

**As Passed by the Senate**

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

**Sub. S. B. No. 222**

**Senators Carey, Amstutz, Schuring**

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**A B I L L**

To amend sections 121.22, 133.05, 149.43, 721.15, 1  
721.27, 737.03, 749.02, 749.08, 749.10, 749.15, 2  
749.18, 749.24, 749.33, 751.07, 2744.01, 3702.62, 3  
and 4115.04; to amend, for the purpose of adopting 4  
new section numbers as indicated in parentheses, 5  
sections 749.03 (749.021), 749.08 (749.081), and 6  
749.15 (749.082); to enact new sections 749.03 and 7  
749.08 and sections 749.083, 749.084, and 749.37 8  
of the Revised Code to modify the laws governing 9  
municipal hospitals. 10

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

**Section 1.** That sections 121.22, 133.05, 149.43, 721.15, 11  
721.27, 737.03, 749.02, 749.08, 749.10, 749.15, 749.18, 749.24, 12  
749.33, 751.07, 2744.01, 3702.62, and 4115.04 be amended; sections 13  
749.03 (749.021), 749.08 (749.081), and 749.15 (749.082) be 14  
amended for the purpose of adopting new section numbers as 15  
indicated in parentheses; and new sections 749.03 and 749.08 and 16  
sections 749.083, 749.084, and 749.37 of the Revised Code be 17  
enacted to read as follows: 18

**Sec. 121.22.** (A) This section shall be liberally construed to 19  
require public officials to take official action and to conduct 20

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| all deliberations upon official business only in open meetings     | 21 |
| unless the subject matter is specifically excepted by law.         | 22 |
| (B) As used in this section:                                       | 23 |
| (1) "Public body" means any of the following:                      | 24 |
| (a) Any board, commission, committee, council, or similar          | 25 |
| decision-making body of a state agency, institution, or authority, | 26 |
| and any legislative authority or board, commission, committee,     | 27 |
| council, agency, authority, or similar decision-making body of any | 28 |
| county, township, municipal corporation, school district, or other | 29 |
| political subdivision or local public institution;                 | 30 |
| (b) Any committee or subcommittee of a body described in           | 31 |
| division (B)(1)(a) of this section;                                | 32 |
| (c) A court of jurisdiction of a sanitary district organized       | 33 |
| wholly for the purpose of providing a water supply for domestic,   | 34 |
| municipal, and public use when meeting for the purpose of the      | 35 |
| appointment, removal, or reappointment of a member of the board of | 36 |
| directors of such a district pursuant to section 6115.10 of the    | 37 |
| Revised Code, if applicable, or for any other matter related to    | 38 |
| such a district other than litigation involving the district. As   | 39 |
| used in division (B)(1)(c) of this section, "court of              | 40 |
| jurisdiction" has the same meaning as "court" in section 6115.01   | 41 |
| of the Revised Code.   | 42 |
| (2) "Meeting" means any prearranged discussion of the public       | 43 |
| business of the public body by a majority of its members.          | 44 |
| (3) "Regulated individual" means either of the following:          | 45 |
| (a) A student in a state or local public educational               | 46 |
| institution;   | 47 |
| (b) A person who is, voluntarily or involuntarily, an inmate,      | 48 |
| patient, or resident of a state or local institution because of    | 49 |
| criminal behavior, mental illness or retardation, disease,         | 50 |

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| disability, age, or other condition requiring custodial care.   | 51                         |
| (4) "Public office" has the same meaning as in section 149.011 of the Revised Code.   | 52<br>53                   |
| (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. | 54<br>55<br>56<br>57<br>58 |
| 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.                | 59<br>60<br>61<br>62<br>63 |
| (D) This section does not apply to any of the following:  | 64                         |
| (1) A grand jury;   | 65                         |
| (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;   | 66<br>67<br>68             |
| (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;  | 69<br>70<br>71             |
| (4) The organized crime investigations commission established under section 177.01 of the Revised Code;   | 72<br>73                   |
| (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;   | 74<br>75<br>76             |
| (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;  | 77<br>78<br>79             |

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| (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;   | 80<br>81<br>82  |
| (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;  | 83<br>84<br>85  |
| (9) The state chiropractic board when determining whether to suspend a license without a hearing pursuant to section 4734.37 of the Revised Code.   | 86<br>87<br>88  |
| (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.  | 89<br>90<br>91<br>92  |
| (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: | 93<br>94<br>95<br>96<br>97<br>98<br>99<br>100<br>101<br>102 |
| (1) Marketing plans;  | 103   |
| (2) Specific business strategy;   | 104   |
| (3) Production techniques and trade secrets;  | 105   |
| (4) Financial projections;  | 106   |
| (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   | 107<br>108<br>109   |

inspection. 110

The vote by the authority, council, or board to accept or 111  
reject the application, as well as all proceedings of the 112  
authority, council, or board not subject to this division, shall 113  
be open to the public and governed by this section. 114

