical society, who shall promptly review 1540
it. Not more than thirty days after receiving the proposed rule, 1541
the director of the Ohio historical society shall return the rule 1542
to the director of natural resources together with ~~his~~ the former 1543
director's written approval or disapproval of the proposed rule. 1544
If ~~he~~ the director of the Ohio historical society disapproves the 1545
rule, ~~he~~ the director shall explain the reasons for ~~his~~ the 1546
disapproval and any amendments to the rule ~~he~~ the director 1547
considers necessary to obtain ~~his~~ the director's approval. The 1548
director of natural resources shall not adopt a rule under those 1549
sections that has not been approved by the director of the Ohio 1550
historical society. If the director of the Ohio historical society 1551
does not respond within thirty days as prescribed in this section, 1552
the rule is deemed approved by ~~him~~ the director. 1553

(B) The director of natural resources shall inform the public 1554
of the requirements of sections 1506.30 to ~~1506.37~~ 1506.36 of the 1555
Revised Code and any policies established and rules adopted under 1556
them. In complying with this section, the director may establish 1557
or conduct educational programs or seminars, print and distribute 1558
informational pamphlets, and provide detailed information to 1559
organizations that conduct scuba diving training programs. 1560

(C) The director of natural resources may hire or contract 1561
with a marine archaeologist, a marine historian, a marine 1562
surveyor, or any combination ~~thereof~~ of these persons for the 1563
purposes of implementing and administering sections 1506.30 to 1564
~~1506.37~~ 1506.36 of the Revised Code and any rules adopted under 1565
them. 1566

Sec. 1506.35. (A) The director of natural resources may 1567

suspend or revoke, in accordance with Chapter 119. of the Revised Code, a permit issued under section 1506.32 of the Revised Code if the permit holder has done either of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

permit issued under section 1506.32 of the Revised Code and may 1630
make arrests for violation of those laws, rules, and permits. 1631

Sec. 1517.02. There is hereby created in the department of 1632
natural resources the division of natural areas and preserves, 1633
which shall be administered by the chief of ~~the division of~~ 1634
natural areas and preserves. The chief shall take an oath of 1635
office and shall file in the office of the secretary of state a 1636
bond signed by ~~him~~ the chief and by a surety approved by the 1637
governor for a sum fixed pursuant to section 121.11 of the Revised 1638
Code. 1639

The chief shall, ~~in consultation from time to time with the~~ 1640
~~Ohio natural areas council,~~ administer a system of nature 1641
preserves and wild, scenic, and recreational river areas. The 1642
chief shall establish a system of nature preserves through 1643
acquisition and dedication of natural areas of state or national 1644
significance, which shall include, but not be limited to, areas 1645
which represent characteristic examples of Ohio's natural 1646
landscape types and its natural vegetation and geological history. 1647
The chief shall encourage landowners to dedicate areas of unusual 1648
significance as nature preserves, and shall establish and maintain 1649
a registry of natural areas of unusual significance. 1650

The chief may supervise, operate, protect, and maintain wild, 1651
scenic, and recreational river areas, as designated by the 1652
director of natural resources. The chief may cooperate with 1653
federal agencies administering any federal program concerning 1654
wild, scenic, or recreational river areas. 1655

The chief may, with the approval of the director, enter into 1656
an agreement with the United States department of commerce under 1657
the "Coastal Zone Management Act of 1972," 86 Stat. 1280, 16 1658
U.S.C.A. 1451, as amended, for the purpose of receiving grants to 1659
continue the management, operation, research, and programming at 1660

old woman creek national estuarine research reserve.	1661
The chief shall <u>do the following</u> :	1662
(A) Formulate policies and plans for the acquisition, use, management, and protection of nature preserves;	1663 1664
(B) Formulate policies for the selection of areas suitable for registration;	1665 1666
(C) Formulate policies for the dedication of areas as nature preserves;	1667 1668
(D) Prepare and maintain surveys and inventories of natural areas and habitats of rare and endangered species of plants and animals;	1669 1670 1671
(E) Adopt rules for the use, visitation, and protection of nature preserves, "natural areas owned or managed through easement, license, or lease by the department and administered by the division," and lands owned "or managed through easement, license, or lease" by the department and administered by the division which are within or adjacent to any wild, scenic, or recreational river area, in accordance with Chapter 119. of the Revised Code;	1672 1673 1674 1675 1676 1677 1678 1679
(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;	1680 1681 1682 1683
(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;	1684 1685 1686
(H) Provide interpretive programs and publish and disseminate information pertaining to nature preserves and natural areas for their visitation and use;	1687 1688 1689
(I) <u>(H)</u> Conduct and grant permits to qualified persons for the	1690

conduct of scientific research and investigations within nature preserves;	1691 1692
(J) (I) Establish an appropriate system for marking nature preserves;	1693 1694
(K) (J) Publish and submit to the governor and the general assembly a biennial report of the status and condition of each nature preserve, activities conducted within each preserve, and plans and recommendations for natural area preservation.	1695 1696 1697 1698
Sec. 1517.05. The department of natural resources, for and on behalf of the state, shall acquire a system of nature preserves for the following uses and purposes:	1699 1700 1701
(A) For scientific research in such fields as ecology, taxonomy, genetics, forestry, pharmacology, agriculture, soil science, geology, paleontology, conservation, and similar fields;	1702 1703 1704
(B) For the teaching of biology, natural history, ecology, geology, conservation, and other subjects;	1705 1706
(C) As habitats for plant and animal species and communities and other natural objects;	1707 1708
(D) As reservoirs of natural materials;	1709
(E) As places of natural interest and beauty;	1710
(F) For visitation whereby persons may observe and experience natural biotic and environmental systems of the earth and their processes;	1711 1712 1713
(G) To promote understanding and appreciation of the aesthetic, cultural, scientific, and spiritual values of such areas by the people of the state;	1714 1715 1716
(H) For the preservation and protection of nature preserves against modification or encroachment resulting from occupation, development, or other use that would destroy their natural or	1717 1718 1719

aesthetic conditions.

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

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

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

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Articles of dedication may contain provisions for the
management, custody, and transfer of land, provisions defining the
rights of the owner or operating agency, and the department, and
~~such~~ other provisions ~~as may be~~ necessary or advisable to carry

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out the uses and purposes for which the land is dedicated. They 1751
may contain conditions under which the owner and the director of 1752
natural resources may agree to rescind the articles. 1753

The attorney general, upon request of the director of natural 1754
resources, may bring an action for injunction in any court of 1755
competent jurisdiction to enforce the terms of articles of 1756
dedication. 1757

The department may make or accept amendments of any articles 1758
of dedication upon terms and conditions that will not destroy the 1759
natural or aesthetic conditions of a preserve. If the fee simple 1760
interest in the area or preserve is not held by the state, no 1761
amendments shall be made without the written consent of the owner. 1762
Each amendment shall be recorded in the same manner as the 1763
articles of dedication. 1764

~~Sec. 1517.23. With the advice of the Ohio natural areas 1765
council created under section 1517.03 of the Revised Code, the The 1766
chief of the division of natural areas and preserves shall do both 1767
of the following: 1768~~

(A) Formulate policies and plans and establish a program 1769
incorporating them for the identification and protection of the 1770
state's cave resources and adopt, amend, or rescind rules in 1771
accordance with Chapter 119. of the Revised Code to implement that 1772
program; 1773

(B) Provide technical assistance and management advice to 1774
owners upon request concerning the protection of caves on their 1775
land. 1776

~~Sec. 1518.01. With the advice of the natural areas council, 1777
the The chief of ~~the division of~~ natural areas and preserves shall 1778
adopt and may amend or rescind rules, in accordance with Chapter 1779
119. of the Revised Code, setting forth criteria for identifying 1780~~

and designating species of plants native to ~~Ohio~~ which this state 1781
that are in danger of extirpation or ~~which~~ are threatened with 1782
becoming endangered. The chief shall adopt and may amend or 1783
rescind rules, in accordance with Chapter 119. of the Revised 1784
Code, setting forth a list of the plants that ~~he~~ the chief 1785
determines to be endangered or threatened with extirpation from 1786
this state, applying the criteria so developed. This list shall 1787
identify the common and scientific names of each species. The list 1788
shall include all species native to this state ~~which~~ that are 1789
listed on the "United States list of endangered and threatened 1790
wildlife and plants" pursuant to the "Endangered Species Act of 1791
1973," 87 Stat. 884, 16 U.S.C. 1531-1543, as amended. Further, the 1792
chief may produce for public education purposes, lists of plant 1793
species, ~~which~~ which shall include the names of species of plants, ~~which~~ 1794
that may become threatened in the future through habitat loss, 1795
commercial exploitation, or other means. 1796

Sec. 1518.03. ~~With the advice of the natural areas council,~~ 1797
~~the~~ The chief of ~~the division~~ of natural areas and preserves shall 1798
adopt and may amend or repeal rules, in accordance with Chapter 1799
119. of the Revised Code, restricting the taking, possessing, 1800
transportation, sale, offering for sale, or exposure for sale, for 1801
commercial purposes of native Ohio species of wild plants or parts 1802
~~thereof~~ of them, that are listed as endangered or threatened by 1803
rule adopted under section 1518.01 of the Revised Code. The rules 1804
may prohibit the taking of any endangered or threatened plant, or 1805
parts ~~thereof~~ of it, for commercial purposes, from any wood lot, 1806
field, or forest, or from any other location in which ~~such~~ that 1807
plant is found growing in its native habitat. This section does 1808
not prevent any ~~nurseryman~~ nurseryperson or dealer who is licensed 1809
under Chapter 927. of the Revised Code, from selling, offering for 1810
sale, shipping, or otherwise disposing of any endangered or 1811
threatened plants or parts ~~thereof~~ of them when ~~such~~ those plants 1812

have been commercially grown by a licensed nursery or legally 1813
imported into this state. For the purposes of this section, 1814
"commercial purposes" means with intent to sell or trade 1815
endangered or threatened plants for gain or profit. "Commercially 1816
grown" means to grow plants under cultivation in tilled plots or 1817
in a greenhouse. 1818

The rules shall provide for the taking of species endangered 1819
or threatened with statewide extirpation for botanical, 1820
educational, and scientific purposes, and for propagation in 1821
captivity to preserve the species, with written permission from 1822
the chief. The rules shall not prohibit the taking or possession 1823
of species listed on the "United States list of endangered and 1824
threatened wildlife and plants" for botanical, educational, or 1825
scientific purposes, or for propagation in captivity to preserve 1826
the species, under a permit or license from the United States or 1827
any instrumentality ~~thereof~~ of the United States. 1828

Sec. 1551.35. (A) There is hereby established a technical 1829
advisory committee to assist the director of the Ohio coal 1830
development office in achieving the office's purposes. The 1831
director shall appoint to the committee one member of the public 1832
utilities commission and one representative each of coal 1833
production companies, the united mine workers of America, electric 1834
utilities, manufacturers that use Ohio coal, and environmental 1835
organizations, as well as two people with a background in coal 1836
research and development technology, one of whom is employed at 1837
the time of the member's appointment by a state university, as 1838
defined in section 3345.011 of the Revised Code. In addition, the 1839
committee shall include four legislative members. The speaker and 1840
minority leader of the house of representatives each shall appoint 1841
one member of the house of representatives, and the president and 1842
minority leader of the senate each shall appoint one member of the 1843
senate, to the committee. The director of environmental 1844

~~7 and the director of development, and one member of the Ohio~~ 1845
~~water development authority designated by that authority, shall~~ 1846
serve on the committee as ex officio members ~~ex officio~~. Any 1847
member of the committee may designate in writing a substitute to 1848
serve in the member's absence on the committee. The director of 1849
environmental protection may designate in writing the chief of the 1850
air pollution control division of the agency to represent the 1851
agency. Members shall serve on the committee at the pleasure of 1852
their appointing authority. Members of the committee appointed by 1853
the director of the office and, notwithstanding section 101.26 of 1854
the Revised Code, legislative members of the committee, when 1855
engaged in their official duties as members of the committee, 1856
shall be compensated on a per diem basis in accordance with 1857
division (J) of section 124.15 of the Revised Code, except that 1858
the member of the public utilities commission and, while employed 1859
by a state university, the member with a background in coal 1860
research, shall not be so compensated. Members shall receive their 1861
actual and necessary expenses incurred in the performance of their 1862
duties. 1863

(B) The technical advisory committee shall review and make 1864
recommendations concerning the Ohio coal development agenda 1865
required under section 1551.34 of the Revised Code, project 1866
proposals, research and development projects submitted to the 1867
office by public utilities for the purpose of section 4905.304 of 1868
the Revised Code, proposals for grants, loans, and loan guarantees 1869
for purposes of sections 1555.01 to 1555.06 of the Revised Code, 1870
and such other topics as the director of the office considers 1871
appropriate. 1872

(C) The technical advisory committee may hold an executive 1873
session at any regular or special meeting for the purpose of 1874
considering research and development project proposals or 1875
applications for assistance submitted to the Ohio coal development 1876

office under section 1551.33, or sections 1555.01 to 1555.06, of 1877
the Revised Code, to the extent that ~~such~~ the proposals or 1878
applications consist of trade secrets or other proprietary 1879
information. 1880

Any materials or data submitted to, made available to, or 1881
received by the Ohio air quality development authority or the 1882
director of the Ohio coal development office in connection with 1883
agreements for assistance entered into under this chapter or 1884
Chapter 1555. of the Revised Code, or any information taken from 1885
~~such~~ those materials or data for any purpose, to the extent that 1886
the materials or data consist of trade secrets or other 1887
proprietary information, are not public records for the purposes 1888
of section 149.43 of the Revised Code. 1889

As used in this division, "trade secrets" has the same 1890
meaning as in section 1333.61 of the Revised Code. 1891

Sec. 2505.02. (A) As used in this section: 1892

(1) "Substantial right" means a right that the United States 1893
Constitution, the Ohio Constitution, a statute, the common law, or 1894
a rule of procedure entitles a person to enforce or protect. 1895

(2) "Special proceeding" means an action or proceeding that 1896
is specially created by statute and that prior to 1853 was not 1897
denoted as an action at law or a suit in equity. 1898

(3) "Provisional remedy" means a proceeding ancillary to an 1899
action, including, but not limited to, a proceeding for a 1900
preliminary injunction, attachment, discovery of privileged 1901
matter, suppression of evidence, ~~or~~ a prima-facie showing pursuant 1902
to section 2307.85 or 2307.86 of the Revised Code, a prima-facie 1903
showing pursuant to section 2307.92 of the Revised Code, or a 1904
finding made pursuant to division (A)(3) of section 2307.93 of the 1905
Revised Code. 1906

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

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

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

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

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

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

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

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

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

(C) When a court issues an order that vacates or sets aside a

judgment or grants a new trial, the court, upon the request of
either party, shall state in the order the grounds upon which the
new trial is granted or the judgment vacated or set aside.

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

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

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

Sec. 3375.62. The governor shall appoint four members of the
board of trustees of the ~~Martha Kinney Cooper~~ Ohioana Library
Association, Martha Kinney Cooper Memorial. Terms of office shall
be for four years, commencing on the sixteenth day of September
and ending on the fifteenth day of September, ~~except that upon~~
~~expiration of the term ending January 8, 1976, the new term which~~
~~succeeds it shall commence on January 9, 1976 and end on September~~
~~15, 1979~~. Each member shall hold office from the date of ~~his~~
appointment until the end of the term for which ~~he was~~ appointed.
Any member appointed to fill a vacancy occurring prior to the

expiration of the term for which ~~his~~ the member's predecessor was 1967
appointed shall hold office for the remainder of ~~such~~ that term. 1968
Any member shall continue in office subsequent to the expiration 1969
date of ~~his~~ the member's term until ~~his~~ the member's successor 1970
takes office, or until a period of sixty days has elapsed, 1971
whichever occurs first. ~~Said~~ The gubernatorial appointees shall 1972
serve as members of the board of trustees ~~of the Martha Kinney~~ 1973
~~Cooper Ohioana Library Association~~ in addition to the regular 1974
constituted board of trustees of the corporation. 1975

Sec. 3383.01. As used in this chapter: 1976

(A) "~~Arts~~ Culture" means any of the following: 1977

(1) Visual, musical, dramatic, graphic, design, and other 1978
arts, including, but not limited to, architecture, dance, 1979
literature, motion pictures, music, painting, photography, 1980
sculpture, and theater, and the provision of training or education 1981
in these arts; 1982

(2) The presentation or making available, in museums or other 1983
indoor or outdoor facilities, of principles of science and their 1984
development, use, or application in business, industry, or 1985
commerce or of the history, heritage, development, presentation, 1986
and uses of the arts described in division (A)(1) of this section 1987
and of transportation; 1988

(3) The preservation, presentation, or making available of 1989
features of archaeological, architectural, environmental, or 1990
historical interest or significance in a state historical facility 1991
or a local historical facility. 1992

(B) "~~Arts~~ Cultural organization" means either of the 1993
following: 1994

(1) A governmental agency or Ohio nonprofit corporation that 1995
provides programs or activities in areas directly concerned with 1996

the arts <u>culture</u> ;	1997
(2) A regional arts and cultural district as defined in section 3381.01 of the Revised Code.	1998 1999
(C) " Arts Cultural project" means all or any portion of an Ohio arts <u>cultural</u> 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.	2000 2001 2002 2003 2004
(D) "Cooperative contract" means a contract between the Ohio arts and sports <u>cultural</u> facilities commission and an arts a <u>cultural</u> organization providing the terms and conditions of the cooperative use of an Ohio arts <u>cultural</u> facility.	2005 2006 2007 2008
(E) "Costs of operation" means amounts required to manage an Ohio arts <u>cultural</u> facility that are incurred following the completion of construction of its arts <u>cultural</u> project, provided that both of the following apply:	2009 2010 2011 2012
(1) Those amounts either:	2013
(a) Have been committed to a fund dedicated to that purpose;	2014
(b) Equal the principal of any endowment fund, the income from which is dedicated to that purpose.	2015 2016
(2) The commission and the arts <u>cultural</u> organization have executed an agreement with respect to either of those funds.	2017 2018
(F) "General building services" means general building services for an Ohio arts <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.	2019 2020 2021 2022 2023 2024
(G) "Governmental agency" means a state agency, a state-supported or state-assisted institution of higher education,	2025 2026

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

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

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

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

(1) Relating to ~~the arts~~ culture for an Ohio ~~arts~~ cultural 2059
facility, including as applicable, but not limited to, providing 2060
for displays, exhibitions, specimens, and models; booking of 2061
artists, performances, or presentations; scheduling; and hiring or 2062
contracting for directors, curators, technical and scientific 2063
staff, ushers, stage managers, and others directly related to the 2064
~~arts~~ cultural activities in the facility; but not including 2065
general building services; 2066

(2) Relating to sports and athletic events for an Ohio sports 2067
facility, including as applicable, but not limited to, providing 2068
for booking of athletes, teams, and events; scheduling; and hiring 2069
or contracting for staff, ushers, managers, and others directly 2070
related to the sports and athletic events in the facility; but not 2071
including general building services. 2072

(K) "Ohio ~~arts~~ cultural facility" means any of the following: 2073

(1) The ~~three~~ theaters located in the state office tower at 2074
77 South High street in Columbus; 2075

(2) Any capital facility in this state to which both of the 2076
following apply: 2077

(a) The construction of ~~an arts~~ a cultural project related to 2078
the facility was authorized or funded by the general assembly 2079
pursuant to division (D)(3) of section 3383.07 of the Revised Code 2080
and proceeds of state bonds are used for costs of the ~~arts~~ 2081
cultural project. 2082

(b) The facility is managed directly by, or is subject to a 2083
cooperative or management contract with, the Ohio ~~arts and sports~~ 2084
cultural facilities commission, and is used for or in connection 2085
with the activities of the commission, including the presentation 2086
or making available of ~~arts~~ culture to the public and the 2087
provision of training or education in ~~the arts~~ culture. 2088

(3) A state historical facility or a local historical facility. 2089
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(L) "State agency" means the state or any of its branches, officers, boards, commissions, authorities, departments, divisions, or other units or agencies. 2091
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(M) "Construction" includes acquisition, including acquisition by lease-purchase, demolition, reconstruction, alteration, renovation, remodeling, enlargement, improvement, site improvements, and related equipping and furnishing. 2094
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(N) "State historical facility" means a site or facility of archaeological, architectural, environmental, or historical interest or significance, or a facility, including a storage facility, appurtenant to the operations of such a site or facility, that is owned by or is located on real property owned by the state or by ~~an arts~~ a cultural organization, so long as the real property of the ~~arts~~ cultural organization is contiguous to state-owned real property that is in the care, custody, and control of ~~an arts~~ a cultural organization, and that is managed directly by or is subject to a cooperative or management contract with the Ohio ~~arts and sports~~ cultural facilities commission and is used for or in connection with the activities of the commission, including the presentation or making available of ~~arts~~ culture to the public. 2098
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(O) "Ohio sports facility" means all or a portion of a stadium, arena, motorsports complex, or other capital facility in this state, a primary purpose of which is to provide a site or venue for the presentation to the public of either motorsports events or events of one or more major or minor league professional athletic or sports teams that are associated with the state or with a city or region of the state, which facility is, in the case of a motorsports complex, owned by the state or governmental 2112
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agency, or in all other instances, is owned by or is located on 2120
real property owned by the state or a governmental agency, and 2121
including all parking facilities, walkways, and other auxiliary 2122
facilities, equipment, furnishings, and real and personal property 2123
and interests and rights therein, that may be appropriate for or 2124
used for or in connection with the facility or its operation, for 2125
capital costs of which state funds are spent pursuant to this 2126
chapter. A facility constructed as an Ohio sports facility may be 2127
both an Ohio ~~arts~~ cultural facility and an Ohio sports facility. 2128

