

# AN ACT

To amend sections 121.22, 133.05, 149.43, 721.15, 721.27, 737.03, 749.02, 749.08, 749.10, 749.15, 749.18, 749.24, 749.33, 751.07, 2744.01, 3702.62, and 4115.04; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 749.03 (749.021), 749.08 (749.081), and 749.15 (749.082); to enact new sections 749.03 and 749.08 and sections 749.083, 749.084, and 749.37 of the Revised Code to modify the laws governing municipal hospitals.

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

SECTION 1. That sections 121.22, 133.05, 149.43, 721.15, 721.27, 737.03, 749.02, 749.08, 749.10, 749.15, 749.18, 749.24, 749.33, 751.07, 2744.01, 3702.62, and 4115.04 be amended; sections 749.03 (749.021), 749.08 (749.081), and 749.15 (749.082) be amended for the purpose of adopting new section numbers as indicated in parentheses; and new sections 749.03 and 749.08 and sections 749.083, 749.084, and 749.37 of the Revised Code be enacted to read as follows:

Sec. 121.22. (A) This section shall be liberally construed to require public officials to take official action and to conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law.

(B) As used in this section:

(1) "Public body" means any of the following:

(a) Any board, commission, committee, council, or similar decision-making body of a state agency, institution, or authority, and any legislative authority or board, commission, committee, council, agency, authority, or similar decision-making body of any county, township, municipal corporation, school district, or other political subdivision or local public institution;

(b) Any committee or subcommittee of a body described in division (B)(1)(a) of this section;

(c) A court of jurisdiction of a sanitary district organized wholly for the purpose of providing a water supply for domestic, municipal, and public use when meeting for the purpose of the appointment, removal, or reappointment of a member of the board of directors of such a district pursuant to section 6115.10 of the Revised Code, if applicable, or for any other matter related to such a district other than litigation involving the district. As used in division (B)(1)(c) of this section, "court of jurisdiction" has the same meaning as "court" in section 6115.01 of the Revised Code.

(2) "Meeting" means any prearranged discussion of the public business of the public body by a majority of its members.

(3) "Regulated individual" means either of the following:

(a) A student in a state or local public educational institution;

(b) A person who is, voluntarily or involuntarily, an inmate, patient, or resident of a state or local institution because of criminal behavior, mental illness or retardation, disease, disability, age, or other condition requiring custodial care.

(4) "Public office" has the same meaning as in section 149.011 of the Revised Code.

(C) All meetings of any public body are declared to be public meetings open to the public at all times. A member of a public body shall be present in person at a meeting open to the public to be considered present or to vote at the meeting and for purposes of determining whether a quorum is present at the meeting.

The minutes of a regular or special meeting of any public body shall be promptly prepared, filed, and maintained and shall be open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions authorized under division (G) or (J) of this section.

(D) This section does not apply to any of the following:

(1) A grand jury;

(2) An audit conference conducted by the auditor of state or independent certified public accountants with officials of the public office that is the subject of the audit;

(3) The adult parole authority when its hearings are conducted at a correctional institution for the sole purpose of interviewing inmates to determine parole or pardon;

(4) The organized crime investigations commission established under section 177.01 of the Revised Code;

(5) Meetings of a child fatality review board established under section 307.621 of the Revised Code and meetings conducted pursuant to sections

5153.171 to 5153.173 of the Revised Code;

(6) The state medical board when determining whether to suspend a certificate without a prior hearing pursuant to division (G) of either section 4730.25 or 4731.22 of the Revised Code;

(7) The board of nursing when determining whether to suspend a license or certificate without a prior hearing pursuant to division (B) of section 4723.281 of the Revised Code;

(8) The state board of pharmacy when determining whether to suspend a license without a prior hearing pursuant to division (D) of section 4729.16 of the Revised Code;

(9) The state chiropractic board when determining whether to suspend a license without a hearing pursuant to section 4734.37 of the Revised Code.

(10) The executive committee of the emergency response commission when determining whether to issue an enforcement order or request that a civil action, civil penalty action, or criminal action be brought to enforce Chapter 3750. of the Revised Code.

(E) The controlling board, the development financing advisory council, the industrial technology and enterprise advisory council, the tax credit authority, or the minority development financing advisory board, when meeting to consider granting assistance pursuant to Chapter 122. or 166. of the Revised Code, in order to protect the interest of the applicant or the possible investment of public funds, by unanimous vote of all board, council, or authority members present, may close the meeting during consideration of the following information confidentially received by the authority, council, or board from the applicant:

- (1) Marketing plans;
- (2) Specific business strategy;
- (3) Production techniques and trade secrets;
- (4) Financial projections;

(5) Personal financial statements of the applicant or members of the applicant's immediate family, including, but not limited to, tax records or other similar information not open to public inspection.

The vote by the authority, council, or board to accept or reject the application, as well as all proceedings of the authority, council, or board not subject to this division, shall be open to the public and governed by this section.

(F) Every public body, by rule, shall establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings. A public body shall not hold a special meeting unless it gives at least

twenty-four hours' advance notice to the news media that have requested notification, except in the event of an emergency requiring immediate official action. In the event of an emergency, the member or members calling the meeting shall notify the news media that have requested notification immediately of the time, place, and purpose of the meeting.

The rule shall provide that any person, upon request and payment of a reasonable fee, may obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed. Provisions for advance notification may include, but are not limited to, mailing the agenda of meetings to all subscribers on a mailing list or mailing notices in self-addressed, stamped envelopes provided by the person.

(G) Except as provided in division (J) of this section, the members of a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session and only at a regular or special meeting for the sole purpose of the consideration of any of the following matters:

(1) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official, licensee, or regulated individual requests a public hearing. Except as otherwise provided by law, no public body shall hold an executive session for the discipline of an elected official for conduct related to the performance of the elected official's official duties or for the elected official's removal from office. If a public body holds an executive session pursuant to division (G)(1) of this section, the motion and vote to hold that executive session shall state which one or more of the approved purposes listed in division (G)(1) of this section are the purposes for which the executive session is to be held, but need not include the name of any person to be considered at the meeting.

(2) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest. No member of a public body shall use division (G)(2) of this section as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member of a public body that has not been disclosed to the general public in sufficient time for other prospective buyers and sellers to prepare and submit

offers.

If the minutes of the public body show that all meetings and deliberations of the public body have been conducted in compliance with this section, any instrument executed by the public body purporting to convey, lease, or otherwise dispose of any right, title, or interest in any public property shall be conclusively presumed to have been executed in compliance with this section insofar as title or other interest of any bona fide purchasers, lessees, or transferees of the property is concerned.

(3) Conferences with an attorney for the public body concerning disputes involving the public body that are the subject of pending or imminent court action;

(4) Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment;

(5) Matters required to be kept confidential by federal law or regulations or state statutes;

(6) Details relative to the security arrangements and emergency response protocols for a public body or a public office, if disclosure of the matters discussed could reasonably be expected to jeopardize the security of the public body or public office;

(7) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, to consider trade secrets, as defined in section 1333.61 of the Revised Code.

If a public body holds an executive session to consider any of the matters listed in divisions (G)(2) to (7) of this section, the motion and vote to hold that executive session shall state which one or more of the approved matters listed in those divisions are to be considered at the executive session.

A public body specified in division (B)(1)(c) of this section shall not hold an executive session when meeting for the purposes specified in that division.