(F) Every public body, by rule, shall establish a reasonable 115  
method whereby any person may determine the time and place of all 116  
regularly scheduled meetings and the time, place, and purpose of 117  
all special meetings. A public body shall not hold a special 118  
meeting unless it gives at least twenty-four hours' advance notice 119  
to the news media that have requested notification, except in the 120  
event of an emergency requiring immediate official action. In the 121  
event of an emergency, the member or members calling the meeting 122  
shall notify the news media that have requested notification 123  
immediately of the time, place, and purpose of the meeting. 124

The rule shall provide that any person, upon request and 125  
payment of a reasonable fee, may obtain reasonable advance 126  
notification of all meetings at which any specific type of public 127  
business is to be discussed. Provisions for advance notification 128  
may include, but are not limited to, mailing the agenda of 129  
meetings to all subscribers on a mailing list or mailing notices 130  
in self-addressed, stamped envelopes provided by the person. 131

(G) Except as provided in division (J) of this section, the 132  
members of a public body may hold an executive session only after 133  
a majority of a quorum of the public body determines, by a roll 134  
call vote, to hold an executive session and only at a regular or 135  
special meeting for the sole purpose of the consideration of any 136  
of the following matters: 137

(1) To consider the appointment, employment, dismissal, 138  
discipline, promotion, demotion, or compensation of a public 139  
employee or official, or the investigation of charges or 140

complaints against a public employee, official, licensee, or 141  
regulated individual, unless the public employee, official, 142  
licensee, or regulated individual requests a public hearing. 143  
Except as otherwise provided by law, no public body shall hold an 144  
executive session for the discipline of an elected official for 145  
conduct related to the performance of the elected official's 146  
official duties or for the elected official's removal from office. 147  
If a public body holds an executive session pursuant to division 148  
(G)(1) of this section, the motion and vote to hold that executive 149  
session shall state which one or more of the approved purposes 150  
listed in division (G)(1) of this section are the purposes for 151  
which the executive session is to be held, but need not include 152  
the name of any person to be considered at the meeting. 153

(2) To consider the purchase of property for public purposes, 154  
or for the sale of property at competitive bidding, if premature 155  
disclosure of information would give an unfair competitive or 156  
bargaining advantage to a person whose personal, private interest 157  
is adverse to the general public interest. No member of a public 158  
body shall use division (G)(2) of this section as a subterfuge for 159  
providing covert information to prospective buyers or sellers. A 160  
purchase or sale of public property is void if the seller or buyer 161  
of the public property has received covert information from a 162  
member of a public body that has not been disclosed to the general 163  
public in sufficient time for other prospective buyers and sellers 164  
to prepare and submit offers. 165

If the minutes of the public body show that all meetings and 166  
deliberations of the public body have been conducted in compliance 167  
with this section, any instrument executed by the public body 168  
purporting to convey, lease, or otherwise dispose of any right, 169  
title, or interest in any public property shall be conclusively 170  
presumed to have been executed in compliance with this section 171  
insofar as title or other interest of any bona fide purchasers, 172

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| lessees, or transferees of the property is concerned.                    | 173 |
| (3) Conferences with an attorney for the public body                     | 174 |
| concerning disputes involving the public body that are the subject       | 175 |
| of pending or imminent court action;                                     | 176 |
| (4) Preparing for, conducting, or reviewing negotiations or              | 177 |
| bargaining sessions with public employees concerning their               | 178 |
| compensation or other terms and conditions of their employment;          | 179 |
| (5) Matters required to be kept confidential by federal law              | 180 |
| or regulations or state statutes;  | 181 |
| (6) Details relative to the security arrangements and                    | 182 |
| emergency response protocols for a public body or a public office,       | 183 |
| if disclosure of the matters discussed could reasonably be               | 184 |
| expected to jeopardize the security of the public body or public         | 185 |
| office;  | 186 |
| (7) In the case of a county hospital operated pursuant to                | 187 |
| Chapter 339. of the Revised Code <u>or a municipal hospital operated</u> | 188 |
| <u>pursuant to Chapter 749. of the Revised Code</u> , to consider trade  | 189 |
| secrets, as defined in section 1333.61 of the Revised Code.              | 190 |
| If a public body holds an executive session to consider any              | 191 |
| of the matters listed in divisions (G)(2) to (7) of this section,        | 192 |
| the motion and vote to hold that executive session shall state           | 193 |
| which one or more of the approved matters listed in those                | 194 |
| divisions are to be considered at the executive session.                 | 195 |
| A public body specified in division (B)(1)(c) of this section            | 196 |
| shall not hold an executive session when meeting for the purposes        | 197 |
| specified in that division.  | 198 |
| (H) A resolution, rule, or formal action of any kind is                  | 199 |
| invalid unless adopted in an open meeting of the public body. A          | 200 |
| resolution, rule, or formal action adopted in an open meeting that       | 201 |
| results from deliberations in a meeting not open to the public is        | 202 |