(P) "Motorsports" means sporting events in which motor 2129
vehicles are driven on a clearly demarcated tracked surface. 2130

Sec. 3383.02. (A) There is hereby created the Ohio ~~arts and~~ 2131
~~sports~~ cultural facilities commission. Notwithstanding any 2132
provision to the contrary contained in Chapter 152. of the Revised 2133
Code, the commission shall engage in and provide for the 2134
development, performance, and presentation or making available of 2135
~~the arts culture~~ culture and professional sports and athletics to the 2136
public in this state, and the provision of training or education 2137
in ~~the arts culture~~ culture, by the exercise of its powers under this 2138
chapter, including the provision, operation, management, and 2139
cooperative use of Ohio ~~arts~~ cultural facilities and Ohio sports 2140
facilities. The commission is a body corporate and politic, an 2141
agency of state government and an instrumentality of the state, 2142
performing essential governmental functions of this state. The 2143
carrying out of the purposes and the exercise by the commission of 2144
its powers conferred by this chapter are essential public 2145
functions and public purposes of the state and of state 2146
government. The commission may, in its own name, sue and be sued, 2147
enter into contracts, and perform all the powers and duties given 2148
to it by this chapter; however, it does not have and shall not 2149
exercise the power of eminent domain. 2150

(B) The commission shall consist of ten members, seven of 2151
whom shall be voting members and three of whom shall be nonvoting 2152
members. The seven voting members shall be appointed by the 2153
governor, with the advice and consent of the senate, from 2154
different geographical regions of the state. In addition, one of 2155
the voting members shall represent the state architect. Not more 2156
than four of the members appointed by the governor shall be 2157
affiliated with the same political party. The nonvoting members 2158
shall be the staff director of the Ohio arts council, a member of 2159
the senate appointed by the president of the senate, and a member 2160
of the house of representatives appointed by the speaker of the 2161
house. 2162

(C) Of the five initial appointments made by the governor, 2163
one shall be for a term expiring December 31, 1989, two shall be 2164
for terms expiring December 31, 1990, and two shall be for terms 2165
expiring December 31, 1991. Of the initial appointments of the 2166
sixth and seventh voting members ~~appointed~~ made by the governor ~~as~~ 2167
~~a result of this amendment~~, one shall be for a term expiring 2168
December 31, 2003, and one shall be for a term expiring December 2169
31, 2004. Thereafter, each such term shall be for three years, 2170
commencing on the first day of January and ending on the 2171
thirty-first day of December. Each appointment by the president of 2172
the senate and by the speaker of the house of representatives 2173
shall be for the balance of the then legislative biennium. Each 2174
member shall hold office from the date of the member's appointment 2175
until the end of the term for which the member was appointed. Any 2176
member appointed to fill a vacancy occurring prior to the 2177
expiration of the term for which the member's predecessor was 2178
appointed shall hold office for the remainder of such term. Any 2179
member shall continue in office subsequent to the expiration date 2180
of the member's term until the member's successor takes office, or 2181
until a period of sixty days has elapsed, whichever occurs first. 2182

(D) Members of the commission shall serve without 2183
compensation. 2184

(E) Organizational meetings of the commission shall be held 2185
at the first meeting of each calendar year. At each organizational 2186
meeting, the commission shall elect from among its voting members 2187
a chairperson, a vice-chairperson, and a secretary-treasurer, who 2188
shall serve until the next annual meeting. The commission shall 2189
adopt rules pursuant to section 111.15 of the Revised Code for the 2190
conduct of its internal business and shall keep a journal of its 2191
proceedings. 2192

(F) Four voting members of the commission constitute a 2193
quorum, and the affirmative vote of four members is necessary for 2194
approval of any action taken by the commission. A vacancy in the 2195
membership of the commission does not impair a quorum from 2196
exercising all the rights and performing all the duties of the 2197
commission. Meetings of the commission may be held anywhere in the 2198
state, and shall be held in compliance with section 121.22 of the 2199
Revised Code. 2200

(G) All expenses incurred in carrying out this chapter are 2201
payable solely from money accrued under this chapter or 2202
appropriated for these purposes by the general assembly, and the 2203
commission shall incur no liability or obligation beyond such 2204
money. 2205

(H) The commission shall file an annual report of its 2206
activities and finances with the governor, director of budget and 2207
management, speaker of the house of representatives, president of 2208
the senate, and chairpersons of the house and senate finance 2209
committees. 2210

(I) There is hereby established in the state treasury the 2211
Ohio ~~arts and sports~~ cultural facilities commission administration 2212
fund. All revenues of the commission shall be credited to that 2213

fund and to any accounts created in the fund with the commission's 2214
approval. All expenses of the commission, including reimbursement 2215
of, or payment to, any other fund or any governmental agency for 2216
advances made or services rendered to or on behalf of the 2217
commission, shall be paid from the Ohio ~~arts and sports~~ cultural 2218
facilities commission administration fund as determined by or 2219
pursuant to directions of the commission. All investment earnings 2220
of the administration fund shall be credited to the fund and shall 2221
be allocated among any accounts created in the fund in the manner 2222
determined by the commission. 2223

(J) Title to all real property and lesser interests in real 2224
property acquired by the commission, including leasehold and other 2225
interests, pursuant to this chapter shall be taken in the name of 2226
the state and shall be held for the use and benefit of the 2227
commission. The commission shall not mortgage such real property 2228
and interests in real property. Title to other property and 2229
interests in it acquired by the commission pursuant to this 2230
chapter shall be taken in its name. 2231

Sec. 3383.03. The Ohio ~~arts and sports~~ cultural facilities 2232
commission shall do the following: 2233

(A) From time to time, determine the need for ~~arts~~ cultural 2234
projects, Ohio ~~arts~~ cultural facilities, and Ohio sports 2235
facilities, and report to the governor and the general assembly on 2236
the need for any additional ~~arts~~ cultural projects, Ohio ~~arts~~ 2237
cultural facilities, and Ohio sports facilities. This division 2238
does not apply to state historical facilities. 2239

(B) Have jurisdiction, control, and possession of, and 2240
supervision over the use and disposition of, all property, rights, 2241
licenses, money, contracts, accounts, liens, books, records, and 2242
other property rights and interests conveyed, delivered, 2243
transferred, or assigned to it; 2244

(C) Use, and provide for the use of, Ohio ~~arts~~ cultural 2245
facilities and Ohio sports facilities for the commission's 2246
purposes and functions, and conduct reviews necessary to ensure 2247
that uses of those facilities are consistent with statewide 2248
interests and the commission's purposes, including the 2249
presentation or making available of ~~the arts~~ culture and 2250
professional athletics and sports to the public in this state and 2251
the provision of training or education in ~~the arts~~ culture; 2252

(D) Hold a meeting, including the organizational meeting 2253
required by division (E) of section 3383.02 of the Revised Code, 2254
at least quarterly to conduct its business; 2255

(E) Cooperate with any governmental agency or ~~arts~~ cultural 2256
organization that provides services in, to, or for an Ohio ~~arts~~ 2257
cultural facility, and cooperate with any governmental agency or 2258
nonprofit corporation for the provision or operation of any Ohio 2259
sports facilities. 2260

Sec. 3383.04. The Ohio ~~arts and sports~~ cultural facilities 2261
commission may do the following: 2262

(A) Employ and fix the compensation of an executive director 2263
and such other employees as will facilitate the activities and 2264
purposes of the commission. Any executive director shall serve at 2265
the pleasure of the commission and may serve part-time. Other 2266
employees shall be employed by and serve at the pleasure of the 2267
commission or the executive director, as determined by the 2268
commission. 2269

(B) Adopt, amend, and rescind, pursuant to section 111.15 of 2270
the Revised Code, rules for the management and operation of Ohio 2271
~~arts~~ cultural facilities and Ohio sports facilities and for the 2272
exercise of all of the commission's rights with respect to those 2273
facilities; 2274

(C) Own, construct or provide for the construction of, lease, 2275
equip, furnish, administer, and manage or provide for the 2276
operation and management of, and cooperate in the use of, Ohio 2277
~~arts~~ cultural facilities and Ohio sports facilities; 2278

(D) Dispose of, whether by sale, lease, lease-purchase, 2279
sublease, re-lease, or otherwise, real and personal property, and 2280
lesser interests in it, held or owned by the state for the use and 2281
benefit of the commission or held or owned by the commission, if 2282
not needed for the commission's purposes, upon such terms as the 2283
commission determines, subject to approval by the governor in the 2284
case of real property and interests in it; 2285

(E) Grant such easements and other interests in real or 2286
personal property of the commission as will not interfere with the 2287
use of the property as an Ohio ~~arts~~ cultural facility or an Ohio 2288
sports facility; 2289

(F) Fix, alter, and collect rentals and other charges for the 2290
use or availability for use of Ohio ~~arts~~ cultural facilities or an 2291
Ohio sports facility, as determined solely by the commission, for 2292
the purpose of providing for all or a portion of the costs and 2293
expenses of the commission, and the costs to be paid by the 2294
commission of leasing, constructing, equipping, repairing, 2295
maintaining, administering, managing, and cooperating in the use 2296
of Ohio ~~arts~~ cultural facilities, including rentals to be paid by 2297
the commission for any Ohio ~~arts~~ cultural facilities or for any 2298
Ohio sports facility; 2299

(G) Lease, sublease, cooperate in the use of, or otherwise 2300
make available to ~~an arts~~ a cultural organization, Ohio ~~arts~~ 2301
cultural facilities, and to any governmental agency or nonprofit 2302
corporation, Ohio sports facilities, including real and personal 2303
property, or any interests in it, to carry out the purposes of 2304
this chapter; 2305

(H) Contract with, retain the services of, or designate, and 2306
fix the compensation of, ~~such~~ agents, accountants, attorneys, 2307
consultants, advisers, and other independent contractors ~~as may be~~ 2308
necessary or desirable to carry out the purposes of this chapter; 2309

(I) Procure insurance against loss to the commission by 2310
reason of damages to or nonusability of its property resulting 2311
from fire, theft, accident, or other casualties, or by reason of 2312
its liability for any damages to persons or property, including, 2313
but not limited to, general liability insurance, business 2314
interruption insurance, liability insurance for members, officers, 2315
and employees, and copyright liability insurance; 2316

(J) Receive and accept gifts, grants, devises, bequests, 2317
loans, and any other financial or other form of aid or assistance 2318
from any governmental agency or other person and enter into any 2319
contract or agreement with any such agency or other person in 2320
connection therewith, and receive and accept aid or contributions 2321
from any other source of money, real or personal property, labor, 2322
or other things of value, to be held, used, and applied only for 2323
the purposes for which the aid and contributions are made and 2324
according to their terms and conditions, all within the purposes 2325
of this chapter; 2326

(K) Make and enter into all contracts, commitments, and 2327
agreements, and execute all instruments, necessary or incidental 2328
to the performance of its duties and the execution of its rights 2329
and powers under this chapter; 2330

(L) Do anything necessary or appropriate to carry out the 2331
purposes of and exercise the powers granted in this chapter; 2332

(M) Contract with any governmental agency or nonprofit 2333
corporation to provide or cause to be provided services, including 2334
general building services, in, to, or for an Ohio ~~arts~~ cultural 2335
facility or any Ohio sports facility, or with ~~an arts~~ a cultural 2336

organization for the management of an Ohio ~~arts~~ cultural facility, 2337
or with a governmental agency or nonprofit corporation for the 2338
management of an Ohio sports facility, all in furtherance of the 2339
state function, and make contracts pursuant to divisions (A) and 2340
(B) of section 3383.07 of the Revised Code, except that nothing in 2341
this chapter limits the exercise of the care, custody, control, 2342
and management of those state historical facilities specified in 2343
section 149.30 of the Revised Code. 2344

Sec. 3383.05. (A) Upon the request of the Ohio ~~arts and~~ 2345
~~sports~~ cultural facilities commission, any governmental agency may 2346
lease, sublease, grant by lease-purchase or otherwise, convey, or 2347
grant the right to use, to the commission or to a state agency 2348
designated by the commission, any real or personal property or 2349
interests in property, including improvements to it and public 2350
roads, owned or controlled by the governmental agency, which are 2351
necessary or convenient to an Ohio ~~arts~~ cultural facility or an 2352
Ohio sports facility, upon such terms and conditions as they agree 2353
upon. The lease, sublease, grant, conveyance, or grant of use may 2354
be made without the necessity for advertisement, auction, 2355
competitive bidding, court order, or other action or formality 2356
otherwise required by law, except that the consent of the 2357
governing body of the governmental agency shall be obtained, or, 2358
if title to the property is in the state, the consent of the 2359
governor shall be obtained. Any governmental agency may enter into 2360
agreements with the Ohio ~~arts and sports~~ cultural facilities 2361
commission for furnishing any supplies, equipment, or services to 2362
the commission pursuant to such terms and for such compensation as 2363
agreed upon by the governmental agency and the commission. 2364

(B) Leases, contracts, agreements, or conveyances entered 2365
into pursuant to this section are not public contracts for 2366
purposes of section 2921.42 of the Revised Code. 2367

Sec. 3383.06. All property purchased, acquired, constructed, 2368
owned, leased, or subleased by the Ohio ~~arts and sports~~ cultural 2369
facilities commission for the exercise of its powers and duties is 2370
public property used exclusively for a public purpose, and this 2371
property and the income derived by the commission from it are 2372
exempt, except as may otherwise be provided by the commission with 2373
respect to Ohio sports facilities, from all taxation within this 2374
state, including, without limitation, ad valorem and excise taxes. 2375

Sec. 3383.07. (A) The department of administrative services 2376
shall provide for the construction of ~~an arts~~ a cultural project 2377
in conformity with Chapter 153. of the Revised Code, except as 2378
follows: 2379

(1) For ~~an arts~~ a cultural project that has an estimated 2380
construction cost, excluding the cost of acquisition, of 2381
twenty-five million dollars or more, and that is financed by the 2382
Ohio building authority, construction services may be provided by 2383
the authority if the authority determines it should provide those 2384
services. 2385

(2) For ~~an arts~~ a cultural project other than a state 2386
historical facility, construction services may be provided on 2387
behalf of the state by the Ohio ~~arts and sports~~ cultural 2388
facilities commission, or by a governmental agency or ~~an arts~~ a 2389
cultural organization that occupies, will occupy, or is 2390
responsible for the Ohio ~~arts~~ cultural facility, as determined by 2391
the commission. Construction services to be provided by a 2392
governmental agency or ~~an arts~~ a cultural organization shall be 2393
specified in an agreement between the commission and the 2394
governmental agency or ~~arts~~ cultural organization. The agreement, 2395
or any actions taken under it, are not subject to Chapter 123. or 2396
153. of the Revised Code, except for sections ~~123.151~~ 123.081 and 2397

153.011 of the Revised Code, and shall be subject to Chapter 4115. 2398
of the Revised Code. 2399

(3) For ~~an arts~~ a cultural project that is a state historical 2400
facility, construction services may be provided by the Ohio ~~arts~~ 2401
~~and sports~~ cultural facilities commission or by ~~an arts~~ a cultural 2402
organization that occupies, will occupy, or is responsible for the 2403
facility, as determined by the commission. The construction 2404
services to be provided by the ~~arts~~ cultural organization shall be 2405
specified in an agreement between the commission and the ~~arts~~ 2406
cultural organization. That agreement, and any actions taken under 2407
it, are not subject to Chapter 123., 153., or 4115. of the Revised 2408
Code. 2409

(B) For an Ohio sports facility that is financed in part by 2410
the Ohio building authority, construction services shall be 2411
provided on behalf of the state by or at the direction of the 2412
governmental agency or nonprofit corporation that will own or be 2413
responsible for the management of the facility, all as determined 2414
by the Ohio ~~arts and sports~~ cultural facilities commission. Any 2415
construction services to be provided by a governmental agency or 2416
nonprofit corporation shall be specified in an agreement between 2417
the commission and the governmental agency or nonprofit 2418
corporation. That agreement, and any actions taken under it, are 2419
not subject to Chapter 123. or 153. of the Revised Code, except 2420
for sections ~~123.151~~ 123.081 and 153.011 of the Revised Code, and 2421
shall be subject to Chapter 4115. of the Revised Code. 2422

(C) General building services for an Ohio ~~arts~~ cultural 2423
facility shall be provided by the Ohio ~~arts and sports~~ cultural 2424
facilities commission or by ~~an arts~~ a cultural organization that 2425
occupies, will occupy, or is responsible for the facility, as 2426
determined by the commission, except that the Ohio building 2427
authority may elect to provide those services for Ohio ~~arts~~ 2428
cultural facilities financed with proceeds of state bonds issued 2429

by the authority. The costs of management and general building 2430
services shall be paid by the ~~arts~~ cultural organization that 2431
occupies, will occupy, or is responsible for the facility as 2432
provided in an agreement between the commission and the ~~arts~~ 2433
cultural organization, except that the state may pay for general 2434
building services for state-owned ~~arts~~ cultural facilities 2435
constructed on state-owned land. 2436

General building services for an Ohio sports facility shall 2437
be provided by or at the direction of the governmental agency or 2438
nonprofit corporation that will be responsible for the management 2439
of the facility, all as determined by the commission. Any general 2440
building services to be provided by a governmental agency or 2441
nonprofit corporation for an Ohio sports facility shall be 2442
specified in an agreement between the commission and the 2443
governmental agency or nonprofit corporation. That agreement, and 2444
any actions taken under it, are not subject to Chapter 123. or 2445
153. of the Revised Code, except for sections ~~123.151~~ 123.081 and 2446
153.011 of the Revised Code, and shall be subject to Chapter 4115. 2447
of the Revised Code. 2448

(D) This division does not apply to a state historical 2449
facility. No state funds, including any state bond proceeds, shall 2450
be spent on the construction of any ~~arts~~ cultural project under 2451
this chapter unless, with respect to the ~~arts~~ cultural project and 2452
to the Ohio ~~arts~~ cultural facility related to the project, all of 2453
the following apply: 2454

(1) The Ohio ~~arts and sports~~ cultural facilities commission 2455
has determined that there is a need for the ~~arts~~ cultural project 2456
and the Ohio ~~arts~~ cultural facility related to the project in the 2457
region of the state in which the Ohio ~~arts~~ cultural facility is 2458
located or for which the facility is proposed. 2459

(2) The commission has determined that, as an indication of 2460
substantial regional support for the ~~arts~~ cultural project, the 2461

~~arts~~ cultural organization has made provision satisfactory to the 2462
commission, in its sole discretion, for local contributions 2463
amounting to not less than fifty per cent of the total state 2464
funding for the ~~arts~~ cultural project. 2465

(3) The general assembly has specifically authorized the 2466
spending of money on, or made an appropriation for, the 2467
construction of the ~~arts~~ cultural project, or for rental payments 2468
relating to the financing of the construction of the ~~arts~~ cultural 2469
project. Authorization to spend money, or an appropriation, for 2470
planning the ~~arts~~ cultural project does not constitute 2471
authorization to spend money on, or an appropriation for, 2472
construction of the ~~arts~~ cultural project. 2473

(E) No state funds, including any state bond proceeds, shall 2474
be spent on the construction of any state historical facility 2475
under this chapter unless the general assembly has specifically 2476
authorized the spending of money on, or made an appropriation for, 2477
the construction of the ~~arts~~ state historical project related to 2478
the facility, or for rental payments relating to the financing of 2479
the construction of the ~~arts~~ state historical project. 2480
Authorization to spend money, or an appropriation, for planning 2481
the ~~arts~~ state historical project does not constitute 2482
authorization to spend money on, or an appropriation for, the 2483
construction of the ~~arts~~ state historical project. 2484

(F) State funds shall not be used to pay or reimburse more 2485
than fifteen per cent of the initial estimated construction cost 2486
of an Ohio sports facility, excluding any site acquisition cost, 2487
and no state funds, including any state bond proceeds, shall be 2488
spent on any Ohio sports facility under this chapter unless, with 2489
respect to that facility, all of the following apply: 2490

(1) The Ohio ~~arts and sports~~ cultural facilities commission 2491
has determined that there is a need for the facility in the region 2492
of the state for which the facility is proposed to provide the 2493

function of an Ohio sports facility as provided for in this 2494
chapter. 2495

(2) As an indication of substantial local support for the 2496
facility, the commission has received a financial and development 2497
plan satisfactory to it, and provision has been made, by agreement 2498
or otherwise, satisfactory to the commission, for a contribution 2499
amounting to not less than eighty-five per cent of the total 2500
estimated construction cost of the facility, excluding any site 2501
acquisition cost, from sources other than the state. 2502

(3) The general assembly has specifically authorized the 2503
spending of money on, or made an appropriation for, the 2504
construction of the facility, or for rental payments relating to 2505
state financing of all or a portion of the costs of constructing 2506
the facility. Authorization to spend money, or an appropriation, 2507
for planning or determining the feasibility of or need for the 2508
facility does not constitute authorization to spend money on, or 2509
an appropriation for, costs of constructing the facility. 2510

(4) If state bond proceeds are being used for the Ohio sports 2511
facility, the state or a governmental agency owns or has 2512
sufficient property interests in the facility or in the site of 2513
the facility or in the portion or portions of the facility 2514
financed from proceeds of state bonds, which may include, but is 2515
not limited to, the right to use or to require the use of the 2516
facility for the presentation of sport and athletic events to the 2517
public at the facility. 2518

(G) In addition to the requirements of division (F) of this 2519
section, no state funds, including any state bond proceeds, shall 2520
be spent on any Ohio sports facility that is a motorsports 2521
complex, unless, with respect to that facility, both of the 2522
following apply: 2523