(H) A resolution, rule, or formal action of any kind is invalid unless adopted in an open meeting of the public body. A resolution, rule, or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized in division (G) or (J) of this section and conducted at an executive session held in compliance with this section. A resolution, rule, or formal action adopted in an open meeting is invalid if the public body that adopted the resolution, rule, or formal action violated

division (F) of this section.

(I)(1) Any person may bring an action to enforce this section. An action under division (I)(1) of this section shall be brought within two years after the date of the alleged violation or threatened violation. Upon proof of a violation or threatened violation of this section in an action brought by any person, the court of common pleas shall issue an injunction to compel the members of the public body to comply with its provisions.

(2)(a) If the court of common pleas issues an injunction pursuant to division (I)(1) of this section, the court shall order the public body that it enjoins to pay a civil forfeiture of five hundred dollars to the party that sought the injunction and shall award to that party all court costs and, subject to reduction as described in division (I)(2) of this section, reasonable attorney's fees. The court, in its discretion, may reduce an award of attorney's fees to the party that sought the injunction or not award attorney's fees to that party if the court determines both of the following:

(i) That, based on the ordinary application of statutory law and case law as it existed at the time of violation or threatened violation that was the basis of the injunction, a well-informed public body reasonably would believe that the public body was not violating or threatening to violate this section;

(ii) That a well-informed public body reasonably would believe that the conduct or threatened conduct that was the basis of the injunction would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(b) If the court of common pleas does not issue an injunction pursuant to division (I)(1) of this section and the court determines at that time that the bringing of the action was frivolous conduct, as defined in division (A) of section 2323.51 of the Revised Code, the court shall award to the public body all court costs and reasonable attorney's fees, as determined by the court.

(3) Irreparable harm and prejudice to the party that sought the injunction shall be conclusively and irrebuttably presumed upon proof of a violation or threatened violation of this section.

(4) A member of a public body who knowingly violates an injunction issued pursuant to division (I)(1) of this section may be removed from office by an action brought in the court of common pleas for that purpose by the prosecuting attorney or the attorney general.

(J)(1) Pursuant to division (C) of section 5901.09 of the Revised Code, a veterans service commission shall hold an executive session for one or more of the following purposes unless an applicant requests a public hearing:

(a) Interviewing an applicant for financial assistance under sections

5901.01 to 5901.15 of the Revised Code;

(b) Discussing applications, statements, and other documents described in division (B) of section 5901.09 of the Revised Code;

(c) Reviewing matters relating to an applicant's request for financial assistance under sections 5901.01 to 5901.15 of the Revised Code.

(2) A veterans service commission shall not exclude an applicant for, recipient of, or former recipient of financial assistance under sections 5901.01 to 5901.15 of the Revised Code, and shall not exclude representatives selected by the applicant, recipient, or former recipient, from a meeting that the commission conducts as an executive session that pertains to the applicant's, recipient's, or former recipient's application for financial assistance.

(3) A veterans service commission shall vote on the grant or denial of financial assistance under sections 5901.01 to 5901.15 of the Revised Code only in an open meeting of the commission. The minutes of the meeting shall indicate the name, address, and occupation of the applicant, whether the assistance was granted or denied, the amount of the assistance if assistance is granted, and the votes for and against the granting of assistance.

Sec. 133.05. (A) A municipal corporation shall not incur net indebtedness that exceeds an amount equal to ten and one-half per cent of its tax valuation, or incur without a vote of the electors net indebtedness that exceeds an amount equal to five and one-half per cent of that tax valuation.

(B) In calculating the net indebtedness of a municipal corporation, none of the following securities shall be considered:

(1) Self-supporting securities issued for any purposes including, without limitation, any of the following general purposes:

(a) Water systems or facilities;

(b) Sanitary sewerage systems or facilities, or surface and storm water drainage and sewerage systems or facilities, or a combination of those systems or facilities;

(c) Electric plants and facilities and steam or cogeneration facilities that generate or supply electricity, or steam and electrical or steam distribution systems and lines;

(d) Airports or landing fields or facilities;

(e) Railroads, rapid transit, and other mass transit systems;

(f) Off-street parking lots, facilities, or buildings, or on-street parking facilities, or any combination of off-street and on-street parking facilities;

(g) Facilities for the care or treatment of the sick or infirm, and for housing the persons providing such care or treatment and their families;

(h) Solid waste or hazardous waste collection or disposal facilities, or resource recovery and solid or hazardous waste recycling facilities, or any combination of those facilities;

(i) Urban redevelopment projects;

(j) Recreational, sports, convention, auditorium, museum, trade show, and other public attraction facilities;

(k) Facilities for natural resources exploration, development, recovery, use, and sale;

(l) Correctional and detention facilities, including multicounty-municipal jails, and related rehabilitation facilities.

(2) Securities issued for the purpose of purchasing, constructing, improving, or extending water or sanitary or surface and storm water sewerage systems or facilities, or a combination of those systems or facilities, to the extent that an agreement entered into with another subdivision requires the other subdivision to pay to the municipal corporation amounts equivalent to debt charges on the securities;

(3) Securities issued under order of the director of health or director of environmental protection under section 6109.18 of the Revised Code;

(4) Securities issued under Section 3, 10, or 12 of Article XVIII, Ohio Constitution;

(5) Securities that are not general obligations of the municipal corporation;

(6) Voted securities issued for the purposes of urban redevelopment to the extent that their principal amount does not exceed an amount equal to two per cent of the tax valuation of the municipal corporation;

(7) Unvoted general obligation securities to the extent that the legislation authorizing them includes covenants to appropriate annually from lawfully available municipal income taxes or other municipal excises or taxes, including taxes referred to in section 701.06 of the Revised Code but not including ad valorem property taxes, and to continue to levy and collect those municipal income taxes or other applicable excises or taxes in amounts necessary to meet the debt charges on those securities, which covenants are hereby authorized;

(8) Self-supporting securities issued prior to July 1, 1977, under this chapter for the purpose of municipal university residence halls to the extent that revenues of the successor state university allocated to debt charges on those securities, from sources other than municipal excises and taxes, are sufficient to pay those debt charges;

(9) Securities issued for the purpose of acquiring or constructing roads, highways, bridges, or viaducts, for the purpose of acquiring or making other

highway permanent improvements, or for the purpose of procuring and maintaining computer systems for the office of the clerk of the municipal court to the extent that the legislation authorizing the issuance of the securities includes a covenant to appropriate from money distributed to the municipal corporation pursuant to Chapter 4501., 4503., 4504., or 5735. of the Revised Code a sufficient amount to cover debt charges on and financing costs relating to the securities as they become due;

(10) Securities issued for the purpose of providing some or all of the funds required to satisfy the municipal corporation's obligation under an agreement with the board of trustees of the Ohio police and fire pension fund under section 742.30 of the Revised Code;

(11) Securities issued for the acquisition, construction, equipping, and improving of a municipal educational and cultural facility under division (B)(2) of section 307.672 of the Revised Code;

(12) Securities issued for energy conservation measures under section 717.02 of the Revised Code;

(13) Securities that are obligations issued to pay costs of a sports facility under section 307.673 of the Revised Code.

(C) In calculating the net indebtedness of a municipal corporation, no obligation incurred under ~~division (C) of section 749.08~~ 749.081 of the Revised Code shall be considered.