(1) Motorsports events shall be presented at the facility 2524

pursuant to a lease entered into with the owner of the facility. 2525
The term of the lease shall be for a period of not less than the 2526
greater of the useful life of the portion of the facility financed 2527
from proceeds of state bonds as determined using the guidelines 2528
for maximum maturities as provided under divisions (B) and (C) of 2529
section 133.20 of the Revised Code, or the period of time 2530
remaining to the date of payment or provision for payment of 2531
outstanding state bonds allocable to costs of the facility, all as 2532
determined by the director of budget and management and certified 2533
by the director to the Ohio ~~arts and sports~~ cultural facilities 2534
commission and to the Ohio building authority. 2535

(2) Any motorsports organization that commits to using the 2536
facility for an established period of time shall give the 2537
political subdivision in which the facility is located not less 2538
than six months' advance notice if the organization intends to 2539
cease utilizing the facility prior to the expiration of that 2540
established period. Such a motorsports organization shall be 2541
liable to the state for any state funds used on the construction 2542
costs of the facility. 2543

Sec. 3383.08. There is hereby created in the state treasury 2544
the capital donations fund, which shall be administered by the 2545
Ohio ~~arts and sports~~ cultural facilities commission. The fund 2546
shall consist of gifts, grants, devises, bequests, and other 2547
financial contributions made to the commission for the 2548
construction or improvement of ~~arts~~ cultural and sports facilities 2549
and shall be used in accordance with the specific purposes for 2550
which the gifts, grants, devises, bequests, or other financial 2551
contributions are made. All investment earnings of the fund shall 2552
be credited to the fund. Chapters 123., 125., 127., and 153. and 2553
section 3517.13 of the Revised Code do not apply to contracts paid 2554
from the fund, notwithstanding anything to the contrary in those 2555

chapters or that section. 2556

Not later than one month following the end of each quarter of 2557
the fiscal year, the commission shall allocate the amounts 2558
credited to the fund from investment earnings during that 2559
preceding quarter of the fiscal year among the specific projects 2560
for which they are to be used and shall certify this information 2561
to the director of budget and management. 2562

If the amounts credited to the fund for a particular project 2563
exceed what is required to complete that project, the commission 2564
may refund any of those excess amounts, including unexpended 2565
investment earnings attributable to those amounts, to the entity 2566
from which they were received. 2567

Sec. 3383.09. (A) There is hereby created in the state 2568
treasury the ~~arts~~ cultural and sports facilities building fund, 2569
which shall consist of proceeds of obligations authorized to pay 2570
costs of Ohio ~~arts~~ cultural facilities and Ohio sports facilities 2571
for which appropriations are made by the general assembly. All 2572
investment earnings of the fund shall be credited to the fund. 2573

(B) The director of budget and management may transfer, to 2574
the Ohio ~~arts and sports~~ cultural facilities commission 2575
administration fund, investment earnings credited to the ~~arts~~ 2576
cultural and sports facilities building fund that exceed the 2577
amounts required to meet estimated federal arbitrage rebate 2578
requirements when requested of the director of budget and 2579
management by the chairperson or executive director of the 2580
commission. 2581

Sec. 3746.04. Within one year after September 28, 1994, the 2582
director of environmental protection, in accordance with Chapter 2583
119. of the Revised Code and with the advice of the 2584
multidisciplinary council appointed under section 3746.03 of the 2585

Revised Code, shall adopt, and subsequently may amend, suspend, or 2586
rescind, rules that do both of the following: 2587

(A) Revise the rules adopted under Chapters 3704., 3714., 2588
3734., 6109., and 6111. of the Revised Code to incorporate the 2589
provisions necessary to conform those rules to the requirements of 2590
this chapter. The amended rules adopted under this division also 2591
shall establish response times for all submittals to the 2592
environmental protection agency required under this chapter or 2593
rules adopted under it. 2594

(B) Establish requirements and procedures that are reasonably 2595
necessary for the implementation and administration of this 2596
chapter, including, without limitation, all of the following: 2597

(1) Appropriate generic numerical clean-up standards for the 2598
treatment or removal of soils, sediments, and water media for 2599
hazardous substances and petroleum. The rules shall establish 2600
separate generic numerical clean-up standards based upon the 2601
intended use of properties after the completion of voluntary 2602
actions, including industrial, commercial, and residential uses 2603
and such other categories of land use as the director considers to 2604
be appropriate. The generic numerical clean-up standards 2605
established for each category of land use shall be the 2606
concentration of each contaminant that may be present on a 2607
property that shall ensure protection of public health and safety 2608
and the environment for the reasonable exposure for that category 2609
of land use. When developing the standards, the director shall 2610
consider such factors as all of the following: 2611

(a) Scientific information, including, without limitation, 2612
toxicological information and realistic assumptions regarding 2613
human and environmental exposure to hazardous substances or 2614
petroleum; 2615

(b) Climatic factors; 2616

(c) Human activity patterns;	2617
(d) Current statistical techniques;	2618
(e) For petroleum at industrial property, alternatives to the use of total petroleum hydrocarbons.	2619 2620
The generic numerical clean-up standards established under division (B)(1) of this section shall be consistent with and equivalent in scope, content, and coverage to any applicable standard established by federal environmental laws and regulations adopted under them, including, without limitation, the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended; the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended; the "Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended; the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as amended; and the "Safe Drinking Water Act," 88 Stat. 1660 (1974), 42 U.S.C.A. 300f, as amended.	2621 2622 2623 2624 2625 2626 2627 2628 2629 2630 2631 2632 2633
In order for the rules adopted under division (B)(1) of this section to require that any such federal environmental standard apply to a property, the property shall meet the requirements of the particular federal statute or regulation involved in the manner specified by the statute or regulation.	2634 2635 2636 2637 2638
The generic numerical clean-up standards for petroleum at commercial or residential property shall be the standards established in rules adopted under division (B) of section 3737.882 of the Revised Code.	2639 2640 2641 2642
(2)(a) Procedures for performing property-specific risk assessments that would be performed at a property to demonstrate that the remedy evaluated in a risk assessment results in protection of public health and safety and the environment instead of complying with the generic numerical clean-up standards	2643 2644 2645 2646 2647

established in the rules adopted under division (B)(1) of this section. The risk assessment procedures shall describe a methodology to establish, on a property-specific basis, allowable levels of contamination to remain at a property to ensure protection of public health and safety and the environment on the property and off the property when the contamination is emanating off the property, taking into account all of the following:

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

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

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

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

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

(ii) Locational and climatic factors;

(iii) Surrounding land use and human activities;

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

(c) Any standards established pursuant to rules adopted under

division (B)(2) of this section shall be no more stringent than 2678
standards established under the environmental statutes of this 2679
state and rules adopted under them for the same contaminant in the 2680
same environmental medium that are in effect at the time the risk 2681
assessment is conducted. 2682

(3) Minimum standards for phase I property assessments. The 2683
standards shall specify the information needed to demonstrate that 2684
there is no reason to believe that contamination exists on a 2685
property. The rules adopted under division (B)(3) of this section, 2686
at a minimum, shall require that a phase I property assessment 2687
include all of the following: 2688

(a) A review and analysis of deeds, mortgages, easements of 2689
record, and similar documents relating to the chain of title to 2690
the property that are publicly available or that are known to and 2691
reasonably available to the owner or operator; 2692

(b) A review and analysis of any previous environmental 2693
assessments, property assessments, environmental studies, or 2694
geologic studies of the property and any land within two thousand 2695
feet of the boundaries of the property that are publicly available 2696
or that are known to and reasonably available to the owner or 2697
operator; 2698

(c) A review of current and past environmental compliance 2699
histories of persons who owned or operated the property; 2700

(d) A review of aerial photographs of the property that 2701
indicate prior uses of the property; 2702

(e) Interviews with managers of activities conducted at the 2703
property who have knowledge of environmental conditions at the 2704
property; 2705

(f) Conducting an inspection of the property consisting of a 2706
walkover; 2707

(g) Identifying the current and past uses of the property, 2708
adjoining tracts of land, and the area surrounding the property, 2709
including, without limitation, interviews with persons who reside 2710
or have resided, or who are or were employed, within the area 2711
surrounding the property regarding the current and past uses of 2712
the property and adjacent tracts of land. 2713

The rules adopted under division (B)(3) of this section shall 2714
establish criteria to determine when a phase II property 2715
assessment shall be conducted when a phase I property assessment 2716
reveals facts that establish a reason to believe that hazardous 2717
substances or petroleum have been treated, stored, managed, or 2718
disposed of on the property if the person undertaking the phase I 2719
property assessment wishes to obtain a covenant not to sue under 2720
section 3746.12 of the Revised Code. 2721

(4) Minimum standards for phase II property assessments. The 2722
standards shall specify the information needed to demonstrate that 2723
any contamination present at the property does not exceed 2724
applicable standards or that the remedial activities conducted at 2725
the property have achieved compliance with applicable standards. 2726
The rules adopted under division (B)(4) of this section, at a 2727
minimum, shall require that a phase II property assessment include 2728
all of the following: 2729

(a) A review and analysis of all documentation prepared in 2730
connection with a phase I property assessment conducted within the 2731
one hundred eighty days before the phase II property assessment 2732
begins. The rules adopted under division (B)(4)(a) of this section 2733
shall require that if a period of more than one hundred eighty 2734
days has passed between the time that the phase I assessment of 2735
the property was completed and the phase II assessment begins, the 2736
phase II assessment shall include a reasonable inquiry into the 2737
change in the environmental condition of the property during the 2738
intervening period. 2739

(b) Quality assurance objectives for measurements taken in connection with a phase II assessment;	2740 2741
(c) Sampling procedures to ensure the representative sampling of potentially contaminated environmental media;	2742 2743
(d) Quality assurance and quality control requirements for samples collected in connection with phase II assessments;	2744 2745
(e) Analytical and data assessment procedures;	2746
(f) Data objectives to ensure that samples collected in connection with phase II assessments are biased toward areas where information indicates that contamination by hazardous substances or petroleum is likely to exist.	2747 2748 2749 2750
(5) Standards governing the conduct of certified professionals, criteria and procedures for the certification of professionals to issue no further action letters under section 3746.11 of the Revised Code, and criteria for the suspension and revocation of those certifications. The issuance, denial, suspension, and revocation of those certifications are subject to Chapter 3745. of the Revised Code, and the director shall take any such action regarding a certification as a final action.	2751 2752 2753 2754 2755 2756 2757 2758
The rules adopted under division (B)(5) of this section shall do all of the following:	2759 2760
(a) Provide for the certification of environmental professionals to issue no further action letters pertaining to investigations and remedies in accordance with the criteria and procedures set forth in the rules. The rules adopted under division (B)(5)(a) of this section shall do at least all of the following:	2761 2762 2763 2764 2765 2766
(i) Authorize the director to consider such factors as an environmental professional's previous performance record regarding such investigations and remedies and the environmental	2767 2768 2769

professional's environmental compliance history when determining	2770
whether to certify the environmental professional;	2771
(ii) Ensure that an application for certification is reviewed	2772
in a timely manner;	2773
(iii) Require the director to certify any environmental	2774
professional who the director determines complies with those	2775
criteria;	2776
(iv) Require the director to deny certification for any	2777
environmental professional who does not comply with those	2778
criteria.	2779
(b) Establish an annual fee to be paid by environmental	2780
professionals certified pursuant to the rules adopted under	2781
division (B)(5)(a) of this section. The fee shall be established	2782
at an amount calculated to defray the costs to the environmental	2783
protection agency for the required reviews of the qualifications	2784
of environmental professionals for certification and for the	2785
issuance of the certifications.	2786
(c) Develop a schedule for and establish requirements	2787
governing the review by the director of the credentials of	2788
environmental professionals who were deemed to be certified	2789
professionals under division (D) of section 3746.07 of the Revised	2790
Code in order to determine if they comply with the criteria	2791
established in rules adopted under division (B)(5) of this	2792
section. The rules adopted under division (B)(5)(c) of this	2793
section shall do at least all of the following:	2794
(i) Ensure that the review is conducted in a timely fashion;	2795
(ii) Require the director to certify any such environmental	2796
professional who the director determines complies with those	2797
criteria;	2798
(iii) Require any such environmental professional initially	2799

to pay the fee established in the rules adopted under division 2800
(B)(5)(b) of this section at the time that the environmental 2801
professional is so certified by the director; 2802

(iv) Establish a time period within which any such 2803
environmental professional who does not comply with those criteria 2804
may obtain the credentials that are necessary for certification; 2805

(v) Require the director to deny certification for any such 2806
environmental professional who does not comply with those criteria 2807
and who fails to obtain the necessary credentials within the 2808
established time period. 2809

(d) Require that any information submitted to the director 2810
for the purposes of division (B)(5)(a) or (c) of this section 2811
comply with division (A) of section 3746.20 of the Revised Code; 2812

(e) Authorize the director to suspend or revoke the 2813
certification of an environmental professional if the director 2814
finds that the environmental professional's performance has 2815
resulted in the issuance of no further action letters under 2816
section 3746.11 of the Revised Code that are not consistent with 2817
applicable standards or finds that the certified environmental 2818
professional has not substantially complied with section 3746.31 2819
of the Revised Code; 2820

(f) Authorize the director to suspend for a period of not 2821
more than five years or to permanently revoke a certified 2822
environmental professional's certification for any violation of or 2823
failure to comply with an ethical standard established in rules 2824
adopted under division (B)(5) of this section. 2825

(g) Require the director to revoke the certification of an 2826
environmental professional if the director finds that the 2827
environmental professional falsified any information on the 2828
environmental professional's application for certification 2829
regarding the environmental professional's credentials or 2830

qualifications or any other information generated for the purposes	2831
of or use under this chapter or rules adopted under it;	2832
(h) Require the director permanently to revoke the	2833
certification of an environmental professional who has violated or	2834
is violating division (A) of section 3746.18 of the Revised Code;	2835
(i) Preclude the director from revoking the certification of	2836
an environmental professional who only conducts investigations and	2837
remedies at property contaminated solely with petroleum unless the	2838
director first consults with the director of commerce.	2839
(6) Criteria and procedures for the certification of	2840
laboratories to perform analyses under this chapter and rules	2841
adopted under it. The issuance, denial, suspension, and revocation	2842
of those certifications are subject to Chapter 3745. of the	2843
Revised Code, and the director of environmental protection shall	2844
take any such action regarding a certification as a final action.	2845
The rules adopted under division (B)(6) of this section shall	2846
do all of the following:	2847
(a) Provide for the certification to perform analyses of	2848
laboratories in accordance with the criteria and procedures	2849
established in the rules adopted under division (B)(6)(a) of this	2850
section and establish an annual fee to be paid by those	2851
laboratories. The fee shall be established at an amount calculated	2852
to defray the costs to the agency for the review of the	2853
qualifications of those laboratories for certification and for the	2854
issuance of the certifications. The rules adopted under division	2855
(B)(6)(a) of this section may provide for the certification of	2856
those laboratories to perform only particular types or categories	2857
of analyses, specific test parameters or group of test parameters,	2858
or a specific matrix or matrices under this chapter.	2859
(b) Develop a schedule for and establish requirements	2860
governing the review by the director of the operations of	2861

laboratories that were deemed to be certified laboratories under 2862
division (E) of section 3746.07 of the Revised Code in order to 2863
determine if they comply with the criteria established in rules 2864
adopted under division (B)(6) of this section. The rules adopted 2865
under division (B)(6)(b) of this section shall do at least all of 2866
the following: 2867

(i) Ensure that the review is conducted in a timely fashion; 2868

(ii) Require the director to certify any such laboratory that 2869
the director determines complies with those criteria; 2870

(iii) Require any such laboratory initially to pay the fee 2871
established in the rules adopted under division (B)(6)(a) of this 2872
section at the time that the laboratory is so certified by the 2873
director; 2874

(iv) Establish a time period within which any such laboratory 2875
that does not comply with those criteria may make changes in its 2876
operations necessary for the performance of analyses under this 2877
chapter and rules adopted under it in order to be certified by the 2878
director; 2879

(v) Require the director to deny certification for any such 2880
laboratory that does not comply with those criteria and that fails 2881
to make the necessary changes in its operations within the 2882
established time period. 2883

(c) Require that any information submitted to the director 2884
for the purposes of division (B)(6)(a) or (b) of this section 2885
comply with division (A) of section 3746.20 of the Revised Code; 2886

(d) Authorize the director to suspend or revoke the 2887
certification of a laboratory if the director finds that the 2888
laboratory's performance has resulted in the issuance of no 2889
further action letters under section 3746.11 of the Revised Code 2890
that are not consistent with applicable standards; 2891

(e) Authorize the director to suspend or revoke the certification of a laboratory if the director finds that the laboratory falsified any information on its application for certification regarding its credentials or qualifications;	2892
	2893
	2894
	2895
(f) Require the director permanently to revoke the certification of a laboratory that has violated or is violating division (A) of section 3746.18 of the Revised Code.	2896
	2897
	2898
(7) Information to be included in a no further action letter prepared under section 3746.11 of the Revised Code, including, without limitation, all of the following:	2899
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	2901
(a) A summary of the information required to be submitted to the certified environmental professional preparing the no further action letter under division (C) of section 3746.10 of the Revised Code;	2902
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	2904
	2905
(b) Notification that a risk assessment was performed in accordance with rules adopted under division (B)(2) of this section if such an assessment was used in lieu of generic numerical clean-up standards established in rules adopted under division (B)(1) of this section;	2906
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	2910
(c) The contaminants addressed at the property, if any, their source, if known, and their levels prior to remediation;	2911
	2912
(d) The identity of any other person who performed work to support the request for the no further action letter as provided in division (B)(2) of section 3746.10 of the Revised Code and the nature and scope of the work performed by that person;	2913
	2914
	2915
	2916
(e) A list of the data, information, records, and documents relied upon by the certified environmental professional in preparing the no further action letter.	2917
	2918
	2919
(8) Methods for determining fees to be paid for the following services provided by the agency under this chapter and rules	2920
	2921

adopted under it:	2922
(a) Site- or property-specific technical assistance in	2923
developing or implementing plans in connection with a voluntary	2924
action;	2925
(b) Reviewing applications for and issuing consolidated	2926
standards permits under section 3746.15 of the Revised Code and	2927
monitoring compliance with those permits;	2928
(c) Negotiating, preparing, and entering into agreements	2929
necessary for the implementation and administration of this	2930
chapter and rules adopted under it;	2931
(d) Reviewing no further action letters, issuing covenants	2932
not to sue, and monitoring compliance with any terms and	2933
conditions of those covenants and with operation and maintenance	2934
agreements entered into pursuant to those covenants, including,	2935
without limitation, conducting audits of properties where	2936
voluntary actions are being or were conducted under this chapter	2937
and rules adopted under it.	2938
The fees established pursuant to the rules adopted under	2939
division (B)(8) of this section shall be at a level sufficient to	2940
defray the direct and indirect costs incurred by the agency for	2941
the administration and enforcement of this chapter and rules	2942
adopted under it other than the provisions regarding the	2943
certification of professionals and laboratories.	2944
(9) Criteria for selecting the no further action letters	2945
issued under section 3746.11 of the Revised Code that will be	2946
audited under section 3746.17 of the Revised Code, and the scope	2947
and procedures for conducting those audits. The rules adopted	2948
under division (B)(9) of this section, at a minimum, shall require	2949
the director to establish priorities for auditing no further	2950
action letters to which any of the following applies:	2951

(a) The letter was prepared by an environmental professional 2952
who was deemed to be a certified professional under division (D) 2953
of section 3746.07 of the Revised Code, but who does not comply 2954
with the criteria established in rules adopted under division 2955
(B)(5) of this section as determined pursuant to rules adopted 2956
under division (B)(5)(d) of this section; 2957

(b) The letter was submitted fraudulently; 2958

(c) The letter was prepared by a certified environmental 2959
professional whose certification subsequently was revoked in 2960
accordance with rules adopted under division (B)(5) of this 2961
section, or analyses were performed for the purposes of the no 2962
further action letter by a certified laboratory whose 2963
certification subsequently was revoked in accordance with rules 2964
adopted under division (B)(6) of this section; 2965

(d) A covenant not to sue that was issued pursuant to the 2966
letter was revoked under this chapter; 2967

(e) The letter was for a voluntary action that was conducted 2968
pursuant to a risk assessment in accordance with rules adopted 2969
under division (B)(2) of this section; 2970

(f) The letter was for a voluntary action that included as 2971
remedial activities engineering controls authorized under section 2972
3746.05 of the Revised Code or restrictions on the use of the 2973
relevant property identified pursuant to division (C)(3) of 2974
section 3746.10 of the Revised Code. 2975

The rules adopted under division (B)(9) of this section shall 2976
provide for random audits of no further action letters to which 2977
the rules adopted under divisions (B)(9)(a) to (f) of this section 2978
do not apply. 2979

(10) A classification system to characterize ground water 2980
according to its capability to be used for human use and its 2981

impact on the environment and a methodology that shall be used to 2982
determine when ground water that has become contaminated from 2983
sources on a property for which a covenant not to sue is requested 2984
under section 3746.11 of the Revised Code shall be remediated to 2985
the standards established under division (B)(1) or (2) of this 2986
section. 2987

(a) In adopting rules under division (B)(10) of this section 2988
to characterize ground water according to its capability for human 2989
use, the director shall consider all of the following: 2990

(i) The presence of legally enforceable, reliable 2991
restrictions on the use of ground water, including, without 2992
limitation, local rules or ordinances; 2993

(ii) The presence of regional commingled contamination from 2994
multiple sources that diminishes the quality of ground water; 2995

(iii) The natural quality of ground water; 2996

(iv) Regional availability of ground water and reasonable 2997
alternative sources of drinking water; 2998

(v) The productivity of the aquifer; 2999

(vi) The presence of restrictions on the use of ground water 3000
implemented under this chapter and rules adopted under it; 3001

(vii) The existing use of ground water. 3002

(b) In adopting rules under division (B)(10) of this section 3003
to characterize ground water according to its impacts on the 3004
environment, the director shall consider both of the following: 3005

(i) The risks posed to humans, fauna, surface water, 3006
sediments, soil, air, and other resources by the continuing 3007
presence of contaminated ground water; 3008

(ii) The availability and feasibility of technology to remedy 3009
ground water contamination. 3010

(11) Governing the application for and issuance of variances 3011
under section 3746.09 of the Revised Code; 3012

(12)(a) In the case of voluntary actions involving 3013
contaminated ground water, specifying the circumstances under 3014
which the generic numerical clean-up standards established in 3015
rules adopted under division (B)(1) of this section and standards 3016
established through a risk assessment conducted pursuant to rules 3017
adopted under division (B)(2) of this section shall be 3018
inapplicable to the remediation of contaminated ground water and 3019
under which the standards for remediating contaminated ground 3020
water shall be established on a case-by-case basis prior to the 3021
commencement of the voluntary action pursuant to rules adopted 3022
under division (B)(12)(b) of this section; 3023

(b) Criteria and procedures for the case-by-case 3024
establishment of standards for the remediation of contaminated 3025
ground water under circumstances in which the use of the generic 3026
numerical clean-up standards and standards established through a 3027
risk assessment are precluded by the rules adopted under division 3028
(B)(12)(a) of this section. The rules governing the procedures for 3029
the case-by-case development of standards for the remediation of 3030
contaminated ground water shall establish application, public 3031
participation, adjudication, and appeals requirements and 3032
procedures that are equivalent to the requirements and procedures 3033
established in section 3746.09 of the Revised Code and rules 3034
adopted under division (B)(11) of this section, except that the 3035
procedural rules shall not require an applicant to make the 3036
demonstrations set forth in divisions (A)(1) to (3) of section 3037
3746.09 of the Revised Code ~~and shall not require the director to~~ 3038
~~obtain the advice of the property revitalization board created in~~ 3039
~~section 3746.08 of the Revised Code regarding any application~~ 3040
~~submitted pursuant to the rules adopted under division (B)(12)(b)~~ 3041
~~of this section.~~ 3042

(13) A definition of the evidence that constitutes sufficient 3043
evidence for the purpose of division (A)(5) of section 3746.02 of 3044
the Revised Code. 3045

At least thirty days before filing the proposed rules 3046
required to be adopted under this section with the secretary of 3047
state, director of the legislative service commission, and joint 3048
committee on agency rule review in accordance with divisions (B) 3049
and (H) of section 119.03 of the Revised Code, the director of 3050
environmental protection shall hold at least one public meeting on 3051
the proposed rules in each of the five districts into which the 3052
agency has divided the state for administrative purposes. 3053

Sec. 3746.09. (A) A person who proposes to enter into or who 3054
is participating in the voluntary action program under this 3055
chapter and rules adopted under it, in accordance with this 3056
section and rules adopted under division (B)(11) of section 3057
3746.04 of the Revised Code, may apply to the director of 3058
environmental protection for a variance from applicable standards 3059
otherwise established in this chapter and rules adopted under it. 3060
The application for a variance shall be prepared by a certified 3061
professional. The director shall issue a variance from those 3062
applicable standards only if the application makes all of the 3063
following demonstrations to the director's satisfaction: 3064

(1) Either or both of the following: 3065

(a) It is technically infeasible to comply with the 3066
applicable standards otherwise established at the property named 3067
in the application; 3068

(b) The costs of complying with the applicable standards 3069
otherwise established at the property substantially exceed the 3070
economic benefits; 3071

(2) The proposed alternative standard or set of standards and 3072

terms and conditions set forth in the application will result in 3073
an improvement of environmental conditions at the property and 3074
ensure that public health and safety will be protected. 3075

(3) The establishment of and compliance with the alternative 3076
standard or set of standards and terms and conditions are 3077
necessary to promote, protect, preserve, or enhance employment 3078
opportunities or the reuse of the property named in the 3079
application. 3080

A variance issued under this section shall state the specific 3081
standard or standards whose terms are being varied and shall set 3082
forth the specific alternative standard or set of standards and 3083
the terms and conditions imposed on the applicant in their place. 3084
A variance issued under this section shall include only standards 3085
and terms and conditions proposed by the applicant in ~~his~~ the 3086
application, except that the director may impose any additional or 3087
alternative terms and conditions that ~~he~~ the director determines 3088
to be necessary to ensure that public health and safety will be 3089
protected. If the director finds that compliance with any standard 3090
or term or condition proposed by the applicant will not protect 3091
public health and safety and that the imposition of additional or 3092
alternative terms and conditions will not ensure that public 3093
health or safety will be protected, the director shall disapprove 3094
the application and shall include in the order of denial the 3095
specific findings on which the denial was based. 3096

(B) Variances shall be issued or denied in accordance with 3097
this section, rules adopted under division (B)(11) of section 3098
3746.04 of the Revised Code, and Chapter 3745. of the Revised 3099
Code. Upon determining that an application for a variance is 3100
complete, the director shall ~~do both of the following:~~ 3101

~~(1) Transmit a copy of the application to the property 3102
revitalization board created in section 3746.08 of the Revised 3103~~

Code:	3104
(2) Schedule <u>schedule</u> a public meeting on the application to	3105
be held within ninety days after the director determines that the	3106
application is complete in the county in which is located the	3107
property to which the application pertains.	3108
(C) Not less than thirty days before the date scheduled for	3109
the public meeting on an application for a variance, the director	3110
shall publish notice of the public meeting and that the director	3111
will receive written comments on the application for a period of	3112
forty-five days commencing on the date of the publication of the	3113
notice. The notice shall contain all of the following information,	3114
at a minimum:	3115
(1) The address of the property to which the application	3116
pertains;	3117
(2) A brief summary of the alternative standards and terms	3118
and conditions proposed by the applicant;	3119
(3) The date, time, and location of the public meeting.	3120
The notice shall be published in a newspaper of general	3121
circulation in the county in which the property is located and, if	3122
the property is located in close proximity to the boundary of the	3123
county with an adjacent county, as determined by the director,	3124
shall be published in a newspaper of general circulation in the	3125
adjacent county. Concurrently with the publication of the notice	3126
of the public meeting, the director shall mail notice of the	3127
application, comment period, and public meeting to the owner of	3128
each parcel of land that is adjacent to the affected property and	3129
to the legislative authority of the municipal corporation or	3130
township, and county, in which the affected property is located.	3131
The notices mailed to the adjacent land owners and legislative	3132
authorities shall contain the same information as the published	3133
notice.	3134

(D) At the public meeting on an application for a variance, 3135
the applicant, or a representative of the applicant who is 3136
knowledgeable about the affected property and the application, 3137
shall present information regarding the application and the basis 3138
of the request for the variance and shall respond to questions 3139
from the public regarding the affected property and the 3140
application. A representative of the environmental protection 3141
agency who is familiar with the affected property and the 3142
application shall attend the public meeting to hear the public's 3143
comments and to respond to questions from the public regarding the 3144
affected property and the application. A stenographic record of 3145
the proceedings at the public meeting shall be kept and shall be 3146
made a part of the administrative record regarding the 3147
application. 3148

(E) Within ninety days after conducting the public meeting on 3149
an application for a variance under division (D) of this section, 3150
the director shall issue a proposed action to the applicant in 3151
accordance with section 3745.07 of the Revised Code that indicates 3152
the director's intent with regard to the issuance or denial of the 3153
application. When considering whether to issue or deny the 3154
application or whether to impose terms and conditions of the 3155
variance that are in addition or alternative to those proposed by 3156
the applicant, the director shall consider ~~the advice provided by~~ 3157
~~the property revitalization board,~~ comments on the application 3158
made by the public at the public meeting, and written comments on 3159
the application received from the public. 3160

Sec. 3746.35. (A) Not later than September 1, 1996, and not 3161
later than the first day of September of each subsequent year, the 3162
director of environmental protection shall prepare and submit to 3163
the ~~chairmen~~ chairpersons of the respective standing committees of 3164
the senate and house of representatives primarily responsible for 3165

considering environmental and taxation matters a report regarding 3166
the voluntary action program established under this chapter and 3167
rules adopted under it and the tax abatements granted pursuant to 3168
sections 5709.87 and 5709.88 of the Revised Code for properties 3169
where voluntary actions were conducted. Each annual report shall 3170
include, without limitation, all of the following: 3171

(1) Both of the following for each property for which a 3172
covenant not to sue was issued under section 3746.12 of the 3173
Revised Code during the preceding calendar year: 3174

(a) The address of the property and name of the person who 3175
undertook the voluntary action at the property; 3176

(b) Whether the applicable standards governing the voluntary 3177
action were the interim standards established in section 3746.07 3178
of the Revised Code or the generic numerical clean-up standards 3179
established in rules adopted under division (B)(1) of section 3180
3746.04 of the Revised Code, were established through the 3181
performance of a risk assessment pursuant to rules adopted under 3182
division (B)(2) of section 3746.04 of the Revised Code, or were 3183
set forth in a variance issued under section 3746.09 of the 3184
Revised Code. 3185

(2) All of the following for each property for which a 3186
variance was issued under section 3746.09 of the Revised Code 3187
during the preceding calendar year: 3188

(a) The address of the property and the name of the person to 3189
whom the variance was issued; 3190

(b) A summary of the alternative standards and terms and 3191
conditions of the variance and brief description of the 3192
improvement in environmental conditions at the property that is 3193
anticipated to result from compliance with the alternative 3194
standards and terms and conditions set forth in the variance; 3195

(c) A brief description of the economic benefits to the 3196

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

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

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

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

(c) A brief summary of the findings of the audit and any
action taken by the environmental protection agency as a result of
those findings.

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

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

(b) The reason for the revocation.

(5) The amount of money credited to the voluntary action 3227
administration fund created in section 3746.16 of the Revised Code 3228
during the preceding fiscal year from the fees established in 3229
divisions (D) and (H) of section 3746.07 and division (C) of 3230
section 3746.13 of the Revised Code ~~and pursuant to rules adopted~~ 3231
~~under divisions (B)(5) and (8) of section 3746.08 of the Revised~~ 3232
~~Code~~ and from civil penalties imposed under section 3746.22 of the 3233
Revised Code. The report shall indicate the amount of money that 3234
arose from each of the fees and from the civil penalties. The 3235
report also shall include the amount of money expended from the 3236
fund during the preceding fiscal year by program category, 3237
including, without limitation, the amount expended for conducting 3238
audits under section 3746.17 of the Revised Code during the 3239
preceding fiscal year. 3240

(6) For each property that is receiving a tax abatement under 3241
section 5709.87 of the Revised Code for the preceding tax year, 3242
the amount of the valuation exempted from real property taxation 3243
for that tax year under that section. In order to comply with 3244
division (A)(6) of this section, the director shall include in the 3245
annual report the report required to be provided to ~~him~~ the 3246
director by the director of development under division (B)(2) of 3247
this section. The sole responsibility of the director of 3248
environmental protection regarding the report provided to ~~him~~ the 3249
director under that division is to include it in the annual report 3250
prepared under division (A) of this section. 3251

(7) For each property that is receiving a tax abatement 3252
pursuant to an agreement with a municipal corporation or county 3253
entered into under section 5709.88 of the Revised Code, the amount 3254
of the valuation exempted from real or personal property taxation. 3255
In order to comply with division (A)(7) of this section, the 3256
director shall include in the annual report the report required to 3257
be provided to ~~him~~ the director by the director of development 3258

under division (C) of this section. The sole responsibility of the 3259
director of environmental protection regarding the report provided 3260
to ~~him~~ the director under that division is to ~~inlcude~~ include it 3261
in the annual report prepared under division (A) of this section. 3262

~~(8) Recommendations submitted to the director by the property 3263
revitalization board created under section 3746.08 of the Revised 3264
Code for any legislative and administrative action necessary to 3265
promote economic and financial incentives to achieve the purposes 3266
of this chapter. 3267~~

(B)(1) Not later than March 31, 1996, the county auditor of 3268
each county in which is located any property that is receiving a 3269
tax abatement under section 5709.87 of the Revised Code shall 3270
report to the director of development for each such property both 3271
of the following as applicable to tax year 1995: 3272

(a) The address of the property and the name of the owner as 3273
stated in the records of the county auditor of the county in which 3274
the property is located; 3275

(b) The amount of the valuation of the property that was 3276
exempted from real property taxation under that section. 3277

Not later than the thirty-first day of March of each 3278
subsequent year, each such county auditor shall report the 3279
information described in those divisions to the director of 3280
development for each property within the county that is receiving 3281
a tax abatement under that section for the preceding tax year. 3282

(2) Not later than July 1, 1996, and not later than the first 3283
day of July of each subsequent year, the director of development 3284
shall compile the information provided to ~~him~~ the director under 3285
division (B)(1) of this section applicable to the preceding tax 3286
year into a report covering all of the counties in the state in 3287
which are located properties receiving a tax abatement under 3288
section 5709.87 of the Revised Code for the preceding tax year and 3289

shall forward the report to the director of environmental 3290
protection. The sole responsibility of the director of development 3291
in preparing the report is to compile the information submitted to 3292
~~him~~ the director by the county auditors under division (B)(1) of 3293
this section. 3294

(C) Not later than July 1, 1996, and not later than the first 3295
day of July of each subsequent year, the director of development 3296
shall compile the information provided to ~~him~~ the director by 3297
municipal corporations and counties under division (A) of section 3298
5709.882 of the Revised Code applicable to the preceding calendar 3299
year into a report covering, by county, all of the municipal 3300
corporations and counties in this state in which are located 3301
properties receiving a tax abatement pursuant to an agreement 3302
entered into under section 5709.88 of the Revised Code and shall 3303
forward the report to the director of environmental protection. 3304
The sole responsibility of the director of development in 3305
preparing the report is to compile the information submitted to 3306
him by municipal corporations and counties under division (A) of 3307
section 5709.882 of the Revised Code. 3308

Sec. 3747.02. (A)(1) The governor, with the advice and 3309
consent of the senate, shall appoint the Ohio member of the 3310
midwest interstate low-level radioactive waste commission. The 3311
commissioner shall serve at the pleasure of the governor and shall 3312
be reimbursed for actual and necessary expenses incurred in the 3313
performance of ~~his~~ official duties. 3314

(2) As used in this section, "compact" means the midwest 3315
interstate compact on low-level radioactive waste entered into 3316
under section 3747.01 of the Revised Code. 3317

(B) The representative from this state on the commission 3318
shall not cast a vote contrary to Ohio law. 3319

(C) The representative from this state on the commission 3320

shall not cast an affirmative vote on the following matters before 3321
the commission without the prior approval of ~~a majority of the~~ 3322
~~members of the board of directors of the Ohio low level~~ 3323
~~radioactive waste facility development authority created in~~ 3324
~~section 3747.05 of the Revised Code~~ the governor: 3325

(1) Approval by the commission of the amount of the long-term 3326
care fund established by this state pursuant to Article VI(O) of 3327
the compact and ~~division (B) of section 3747.18 of the Revised~~ 3328
~~Code;~~ 3329

(2) Relief of a party state to the compact of its 3330
responsibility to serve as a host state under Article VI(E) of the 3331
compact; 3332

(3) A requirement pursuant to Article VI(F) of the compact 3333
that this state use alternate technology to that proposed by this 3334
state for a compact facility in this state; 3335

(4) ~~Disposal of any of the waste described in division (B) of~~ 3336
~~section 3747.13 of the Revised Code in a compact facility in a~~ 3337
~~party state in the compact other than this state;~~ 3338

~~(5)~~ Authorization of the early closing of a compact facility 3339
under Article III(H)(7) of the compact; 3340

~~(6)~~(5) Any agreement between this state and the commission or 3341
a state other than Ohio that determines or alters the rights, 3342
powers, or obligations of this state under the compact; 3343

~~(7)~~(6) Modification of the requirements of Article VI(L)(2), 3344
(3), or (5) of the compact if the then operating compact facility 3345
is in this state; 3346

~~(8)~~(7) Admission by the commission of a new party state to 3347
the compact; 3348

~~(9)~~(8) Revocation by the commission of the membership of a 3349
party state in the compact. 3350

(D) A vote by the representative from this state on the 3351
commission that is inconsistent with division (B) or (C) of this 3352
section is void and is not enforceable. 3353

Sec. 3748.01. As used in this chapter: 3354

(A) "Byproduct material" means either of the following: 3355

(1) Any radioactive material, except special nuclear 3356
material, yielded in or made radioactive by exposure to radiation 3357
incident to the process of producing or utilizing special nuclear 3358
material; 3359

(2) The tailings or wastes produced by the extraction or 3360
concentration of uranium or thorium from any ore processed 3361
primarily for its source material content. 3362

(B) "Certified radiation expert" means an individual who has 3363
complied with all of the following: 3364

(1) Applied to the director of health for certification as a 3365
radiation expert under section 3748.12 of the Revised Code; 3366

(2) Met minimum education and experience requirements 3367
established in rules adopted under division (C) of section 3748.04 3368
of the Revised Code; 3369

(3) Been granted a certificate as a radiation expert by the 3370
director under section 3748.12 of the Revised Code. 3371

(C) "Closure" or "site closure" refers to a facility for the 3372
disposal of low-level radioactive waste or a byproduct material 3373
site, as "byproduct material" is defined in division (A)(2) of 3374
this section, and means all activities performed at a licensed 3375
operation, such as stabilization and contouring, to ensure that 3376
the site where the operation occurred is in a stable condition so 3377
that only minor custodial care, surveillance, and monitoring are 3378
necessary at the site following the termination of the licensed 3379

operation. 3380

(D) "Decommissioning" means to safely remove any licensed 3381
operation from service and reduce residual radioactivity to a 3382
level that permits release of the licensee's property for 3383
unrestricted use. With regard to a facility for the disposal of 3384
low-level radioactive waste or a byproduct material site, as 3385
"byproduct material" is defined in division (A)(2) of this 3386
section, "decommissioning" does not include the reduction of 3387
residual radioactivity to a level that permits release of the 3388
facility for unrestricted use. 3389

(E) "Director of health" includes a designee or authorized 3390
representative of the director. 3391

(F) "Disposal," with regard to low-level radioactive waste, 3392
means the permanent isolation of that waste in accordance with 3393
requirements established by the United States nuclear regulatory 3394
commission or the licensing agreement state. 3395

(G) "Disposal site" ~~has the same meaning as in section~~ 3396
3747.04 of the Revised Code means that portion of a facility that 3397
is used for the disposal of low-level radioactive waste and that 3398
consists of disposal units and a buffer zone. "Disposal unit" 3399
means a discrete portion of such a facility into which low-level 3400
radioactive waste is placed for disposal. 3401

(H)(1) Except as provided in division (H)(2) of this section, 3402
"facility" means the state, any political subdivision, person, 3403
public or private institution, or group, or any unit of one of 3404
those entities, but does not include the federal government or any 3405
of its agencies. 3406

(2) For the purposes of the disposal of low-level radioactive 3407
waste, "facility" has the same meaning as in section 3747.01 of 3408
the Revised Code. 3409

(I) "Handle" means receive, possess, use, store, transfer, 3410
install, service, or dispose of sources of radiation unless 3411
possession is solely for the purpose of transportation. 3412

(J) "Handler" means a facility that handles sources of 3413
radiation unless possession is solely for the purpose of 3414
transportation. 3415

(K) "Inspection" means an official review, examination, or 3416
observation, including, without limitation, tests, surveys, and 3417
monitoring, that is used to determine compliance with rules, 3418
orders, requirements, and conditions of the department of health 3419
and that is conducted by the director of health. 3420

(L) "Low-level radioactive waste" has the same meaning as in 3421
section 3747.01 of the Revised Code with regard to the disposal of 3422
low-level radioactive waste. In regard to regulatory control at 3423
locations other than a disposal facility, "low-level radioactive 3424
waste" has the same meaning as in 42 U.S.C.A. 2021b. 3425

(M) "Quality assurance program" means a program providing for 3426
verification by written procedures such as testing, auditing, and 3427
inspection to ensure that deficiencies, deviations, defective 3428
equipment, or unsafe practices, or a combination thereof, relating 3429
to the use, disposal, management, or manufacture of radiation 3430
sources are identified, promptly corrected, and reported to the 3431
appropriate regulatory authorities. 3432

(N) "Radiation" means ionizing and nonionizing radiation. 3433

(1) "Ionizing radiation" means gamma rays and X-rays, alpha 3434
and beta particles, high-speed electrons, neutrons, protons, and 3435
other nuclear particles, but does not include sound or radio waves 3436
or visible, infrared, or ultraviolet light. 3437

(2) "Nonionizing radiation" means any electromagnetic 3438
radiation, other than ionizing electromagnetic radiation, or any 3439

sonic, ultrasonic, or infrasonic wave. 3440

(O) "Radioactive material" means any solid, liquid, or 3441
gaseous material that emits ionizing radiation spontaneously. 3442
"Radioactive material" includes accelerator-produced and naturally 3443
occurring materials and byproduct, source, and special nuclear 3444
material. 3445

(P) "Radiation-generating equipment" means any manufactured 3446
product or device, or component of such a product or device, or 3447
any machine or system that during operation can generate or emit 3448
radiation, except those that emit radiation only from radioactive 3449
material. "Radiation-generating equipment" does not include either 3450
of the following: 3451

(1) Diathermy machines; 3452

(2) Microwave ovens, including food service microwave ovens 3453
used for commercial and industrial uses, television receivers, 3454
electric lamps, and other household appliances and products that 3455
generate very low levels of radiation. 3456

(Q) "Source material" means uranium, thorium, or any 3457
combination thereof in any physical or chemical form, or any ores 3458
that contain by weight at least one-twentieth of one per cent of 3459
uranium, thorium, or any combination thereof. "Source material" 3460
does not include special nuclear material. 3461

(R) "Source of radiation" means radioactive material or 3462
radiation-generating equipment. 3463

(S) "Special nuclear material" means either of the following: 3464

(1) Plutonium, uranium 233, uranium enriched in the isotope 3465
233 or in the isotope 235, and any other material that the United 3466
States nuclear regulatory commission determines to be special 3467
nuclear material, but does not include source material pursuant to 3468
section 51 of the "Atomic Energy Act of 1954," 68 Stat. 919, 42 3469

U.S.C.A. 2071." 3470

(2) Except for any source material, any material artificially 3471
enriched by any of the materials identified in division (S)(1) of 3472
this section. 3473

(T) "Storage" means the retention of radioactive materials, 3474
including low-level radioactive waste, prior to disposal in a 3475
manner that allows for surveillance, control, and subsequent 3476
retrieval. 3477

Sec. 3748.02. (A) The department of health is hereby 3478
designated the Ohio radiation control agency. 3479

(B) In accordance with the laws of this state, the director 3480
of health may employ, compensate, and prescribe the duties of 3481
individuals necessary to implement and administer this chapter and 3482
~~the~~ rules adopted under it ~~and for the purposes of division (A)(4)~~ 3483
~~of section 3747.06 and section 3747.15 of the Revised Code.~~ 3484

Sec. 3748.04. The public health council, in accordance with 3485
Chapter 119. of the Revised Code, shall adopt and may amend or 3486
rescind rules doing all of the following: 3487

(A) Listing types of radioactive material for which licensure 3488
by its handler is required and types of radiation-generating 3489
equipment for which registration by its handler is required, and 3490
establishing requirements governing them. Rules adopted under 3491
division (A) of this section shall be compatible with applicable 3492
federal regulations and shall establish all of the following, 3493
without limitation: 3494

(1) Requirements governing both of the following: 3495

(a) The licensing and inspection of handlers of radioactive 3496
material. Standards established in rules adopted under division 3497
(A)(1)(a) of this section regarding byproduct material or any 3498

activity that results in the production of that material, to the extent practicable, shall be equivalent to or more stringent than applicable standards established by the United States nuclear regulatory commission.