Sec. 149.43. (A) As used in this section:

(1) "Public record" means records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in Ohio kept by a nonprofit or for profit entity operating such alternative school pursuant to section 3313.533 of the Revised Code. "Public record" does not mean any of the following:

(a) Medical records;

(b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;

(c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;

(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under section 3705.12 of the Revised Code;

(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether

the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;

(f) Records listed in division (A) of section 3107.42 of the Revised Code or specified in division (A) of section 3107.52 of the Revised Code;

(g) Trial preparation records;

(h) Confidential law enforcement investigatory records;

(i) Records containing information that is confidential under section 2317.023 or 4112.05 of the Revised Code;

(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;

(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;

(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;

(m) Intellectual property records;

(n) Donor profile records;

(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;

(p) Peace officer, firefighter, or EMT residential and familial information;

(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;

(r) Information pertaining to the recreational activities of a person under the age of eighteen;

(s) Records provided to, statements made by review board members during meetings of, and all work products of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code, other than the report prepared pursuant to section 307.626 of the Revised Code;

(t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code other than the information released under that section;

(u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of

examiners of nursing home administrators administers under section 4751.04 of the Revised Code or contracts under that section with a private or government entity to administer;

(v) Records the release of which is prohibited by state or federal law;

(w) Proprietary information of or relating to any person that is submitted to or compiled by the Ohio venture capital authority created under section 150.01 of the Revised Code;

(x) Information reported and evaluations conducted pursuant to section 3701.072 of the Revised Code.

(2) "Confidential law enforcement investigatory record" means any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:

(a) The identity of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised;

(b) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity;

(c) Specific confidential investigatory techniques or procedures or specific investigatory work product;

(d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.

(3) "Medical record" means any document or combination of documents, except births, deaths, and the fact of admission to or discharge from a hospital, that pertains to the medical history, diagnosis, prognosis, or medical condition of a patient and that is generated and maintained in the process of medical treatment.

(4) "Trial preparation record" means any record that contains information that is specifically compiled in reasonable anticipation of, or in defense of, a civil or criminal action or proceeding, including the independent thought processes and personal trial preparation of an attorney.

(5) "Intellectual property record" means a record, other than a financial or administrative record, that is produced or collected by or for faculty or staff of a state institution of higher learning in the conduct of or as a result of study or research on an educational, commercial, scientific, artistic, technical, or scholarly issue, regardless of whether the study or research was sponsored by the institution alone or in conjunction with a governmental

body or private concern, and that has not been publicly released, published, or patented.

(6) "Donor profile record" means all records about donors or potential donors to a public institution of higher education except the names and reported addresses of the actual donors and the date, amount, and conditions of the actual donation.

(7) "Peace officer, firefighter, or EMT residential and familial information" means either of the following:

(a) Any information maintained in a personnel record of a peace officer, firefighter, or EMT that discloses any of the following:

(i) The address of the actual personal residence of a peace officer, firefighter, or EMT, except for the state or political subdivision in which the peace officer, firefighter, or EMT resides;

(ii) Information compiled from referral to or participation in an employee assistance program;

(iii) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a peace officer, firefighter, or EMT;

(iv) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer, firefighter, or EMT by the peace officer's, firefighter's, or EMT's employer;

(v) The identity and amount of any charitable or employment benefit deduction made by the peace officer's, firefighter's, or EMT's employer from the peace officer's, firefighter's, or EMT's compensation unless the amount of the deduction is required by state or federal law;

(vi) The name, the residential address, the name of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a peace officer, firefighter, or EMT.

(b) Any record that identifies a person's occupation as a peace officer, firefighter, or EMT other than statements required to include the disclosure of that fact under the campaign finance law.

As used in divisions (A)(7) and (B)(5) of this section, "peace officer" has the same meaning as in section 109.71 of the Revised Code and also includes the superintendent and troopers of the state highway patrol; it does not include the sheriff of a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

As used in divisions (A)(7) and (B)(5) of this section, "firefighter" means any regular, paid or volunteer, member of a lawfully constituted fire department of a municipal corporation, township, fire district, or village.

As used in divisions (A)(7) and (B)(5) of this section, "EMT" means EMTs-basic, EMTs-I, and paramedics that provide emergency medical services for a public emergency medical service organization. "Emergency medical service organization," "EMT-basic," "EMT-I," and "paramedic" have the same meanings as in section 4765.01 of the Revised Code.

(8) "Information pertaining to the recreational activities of a person under the age of eighteen" means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following:

(a) The address or telephone number of a person under the age of eighteen or the address or telephone number of that person's parent, guardian, custodian, or emergency contact person;

(b) The social security number, birth date, or photographic image of a person under the age of eighteen;

(c) Any medical record, history, or information pertaining to a person under the age of eighteen;

(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office.

(9) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(10) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.

(B)(1) Subject to division (B)(4) of this section, all public records shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B)(4) of this section, upon request, a public office or person responsible for public records shall make copies available at cost, within a reasonable period of time. In order to facilitate broader access to public records, public offices shall maintain public records in a manner that they can be made available for inspection in accordance with this division.

(2) If any person chooses to obtain a copy of a public record in accordance with division (B)(1) of this section, the public office or person responsible for the public record shall permit that person to choose to have

the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the person seeking the copy makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by the person seeking the copy.

(3) Upon a request made in accordance with division (B)(1) of this section, a public office or person responsible for public records shall transmit a copy of a public record to any person by United States mail within a reasonable period of time after receiving the request for the copy. The public office or person responsible for the public record may require the person making the request to pay in advance the cost of postage and other supplies used in the mailing.

Any public office may adopt a policy and procedures that it will follow in transmitting, within a reasonable period of time after receiving a request, copies of public records by United States mail pursuant to this division. A public office that adopts a policy and procedures under this division shall comply with them in performing its duties under this division.

In any policy and procedures adopted under this division, a public office may limit the number of records requested by a person that the office will transmit by United States mail to ten per month, unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes. For purposes of this division, "commercial" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

(4) A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the

information sought in the public record is necessary to support what appears to be a justiciable claim of the person.

(5) Upon written request made and signed by a journalist on or after December 16, 1999, a public office, or person responsible for public records, having custody of the records of the agency employing a specified peace officer, firefighter, or EMT shall disclose to the journalist the address of the actual personal residence of the peace officer, firefighter or EMT and, if the peace officer's, firefighter's or EMT's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the peace officer's, firefighter's, or EMT's spouse, former spouse, or child. The request shall include the journalist's name and title and the name and address of the journalist's employer and shall state that disclosure of the information sought would be in the public interest.

As used in division (B)(5) of this section, "journalist" means a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.

(C) If a person allegedly is aggrieved by the failure of a public office to promptly prepare a public record and to make it available to the person for inspection in accordance with division (B) of this section, or if a person who has requested a copy of a public record allegedly is aggrieved by the failure of a public office or the person responsible for the public record to make a copy available to the person allegedly aggrieved in accordance with division (B) of this section, the person allegedly aggrieved may commence a mandamus action to obtain a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section and that awards reasonable attorney's fees to the person that instituted the mandamus action. The mandamus action may be commenced in the court of common pleas of the county in which division (B) of this section allegedly was not complied with, in the supreme court pursuant to its original jurisdiction under Section 2 of Article IV, Ohio Constitution, or in the court of appeals for the appellate district in which division (B) of this section allegedly was not complied with pursuant to its original jurisdiction under Section 3 of Article IV, Ohio Constitution.

(D) Chapter 1347. of the Revised Code does not limit the provisions of this section.

(E)(1) The bureau of motor vehicles may adopt rules pursuant to Chapter 119. of the Revised Code to reasonably limit the number of bulk

commercial special extraction requests made by a person for the same records or for updated records during a calendar year. The rules may include provisions for charges to be made for bulk commercial special extraction requests for the actual cost of the bureau, plus special extraction costs, plus ten per cent. The bureau may charge for expenses for redacting information, the release of which is prohibited by law.

(2) As used in divisions (B)(3) and (E)(1) of this section:

(a) "Actual cost" means the cost of depleted supplies, records storage media costs, actual mailing and alternative delivery costs, or other transmitting costs, and any direct equipment operating and maintenance costs, including actual costs paid to private contractors for copying services.

(b) "Bulk commercial special extraction request" means a request for copies of a record for information in a format other than the format already available, or information that cannot be extracted without examination of all items in a records series, class of records, or data base by a person who intends to use or forward the copies for surveys, marketing, solicitation, or resale for commercial purposes. "Bulk commercial special extraction request" does not include a request by a person who gives assurance to the bureau that the person making the request does not intend to use or forward the requested copies for surveys, marketing, solicitation, or resale for commercial purposes.

(c) "Commercial" means profit-seeking production, buying, or selling of any good, service, or other product.

(d) "Special extraction costs" means the cost of the time spent by the lowest paid employee competent to perform the task, the actual amount paid to outside private contractors employed by the bureau, or the actual cost incurred to create computer programs to make the special extraction. "Special extraction costs" include any charges paid to a public agency for computer or records services.

(3) For purposes of divisions (E)(1) and (2) of this section, "commercial surveys, marketing, solicitation, or resale" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

Sec. 721.15. (A) Personal property not needed for municipal purposes, the estimated value of which is less than one thousand dollars, may be sold by the board or officer having supervision or management of that property. If the estimated value of that property is one thousand dollars or more, it shall be sold only when authorized by an ordinance of the legislative authority of the municipal corporation and approved by the board, officer, or

director having supervision or management of that property. When so authorized, the board, officer, or director shall make a written contract with the highest and best bidder after advertisement for not less than two or more than four consecutive weeks in a newspaper of general circulation within the municipal corporation, or with a board of county commissioners upon such lawful terms as are agreed upon, as provided by division (B)(1) of section 721.27 of the Revised Code.

(B) When the legislative authority finds, by resolution, that the municipal corporation has vehicles, equipment, or machinery which is obsolete, or is not needed or is unfit for public use, that the municipal corporation has need of other vehicles, equipment, or machinery of the same type, and that it will be in the best interest of the municipal corporation that the sale of obsolete, unneeded, or unfit vehicles, equipment, or machinery be made simultaneously with the purchase of the new vehicles, equipment, or machinery of the same type, the legislative authority may offer to sell, or authorize a board, officer, or director of the municipal corporation having supervision or management of the property to offer to sell, those vehicles, equipment, or machinery and to have the selling price credited against the purchase price of other vehicles, equipment, or machinery and to consummate the sale and purchase by a single contract with the lowest and best bidder to be determined by subtracting from the selling price of the vehicles, equipment, or machinery to be purchased by the municipal corporation the purchase price offered for the municipally-owned vehicles, equipment, or machinery. When the legislative authority or the authorized board, officer, or director of a municipal corporation advertises for bids for the sale of new vehicles, equipment, or machinery to the municipal corporation, they may include in the same advertisement a notice of willingness to accept bids for the purchase of municipally-owned vehicles, equipment, or machinery which is obsolete, or is not needed or is unfit for public use, and to have the amount of those bids subtracted from the selling price as a means of determining the lowest and best bidder.

(C) If the legislative authority of the municipal corporation determines that municipal personal property is not needed for public use, or is obsolete or unfit for the use for which it was acquired, and that the property has no value, the legislative authority may discard or salvage that property.

(D) Notwithstanding anything to the contrary in division (A) or (B) of this section and regardless of the property's value, the legislative authority of a municipal corporation may sell personal property, including motor vehicles acquired for the use of municipal officers and departments, and road machinery, equipment, tools, or supplies, which is not needed for

public use, or is obsolete or unfit for the use for which it was acquired, by internet auction. The legislative authority shall adopt, during each calendar year, a resolution expressing its intent to sell that property by internet auction. The resolution shall include a description of how the auctions will be conducted and shall specify the number of days for bidding on the property, which shall be no less than fifteen days, including Saturdays, Sundays, and legal holidays. The resolution shall indicate whether the municipal corporation will conduct the auction or the legislative authority will contract with a representative to conduct the auction and shall establish the general terms and conditions of sale. If a representative is known when the resolution is adopted, the resolution shall provide contact information such as the representative's name, address, and telephone number.

After adoption of the resolution, the legislative authority shall publish, in a newspaper of general circulation in the municipal corporation, notice of its intent to sell unneeded, obsolete, or unfit municipal personal property by internet auction. The notice shall include a summary of the information provided in the resolution and shall be published at least twice. The second and any subsequent notice shall be published not less than ten nor more than twenty days after the previous notice. A similar notice also shall be posted continually throughout the calendar year in a conspicuous place in the offices of the village clerk or city auditor, and the legislative authority, and, if the municipal corporation maintains a website on the internet, the notice shall be posted continually throughout the calendar year at that website.

When the property is to be sold by internet auction, the legislative authority or its representative may establish a minimum price that will be accepted for specific items and may establish any other terms and conditions for the particular sale, including requirements for pick-up or delivery, method of payment, and sales tax. This type of information shall be provided on the internet at the time of the auction and may be provided before that time upon request after the terms and conditions have been determined by the legislative authority or its representative.

Sec. 721.27. (A) The actions specified in division (B) of this section may be taken without competitive bidding as required by sections 721.03 and 721.15 of the Revised Code.

(B) A municipal corporation may, by ordinance, authorize the transfer, lease, or conveyance of any real property, upon which it has acquired, established, erected, or maintained a hospital, together with any personal property suitable for such hospital, to a either of the following:

(1) A board of county commissioners, upon such lawful terms as are agreed upon between the municipal corporation and the board of county

~~commissioners, without competitive bidding as required by section 721.03 and 721.15 of the Revised Code;~~

(2) Any person for purposes of providing medical services other than hospital services, if the municipal corporation determines that the transfer, lease, or conveyance is reasonably related to the proper operation of the hospital.

Sec. 737.03. The director of public safety shall manage and make all contracts with reference to police stations, fire houses, reform schools, infirmaries, hospitals other than municipal hospitals operated pursuant to Chapter 749. of the Revised Code, workhouses, farms, pesthouses, and all other charitable and reformatory institutions. In the control and supervision of those institutions, the director shall be governed by the provisions of Title VII of the Revised Code relating to those institutions.

The director may make all contracts and expenditures of money for acquiring lands for the erection or repairing of station houses, police stations, fire department buildings, fire cisterns, and plugs, that are required, for the purchase of engines, apparatus, and all other supplies necessary for the police and fire departments, and for other undertakings and departments under the director's supervision, but no obligation involving an expenditure of more than twenty-five thousand dollars shall be created unless first authorized and directed by ordinance. In making, altering, or modifying those contracts, the director shall be governed by sections 735.05 to 735.09 of the Revised Code, except that all bids shall be filed with and opened by the director. The director shall make no sale or disposition of any property belonging to the city without first being authorized by resolution or ordinance of the city legislative authority.

Sec. 749.02. The legislative authority of a municipal corporation may agree with a corporation organized for charitable purposes and not for profit, for the erection and management of a hospital suitably located for the treatment of the sick and disabled of such municipal corporation, or for an addition to such hospital, and for a permanent interest therein to such extent and upon such terms as are agreed upon between them, and the legislative authority shall provide for the payment of the amount agreed upon for such interest, either in one payment or in annual installments, as is agreed upon.