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

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

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

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

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

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

(7) Criteria governing environmental monitoring of licensed

and registered activities to assess compliance with this chapter 3529
and rules adopted under it; 3530

(8) Except as otherwise provided in division (A)(8) of this 3531
section, fees for the licensing of handlers of radioactive 3532
material, other than a facility for the disposal of low-level 3533
radioactive waste, and the registration of handlers of 3534
radiation-generating equipment and a fee schedule for their 3535
inspection. Rules adopted under division (A)(8) of this section 3536
shall not revise any fees established in section 3748.07 or 3537
3748.13 of the Revised Code to be paid by any handler of 3538
radiation-generating equipment that is a medical practitioner or a 3539
corporation, partnership, or other business entity consisting of 3540
medical practitioners, other than a hospital as defined in section 3541
3727.01 of the Revised Code. 3542

As used in division (A)(8) of this section, "medical 3543
practitioner" means a person who is authorized to practice 3544
dentistry pursuant to Chapter 4715. of the Revised Code; medicine 3545
and surgery, osteopathic medicine and surgery, or podiatry 3546
pursuant to Chapter 4731. of the Revised Code; or chiropractic 3547
pursuant to Chapter 4734. of the Revised Code. 3548

~~(9) With regard to a facility for the disposal of low level 3549
radioactive waste, an application fee to cover the costs incurred 3550
by the department of health for review of the license application 3551
submitted by the contractor selected under division (A)(6) of 3552
section 3747.06 and section 3747.10 of the Revised Code by the 3553
board of directors of the Ohio low level radioactive waste 3554
facility development authority created in section 3747.05 of the 3555
Revised Code to develop and operate the facility, which shall be 3556
paid by the contractor at the time of receipt of an invoice from 3557
the department; a license review fee to cover the costs of the 3558
department for review of that license, which shall be paid by the 3559
contractor every five years after the issuance of the license; and 3560~~

~~a fee for routine compliance monitoring, which shall be paid 3561~~
~~annually by the contractor. Fees collected pursuant to rules 3562~~
~~adopted under division (A)(9) of this section shall be deposited 3563~~
~~into the state treasury to the credit of the general operations 3564~~
~~fund created in section 3701.83 of the Revised Code. The fees 3565~~
~~shall be used solely to administer and enforce this chapter and 3566~~
~~rules adopted under it. A fee for routine compliance monitoring 3567~~
~~required pursuant to rules adopted under division (A)(9) of this 3568~~
~~section that has not been paid within ninety days after the 3569~~
~~invoice date shall be assessed at two times the original invoiced 3570~~
~~fee. Any such fee that has not been paid within one hundred eighty 3571~~
~~days after the invoice date shall be assessed at five times the 3572~~
~~original invoiced fee. 3573~~

(B)(1) Identifying sources of radiation, circumstances of 3574
possession, use, or disposal of sources of radiation, and levels 3575
of radiation that constitute an unreasonable or unnecessary risk 3576
to human health or the environment; 3577

(2) Establishing requirements for the achievement and 3578
maintenance of compliance with standards for the receipt, 3579
possession, use, storage, installation, transfer, servicing, and 3580
disposal of sources of radiation to prevent levels of radiation 3581
that constitute an unreasonable or unnecessary risk to human 3582
health or the environment; 3583

(3) Requiring the maintenance of records on the receipt, use, 3584
storage, transfer, and disposal of radioactive material and on the 3585
radiological safety aspects of the use and maintenance of 3586
radiation-generating equipment. 3587

In adopting rules under divisions (A) and (B) of this 3588
section, the council shall use standards no less stringent than 3589
the "suggested state regulations for control of radiation" 3590
prepared by the conference of radiation control program directors, 3591

inc., and regulations adopted by the United States nuclear 3592
regulatory commission, the United States environmental protection 3593
agency, and the United States department of health and human 3594
services and shall consider reports of the national council on 3595
radiation protection and measurement and the relevant standards of 3596
the American national standards institute. 3597

(C) Establishing fees, procedures, and requirements for 3598
certification as a radiation expert, including all of the 3599
following, without limitation: 3600

(1) Minimum training and experience requirements; 3601

(2) Procedures for applying for certification; 3602

(3) Procedures for review of applications and issuance of 3603
certificates; 3604

(4) Procedures for suspending and revoking certification. 3605

(D) Establishing a schedule for inspection of sources of 3606
radiation and their shielding and surroundings; 3607

(E) Establishing the responsibilities of a radiation expert; 3608

(F) Establishing criteria for quality assurance programs for 3609
licensees of radioactive material and registrants of 3610
radiation-generating equipment; 3611

(G) Establishing fees to be paid by any facility that, on 3612
September 8, 1995, holds a license from the United States nuclear 3613
regulatory commission in order to provide moneys necessary for the 3614
transfer of licensing and other regulatory authority from the 3615
commission to the state pursuant to section 3748.03 of the Revised 3616
Code. Rules adopted under this division shall stipulate that fees 3617
so established do not apply to any functions dealing specifically 3618
with a facility for the disposal of low-level radioactive waste. 3619
Fees collected under this division shall be deposited into the 3620
state treasury to the credit of the general operations fund 3621

created in section 3701.83 of the Revised Code. The fees shall be 3622
used solely to administer and enforce this chapter and rules 3623
adopted under it. 3624

(H) Establishing fees to be collected annually from 3625
generators of low-level radioactive waste, which shall be based 3626
upon the volume and radioactivity of the waste generated and the 3627
costs of administering low-level radioactive waste management 3628
activities under this chapter and rules adopted under it. All fees 3629
collected under this division shall be deposited into the state 3630
treasury to the credit of the general operations fund created in 3631
section 3701.83 of the Revised Code. The fees shall be used solely 3632
to administer and enforce this chapter and rules adopted under it. 3633
Any fee required under this division that has not been paid within 3634
ninety days after the invoice date shall be assessed at two times 3635
the original invoiced fee. Any fee that has not been paid within 3636
one hundred eighty days after the invoice date shall be assessed 3637
at five times the original invoiced fee. 3638

(I) Establishing requirements governing closure, 3639
decontamination, decommissioning, reclamation, and long-term 3640
surveillance and care of a facility licensed under this chapter 3641
and rules adopted under it. Rules adopted under division (I) of 3642
this section shall include, without limitation, all of the 3643
following: 3644

(1) Standards and procedures to ensure that a licensee 3645
prepares a decommissioning funding plan that provides an adequate 3646
financial guaranty to permit the completion of all requirements 3647
governing the closure, decontamination, decommissioning, and 3648
reclamation of sites, structures, and equipment used in 3649
conjunction with a licensed activity; 3650

(2) For licensed activities where radioactive material that 3651
will require surveillance or care is likely to remain at the site 3652

after the licensed activities cease, as indicated in the 3653
application for the license submitted under section 3748.07 of the 3654
Revised Code, standards and procedures to ensure that the licensee 3655
prepares an additional decommissioning funding plan for long-term 3656
surveillance and care, before termination of the license, that 3657
provides an additional adequate financial guaranty as necessary to 3658
provide for that surveillance and care; 3659

(3) For the purposes of the decommissioning funding plans 3660
required in rules adopted under divisions (I)(1) and (2) of this 3661
section, the types of acceptable financial guaranties, which shall 3662
include bonds issued by fidelity or surety companies authorized to 3663
do business in the state, certificates of deposit, deposits of 3664
government securities, irrevocable letters or lines of credit, 3665
trust funds, escrow accounts, or other similar types of 3666
arrangements, but shall not include any arrangement that 3667
constitutes self-insurance; 3668

(4) A requirement that the decommissioning funding plans 3669
required in rules adopted under divisions (I)(1) and (2) of this 3670
section contain financial guaranties in amounts sufficient to 3671
ensure compliance with any standards established by the United 3672
States nuclear regulatory commission, or by the state if it has 3673
become an agreement state pursuant to section 3748.03 of the 3674
Revised Code, pertaining to closure, decontamination, 3675
decommissioning, reclamation, and long-term surveillance and care 3676
of licensed activities and sites of licensees. 3677

Standards established in rules adopted under division (I) of 3678
this section regarding any activity that resulted in the 3679
production of byproduct material, as defined in division (A)(2) of 3680
section 3748.01 of the Revised Code, to the extent practicable, 3681
shall be equivalent to or more stringent than standards 3682
established by the United States nuclear regulatory commission for 3683
sites at which ores were processed primarily for their source 3684

material content and at which byproduct material, as defined in 3685
division (A)(2) of section 3748.01 of the Revised Code, is 3686
deposited. 3687

~~(J) Establishing qualifications for members of the license 3688
review board appointed under division (B) of section 3748.09 of 3689
the Revised Code; 3690~~

~~(K) Establishing criteria governing inspections of a facility 3691
for the disposal of low-level radioactive waste, including, 3692
without limitation, the establishment of a resident inspector 3693
program at such a facility; 3694~~

~~(L)(K) Establishing requirements and procedures governing the 3695
filing of complaints under section 3748.16 of the Revised Code, 3696
including, without limitation, those governing intervention in a 3697
hearing held under division (B)(3) of that section; 3698~~

~~(M) Establishing requirements and procedures for entering 3699
into an agreement with the board of directors of the Ohio 3700
low-level radioactive waste facility development authority created 3701
in section 3747.05 of the Revised Code for the payment of the 3702
department's costs incurred pursuant to division (A)(4) of section 3703
3747.06 of the Revised Code and Article III(I)(5) of the midwest 3704
interstate compact on low-level radioactive waste established 3705
under section 3747.01 of the Revised Code. 3706~~

Sec. 3748.05. (A) The director of health shall do all of the 3707
following: 3708

(1) Administer and enforce this chapter and the rules adopted 3709
under it; 3710

(2) Collect and make available information relating to 3711
sources of radiation; 3712

(3) Ensure the review of plans and specifications, submitted 3713
in accordance with rules adopted by the public health council, for 3714

the control of radiation that constitutes an unreasonable or	3715
unnecessary risk to human health or the environment;	3716
(4) Review reports of quality assurance audits performed by	3717
certified radiation experts under this chapter and <u>the</u> rules	3718
adopted under it;	3719
(5) Ensure that programs for the control of sources of	3720
radiation are developed with due regard for compatibility with	3721
federal programs for the regulation of byproduct, source, and	3722
special nuclear materials;	3723
(6) In accordance with Chapter 119. of the Revised Code,	3724
adopt, and subsequently may amend and rescind, rules providing for	3725
the administrative assessment and collection of monetary penalties	3726
for failure by any facility licensed under this chapter and rules	3727
adopted under it to comply with this chapter and those rules. The	3728
director may require the submission of compliance schedules and	3729
other related information. Any orders issued or payments or other	3730
requirements imposed pursuant to rules adopted under division	3731
(A)(6) of this section shall not affect any civil or criminal	3732
enforcement proceeding brought under this chapter or any other	3733
provision of state or local law. Moneys collected as	3734
administrative penalties imposed pursuant to rules adopted under	3735
division (A)(6) of this section shall be deposited in the state	3736
treasury to the credit of the general operations fund created in	3737
section 3701.83 of the Revised Code. The moneys shall be used	3738
solely to administer and enforce this chapter and <u>the</u> rules	3739
adopted under it.	3740
(7) Maintain files of both of the following:	3741
(a) All license and registration applications, issuances,	3742
denials, amendments, renewals, suspensions, and revocations and	3743
any administrative or judicial action pertaining to them;	3744
(b) All rules adopted under this chapter, or proposed to be	3745

adopted, relating to the regulation of sources of radiation and 3746
proceedings on them. 3747

~~(8) In accordance with chapter 119. of the Revised Code, 3748
adopt, and subsequently may amend and rescind, rules of procedure 3749
to govern any adjudication conducted by the license review board 3750
under division (B)(3)(c) of section 3748.09 of the Revised Code. 3751
The rules adopted under division (A)(8) of this section shall be 3752
in substantial conformity with the procedural rules established in 3753
10 C.F.R. 2.705-2.759. 3754~~

(B) The director may do any or all of the following: 3755

(1) Advise, consult, and cooperate with other agencies of the 3756
state, the federal government, other states, interstate agencies, 3757
political subdivisions, industries, and other affected groups in 3758
furtherance of the purposes of this chapter and the rules adopted 3759
under it; 3760

(2) Accept and administer grants from the federal government 3761
and from other sources, public or private, for carrying out any of 3762
the director's functions under this chapter and the rules adopted 3763
under it; 3764

(3) Encourage, participate in, or conduct studies, 3765
investigations, training, research, and demonstrations relating to 3766
the detection and control of radiation that constitutes an 3767
unreasonable or unnecessary risk to human health or the 3768
environment, the measurement of radiation, the evaluation of 3769
potential effects on health of cumulative or acute exposure to 3770
radiation, the development and improvement of methods to limit and 3771
reduce the generation of radioactive waste, and related problems 3772
as the director considers necessary or advisable; 3773

(4) In accordance with Chapter 119. of the Revised Code, 3774
adopt rules establishing criteria under which other agencies of 3775
the state or private entities may perform inspections of x-ray 3776

equipment at registered dental ~~facillites~~ facilities at the request 3777
of the facility or pursuant to contract with the department; 3778

(5) Exercise all incidental powers necessary to carry out the 3779
purposes of this chapter and the rules adopted under it, 3780
including, without limitation, the issuance of orders. 3781

Sec. 3748.16. (A)(1) The director of health shall conduct 3782
regular inspections of the facility for the disposal of low-level 3783
radioactive waste in accordance with rules adopted under division 3784
(~~K~~)(J) of section 3748.04 of the Revised Code and, in accordance 3785
with those rules, shall provide for at least one resident 3786
inspector at the facility. 3787

(2) Concentrations of radioactive materials released into the 3788
environment during operation, closure, institutional control, and 3789
long-term care of the facility shall be kept as low as are 3790
reasonably achievable and shall not exceed levels established in 3791
rules adopted under division (A)(7) of section 3748.04 of the 3792
Revised Code or the standards set forth in 10 C.F.R. 61.41, 3793
whichever are more stringent. The director shall establish a 3794
program to monitor concentrations of radioactive materials so 3795
released and shall conduct an investigation if monitoring results 3796
indicate concentrations of radioactive materials at levels that 3797
are greater than the established background for a monitoring point 3798
to determine ~~both of the following:~~ 3799

~~(a) The source of the increased radiation level;~~ 3800

~~(b) If violations of this chapter or Chapter 3747. of the 3801
Revised Code, rules adopted under them, or conditions of the 3802
license issued for the facility under section 3748.09 and rules 3803
adopted under division (A) of section 3748.04 of the Revised Code 3804
resulted in the increase. 3805~~

~~The director shall identify corrective actions to be taken 3806~~

~~based on the findings of the investigation and shall require the~~ 3807
~~contractor selected under division (A)(6) of section 3747.06 and~~ 3808
~~section 3747.10 of the Revised Code by the board of directors of~~ 3809
~~the Ohio low-level radioactive waste facility development~~ 3810
~~authority created in section 3747.05 of the Revised Code to submit~~ 3811
~~a corrective action plan in writing.~~ 3812

(B)(1) An officer of an agency of the state or of a political 3813
subdivision, acting in the officer's representative capacity, or 3814
any person may file a written complaint with the director, in 3815
accordance with rules adopted under division ~~(L)~~(K) of section 3816
3748.04 of the Revised Code, regarding the failure or alleged 3817
failure of the facility for the disposal of low-level radioactive 3818
waste to comply with health or safety requirements established 3819
under this chapter or Chapter 3747. of the Revised Code or rules 3820
adopted under them. The complaint shall be verified by an 3821
affidavit of the complainant or the complainant's agent or 3822
attorney. The affidavit may be made before any person authorized 3823
by law to administer oaths and shall be signed by the officer or 3824
person who makes it. The person before whom it was taken shall 3825
certify that it was sworn to before that person and signed in that 3826
person's presence, and the certificate signed officially by that 3827
person shall be evidence that the affidavit was made, that the 3828
name of the officer or person was written by that officer or 3829
person, and that the signer was that officer or person. 3830

(2) Upon receipt of a complaint under division (B)(1) of this 3831
section, the director shall cause a prompt investigation to be 3832
conducted as is reasonably necessary to determine whether the 3833
facility has failed or is failing to comply with the health or 3834
safety requirements identified in the complaint. The investigation 3835
shall include a discussion of the complaint with the contractor. 3836

(3) The director may hold a hearing on the complaint. Not 3837
less than twenty days before the hearing, the director shall cause 3838

publication of a notice of the hearing in the county in which the
facility is located and shall mail written notice by certified
mail, return receipt requested, to the complainant and to the
contractor. The hearing shall be conducted before the director or
a hearing examiner designated by the director. The department of
health and the contractor shall be parties. The complainant may
participate as a party by filing with the director, at any time
prior to the hearing, a written notice of the complainant's intent
to participate. Any other person may be permitted to intervene
upon the granting by the director or hearing examiner of a motion
to intervene filed in accordance with rules adopted under division
~~(L)~~(K) of section 3748.04 of the Revised Code.