Such agreement shall not become operative until approved by a vote of the electors of the municipal corporation as provided in section ~~749.03~~ 749.021 of the Revised Code.

Sec. ~~749.03~~ 749.021. Upon the execution of the agreement provided for in section 749.02 of the Revised Code the legislative authority of the municipal corporation shall submit to the electors thereof, at the next

general election occurring not less than seventy-five days after the certification of the resolution to the board of elections, the question of the ratification of such agreement, and if the sum to be paid by the municipal corporation under the terms of such agreement is not available from current general revenues thereof, the legislative authority shall also submit to the electors, at the same election, the question of the issue of bonds of the municipal corporation in the amount specified in such agreement for the purpose of providing funds for the payment of such sum. The proceedings in the matter of such election and in the issuance and sale of such bonds shall be as provided by law for municipal bonds. Such agreement shall not be effective, and no bonds shall be issued, unless the electors approve of both the agreement and the bond issue, if the question of the issue of bonds is so submitted.

Sec. 749.03. (A) As used in this section, "health facility" means both of the following:

(1) A hospital, as defined in section 3727.01 of the Revised Code;

(2) A facility other than a hospital, as defined in section 3727.01 of the Revised Code, where medical care and preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services are provided to outpatients by or under the direction of a physician or dentist.

(B) The legislative authority of a municipal corporation or a board of hospital commissioners established under section 749.04 of the Revised Code may purchase, acquire, lease, appropriate, or construct a health facility in another municipal corporation to serve as a branch of a hospital erected under sections 749.02 to 749.14 of the Revised Code. The health facility may include office space for physicians. The facility shall be operated pursuant to the law that regulates the operation of the hospital.

(C) When a proposal to establish a health facility in another municipal corporation is made by a board of hospital commissioners, all of the following apply:

(1) The board shall give written notice to the legislative authority of its municipal corporation and to the legislative authority of the municipal corporation where the facility is to be located. The legislative authority of the municipal corporation where the facility is to be located, by resolution adopted within forty days after receipt of the notice, may object to the proposed facility. The resolution shall include an explanation of the objection and may make any recommendations the legislative authority considers necessary. The legislative authority shall send a copy of the resolution to the board of hospital commissioners and the legislative authority of the municipal corporation that proposes to locate the facility in

the other municipal corporation.

(2) Except as provided in division (B)(3) of this section, the board of hospital commissioners may establish and operate the facility, unless the legislative authority of the municipal corporation proposing to locate the facility in the other municipal corporation, not later than twenty days after receiving a resolution of objection from the other legislative authority pursuant to division (B)(1) of this section, adopts a resolution denying the board the right to establish the facility.

(3) If the legislative authority of a municipal corporation provides a subsidy for uncompensated care to a board of hospital commissioners, the board may establish and operate the health facility only if that legislative authority approves the establishment of the facility.

Sec. 749.08. (A) The board of hospital commissioners shall have the entire management and control of a hospital erected under sections 749.02 to 749.14 of the Revised Code, when completed and ready for use, and shall assume and continue the operation of the hospital. Subject to the ordinances of the legislative authority of the municipal corporation, the board shall establish rules for the hospital's government, and the admission of persons to its privileges, as are expedient.

(B) The board has control of the property of the hospital. The board's control of property includes acquiring, holding, possessing, managing, and disposing of real and personal property.

(C) The board may enter into contracts with any person or government entity. No member of the board shall be interested, directly or indirectly, in any contract concerning the hospital.

(D)(1) The board has control of all funds used in the hospital's operation, including moneys received from the operation of the hospital, moneys appropriated for its operation by the legislative authority of the municipal corporation, and moneys resulting from special levies submitted by the legislative authority for operation of the hospital. Of those funds, all or part of any amount determined not to be necessary to meet current demands on the hospital may be invested by the board or its designee in any classifications of securities and obligations eligible for deposit or investment of moneys pursuant to section 135.14 of the Revised Code, subject to the approval of the board's written investment policy by the legislative authority of the municipal corporation.

(2) Each disbursement of funds shall be made on a voucher signed by signatories designated and approved by the board.

(3) Unless an expenditure is first authorized by the board, no money shall be paid for any of the following:

(a) The erection, rebuilding, or repair of the hospital;

(b) An addition to the hospital;

(c) Supplies for the hospital;

(d) Replacement of necessary equipment for the hospital;

(e) Acquisition, leasing, or construction of permanent improvements to hospital property;

(f) Donations authorized under division (H) of this section;

(g) Any other use or purpose related to the hospital.

(E) For the use and benefit of the hospital, the board may take and hold in trust any grant or devise of land and any donation or bequest of money or other personal property.

(F) With respect to taking title to or a leasehold interest in property on behalf of the hospital, both of the following apply:

(1) The title to or leasehold interest in the property may be taken in the name of the board or an entity organized for charitable purposes that is under the board's control.

(2) If a transaction occurs or has occurred in which the title to or leasehold interest in the property was taken in the name of the legislative authority of the municipality, the title to or leasehold interest in the property may be conveyed to the board or an entity organized for charitable purposes that is under the board's control.

(G) When the legislative authority of a municipal corporation acquires property for purposes of the hospital, an easement may be acquired in the name of the board.

(H) For the public purpose of improving the health, safety, and general welfare of the community, the board of hospital commissioners may donate to a nonprofit entity any of the following:

(1) Moneys and other financial assets determined not to be necessary to meet current demands on the hospital;

(2) Surplus hospital property, including supplies, equipment, office facilities, and other property;

(3) Services rendered by the hospital.

Sec. 749.08 749.081. (A) For purposes of this section:

(1) "Bank" has the same meaning as in section 1101.01 of the Revised Code.

(2) "Savings and loan association" has the same meaning as in section 1151.01 of the Revised Code.

(3) "Savings bank" has the same meaning as in section 1161.01 of the Revised Code.

(B) No money shall be paid for the erection, rebuilding, or repair of a

~~hospital, or for any addition thereto, or for supplies therefor, unless such expenditure is first authorized by the board of hospital commissioners, and upon the warrant of the proper officer of the municipal corporation. No member of the board shall be interested, directly or indirectly, in any contract concerning such hospital.~~

~~(C)~~ The board of hospital commissioners may enter into a contract for a secured line of credit with a bank, savings and loan association, or savings bank if the contract meets all of the following requirements:

- (1) The term of the contract does not exceed one hundred eighty days;
- (2) The board's secured line of credit does not exceed five hundred thousand dollars;
- (3) The contract provides that any amount extended must be repaid in full before any additional credit can be extended;
- (4) The contract provides that the bank, savings and loan association, or savings bank shall not commence a civil action against the legislative authority of a municipal corporation or any member thereof, or the municipal corporation to recover the principal, interest, or any charges or other amounts that remain outstanding on the secured line of credit at the time of any default by the board of hospital commissioners;
- (5) The contract provides that no assets other than those of the hospital can be used to secure the line of credit;
- (6) The terms and conditions of the contract comply with all state and federal statutes and rules governing the extension of a secured line of credit.

~~(D)~~~~(C)~~ Any obligation incurred by a board of hospital commissioners under division ~~(C)~~~~(B)~~ of this section is an obligation of that board only and not a general obligation of the legislative authority of a municipal corporation or the municipal corporation within the meaning of division (Q) of section 133.01 of the Revised Code.

~~(E)~~~~(D)~~ No board of hospital commissioners shall at any time have more than one secured line of credit under division (B) of this section.