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

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

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

(b) Issue an order assessing an administrative penalty in

accordance with rules adopted under division (A)(6) of section 3748.05 of the Revised Code; 3870
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(c) Request the attorney general, in writing, to commence appropriate legal proceedings, including a civil action for imposition of a civil penalty under section 3748.19 of the Revised Code and criminal prosecution. 3872
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(C) If the director suspends or revokes the license of the facility for the disposal of low-level radioactive waste for any reason in accordance with rules adopted under division (A) or (B) of section 3748.04 of the Revised Code, the contractor shall indemnify the state for any loss suffered by the state as a result of the lack of disposal capacity for low-level radioactive waste that otherwise would have been disposed of at the facility. 3876
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(D) The provisions of division (A) of this section establishing requirements governing the director and divisions (B) and (C) of this section apply only if the state becomes an agreement state pursuant to section 3748.03 of the Revised Code. 3883
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~~Sec. 3929.482. (A) The Ohio fair plan underwriting association by action of its board of governors, with the approval of the superintendent of insurance, is authorized to enter into a contract with any association formed under a medical professional liability insurance plan created by authority of section 3929.72 of the Revised Code, whereby Ohio fair plan underwriting association will perform administrative services necessary or incidental to the operation of the medical professional liability insurance plan. Such contract shall provide that the Ohio fair plan underwriting association will be reimbursed for its actual expenses incurred in performing such services. Common expenses applicable both to the Ohio fair plan and to the medical professional liability insurance plan shall be allocated between them on an equitable basis approved by the superintendent of~~ 3887
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~~insurance.~~ 3901

~~(B)~~ The Ohio fair plan underwriting association by action of 3902
its board of governors, with the approval of the superintendent of 3903
insurance, is authorized to enter into a contract with the Ohio 3904
mine subsidence insurance underwriting association to provide 3905
administrative and claims adjusting services required by it. Such 3906
contract shall provide indemnification by the Ohio mine subsidence 3907
insurance underwriting association to the Ohio fair plan 3908
underwriting association, its members, members of its board of 3909
governors, and its officers, employees, and agents against all 3910
liability, loss, and expense resulting from acts done or omitted 3911
in good faith in performing such contract. Such contract shall 3912
also provide that the Ohio fair plan underwriting association will 3913
be reimbursed for its actual expenses incurred in performing such 3914
services. Common expenses applicable both to the Ohio fair plan 3915
and to the mine subsidence insurance underwriting association 3916
shall be allocated between them on an equitable basis approved by 3917
the superintendent of insurance. 3918

~~(C)~~(B) The Ohio fair plan underwriting association by action 3919
of its board of governors, with the approval of the superintendent 3920
of insurance, is authorized to enter into a contract with the Ohio 3921
commercial joint underwriting association to provide 3922
administrative and claims adjusting services required by it. Such 3923
contract shall provide indemnification by the Ohio commercial 3924
joint underwriting association to the Ohio fair plan underwriting 3925
association, its members, members of its board of governors, and 3926
its officers, employees, and agents against all liability, loss, 3927
and expenses resulting from acts done or omitted in good faith in 3928
performing such contract. Such contract shall also provide that 3929
the Ohio fair plan underwriting association will be reimbursed for 3930
its actual expenses incurred in performing such services. Common 3931
expenses applicable both to the Ohio fair plan and to the Ohio 3932

commercial joint underwriting association shall be allocated 3933
between them on an equitable basis approved by the superintendent 3934
of insurance. 3935

Sec. 3929.682. ~~(A)~~ A medical liability fund is hereby created 3936
in the state treasury. The medical liability fund shall ~~consist of~~ 3937
~~the remaining funds of the joint underwriting association, the~~ 3938
~~association created under section 3929.72 of the Revised Code and~~ 3939
~~dissolved under section 3929.721 of the Revised Code, and shall be~~ 3940
used for the purposes of funding the medical liability 3941
underwriting association that is created in accordance with 3942
sections 3929.62 to 3929.70 of the Revised Code or for funding 3943
another medical malpractice initiative with the approval of the 3944
general assembly. 3945

~~(B) As used in this section, "remaining funds of the joint~~ 3946
~~underwriting association" means funds paid to the treasurer of~~ 3947
~~state in accordance with section 3929.721 of the Revised Code and~~ 3948
~~any plan of dissolution or trust agreement adopted under section~~ 3949
~~3929.721 of the Revised Code.~~ 3950

Sec. 3929.85. No insurer licensed to carry on the business of 3951
insurance in this state that is required by law to contribute to, 3952
or participate in, or ~~which that~~ can be assessed by the Ohio 3953
insurance guaranty association pursuant to sections 3955.01 to 3954
3955.19 of the Revised Code, or by the plan for apportionment of 3955
applicants for motor vehicle insurance pursuant to section 4509.70 3956
of the Revised Code, or by the Ohio fair plan underwriting 3957
association pursuant to sections 3929.43 to 3929.61 of the Revised 3958
Code, ~~or by the joint underwriting association pursuant to~~ 3959
~~sections 3929.71 to 3929.85 of the Revised Code,~~ or by the Ohio 3960
commercial insurance joint underwriting association pursuant to 3961
sections 3930.03 to 3930.18 of the Revised Code shall in any 3962
calendar year be required to contribute to, participate in, or be 3963

assessed by any one or more of ~~the aforementioned~~ those plans or 3964
associations in an amount or amounts totaling in excess of two and 3965
one-half per cent of its net direct Ohio premium volume for the 3966
year next preceding the year in which the assessment or 3967
assessments are made or the contributions or participations are 3968
required. 3969

Sec. 3931.01. Individuals, partnerships, and corporations of 3970
this state, designated in sections 3931.01 to 3931.12 of the 3971
Revised Code, as "subscribers," may exchange reciprocal or 3972
interinsurance contracts with each other, and with individuals, 3973
partnerships, and corporations of other states, districts, 3974
provinces, and countries, providing indemnity among themselves 3975
from any loss which may be legally insured against by any fire or 3976
casualty insurance company or association provided that contracts 3977
of indemnity against property damage and bodily injury arising out 3978
of the ownership, maintenance or use of a singly owned private 3979
passenger automobile principally used for nonbusiness purposes may 3980
not be exchanged through a reciprocal insurer which maintains a 3981
surplus over all liabilities of less than two and one-half million 3982
dollars and provided that this exception shall not prohibit the 3983
exchanging of contracts of indemnity against any form of liability 3984
otherwise authorized and arising out of any business or commercial 3985
enterprise. Such contracts and the exchange thereof and such 3986
subscribers, their attorneys, and representatives shall be 3987
regulated by such sections, and no law enacted after July 4, 1917, 3988
shall apply to them, unless they are expressly designated therein. 3989

Such a contract may be executed by an attorney or other 3990
representative designated "attorney," in sections 3931.01 to 3991
3931.12 of the Revised Code, authorized by and acting for such 3992
subscribers under powers of attorney. Such attorney may be a 3993
corporation. The principal office of such attorney shall be 3994
maintained at the place designated by the subscribers in the 3995

powers of attorney. 3996

Except for such limitations on assessability as are approved 3997
by the superintendent of insurance, every reciprocal or 3998
interinsurance contract written pursuant to this chapter for 3999
medical malpractice insurance ~~as defined in division (A) of~~ 4000
~~section 3929.71 of the Revised Code~~ shall be fully assessable and 4001
shall contain a statement, in boldface capital letters and in type 4002
more prominent than that of the balance of the contract, setting 4003
forth such terms of ~~accessability~~ assessability. As used in this 4004
section, "medical malpractice insurance" means insurance coverage 4005
against the legal liability of the insured and against loss, 4006
damage, or expense incident to a claim arising out of the death, 4007
disease, or injury of any person as the result of negligence or 4008
malpractice in rendering professional service by any licensed 4009
physician, podiatrist, or hospital, as those terms are defined in 4010
section 2305.113 of the Revised Code. 4011

Sec. 3955.05. Sections 3955.01 to 3955.19 of the Revised Code 4012
apply to all kinds of direct insurance, except: 4013

(A) Title insurance; 4014

(B) Fidelity or surety bonds, or any other bonding 4015
obligations; 4016

(C) Credit insurance, vendors' single interest insurance, 4017
collateral protection insurance, or any similar insurance 4018
protecting the interests of a creditor arising out of a 4019
creditor-debtor transaction; 4020

(D) Mortgage guaranty, financial guaranty, residual value, or 4021
other forms of insurance offering protection against investment 4022
risks; 4023

(E) Ocean marine insurance; 4024

(F) Any insurance provided by or guaranteed by government, 4025

including, but not limited to, any department, board, office, 4026
commission, agency, institution, or other instrumentality or 4027
entity of any branch of state government, any political 4028
subdivision of this state, the United States or any agency of the 4029
United States, or any separate or joint governmental 4030
self-insurance or risk-pooling program, plan, or pool; 4031

(G) Contracts of any corporation by which health services are 4032
to be provided to its subscribers; 4033

(H) Life, annuity, health, or disability insurance, including 4034
sickness and accident insurance written pursuant to Chapter 3923. 4035
of the Revised Code; 4036

(I) Fraternal benefit insurance; 4037

(J) Mutual protective insurance of persons or property; 4038

(K) Reciprocal or interinsurance contracts written pursuant 4039
to Chapter 3931. of the Revised Code for medical malpractice 4040
insurance ~~as defined in division (A) of section 3929.71 of the~~ 4041
~~Revised Code~~. As used in this division, "medical malpractice 4042
insurance" means insurance coverage against the legal liability of 4043
the insured and against loss, damage, or expense incident to a 4044
claim arising out of the death, disease, or injury of any person 4045
as the result of negligence or malpractice in rendering 4046
professional service by any licensed physician, podiatrist, or 4047
hospital, as those terms are defined in section 2305.113 of the 4048
Revised Code. 4049

(L) Any political subdivision self-insurance program or joint 4050
political subdivision self-insurance pool established under 4051
Chapter 2744. of the Revised Code; 4052

(M) Warranty or service contracts, or the insurance of ~~such~~ 4053
those contracts; 4054

(N) Any state university or college self-insurance program 4055

established under section 3345.202 of the Revised Code; 4056

(O) Any transaction, or combination of transactions, between 4057
a person, including affiliates of such person, and an insurer, 4058
including affiliates of such insurer, that involves the transfer 4059
of investment or credit risk unaccompanied by a transfer of 4060
insurance risk; 4061

(P) Credit union share guaranty insurance issued pursuant to 4062
Chapter 1761. of the Revised Code; 4063

(Q) Insurance issued by risk retention groups as defined in 4064
Chapter 3960. of the Revised Code; 4065

(R) Workers' compensation insurance, including any contract 4066
indemnifying an employer who pays compensation directly to 4067
employees. 4068

Sec. 3960.06. (A) A purchasing group and its insurer or 4069
insurers are subject to all applicable laws of this state, except 4070
that a purchasing group and its insurer or insurers, in regard to 4071
liability insurance for the purchasing group, are exempt from any 4072
law that does any of the following: 4073

(1) Prohibits the establishment of a purchasing group; 4074

(2) Makes it unlawful for an insurer to provide or offer to 4075
provide insurance on a basis providing, to a purchasing group or 4076
its members, advantages based on their loss and expense experience 4077
not afforded to other persons with respect to rates, policy forms, 4078
coverages, or other matters; 4079

(3) Prohibits a purchasing group or its members from 4080
purchasing insurance on a group basis described in division (A)(2) 4081
of this section; 4082

(4) Prohibits a purchasing group from obtaining insurance on 4083
a group basis because the group has not been in existence for a 4084

minimum period of time or because any member has not belonged to
the group for a minimum period of time;

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

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

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

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

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

Sec. 4117.01. As used in this chapter:

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

(B) "Public employer" means the state or any political
subdivision of the state located entirely within the state,
including, without limitation, any municipal corporation with a
population of at least five thousand according to the most recent
federal decennial census; county; township with a population of at
least five thousand in the unincorporated area of the township

according to the most recent federal decennial census; school 4115
district; governing authority of a community school established 4116
under Chapter 3314. of the Revised Code; state institution of 4117
higher learning; public or special district; state agency, 4118
authority, commission, or board; or other branch of public 4119
employment. 4120

(C) "Public employee" means any person holding a position by 4121
appointment or employment in the service of a public employer, 4122
including any person working pursuant to a contract between a 4123
public employer and a private employer and over whom the national 4124
labor relations board has declined jurisdiction on the basis that 4125
the involved employees are employees of a public employer, except: 4126

(1) Persons holding elective office; 4127

(2) Employees of the general assembly and employees of any 4128
other legislative body of the public employer whose principal 4129
duties are directly related to the legislative functions of the 4130
body; 4131

(3) Employees on the staff of the governor or the chief 4132
executive of the public employer whose principal duties are 4133
directly related to the performance of the executive functions of 4134
the governor or the chief executive; 4135

(4) Persons who are members of the Ohio organized militia, 4136
while training or performing duty under section 5919.29 or 5923.12 4137
of the Revised Code; 4138

(5) Employees of the state employment relations board; 4139

(6) Confidential employees; 4140

(7) Management level employees; 4141

(8) Employees and officers of the courts, assistants to the 4142
attorney general, assistant prosecuting attorneys, and employees 4143
of the clerks of courts who perform a judicial function; 4144

(9) Employees of a public official who act in a fiduciary capacity, appointed pursuant to section 124.11 of the Revised Code;	4145 4146 4147
(10) Supervisors;	4148
(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;	4149 4150 4151 4152 4153
(12) Employees of county boards of election;	4154
(13) Seasonal and casual employees as determined by the state employment relations board;	4155 4156
(14) Part-time faculty members of an institution of higher education;	4157 4158
(15) Employees of the state personnel board of review;	4159
(16) Employees of the board of directors of the Ohio low-level radioactive waste facility development authority created in section 3747.05 of the Revised Code;	4160 4161 4162
(17) Participants in a work activity, developmental activity, or alternative work activity under sections 5107.40 to 5107.69 of the Revised Code who perform a service for a public employer that the public employer needs but is not performed by an employee of the public employer if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;	4163 4164 4165 4166 4167 4168
(18) <u>(17)</u> Employees included in the career professional service of the department of transportation under section 5501.20 of the Revised Code;	4169 4170 4171
(19) <u>(18)</u> Employees who must be licensed to practice law in this state to perform their duties as employees.	4172 4173

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

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

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

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

(2) With respect to members of a police or fire department, no person shall be deemed a supervisor except the chief of the department or those individuals who, in the absence of the chief, are authorized to exercise the authority and perform the duties of the chief of the department. Where prior to June 1, 1982, a public employer pursuant to a judicial decision, rendered in litigation to which the public employer was a party, has declined to engage in collective bargaining with members of a police or fire department on the basis that those members are supervisors, those members of a police or fire department do not have the rights specified in this chapter for the purposes of future collective bargaining. The state employment relations board shall decide all

disputes concerning the application of division (F)(2) of this 4205
section. 4206

(3) With respect to faculty members of a state institution of 4207
higher education, heads of departments or divisions are 4208
supervisors; however, no other faculty member or group of faculty 4209
members is a supervisor solely because the faculty member or group 4210
of faculty members participate in decisions with respect to 4211
courses, curriculum, personnel, or other matters of academic 4212
policy; 4213

(4) No teacher as defined in section 3319.09 of the Revised 4214
Code shall be designated as a supervisor or a management level 4215
employee unless the teacher is employed under a contract governed 4216
by section 3319.01, 3319.011, or 3319.02 of the Revised Code and 4217
is assigned to a position for which a license deemed to be for 4218
administrators under state board rules is required pursuant to 4219
section 3319.22 of the Revised Code. 4220

(G) "To bargain collectively" means to perform the mutual 4221
obligation of the public employer, by its representatives, and the 4222
representatives of its employees to negotiate in good faith at 4223
reasonable times and places with respect to wages, hours, terms, 4224
and other conditions of employment and the continuation, 4225
modification, or deletion of an existing provision of a collective 4226
bargaining agreement, with the intention of reaching an agreement, 4227
or to resolve questions arising under the agreement. "To bargain 4228
collectively" includes executing a written contract incorporating 4229
the terms of any agreement reached. The obligation to bargain 4230
collectively does not mean that either party is compelled to agree 4231
to a proposal nor does it require the making of a concession. 4232

(H) "Strike" means continuous concerted action in failing to 4233
report to duty; willful absence from one's position; or stoppage 4234
of work in whole from the full, faithful, and proper performance 4235

of the duties of employment, for the purpose of inducing, 4236
influencing, or coercing a change in wages, hours, terms, and 4237
other conditions of employment. "Strike" does not include a 4238
stoppage of work by employees in good faith because of dangerous 4239
or unhealthful working conditions at the place of employment that 4240
are abnormal to the place of employment. 4241

(I) "Unauthorized strike" includes, but is not limited to, 4242
concerted action during the term or extended term of a collective 4243
bargaining agreement or during the pendency of the settlement 4244
procedures set forth in section 4117.14 of the Revised Code in 4245
failing to report to duty; willful absence from one's position; 4246
stoppage of work; slowdown, or abstinence in whole or in part from 4247
the full, faithful, and proper performance of the duties of 4248
employment for the purpose of inducing, influencing, or coercing a 4249
change in wages, hours, terms, and other conditions of employment. 4250
"Unauthorized strike" includes any such action, absence, stoppage, 4251
slowdown, or abstinence when done partially or intermittently, 4252
whether during or after the expiration of the term or extended 4253
term of a collective bargaining agreement or during or after the 4254
pendency of the settlement procedures set forth in section 4117.14 4255
of the Revised Code. 4256

(J) "Professional employee" means any employee engaged in 4257
work that is predominantly intellectual, involving the consistent 4258
exercise of discretion and judgment in its performance and 4259
requiring knowledge of an advanced type in a field of science or 4260
learning customarily acquired by a prolonged course in an 4261
institution of higher learning or a hospital, as distinguished 4262
from a general academic education or from an apprenticeship; or an 4263
employee who has completed the courses of specialized intellectual 4264
instruction and is performing related work under the supervision 4265
of a professional person to become qualified as a professional 4266
employee. 4267

(K) "Confidential employee" means any employee who works in 4268
the personnel offices of a public employer and deals with 4269
information to be used by the public employer in collective 4270
bargaining; or any employee who works in a close continuing 4271
relationship with public officers or representatives directly 4272
participating in collective bargaining on behalf of the employer. 4273

(L) "Management level employee" means an individual who 4274
formulates policy on behalf of the public employer, who 4275
responsibly directs the implementation of policy, or who may 4276
reasonably be required on behalf of the public employer to assist 4277
in the preparation for the conduct of collective negotiations, 4278
administer collectively negotiated agreements, or have a major 4279
role in personnel administration. Assistant superintendents, 4280
principals, and assistant principals whose employment is governed 4281
by section 3319.02 of the Revised Code are management level 4282
employees. With respect to members of a faculty of a state 4283
institution of higher education, no person is a management level 4284
employee because of the person's involvement in the formulation or 4285
implementation of academic or institution policy. 4286

(M) "Wages" means hourly rates of pay, salaries, or other 4287
forms of compensation for services rendered. 4288

(N) "Member of a police department" means a person who is in 4289
the employ of a police department of a municipal corporation as a 4290
full-time regular police officer as the result of an appointment 4291
from a duly established civil service eligibility list or under 4292
section 737.15 or 737.16 of the Revised Code, a full-time deputy 4293
sheriff appointed under section 311.04 of the Revised Code, a 4294
township constable appointed under section 509.01 of the Revised 4295
Code, or a member of a township police district police department 4296
appointed under section 505.49 of the Revised Code. 4297

(O) "Members of the state highway patrol" means highway 4298

patrol troopers and radio operators appointed under section	4299
5503.01 of the Revised Code.	4300
(P) "Member of a fire department" means a person who is in	4301
the employ of a fire department of a municipal corporation or a	4302
township as a fire cadet, full-time regular firefighter, or	4303
promoted rank as the result of an appointment from a duly	4304
established civil service eligibility list or under section	4305
505.38, 709.012, or 737.22 of the Revised Code.	4306
(Q) "Day" means calendar day.	4307
Sec. 4121.442. (A) There is hereby created the health care	4308
quality advisory council consisting of the administrator of	4309
workers' compensation and sixteen members appointed by the	4310
governor as follows:	4311
(1) Five individuals who represent the interests of	4312
employees;	4313
(2) Five individuals who represent the interests of	4314
employers;	4315
(3) One individual who represents the governor;	4316
(4) One physician licensed to practice medicine or surgery	4317
pursuant to Chapter 4731. of the Revised Code;	4318
(5) One individual to represent the interests of hospitals;	4319
(6) One chiropractor licensed pursuant to Chapter 4734. of	4320
the Revised Code;	4321
(7) One pharmacist licensed pursuant to Chapter 4729. of the	4322
Revised Code;	4323
(8) One physician licensed to practice osteopathic medicine	4324
and surgery pursuant to Chapter 4731. of the Revised Code.	4325
All appointed members shall be knowledgeable in matters	4326

~~pertaining to the delivery of health care, the workers' 4327
compensation system, and health care administration and have at 4328
least three years experience in a position with primary 4329
responsibility for health care matters. The administrator shall 4330
serve as the chairperson of the council. 4331~~

~~(B) The governor shall make initial appointments, from the 4332
lists submitted pursuant to division (C) of this section, by not 4333
later than thirty days after October 20, 1993. Appointed members 4334
shall serve at the pleasure of the governor and shall receive no 4335
compensation but shall receive their actual and necessary expenses 4336
incurred in the performance of their duties. 4337~~

~~(C) In making initial appointments to the council under this 4338
section, the governor shall select members representing employees 4339
from a list of eight names submitted by the Ohio chapter of the 4340
American federation of labor/congress of industrial organizations, 4341
the members representing employers from a list of eight names 4342
submitted jointly by the recognized major statewide employer 4343
organizations, and the members representing those individuals 4344
specified in divisions (A)(4) to (8) of this section from a list 4345
of ten names submitted jointly by the recognized major statewide 4346
health care provider organizations. Thereafter, the labor 4347
federation for an employee vacancy on the council, the employer 4348
organizations, for an employer vacancy, and the health care 4349
provider organizations, for a vacancy of an individual specified 4350
in divisions (A)(4) to (8) of this section, shall submit to the 4351
governor a list of two names for each vacancy. 4352~~

~~(D) The health care quality advisory council administrator of 4353
workers' compensation shall develop standards for qualification of 4354
health care plans of the Ohio workers' compensation qualified 4355
health plan system to provide medical, surgical, nursing, drug, 4356
hospital, and rehabilitation services and supplies to an employee 4357
for an injury or occupational disease that is compensable under 4358~~

this chapter or Chapter 4123., 4127., or 4131. of the Revised Code. In adopting the standards, the ~~council~~ administrator shall use nationally recognized accreditation standards. The standards the ~~council~~ administrator adopts must provide that a qualified plan provides for all of the following:

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

(2) Adequate plan structure and financial stability;

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

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

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

(6) Provide a procedure for reporting injuries to the bureau of workers' compensation and to employers by providers within the qualified plan;

(7) Provide appropriate financial incentives to reduce service costs and utilization without sacrificing the quality of service;

(8) Provide adequate methods of peer review, utilization review, quality assurance, and dispute resolution to prevent and provide sanctions for inappropriate, excessive, or not medically

necessary treatment; 4389

(9) Provide a timely and accurate method of reporting to the 4390
administrator necessary information regarding medical and health 4391
care service and supply costs, quality, and utilization to enable 4392
the administrator to determine the effectiveness of the plan; 4393

(10) Authorize necessary emergency medical treatment for an 4394
injury or occupational disease provided by a health care provider 4395
who is not a part of the qualified health care plan; 4396

(11) Provide an employee the right to change health care 4397
providers within the qualified health care plan; 4398

(12) Provide for standardized data and reporting 4399
requirements; 4400

(13) Authorize necessary medical treatment for employees who 4401
work in Ohio but reside in another state. 4402

~~(E)~~(B) Health care plans that meet the approved qualified 4403
health plan standards shall be considered qualified plans and are 4404
eligible to become part of the Ohio workers' compensation 4405
qualified health plan system. Any employer or group of employers 4406
may provide medical, surgical, nursing, drug, hospital, and 4407
rehabilitation services and supplies to an employee for an injury 4408
or occupational disease that is compensable under this chapter or 4409
Chapter 4123., 4127., or 4131. of the Revised Code through a 4410
qualified health plan. 4411