~~Sec. 749.15 749.082. (A) The director of public safety shall have the entire management and control following apply to the board of hospital commissioners in relation to its employees and the employees of a hospital erected under sections 749.02 to 749.14 of the Revised Code, when completed and ready for use, and, subject to the ordinances of the legislative authority of the city, shall establish rules for its government, and the admission of persons to its privileges, as he deems expedient. The director may employ a superintendent, steward, physicians, nurses, and such other employees as are necessary, and fix the compensation of all such persons, which compensation shall be subject to the approval of the legislative~~

~~authority. The director with the approval of the mayor may also employ counsel to bring legal action for the collection of delinquent accounts.~~

~~(B) The director of public safety municipal corporation:~~

~~(1) The board may adopt the wage and salary schedule for employees.~~

~~(2) The board may employ the hospital's administrator pursuant to section 749.083 of the Revised Code, and the administrator may employ individuals for the hospital in accordance with that section.~~

~~(3) The board may employ assistants as necessary to perform its clerical work, superintend properly the construction of the hospital, and pay the hospital's expenses. The employees may be paid from funds provided for the hospital.~~

~~(4) The board may enter into a contract with an employer or other entity whereby the services of any employee of the board or hospital are rendered to or on behalf of the employer or other entity for a fee paid to the board or hospital.~~

~~(5) The board may grant to employees of a hospital erected under sections 749.02 to 749.14 of the Revised Code any of the following as he fringe benefits the board determines to be customary and usual in the nonprofit hospital field in the community, including the following:~~

~~(1)(a) Additional vacation leave with full pay for full-time employees, including hourly rate employees, after service of one year;~~

~~(2)(b) Vacation leave and holiday pay for part-time employees on a pro rata basis;~~

~~(3)(c) Leave with full pay, which shall not be deducted from the employee's accumulated sick leave, due to death in the employee's immediate family;~~

~~(4)(d) Moving expenses for new employees;~~

~~(5)(e) Premium pay for working on holidays observed by other municipal agencies;~~

~~(6)(f) Discounts on purchases from the hospital pharmacy.~~

~~The director (6) The board may provide holiday leave by observing Martin Luther King day, Washington-Lincoln day, Columbus day, and Veterans' day on days other than those specified in section 1.14 of the Revised Code.~~

~~(7) The board may grant to employees the insurance benefits authorized by division (B) of this section.~~

~~(8) The board may provide employee recognition awards and may hold employee recognition dinners. The director~~

~~(9) The board may provide scholarships for education in the health care professions, tuition reimbursement, and other staff development programs~~

for the purpose of recruiting or retaining qualified employees. ~~The~~

(10) The board may pay reasonable expenses for recruiting physicians into the city or for retaining them if all or part of the city has been designated as an area with a shortage of personal health services under the "Health Maintenance Organization Act of 1973," 87 Stat. 914, 42 U.S.C. 300e, as amended.

(B)(1) The board of hospital commissioners may contract for, purchase, or otherwise procure on behalf of any or all of its employees, the employees of the hospital, or such employees and their immediate dependents the following types of fringe benefits:

(a) Group or individual insurance contracts which may include life, sickness, accident, disability, annuities, endowment, health, medical expense, hospital, dental, surgical and related coverage or any combination thereof;

(b) Group or individual contracts with health insuring corporations or other providers of professional services, care, or benefits duly authorized to do business in this state.

(2) The board of hospital commissioners may contract for, purchase, or otherwise procure insurance contracts which provide protection for the commissioners, the board's employees, and the employees of the hospital against liability, including professional liability, provided that this section or any insurance contract issued pursuant to this section shall not be construed as a waiver of or in any manner affect the immunity of the hospital or municipal corporation.

(3) All or any portion of the cost, premium, fees, or charges for the insurance benefits specified in divisions (B)(1) and (2) of this section may be paid in such manner or combination of manners as the board may determine, including direct payment by an employee, and, if authorized in writing by an employee, by the board with moneys made available by deduction from or reduction in salary or wages or by the foregoing of a salary or wage increase.

Notwithstanding sections 3917.01 and 3917.06 of the Revised Code, the board may purchase group life insurance authorized by this section by reason of payment of premiums therefor by the board from its funds, and such group life insurance may be issued and purchased if otherwise consistent with sections 3917.01 to 3917.06 of the Revised Code.

(C) The board with the approval of the legislative authority may retain counsel to bring actions for the collection of delinquent accounts.

Sec. 749.083. (A) The board of hospital commissioners shall provide for the administration of the hospital by directly employing a hospital

administrator or by entering into a contract for the management of the hospital under which an administrator is provided. When an administrator is employed directly, the board shall adopt a job description delineating the administrator's powers and duties and the board may pay the administrator's salary and other benefits from funds provided for the hospital.

(B) During the construction and equipping of the hospital, the administrator shall act in an advisory capacity to the board. After the hospital is completed, the administrator shall serve as the chief executive officer and shall carry out the administration of the hospital according to the policies set forth by the board.

The administrator shall administer the hospital, make reports, and take any other action that the administrator determines is necessary for the operation of the hospital.

At the end of each fiscal year, the administrator shall submit to the board a complete financial statement showing the receipts, revenues, and expenditures in detail for the entire fiscal year.

The administrator shall ensure that the hospital has such physicians, nurses, and other employees as are necessary for the proper care, control, and management of the hospital and its patients. The physicians, nurses, and other employees may be suspended or removed by the administrator at any time the welfare of the hospital warrants suspension or removal. The administrator may obtain physicians, nurses, and other employees by direct employment, entering into contracts, or granting authority to practice in the hospital.

Sec. 749.084. The board of hospital commissioners may do any of the following if the board determines that the action is reasonably related to the operation of the hospital:

(A) Construct an addition to the hospital under the powers vested the board under section 749.04 of the Revised Code;

(B) Acquire an existing structure for the purpose of leasing office space to local physicians;

(C) Lease real property to any person to construct facilities for providing medical services other than inpatient hospital services or otherwise lease or convey interests in real estate for providing medical services other than inpatient hospital services.

Sec. 749.10. All contracts for the erection of a hospital building shall be made in the name of the municipal corporation or the board of hospital commissioners, and it shall be stipulated therein that the contractor will not execute any extra work, or make any modifications or alterations mentioned in the specifications and plans, unless ordered in writing by the board of

hospital commissioners, that ~~he~~ the contractor will not claim any pay therefor unless such written order is given, and the additional compensation fixed and agreed upon. Copies of the plans and drawings, attested by the contractor, and the original bids, specifications, and contracts shall be deposited in the office of the clerk of the municipal corporation.

Sec. 749.18. Where an agreement under section 749.16 of the Revised Code concerns or includes participation of a joint township hospital district, or of a county, in the maintenance and operation of a municipal hospital, the municipal corporation may establish a board of governors to exercise, subject to such further limitations as are imposed by the agreement, the powers vested ~~under section 749.15 of the Revised Code in the director of public safety~~ board of hospital commissioners, provided that any such limitations shall not deny the board of governors the authority to ~~employ~~ retain counsel, to institute legal action in its own name, or to employ any other lawful means, for the collection of delinquent accounts. The board may include in its membership such representatives of the participating district, or of the county, as are provided for in such agreement. The municipal members of the board shall consist of the mayor, who by virtue of ~~his~~ that office shall be its president, and four resident freeholders of the municipal corporation, at least one of whom shall be a doctor of medicine, to be appointed by the mayor with the consent of the legislative authority. The term of office of such municipal members shall be as provided in section 749.05 of the Revised Code. The board shall, subject to the terms of the agreement, establish such regulations and elect such officers, other than president, as its members determine. The members shall be entitled to such compensation for their services as is provided by the agreement.