~~(F) The council shall on or before the first day of January 4412
of each year, make recommendations to the administrator regarding 4413
changes needed in the rules the administrator adopts to implement 4414
the standards, and the administrator, by no later than the first 4415
day of March of that year, shall determine whether to alter the 4416
existing rules according to the council's recommendations. 4417~~

~~(G) By no later than twenty four months after the 4418~~

~~establishment of the Ohio workers' compensation qualified health
plan system, and thereafter, on or before the first day of January
of every odd numbered year, the administrator shall conduct an
appraisal of the system with respect to the system's efficiency
and cost effectiveness and the appropriateness of care rendered
under the system and shall submit a written report of the
appraisal to the governor.~~

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

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

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

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

(4) A statement of when the public employer expects to be

able to comply fully with the Ohio employment risk reduction 4449
standard and what steps the public employer has taken and will 4450
take, with dates specified, to come into full compliance with the 4451
standard; 4452

(5) A certification that the public employer has informed the 4453
public employer's public employees of the application by giving a 4454
copy of the application to the public employee representative, if 4455
any, and by posting a statement giving a summary of the 4456
application and specifying where a copy of the application may be 4457
examined at the place or places where notices to public employees 4458
are normally posted, and by any other appropriate means of public 4459
employee notification. The public employer ~~must~~ also shall inform 4460
the public employer's public employees of their rights to a 4461
hearing under section 4167.15 of the Revised Code. The 4462
certification also shall contain a description of how public 4463
employees have been informed of the application and of their 4464
rights to a hearing. 4465

(B) The director shall issue an order providing for a 4466
temporary variance if the public employer files an application 4467
that meets the requirements of division (A) of this section and 4468
establishes that all of the following pertaining to the public 4469
employer are true: 4470

(1) The public employer is unable to comply with the Ohio 4471
employment risk reduction standard or a provision ~~thereof~~ of it by 4472
its effective date because of the unavailability of professional 4473
or technical personnel or of materials and equipment needed to 4474
come into compliance with the Ohio employment risk reduction 4475
standard or provision ~~thereof~~ of it or because necessary 4476
construction or alteration of facilities cannot be completed by 4477
the effective date of the standard. 4478

(2) The public employer is taking all available steps to 4479

safeguard the public employer's public employees against the 4480
hazards covered by the Ohio employment risk reduction standard. 4481

(3) The public employer has an effective program for coming 4482
into compliance with the Ohio employment risk reduction standard 4483
as quickly as practicable. 4484

(4) The granting of the variance will not create an imminent 4485
danger of death or serious physical harm to public employees. 4486

(C)(1) If the director issues an order providing for a 4487
temporary variance under division (B) of this section, the 4488
director shall prescribe the practices, means, methods, 4489
operations, and processes that the public employer must adopt and 4490
use while the order is in effect and state in detail the public 4491
employer's program for coming into compliance with the Ohio 4492
employment risk reduction standard. The director may issue the 4493
order only after providing notice to affected public employees and 4494
their public employee representative, if any, and an opportunity 4495
for a hearing pursuant to section 4167.15 of the Revised Code, 4496
provided that the director may issue one interim order granting a 4497
temporary order to be effective until a decision on a hearing is 4498
made. Except as provided in division (C)(2) of this section, no 4499
temporary variance may be in effect for longer than the period 4500
needed by the public employer to achieve compliance with the Ohio 4501
employment risk reduction standard or one year, whichever is 4502
shorter. 4503

(2) The director may renew an order issued under division (C) 4504
of this section up to two times provided that the requirements of 4505
divisions (A), (B), and (C)(1) of this section and section 4167.15 4506
of the Revised Code are met and the public employer files an 4507
application for renewal with the director at least ninety days 4508
prior to the expiration date of the order. 4509

(D) Any public employer affected by an Ohio employment risk 4510

reduction standard or any provision ~~thereof~~ of it proposed, 4511
adopted, or otherwise issued under section 4167.07, or 4167.08, ~~or~~ 4512
~~4167.26~~ of the Revised Code may apply to the director for an order 4513
granting a variance from the standard or ~~portion thereof~~ 4514
provision. The director shall provide affected public employees 4515
and their public employee representative, if any, notice of the 4516
application and shall provide an opportunity for a hearing 4517
pursuant to section 4167.15 of the Revised Code. The director 4518
shall issue the order granting the variance if the public employer 4519
files an application that meets the requirements of division (B) 4520
of this section, and after an opportunity for a hearing pursuant 4521
to section 4167.15 of the Revised Code, and if the public employer 4522
establishes to the satisfaction of the director that the 4523
conditions, practices, means, methods, operations, or processes 4524
used or proposed to be used by the public employer will provide 4525
employment and places of employment to the public employer's 4526
public employees that are as safe and healthful as those that 4527
would prevail if the public employer complied with the Ohio 4528
employment risk reduction standard. The director shall prescribe 4529
in the order granting the variance the conditions the public 4530
employer must maintain, and the practices, means, methods, 4531
operations, and processes the public employer must adopt and 4532
utilize in lieu of the Ohio employment risk reduction standard 4533
~~which~~ that would otherwise apply. The director may modify or 4534
revoke the order upon application of the public employer, public 4535
employee, or public employee representative, or upon the 4536
director's own motion in the manner prescribed for the issuance of 4537
an order under this division at any time during six months after 4538
the date of issuance of the order. 4539

Sec. 4167.25. As used in this section and sections ~~4167.26 to~~ 4540
4167.27 and 4767.28 of the Revised Code: 4541

(A) "Bloodborne pathogen" means a microorganism present in 4542
human blood that can cause disease in humans, including the human 4543
immunodeficiency virus, hepatitis B virus, hepatitis C virus, and 4544
other pathogenic microorganisms. 4545

(B) "Engineered sharps injury protection" means either of the 4546
following: 4547

(1) A physical attribute built into a needle device used for 4548
withdrawing body fluids, accessing a vein or artery, or 4549
administering medications or other fluids that effectively reduces 4550
the risk of an exposure incident by a mechanism such as barrier 4551
creation, blunting, encapsulation, withdrawal, retraction, 4552
destruction, or any other effective mechanism; 4553

(2) A physical attribute built into a type of needle device 4554
not included in division (B)(1) of this section, or built into a 4555
non-needle sharp, that effectively reduces the risk of an exposure 4556
incident. 4557

(C) "Exposure incident" means an occurrence of occupational 4558
exposure to blood or other material potentially containing 4559
bloodborne pathogens, including exposure that occurs through a 4560
sharps injury. 4561

(D) "Needleless system" means a device that does not utilize 4562
needles for the following: 4563

(1) Withdrawing body fluids after initial venous or arterial 4564
access is established; 4565

(2) Administering medication or fluids; 4566

(3) Performing any other procedure involving potential 4567
exposure incidents. 4568

(E) "Public health care worker" means a person who is 4569
employed by a public employer to provide health services that 4570
carry with them the potential for exposure incidents, including a 4571

person employed by a public hospital or other public health care 4572
facility, a person employed by a public employer to provide home 4573
health care, and a person employed by a public employer as a 4574
firefighter, emergency medical technician-basic, emergency medical 4575
technician-intermediate, or emergency medical 4576
technician-paramedic. "Public health care worker" does not include 4577
a person who is employed by a public employer to provide dental 4578
services, treatment, or training or a dental student who is 4579
receiving training from a public employer. 4580

(F) "Sharp" means an object used in or encountered when 4581
providing health care services that can be reasonably anticipated 4582
to penetrate the skin or any other part of the body and result in 4583
an exposure incident, including objects such as needle devices, 4584
scalpels, lancets, and broken glass. 4585

(G) "Sharps injury" means an injury caused by a sharp, 4586
including such injuries as cuts, abrasions, and needlesticks. 4587

Sec. 4167.27. (A) The public employment risk reduction 4588
advisory commission shall adopt a rule and Ohio employment risk 4589
reduction standard for the prevention of exposure incidents. The 4590
initial rule and standard shall be adopted not later than one 4591
hundred eighty days after ~~the effective date of this section. In~~ 4592
~~adopting, modifying, or rescinding the rule or standard, the~~ 4593
~~commission shall act in accordance with recommendations submitted~~ 4594
~~by the commission's subcommittee appointed under section 4167.26~~ 4595
~~of the Revised Code October 5, 2000.~~ 4596

(B) The commission shall provide advice to public employers 4597
with regard to their implementation of the requirements 4598
established by the rule and standard adopted under this section 4599
and the requirements of section 4167.28 of the Revised Code. 4600

Sec. 4582.12. (A) Except as otherwise provided in division 4601

(E) of section 307.671 of the Revised Code, division (A) of this section does not apply to a port authority educational and cultural facility acquired, constructed, and equipped pursuant to a cooperative agreement entered into under section 307.671 of the Revised Code.

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

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

The port authority may reject any and all bids.

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

(1) There exists a real and present emergency that threatens 4634
damage or injury to persons or property of the port authority or 4635
other persons, provided that a statement specifying the nature of 4636
the emergency that is the basis for the negotiation and award of a 4637
contract without competitive bidding shall be signed by the 4638
officer of the port authority that executes that contract at the 4639
time of the contract's execution and shall be attached to the 4640
contract. 4641

(2) A commonly recognized industry or other standard or 4642
specification does not exist and cannot objectively be articulated 4643
for the improvement. 4644

(3) The contract is for any energy conservation measure as 4645
defined in section 307.041 of the Revised Code. 4646

(4) With respect to material to be incorporated into the 4647
improvement, only a single source or supplier exists for the 4648
material. 4649

(5) A single bid is received by the port authority after 4650
complying with the provisions of division (A) of this section. 4651

(C)(1) If a contract is to be negotiated and awarded without 4652
competitive bidding for the reason set forth in division (B)(2) of 4653
this section, the port authority shall publish a notice calling 4654
for technical proposals at least twice, with at least seven days 4655
between publications, in a newspaper of general circulation in the 4656
area of the port authority. After receipt of the technical 4657
proposals, the port authority may negotiate with and award a 4658
contract for the improvement to the proposer making the proposal 4659
considered to be the most advantageous to the port authority. 4660

(2) If a contract is to be negotiated and awarded without 4661
competitive bidding for the reason set forth in division (B)(4) of 4662
this section, any construction activities related to the 4663
incorporation of the material into the improvement also may be 4664

provided without competitive bidding by the source or supplier of
that material.

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

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

"N O T I C E:

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

insurance. 4696

The undersigned acknowledges the receipt of this notice. 4697

..... 4698

(Patient's Signature) 4699

..... 4700

(Date)" 4701

The certificate holder shall obtain the patient's signature, 4702
acknowledging the patient's receipt of the notice, prior to 4703
providing nonemergency professional services to the patient. The 4704
certificate holder shall maintain the signed notice in the 4705
patient's file. 4706

(B) This section does not apply to any officer or employee of 4707
the state, as those terms are defined in section 9.85 of the 4708
Revised Code, who is immune from civil liability under section 4709
9.86 of the Revised Code or is entitled to indemnification 4710
pursuant to section 9.87 of the Revised Code, to the extent that 4711
the person is acting within the scope of the person's employment 4712
or official responsibilities. 4713

This section does not apply to a person who complies with 4714
division (B)(2) of section 2305.234 of the Revised Code. 4715

(C) As used in this section, "medical malpractice insurance" 4716
means insurance coverage against the legal liability of the 4717
insured and against loss, damage, or expense incident to a claim 4718
arising out of the death, disease, or injury of any person as the 4719
result of negligence or malpractice in rendering professional 4720
service by any licensed physician, podiatrist, or hospital, as 4721
those terms are defined in section 2305.113 of the Revised Code. 4722

Sec. 4741.03. (A) The state veterinary medical licensing 4723
board shall meet at least once in each calendar year and may hold 4724
additional meetings as often as it considers necessary to conduct 4725

the business of the board. The president of the board may call 4726
special meetings, and the executive secretary shall call special 4727
meetings upon the written request of three members of the board. 4728
The board shall organize by electing a president and 4729
vice-president from its veterinarian members and such other 4730
officers as the board prescribes by rule. Each officer shall serve 4731
for a term specified by board rule or until a successor is elected 4732
and qualified. A quorum of the board consists of four members of 4733
which at least three are members who are veterinarians. The 4734
concurrence of four members is necessary for the board to take any 4735
action. 4736

(B) The board may appoint a person, not one of its members, 4737
to serve as its executive secretary. The executive secretary is in 4738
the unclassified service and serves at the pleasure of the board. 4739
The executive secretary shall serve as the board's 4740
secretary-treasurer ex officio. The board may employ additional 4741
employees for professional, technical, clerical, and special work 4742
as it considers necessary. The executive secretary shall give a 4743
surety bond to the state in the sum the board requires, 4744
conditioned upon the faithful performance of the executive 4745
secretary's duties. The board shall pay the cost of the bond. The 4746
executive secretary shall keep a complete accounting of all funds 4747
received and of all vouchers presented by the board to the 4748
director of budget and management for the disbursement of funds. 4749
The president or executive secretary shall approve all vouchers of 4750
the board. All money received by the board shall be credited to 4751
the occupational licensing and regulatory fund. 4752

(C) In addition to any other duty required under this 4753
chapter, the board shall do all of the following: 4754

(1) Prescribe a seal; 4755

(2) Hold at least one examination during each calendar year 4756
for applicants for a license. The board shall provide public 4757

notice of the time and place for the examination. The examination 4758
for applicants for a license to practice veterinary medicine shall 4759
be either written or oral, or both, as determined by the board, 4760
and may include a practical demonstration. The examination may 4761
include all subjects relevant to veterinary medicine the board 4762
determines appropriate, including public health and jurisprudence. 4763

(3) Keep a record of all of its meetings and proceedings; 4764

(4) Maintain a register that records all applicants for a 4765
certificate of license or a temporary permit, all persons who have 4766
been denied a license or permit, all persons who have been granted 4767
or reissued a license or permit, and all persons whose license or 4768
permit has been revoked or suspended. The register shall also 4769
include a record of persons licensed prior to October 17, 1975. 4770

(5) Maintain a register, in such form as the board determines 4771
by rule, of all colleges and universities that teach veterinary 4772
medicine and that are approved by the board; 4773

(6) Enforce this chapter, and for that purpose, make 4774
investigations relative as provided in section 4741.26 of the 4775
Revised Code; 4776

(7) Issue licenses and permits to persons who meet the 4777
qualifications set forth in this chapter; 4778

(8) Approve colleges and universities which meet the board's 4779
requirements for veterinary medicine and associated fields of 4780
study and withdraw or deny, after an adjudication conducted in 4781
accordance with Chapter 119. of the Revised Code, approval from 4782
colleges and universities which fail to meet those requirements; 4783

(9) Adopt rules, in accordance with Chapter 119. of the 4784
Revised Code, which are necessary for its government and for the 4785
administration and enforcement of this chapter. 4786

(D) The board may do all of the following: 4787

(1) Subpoena witnesses and require their attendance and 4788
testimony, and require the production by witnesses of books, 4789
papers, public records, animal patient records, and other 4790
documentary evidence and examine them, in relation to any matter 4791
~~which~~ that the board has authority to investigate, inquire into, 4792
or hear. Except for any officer or employee of the state or any 4793
political subdivision of the state, the treasurer of state shall 4794
pay all witnesses in any proceeding before the board, upon 4795
certification from the board, witness fees in the same amount as 4796
provided in section 2335.06 of the Revised Code. 4797

(2) Examine and inspect books, papers, public records, animal 4798
patient records, and other documentary evidence at the location 4799
where the books, papers, records, and other evidence are normally 4800
stored or maintained; 4801

~~(3) Create an advisory committee consisting of members of the 4802
animal health and allied medical services in this state to confer 4803
with and assist the board in the adoption of rules pertaining to 4804
divisions (B) to (E) of section 4741.19 and divisions (A), (D), 4805
(E), and (F) of section 4741.20 of the Revised Code. 4806~~

(E) All registers, books, and records kept by the board are 4807
the property of the board and are open for public examination and 4808
inspection at all reasonable times. The registers, books, and 4809
records are prima-facie evidence of the matters contained ~~therein~~ 4810
in them. 4811

Sec. 4755.481. (A) If a physical therapist evaluates and 4812
treats a patient without the prescription of, or the referral of 4813
the patient by, a person who is licensed to practice medicine and 4814
surgery, chiropractic, dentistry, osteopathic medicine and 4815
surgery, podiatric medicine and surgery, or ~~to practice~~ nursing as 4816
a certified registered nurse anesthetist, clinical nurse 4817
specialist, certified nurse-midwife, or certified nurse 4818

practitioner, all of the following apply: 4819

(1) The physical therapist shall, upon consent of the 4820
patient, inform the patient's physician, chiropractor, dentist, 4821
podiatrist, certified registered nurse anesthetist, clinical nurse 4822
specialist, certified nurse-midwife, or certified nurse 4823
practitioner of the evaluation not later than five business days 4824
after the evaluation is made. 4825

(2) If the physical therapist determines, based on reasonable 4826
evidence, that no substantial progress has been made with respect 4827
to that patient during the thirty-day period immediately following 4828
the date of the patient's initial visit with the physical 4829
therapist, the physical therapist shall consult with or refer the 4830
patient to a licensed physician, chiropractor, dentist, 4831
podiatrist, certified registered nurse anesthetist, clinical nurse 4832
specialist, certified nurse-midwife, or certified nurse 4833
practitioner, unless either of the following applies: 4834

(a) The evaluation, treatment, or services are being provided 4835
for fitness, wellness, or prevention purposes. 4836

(b) The patient previously was diagnosed with chronic, 4837
neuromuscular, or developmental conditions and the evaluation, 4838
treatment, or services are being provided for problems or symptoms 4839
associated with one or more of those previously diagnosed 4840
conditions. 4841

(3) If the physical therapist determines that orthotic 4842
devices are necessary to treat the patient, the physical therapist 4843
shall be limited to the application of the following orthotic 4844
devices: 4845

(a) Upper extremity adaptive equipment used to facilitate the 4846
activities of daily living; 4847

(b) Finger splints; 4848

(c) Wrist splints;	4849
(d) Prefabricated elastic or fabric abdominal supports with or without metal or plastic reinforcing stays and other prefabricated soft goods requiring minimal fitting;	4850 4851 4852
(e) Nontherapeutic accommodative inlays;	4853
(f) Shoes that are not manufactured or modified for a particular individual;	4854 4855
(g) Prefabricated foot care products;	4856
(h) Custom foot orthotics;	4857
(i) Durable medical equipment.	4858
(4) If, at any time, the physical therapist has reason to believe that the patient has symptoms or conditions that require treatment or services beyond the scope of practice of a physical therapist, the physical therapist shall refer the patient to a licensed health care practitioner acting within the practitioner's scope of practice.	4859 4860 4861 4862 4863 4864
(B) Nothing in sections 4755.40 to 4755.56 of the Revised Code shall be construed to require reimbursement under any health insuring corporation policy, contract, or agreement, any sickness and accident insurance policy, the medical assistance program as defined in section 5111.01 of the Revised Code, or the health partnership program or qualified health plans established pursuant to sections 4121.44 to 4121.443 <u>4121.442</u> of the Revised Code, for any physical therapy service rendered without the prescription of, or the referral of the patient by, a licensed physician, chiropractor, dentist, podiatrist, certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner.	4865 4866 4867 4868 4869 4870 4871 4872 4873 4874 4875 4876
(C) For purposes of this section, "business day" means any calendar day that is not a Saturday, Sunday, or legal holiday.	4877 4878

"Legal holiday" has the same meaning as in section 1.14 of the
Revised Code. 4879
4880

Sec. 4981.03. (A) The Ohio rail development commission shall 4881
do all of the following: 4882

(1) Develop, promote, and support safe, adequate, and 4883
efficient rail service throughout the state; 4884

(2) Maintain adequate programs of investigation, research, 4885
promotion, planning, and development for rail service, which 4886
programs shall include the consideration of recommendations by 4887
public or private planning organizations; 4888

(3) Provide for the participation of private corporations or 4889
organizations and the public in the development, construction, 4890
operation, and maintenance of rail service, and as franchisees 4891
~~thereof~~ of rail service. 4892

(B) In regard to rail service, the Ohio rail development 4893
commission is the successor of the Ohio high speed rail authority 4894
and the division of rail transportation of the department of 4895
transportation. The commission shall succeed to all federal 4896
allotments, entitlements, subsidies, and grants now existing, 4897
whether such allotments, entitlements, subsidies, and grants are 4898
encumbered or unencumbered, in the same manner and with the same 4899
authority as the Ohio high speed rail authority and the division 4900
of rail transportation exercised prior to ~~the effective date of~~ 4901
~~this amendment~~ October 20, 1994. 4902

(C) Every authority, commission, department, or other agency 4903
of this state shall provide the commission with data, plans, 4904
research, and any other information that the commission requests 4905
to assist it in performing its duties pursuant to this chapter. 4906

(D) The commission may request and contract with any railroad 4907
to provide it with data and information necessary to carry out the 4908

purposes of this chapter. All railroads operating within this state shall provide the requested data and information to the commission. The commission shall not disclose any confidential data or information supplied to it.

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

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

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

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

(B) The ~~state planning~~ Ohio developmental disabilities council shall develop the state plan required by federal law as a condition of receiving federal assistance under 42 U.S.C. 6021 to 6030. The department of mental retardation and developmental

disabilities, as the state agency selected by the governor for 4939
purposes of receiving the federal assistance, shall receive, 4940
account for, and disburse funds based on the state plan and shall 4941
provide assurances and other administrative support services 4942
required as a condition of receiving the federal assistance. 4943

(C) The federal funds may be disbursed through grants to or 4944
contracts with persons and government agencies for the provision 4945
of necessary or useful goods and services for developmentally 4946
disabled persons. The ~~state planning~~ Ohio developmental 4947
disabilities council may award the grants or enter into the 4948
contracts. 4949

(D) The Ohio developmental disabilities council may award 4950
grants to or enter into contracts with a member of the council or 4951
an entity that the member represents if all of the following 4952
apply: 4953

(1) The member serves on the council as a representative of 4954
one of the principal state agencies concerned with services for 4955
persons with developmental disabilities as specified in 42 U.S.C. 4956
6024(b)(3), a representative of a university affiliated program as 4957
defined in 42 U.S.C. 6001(18), or a representative of the legal 4958
rights service created under section 5123.60 of the Revised Code~~+~~. 4959

(2) The council determines that the member or the entity ~~he~~ 4960
the member represents is capable of providing the goods or 4961
services specified under the terms of the grant or contract~~+~~. 4962

(3) The member has not taken part in any discussion or vote 4963
of the council related to awarding the grant or entering into the 4964
contract, including service as a member of a review panel 4965
established by the council to award grants or enter into contracts 4966
or to make recommendations with regard to awarding grants or 4967
entering into contracts. 4968

(E) A member of the ~~state planning~~ Ohio developmental 4969

disabilities council is not in violation of Chapter 102. or 4970
section 2921.42 of the Revised Code with regard to receiving a 4971
grant or entering into a contract under this section if the 4972
requirements of division (D) of this section have been met. 4973

Sec. 5123.352. There is hereby created in the state treasury 4974
the community mental retardation and developmental disabilities 4975
trust fund. The director of mental retardation and developmental 4976
disabilities, not later than sixty days after the end of each 4977
fiscal year, shall certify to the director of budget and 4978
management the amount of all the unexpended, unencumbered balances 4979
of general revenue fund appropriations made to the department of 4980
mental retardation and developmental disabilities for the fiscal 4981
year, excluding appropriations for rental payments to the Ohio 4982
public facilities commission, and the amount of any other funds 4983
held by the department in excess of amounts necessary to meet the 4984
department's operating costs and obligations pursuant to this 4985
chapter and Chapter 5126. of the Revised Code. On receipt of the 4986
certification, the director of budget and management shall 4987
transfer cash to the trust fund in an amount up to, but not 4988
exceeding, the total of the amounts certified by the director of 4989
mental retardation and developmental disabilities, except in cases 4990
in which the transfer will involve more than twenty million 4991
dollars. In such cases, the director of budget and management 4992
shall notify the controlling board and must receive the board's 4993
approval of the transfer prior to making the transfer. 4994

~~Except for expenses paid under division (C) of section~~ 4995
~~5123.353 of the Revised Code, all~~ All moneys in the trust fund 4996
shall be distributed in accordance with section 5126.19 of the 4997
Revised Code. 4998

Section 2. That existing sections 101.02, 101.23, 101.27, 4999
101.83, 101.84, 101.85, 101.86, 122.011, 122.133, 122.40, 123.151, 5000

149.56, 164.07, 307.674, 340.02, 1501.04, 1502.04, 1502.05, 5001
 1502.11, 1502.12, 1506.30, 1506.34, 1506.35, 1517.02, 1517.05, 5002
 1517.23, 1518.01, 1518.03, 1551.35, 2505.02, 3358.10, 3375.61, 5003
 3375.62, 3383.01, 3383.02, 3383.03, 3383.04, 3383.05, 3383.06, 5004
 3383.07, 3383.08, 3383.09, 3746.04, 3746.09, 3746.35, 3747.02, 5005
 3748.01, 3748.02, 3748.04, 3748.05, 3748.16, 3929.482, 3929.682, 5006
 3929.85, 3931.01, 3955.05, 3960.06, 4117.01, 4121.442, 4167.09, 5007
 4167.25, 4167.27, 4582.12, 4731.143, 4741.03, 4755.481, 4981.03, 5008
 5123.35, and 5123.352 and sections 122.09, 125.24, 149.32, 5009
 149.321, 149.322, 1502.10, 1506.37, 1517.03, 1517.04, 3354.161, 5010
 3355.121, 3357.161, 3375.47, 3746.08, 3747.04, 3747.05, 3747.06, 5011
 3747.061, 3747.07, 3747.08, 3747.09, 3747.10, 3747.11, 3747.12, 5012
 3747.13, 3747.14, 3747.15, 3747.16, 3747.17, 3747.18, 3747.19, 5013
 3747.20, 3747.21, 3747.22, 3748.09, 3929.71, 3929.72, 3929.721, 5014
 3929.73, 3929.75, 3929.76, 3929.77, 3929.78, 3929.79, 3929.80, 5015
 3929.81, 3929.82, 3929.83, 3929.84, 4121.443, 4167.26, 5101.93, 5016
 5119.81, 5119.82, and 5123.353 of the Revised Code are hereby 5017
 repealed. 5018

Section 3. That Section 27 of Sub. H.B. 670 of the 121st 5019
 General Assembly, as most recently amended by Am. Sub. H.B. 95 of 5020
 the 125th General Assembly, is hereby repealed. 5021

Section 4. The following agencies shall be retained pursuant 5022
 to division (D) of section 101.83 of the Revised Code and shall 5023
 expire on December 31, 2010: 5024

	REVISED CODE	5025
	OR	
	UNCODIFIED	5026
AGENCY NAME	SECTION	5027
Administrator, Interstate Compact on Mental Health	5119.50	5028
Administrator, Interstate Compact on	5103.20	5029

**As Reported by the Senate State and Local Government and Veterans Affairs
Committee**

Placement of Children		5030
Advisory Board of Governor's Office of Faith-Based and Community Initiatives	107.12	5031
Advisory Boards to the EPA for Air Pollution	121.13	5032
Advisory Boards to the EPA for Water Pollution	121.13	5033
Advisory Committee of the State Veterinary Medical Licensing Board	4741.03(D)(3)	5034
Advisory Committee on Livestock Exhibitions	901.71	5035
Advisory Council on Amusement Ride Safety	1711.51	5036
Advisory Board of Directors for Prison Labor	5145.162	5037
Advisory Council for Each Wild, Scenic, or Recreational River Area	1517.18	5038
Advisory Councils or Boards for State Departments	107.18 or 121.13	5039
Advisory Group to the Ohio Water Resources Council	1521.19(C)	5040
Alzheimer's Disease Task Force	173.04(F)	5041
AMBER Alert Advisory Committee	5502.521	5042
Apprenticeship Council	4139.02	5043
Armory Board of Control	5911.09	5044
Automated Title Processing Board	4505.09(C)(1)	5045
Banking Commission	1123.01	5046
Board of Directors of the Ohio Health Reinsurance Program	3924.08	5047
Board of Voting Machine Examiners	3506.05(B)	5048
Board of Tax Appeals	5703.02	5049
Brain Injury Advisory Committee	3304.231	5050
Capitol Square Review and Advisory Board	105.41	5051
Child Support Guideline Advisory Council	3119.024	5052
Children's Trust Fund Board	3109.15	5053
Citizens Advisory Committee (BMV)	4501.025	5054
Citizen's Advisory Councils (Dept. of Mental Retardation and Developmental Disabilities)	5123.092	5055
Clean Ohio Trail Advisory Board	1519.06	5056

**As Reported by the Senate State and Local Government and Veterans Affairs
Committee**

Coastal Resources Advisory Council	1506.12	5057
Commission on African-American Males	4112.12	5058
Commission on Hispanic-Latino Affairs	121.31	5059
Commission on Minority Health	3701.78	5060
Committee on Prescriptive Governance	4723.49	5061
Commodity Advisory Commission	926.32	5062
Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council	5123.353	5063
Community Oversight Council	3311.77	5064
Compassionate Care Task Force	Section 3, H.B. 474, 124th GA	5065
Consumer Advisory Committee to the Rehabilitation Services Commission	3304.24	5066
Continuing Education Committee (for Sheriffs)	109.80	5067
Controlling Board	127.12	5068
Coordinating Committee, Agricultural Commodity Marketing Programs	924.14	5069
Council on Alcohol and Drug Addiction Services	3793.09	5070
Council on Unreclaimed Strip Mined Lands	1513.29	5071
Council to Advise on the Establishment and Implementation of the Birth Defects Information System	3705.34	5072
County Sheriffs' Standard Car-Marking and Uniform Commission	311.25	5073
Credit Union Council	1733.329	5074
Criminal Sentencing Advisory Committee	181.22	5075
Day-Care Advisory Council	5104.08	5076
Dentist Loan Repayment Advisory Board	3702.92	5077
Development Financing Advisory Council	122.40	5078
Education Commission of the States (Interstate Compact for Education)	3301.48	5079
Electrical Safety Inspector Advisory Committee	3783.08	5080

**As Reported by the Senate State and Local Government and Veterans Affairs
Committee**

Emergency Response Commission	3750.02	5081
Engineering Experiment Station Advisory Committee	3335.27	5082
Environmental Education Council	3745.21	5083
Environmental Review Appeals Commission	3745.02	5084
EPA Advisory Boards or Councils	121.13	5085
Farmland Preservation Advisory Board	901.23	5086
Financial Planning & Supervision Commission for Municipal Corporation, County, or Township	118.05	5087
Financial Planning & Supervision Commission for School District	3316.05	5088
Forestry Advisory Council	1503.40	5089
Governance Authority for a State University or College	3345.75	5090
Governor's Advisory Council on Physical Fitness, Wellness, & Sports	3701.77	5091
Governor's Council on People with Disabilities	3303.41	5092
Governor's Residence Advisory Commission	107.40	5093
Great Lakes Commission (Great Lakes Basin Compact)	6161.01	5094
Gubernatorial Transition Committee	107.29	5095
Head Start Partnership Study Council	Section 41.35, H.B. 95, 125th GA	5096
Hemophilia Advisory Subcommittee	3701.0210	5097
Housing Trust Fund Advisory Committee	175.25	5098
Industrial Commission Nominating Council	4121.04	5099
Industrial Technology and Enterprise Advisory Council	122.29	5100
Infant Hearing Screening Subcommittee	3701.507	5101
Insurance Agent Education Advisory Council	3905.483	5102
Interagency Council on Hispanic/Latino Affairs	121.32(J)	5103
Interstate Mining Commission (Interstate Mining Compact)	1514.30	5104
Interstate Rail Passenger Advisory Council	4981.35	5105

**As Reported by the Senate State and Local Government and Veterans Affairs
Committee**

(Interstate High Speed Intercity Rail Passenger
Network Compact)

Joint Council on MR/DD	101.37	5106
Joint Select Committee on Volume Cap	133.021	5107
Labor-Management Government Advisory Council	4121.70	5108
Legal Rights Service Commission	5123.60	5109
Legislative Task Force on Redistricting, Reapportionment, and Demographic Research	103.51	5110
Maternal and Child Health Council	3701.025	5111
Medically Handicapped Children's Medical Advisory Council	3701.025	5112
Midwest Interstate Passenger Rail Compact Commission (Ohio members)	4981.361	5113
Military Activation Task Force	5902.15	5114
Milk Sanitation Board	917.03	5115
Mine Subsidence Insurance Governing Board	3929.51	5116
Minority Development Financing Board	122.72	5117
Multi-Agency Radio Communications Systems Steering Committee	Sec. 21, H.B. 790, 120th GA	5118
Multidisciplinary Council	3746.03	5119
Muskingum River Advisory Council	1501.25	5120
National Museum of Afro-American History and Culture Planning Committee	149.303	5121
Nursing Facility Reimbursement Study Council	5111.34	5122
Ohio Advisory Council for the Aging	173.03	5123
Ohio Aerospace & Defense Advisory Council	122.98	5124
Ohio Arts Council	3379.02	5125
Ohio Business Gateway Steering Committee	5703.57	5126
Ohio Cemetery Dispute Resolution Commission	4767.05	5127
Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils	4112.04(B)	5128
Ohio Commercial Insurance Joint Underwriting Association Board Of Governors	3930.03	5129

**As Reported by the Senate State and Local Government and Veterans Affairs
Committee**

Ohio Commercial Market Assistance Plan Executive Committee	3930.02	5130
Ohio Commission on Dispute Resolution and Conflict Management	179.02	5131
Ohio Commission to Reform Medicaid	Section 59.29, H.B. 95, 125th GA	5132
Ohio Community Service Council	121.40	5133
Ohio Council for Interstate Adult Offender Supervision	5149.22	5134
Ohio Cultural Facilities Commission	3383.02	5135
Ohio Developmental Disabilities Council	5123.35	5136
Ohio Educational Telecommunications Network Commission	3353.02	5137
Ohio Ethics Commission	102.05	5138
Ohio Expositions Commission	991.02	5139
Ohio Family and Children First Cabinet Council	121.37	5140
Ohio Geology Advisory Council	1505.11	5141
Ohio Grape Industries Committee	924.51	5142
Ohio Hepatitis C Advisory Commission	3701.92	5143
Ohio Historic Site Preservation Advisory Board	149.301	5144
Ohio Historical Society Board of Trustees	149.30	5145
Ohio Judicial Conference	105.91	5146
Ohio Lake Erie Commission	1506.21	5147
Ohio Medical Malpractice Commission	Section 4, S.B. 281, 124th GA and Section 3, S.B. 86, 125th GA	5148
Ohio Medical Quality Foundation	3701.89	5149
Ohio Parks and Recreation Council	1541.40	5150
Ohio Peace Officer Training Commission	109.71	5151

**As Reported by the Senate State and Local Government and Veterans Affairs
Committee**

Ohio Public Defender Commission	120.01	5152
Ohio Public Library Information Network Board	Sec. 69, H.B. 117, 121st GA, as amended by H.B. 284, 121st GA	5153
Ohio Public Works Commission	164.02	5154
Ohio Quarter Horse Development Commission	3769.086	5155
Ohio SchoolNet Commission	3301.80	5156
Ohio Small Government Capital Improvements Commission	164.02	5157
Ohio Soil and Water Conservation Commission	1515.02	5158
Ohio Standardbred Development Commission	3769.085	5159
Ohio Steel Industry Advisory Council	122.97	5160
Ohio Teacher Education and Licensure Advisory Council	3319.28(D)	5161
Ohio Thoroughbred Racing Advisory Committee	3769.084	5162
Ohio Tuition Trust Authority	3334.03	5163
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10	5164
Ohio Vendors Representative Committee	3304.34	5165
Ohio War Orphans Scholarship Board	5910.02	5166
Ohio Water Advisory Council	1521.031	5167
Ohio Water Resources Council	1521.19	5168
Ohioana Library Association, Martha Kinney Cooper Memorial	3375.62	5169
Oil and Gas Commission	1509.35	5170
Operating Committee, Agricultural Commodity Marketing Programs	924.07	5171
Organized Crime Investigations Commission	177.01	5172
Parole Board	5149.10	5173
Pharmacy and Therapeutics Committee of the Dept. of Job and Family Services	5111.81	5174

**As Reported by the Senate State and Local Government and Veterans Affairs
Committee**

Physician Loan Repayment Advisory Board	3702.81	5175
Power Siting Board	4906.02	5176
Prequalification Review Board	5525.07	5177
Private Water Systems Advisory Council	3701.346	5178
Public Employment Risk Reduction Advisory Commission	4167.02	5179
Public Health Council	3701.33	5180
Public Utilities Commission Nominating Council	4901.021	5181
Public Utility Property Tax Study Committee	5727.85	5182
Radiation Advisory Council	3748.20	5183
Reclamation Commission	1513.05	5184
Recreation and Resources Commission	1501.04	5185
Recycling and Litter Prevention Advisory Council	1502.04	5186
Rehabilitation Services Commission Consumer Advisory Committee	3304.24	5187
Release Authority of Department of Youth Services	5139.50	5188
Savings & Loans Associations & Savings Banks Board	1181.16	5189
Schools and Ministerial Lands Divestiture Committee	501.041	5190
Second Chance Trust Fund Advisory Committee	2108.17	5191
Self-Insuring Employers Evaluation Board	4123.352	5192
Services Committee of the Workers' Compensation System	4121.06	5193
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19	5194
Solid Waste Management Advisory Council	3734.51	5195
State Agency Coordinating Group	1521.19	5196
State Board of Deposit	135.02	5197
State Board of Emergency Medical Services	4765.04	5198
Subcommittees		
State Council of Uniform State Laws	105.21	5199
State Committee for the Purchase of Products and Services Provided by Persons with Severe	4115.32	5200

Disabilities

State Criminal Sentencing Commission	181.21	5201
State Employment Relations Board	4117.02	5202
State Fire Commission	3737.81	5203
State Racing Commission	3769.02	5204
State Victims Assistance Advisory Committee	109.91	5205
Student Tuition Recovery Authority	3332.081	5206
Tax Credit Authority	122.17	5207
Technical Advisory Committee to Assist the Director of the Ohio Coal Development Office	1551.35	5208
Technical Advisory Council on Oil and Gas	1509.38	5209
Transportation Review Advisory Council	5512.07	5210
Unemployment Compensation Review Commission	4141.06	5211
Unemployment Compensation Advisory Council	4141.08	5212
Utility Radiological Safety Board	4937.02	5213
Vehicle Management Commission	125.833	5214
Veterans Advisory Committee	5902.02(K)	5215
Volunteer Fire Fighters' Dependents Fund Boards (Private and Public)	146.02	5216
Water and Sewer Commission	1525.11(C)	5217
Waterways Safety Council	1547.73	5218
Wildlife Council	1531.03	5219
Workers' Compensation System Oversight Commission	4121.12	5220
Workers' Compensation Oversight Commission	4121.123	5221
Nominating Committee		

Section 5. That Section 10 of Sub. H.B. 548 of the 123rd
General Assembly is hereby repealed. 5222
5223

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 5224
December 31, 2010. 5225
5226

Section 7. That Section 6 of Am. Sub. S.B. 163 of the 124th 5227
General Assembly, Section 6 of Sub. S.B. 27 of the 124th General 5228
Assembly, Section 3 of Am. H.B. 280 of the 121st General Assembly, 5229
as most recently amended by Sub. H.B. 670 of the 121st General 5230
Assembly, and Section 3 of Sub. H.B. 508 of the 119th General 5231
Assembly, as most recently amended by Sub. H.B. 670 of the 121st 5232
General Assembly are hereby repealed. 5233

Section 8. (A) That Section 3 of Am. S.B. 208 of the 120th 5234
General Assembly is hereby repealed. 5235

(B) The repeal of section 149.32 of the Revised Code, 5236
effective December 30, 2004, and Section 3 of Am. S.B. 208 of the 5237
120th General Assembly, effective December 30, 2004, is intended 5238
to accelerate the earlier repeal, with delayed effective date, of 5239
section 149.32 of the Revised Code. 5240

Section 9. (A) It is the intent of the General Assembly in 5241
enacting this act to implement the report of the Sunset Review 5242
Committee that was created by Sub. H.B. 548 of the 123rd General 5243
Assembly. That report is implemented in part as follows: 5244

(1) By the abolishment in this act, through amendments to 5245
relevant codified sections of law and through outright repeals of 5246
codified or uncodified sections of law, of several agencies, as 5247
defined in section 101.82 of the Revised Code, that were subject 5248
to the Committee's jurisdiction; 5249

(2) By the continuation, through the amendment or enactment 5250
of codified or uncodified sections of law, of the existence of 5251
numerous agencies, as defined in section 101.82 of the Revised 5252
Code, that were subject to the Committee's jurisdiction. 5253

(B) In addition to the means of implementing the Committee's 5254
report mentioned in division (A) of this section, the General 5255

Assembly hereby declares its intent to abolish the Department of 5256
Health's Citizen's Advisory Council and the Environmental 5257
Protection Agency's Public Response Group. These entities were 5258
subject to the Committee's jurisdiction, and the Committee 5259
declared that they should be abolished, but no express codified or 5260
uncodified source of law for them was found to exist by the 5261
General Assembly. 5262

(C) Further, in addition to the means of implementing the 5263
Committee's report mentioned in divisions (A) and (B) of this 5264
section, the General Assembly hereby declares its intent to 5265
continue the existence of the following five entities, if they 5266
have not expired by operation of law prior to and are in existence 5267
on the effective date of this act. These entities were subject to 5268
the Committee's jurisdiction, and the Committee declared they 5269
should be continued in existence, but no express codified or 5270
uncodified source of law for them was found to exist by the 5271
General Assembly: 5272

- (1) Assistance Council; 5273
- (2) Interdepartmental Cluster for Services to Youth; 5274
- (3) Jobs for Ohio's Graduates Board of Trustees; 5275
- (4) Ohio Oil and Gas Energy Education Program; 5276
- (5) Ohio Science and Technology Council 5277

Section 10. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, and 12 of 5278
this act shall take effect on December 30, 2004. 5279

Section 11. The members of the Senate elected majority floor 5280
leader, assistant majority floor leader, majority whip, and 5281
assistant majority whip shall each receive, for calendar year 5282
2005, the salary amount under division (A)(3) of section 101.27 of 5283
the Revised Code increased in accordance with division (B) of that 5284

section.	5285
Section 12. Section 2505.02 of the Revised Code is presented	5286
in this act as a composite of the section as amended by Am. Sub.	5287
H.B. 292, Am. Sub. H.B. 342, and Sub. S.B. 187 of the 125th	5288
General Assembly. The General Assembly, applying the principle	5289
stated in division (B) of section 1.52 of the Revised Code that	5290
amendments are to be harmonized if reasonably capable of	5291
simultaneous operation, finds that the composite is the resulting	5292
version of the section in effect prior to the effective date of	5293
the section as presented in this act.	5294
Section 13. This act is hereby declared to be an emergency	5295
measure necessary for the immediate preservation of the public	5296
peace, health, and safety. The reason for the necessity is that,	5297
unless this act takes immediate effect, hundreds of significant	5298
state agencies will expire by operation of law on December 31,	5299
2004. Therefore, this act shall go into immediate effect.	5300