Sec. 749.24. The board of hospital trustees shall, subject to any ordinance of the municipal corporation, have the entire management and control of the property or funds mentioned in section 749.20 of the Revised Code, and shall establish such rules for the government thereof as it deems expedient. Such board shall also have the entire control of the expenditure of all moneys therefrom and they shall be disbursed by the treasurer of the municipal corporation only upon the warrant of the municipal auditor or clerk, drawn in accordance with the order of such board.

The board may apply, control, invest, and reinvest the funds coming or arising from any gift, devise, or ~~request~~ bequest according to the terms on which it was acquired.

Sec. 749.33. The board of hospital trustees may employ such ~~superintendents, physicians, nurses, and other~~ employees as are necessary for the execution of its duties and fix their compensation. Any of such

persons may be removed by the board at any time. The board may provide to its employees such of the benefits, awards, and staff development programs listed in section ~~749.15~~ 749.082 of the Revised Code as the board determines to be customary and usual in the nonprofit hospital field in its community.

Sec. 749.37. Notwithstanding any conflicting provision of sections 749.09 to 749.14 and 749.26 to 749.31 of the Revised Code, Chapter 153. of the Revised Code, or any other competitive bidding requirement specified in the Revised Code that requires a public authority to enter into separate contracts for the design and construction of a public improvement, a board of hospital commissioners or a board of hospital trustees may enter into a single contract under which the entity awarded the contract is responsible for providing both design and construction services related to the erection of a hospital, any addition to the hospital, or any other improvement to the hospital or its properties involving alteration, repair, replacement, renovation, installation, or demolition. This section does not otherwise alter the competitive bidding requirements that apply to the board when entering into a contract for a public improvement.

Sec. 751.07. In the management of a city infirmary, in the care and treatment of the inmates thereof, and in the erection, enlargement, or repair of any building for infirmary purposes, or of any addition thereto, the director of public safety shall have the same powers, be governed by the same regulations, and perform the same duties, as far as applicable, as are vested in ~~him~~ a board of hospital commissioners established under section 749.04 of the Revised Code in relation to municipal hospitals. The power of the legislative authority in relation thereto shall be the same, so far as applicable, as provided to the legislative authority by sections 749.01 to 749.34, ~~inclusive~~, of the Revised Code, in relation to hospitals.

Sec. 2744.01. As used in this chapter:

(A) "Emergency call" means a call to duty, including, but not limited to, communications from citizens, police dispatches, and personal observations by peace officers of inherently dangerous situations that demand an immediate response on the part of a peace officer.

(B) "Employee" means an officer, agent, employee, or servant, whether or not compensated or full-time or part-time, who is authorized to act and is acting within the scope of the officer's, agent's, employee's, or servant's employment for a political subdivision. "Employee" does not include an independent contractor and does not include any individual engaged by a school district pursuant to section 3319.301 of the Revised Code. "Employee" includes any elected or appointed official of a political

subdivision. "Employee" also includes a person who has been convicted of or pleaded guilty to a criminal offense and who has been sentenced to perform community service work in a political subdivision whether pursuant to section 2951.02 of the Revised Code or otherwise, and a child who is found to be a delinquent child and who is ordered by a juvenile court pursuant to section 2152.19 or 2152.20 of the Revised Code to perform community service or community work in a political subdivision.

(C)(1) "Governmental function" means a function of a political subdivision that is specified in division (C)(2) of this section or that satisfies any of the following:

(a) A function that is imposed upon the state as an obligation of sovereignty and that is performed by a political subdivision voluntarily or pursuant to legislative requirement;

(b) A function that is for the common good of all citizens of the state;

(c) A function that promotes or preserves the public peace, health, safety, or welfare; that involves activities that are not engaged in or not customarily engaged in by nongovernmental persons; and that is not specified in division (G)(2) of this section as a proprietary function.

(2) A "governmental function" includes, but is not limited to, the following:

(a) The provision or nonprovision of police, fire, emergency medical, ambulance, and rescue services or protection;

(b) The power to preserve the peace; to prevent and suppress riots, disturbances, and disorderly assemblages; to prevent, mitigate, and clean up releases of oil and hazardous and extremely hazardous substances as defined in section 3750.01 of the Revised Code; and to protect persons and property;

(c) The provision of a system of public education;

(d) The provision of a free public library system;

(e) The regulation of the use of, and the maintenance and repair of, roads, highways, streets, avenues, alleys, sidewalks, bridges, aqueducts, viaducts, and public grounds;

(f) Judicial, quasi-judicial, prosecutorial, legislative, and quasi-legislative functions;

(g) The construction, reconstruction, repair, renovation, maintenance, and operation of buildings that are used in connection with the performance of a governmental function, including, but not limited to, office buildings and courthouses;

(h) The design, construction, reconstruction, renovation, repair, maintenance, and operation of jails, places of juvenile detention, workhouses, or any other detention facility, as defined in section 2921.01 of

the Revised Code;

(i) The enforcement or nonperformance of any law;

(j) The regulation of traffic, and the erection or nonerection of traffic signs, signals, or control devices;

(k) The collection and disposal of solid wastes, as defined in section 3734.01 of the Revised Code, including, but not limited to, the operation of solid waste disposal facilities, as "facilities" is defined in that section, and the collection and management of hazardous waste generated by households. As used in division (C)(2)(k) of this section, "hazardous waste generated by households" means solid waste originally generated by individual households that is listed specifically as hazardous waste in or exhibits one or more characteristics of hazardous waste as defined by rules adopted under section 3734.12 of the Revised Code, but that is excluded from regulation as a hazardous waste by those rules.

(l) The provision or nonprovision, planning or design, construction, or reconstruction of a public improvement, including, but not limited to, a sewer system;

(m) The operation of a job and family services department or agency, including, but not limited to, the provision of assistance to aged and infirm persons and to persons who are indigent;

(n) The operation of a health board, department, or agency, including, but not limited to, any statutorily required or permissive program for the provision of immunizations or other inoculations to all or some members of the public, provided that a "governmental function" does not include the supply, manufacture, distribution, or development of any drug or vaccine employed in any such immunization or inoculation program by any supplier, manufacturer, distributor, or developer of the drug or vaccine;

(o) The operation of mental health facilities, mental retardation or developmental disabilities facilities, alcohol treatment and control centers, and children's homes or agencies;

(p) The provision or nonprovision of inspection services of all types, including, but not limited to, inspections in connection with building, zoning, sanitation, fire, plumbing, and electrical codes, and the taking of actions in connection with those types of codes, including, but not limited to, the approval of plans for the construction of buildings or structures and the issuance or revocation of building permits or stop work orders in connection with buildings or structures;

(q) Urban renewal projects and the elimination of slum conditions;

(r) Flood control measures;

(s) The design, construction, reconstruction, renovation, operation, care,

repair, and maintenance of a township cemetery;

(t) The issuance of revenue obligations under section 140.06 of the Revised Code;

(u) The design, construction, reconstruction, renovation, repair, maintenance, and operation of any school athletic facility, school auditorium, or gymnasium or any recreational area or facility, including, but not limited to, any of the following:

(i) A park, playground, or playfield;

(ii) An indoor recreational facility;

(iii) A zoo or zoological park;

(iv) A bath, swimming pool, pond, water park, wading pool, wave pool, water slide, or other type of aquatic facility;

(v) A golf course;

(vi) A bicycle motocross facility or other type of recreational area or facility in which bicycling, skating, skate boarding, or scooter riding is engaged;

(vii) A rope course or climbing walls;

(viii) An all-purpose vehicle facility in which all-purpose vehicles, as defined in section 4519.01 of the Revised Code, are contained, maintained, or operated for recreational activities.

(v) The provision of public defender services by a county or joint county public defender's office pursuant to Chapter 120. of the Revised Code;

(w)(i) At any time before regulations prescribed pursuant to 49 U.S.C.A. 20153 become effective, the designation, establishment, design, construction, implementation, operation, repair, or maintenance of a public road rail crossing in a zone within a municipal corporation in which, by ordinance, the legislative authority of the municipal corporation regulates the sounding of locomotive horns, whistles, or bells;

(ii) On and after the effective date of regulations prescribed pursuant to 49 U.S.C.A. 20153, the designation, establishment, design, construction, implementation, operation, repair, or maintenance of a public road rail crossing in such a zone or of a supplementary safety measure, as defined in 49 U.S.C.A. 20153, at or for a public road rail crossing, if and to the extent that the public road rail crossing is excepted, pursuant to subsection (c) of that section, from the requirement of the regulations prescribed under subsection (b) of that section.

(x) A function that the general assembly mandates a political subdivision to perform.

(D) "Law" means any provision of the constitution, statutes, or rules of

the United States or of this state; provisions of charters, ordinances, resolutions, and rules of political subdivisions; and written policies adopted by boards of education. When used in connection with the "common law," this definition does not apply.

(E) "Motor vehicle" has the same meaning as in section 4511.01 of the Revised Code.

(F) "Political subdivision" or "subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state. "Political subdivision" includes, but is not limited to, a county hospital commission appointed under section 339.14 of the Revised Code, board of hospital commissioners appointed for a municipal hospital under section 749.04 of the Revised Code, board of hospital trustees appointed for a municipal hospital under section 749.22 of the Revised Code, regional planning commission created pursuant to section 713.21 of the Revised Code, county planning commission created pursuant to section 713.22 of the Revised Code, joint planning council created pursuant to section 713.231 of the Revised Code, interstate regional planning commission created pursuant to section 713.30 of the Revised Code, port authority created pursuant to section 4582.02 or 4582.26 of the Revised Code or in existence on December 16, 1964, regional council established by political subdivisions pursuant to Chapter 167. of the Revised Code, emergency planning district and joint emergency planning district designated under section 3750.03 of the Revised Code, joint emergency medical services district created pursuant to section 307.052 of the Revised Code, fire and ambulance district created pursuant to section 505.375 of the Revised Code, joint interstate emergency planning district established by an agreement entered into under that section, county solid waste management district and joint solid waste management district established under section 343.01 or 343.012 of the Revised Code, and community school established under Chapter 3314. of the Revised Code.

(G)(1) "Proprietary function" means a function of a political subdivision that is specified in division (G)(2) of this section or that satisfies both of the following:

(a) The function is not one described in division (C)(1)(a) or (b) of this section and is not one specified in division (C)(2) of this section;

(b) The function is one that promotes or preserves the public peace, health, safety, or welfare and that involves activities that are customarily engaged in by nongovernmental persons.

(2) A "proprietary function" includes, but is not limited to, the

following:

- (a) The operation of a hospital by one or more political subdivisions;
- (b) The design, construction, reconstruction, renovation, repair, maintenance, and operation of a public cemetery other than a township cemetery;
- (c) The establishment, maintenance, and operation of a utility, including, but not limited to, a light, gas, power, or heat plant, a railroad, a busline or other transit company, an airport, and a municipal corporation water supply system;
- (d) The maintenance, destruction, operation, and upkeep of a sewer system;
- (e) The operation and control of a public stadium, auditorium, civic or social center, exhibition hall, arts and crafts center, band or orchestra, or off-street parking facility.

(H) "Public roads" means public roads, highways, streets, avenues, alleys, and bridges within a political subdivision. "Public roads" does not include berms, shoulders, rights-of-way, or traffic control devices unless the traffic control devices are mandated by the Ohio manual of uniform traffic control devices.

(I) "State" means the state of Ohio, including, but not limited to, the general assembly, the supreme court, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, colleges and universities, institutions, and other instrumentalities of the state of Ohio. "State" does not include political subdivisions.

Sec. 3702.62. (A) Any action pursuant to section 140.03, 140.04, 140.05, 307.091, 313.21, 339.01, 339.021, 339.03, 339.06, 339.08, 339.09, 339.12, 339.14, 513.05, 513.07, 513.08, 513.081, 513.12, 513.15, 513.17, 513.171, 749.02, 749.03, 749.14, 749.16, 749.20, 749.25, 749.28, 749.35, 1751.06, or 3707.29 of the Revised Code shall be taken in accordance with sections 3702.51 to 3702.61 of the Revised Code.

(B) A nursing home certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, that is required to apply for licensure as a residential facility under section 5123.19 of the Revised Code is not, with respect to the portion of the home certified as an intermediate care facility for the mentally retarded, subject to sections 3702.51 to 3702.61 of the Revised Code.

Sec. 4115.04. (A) Every public authority authorized to contract for or construct with its own forces a public improvement, before advertising for bids or undertaking such construction with its own forces, shall have the

director of commerce determine the prevailing rates of wages of mechanics and laborers in accordance with section 4115.05 of the Revised Code for the class of work called for by the public improvement, in the locality where the work is to be performed. Such schedule of wages shall be attached to and made part of the specifications for the work, and shall be printed on the bidding blanks where the work is done by contract. A copy of the bidding blank shall be filed with the director before such contract is awarded. A minimum rate of wages for common laborers, on work coming under the jurisdiction of the department of transportation, shall be fixed in each county of the state by said department of transportation, in accordance with section 4115.05 of the Revised Code.

(B) Sections 4115.03 to 4115.16 of the Revised Code do not apply to:

(1) Public improvements in any case where the federal government or any of its agencies furnishes by loan or grant all or any part of the funds used in constructing such improvements, provided the federal government or any of its agencies prescribes predetermined minimum wages to be paid to mechanics and laborers employed in the construction of such improvements;

(2) A participant in a work activity, developmental activity, or an alternative work activity under sections 5107.40 to 5107.69 of the Revised Code when a public authority directly uses the labor of the participant to construct a public improvement if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;

(3) Public improvements undertaken by, or under contract for, the board of education of any school district or the governing board of any educational service center;

(4) Public improvements undertaken by, or under contract for, a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code if none of the funds used in constructing the improvements are the proceeds of bonds or other obligations which are secured by the full faith and credit of the state, ~~the a~~ county, a township, or a municipal corporation and none of the funds used in constructing the improvements, including funds used to repay any amounts borrowed to construct the improvements, are funds that have been appropriated for that purpose by the ~~state, a~~ board of county commissioners, ~~the state,~~ a township, or a municipal corporation from funds generated by the levy of a tax; provided, however, that a county hospital or municipal hospital may elect to apply sections 4115.03 to 4115.16 of the Revised Code to a public improvement undertaken by, or under contract for, the ~~county~~ hospital.

Sub. S. B. No. 222

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SECTION 2. That existing sections 121.22, 133.05, 149.43, 721.15, 721.27, 737.03, 749.02, 749.03, 749.08, 749.10, 749.15, 749.18, 749.24, 749.33, 751.07, 2744.01, 3702.62, and 4115.04 of the Revised Code are hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the  
\_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_