invalid unless the deliberations were for a purpose specifically 203  
authorized in division (G) or (J) of this section and conducted at 204  
an executive session held in compliance with this section. A 205  
resolution, rule, or formal action adopted in an open meeting is 206  
invalid if the public body that adopted the resolution, rule, or 207  
formal action violated division (F) of this section. 208

(I)(1) Any person may bring an action to enforce this 209  
section. An action under division (I)(1) of this section shall be 210  
brought within two years after the date of the alleged violation 211  
or threatened violation. Upon proof of a violation or threatened 212  
violation of this section in an action brought by any person, the 213  
court of common pleas shall issue an injunction to compel the 214  
members of the public body to comply with its provisions. 215

(2)(a) If the court of common pleas issues an injunction 216  
pursuant to division (I)(1) of this section, the court shall order 217  
the public body that it enjoins to pay a civil forfeiture of five 218  
hundred dollars to the party that sought the injunction and shall 219  
award to that party all court costs and, subject to reduction as 220  
described in division (I)(2) of this section, reasonable 221  
attorney's fees. The court, in its discretion, may reduce an award 222  
of attorney's fees to the party that sought the injunction or not 223  
award attorney's fees to that party if the court determines both 224  
of the following: 225

(i) That, based on the ordinary application of statutory law 226  
and case law as it existed at the time of violation or threatened 227  
violation that was the basis of the injunction, a well-informed 228  
public body reasonably would believe that the public body was not 229  
violating or threatening to violate this section; 230

(ii) That a well-informed public body reasonably would 231  
believe that the conduct or threatened conduct that was the basis 232  
of the injunction would serve the public policy that underlies the 233



authority that is asserted as permitting that conduct or 234  
threatened conduct. 235

(b) If the court of common pleas does not issue an injunction 236  
pursuant to division (I)(1) of this section and the court 237  
determines at that time that the bringing of the action was 238  
frivolous conduct, as defined in division (A) of section 2323.51 239  
of the Revised Code, the court shall award to the public body all 240  
court costs and reasonable attorney's fees, as determined by the 241  
court. 242

(3) Irreparable harm and prejudice to the party that sought 243  
the injunction shall be conclusively and irrebuttably presumed 244  
upon proof of a violation or threatened violation of this section. 245

(4) A member of a public body who knowingly violates an 246  
injunction issued pursuant to division (I)(1) of this section may 247  
be removed from office by an action brought in the court of common 248  
pleas for that purpose by the prosecuting attorney or the attorney 249  
general. 250

(J)(1) Pursuant to division (C) of section 5901.09 of the 251  
Revised Code, a veterans service commission shall hold an 252  
executive session for one or more of the following purposes unless 253  
an applicant requests a public hearing: 254

(a) Interviewing an applicant for financial assistance under 255  
sections 5901.01 to 5901.15 of the Revised Code; 256

(b) Discussing applications, statements, and other documents 257  
described in division (B) of section 5901.09 of the Revised Code; 258

(c) Reviewing matters relating to an applicant's request for 259  
financial assistance under sections 5901.01 to 5901.15 of the 260  
Revised Code. 261

(2) A veterans service commission shall not exclude an 262  
applicant for, recipient of, or former recipient of financial 263

assistance under sections 5901.01 to 5901.15 of the Revised Code, 264  
and shall not exclude representatives selected by the applicant, 265  
recipient, or former recipient, from a meeting that the commission 266  
conducts as an executive session that pertains to the applicant's, 267  
recipient's, or former recipient's application for financial 268  
assistance. 269

(3) A veterans service commission shall vote on the grant or 270  
denial of financial assistance under sections 5901.01 to 5901.15 271  
of the Revised Code only in an open meeting of the commission. The 272  
minutes of the meeting shall indicate the name, address, and 273  
occupation of the applicant, whether the assistance was granted or 274  
denied, the amount of the assistance if assistance is granted, and 275  
the votes for and against the granting of assistance. 276

**Sec. 133.05.** (A) A municipal corporation shall not incur net 277  
indebtedness that exceeds an amount equal to ten and one-half per 278  
cent of its tax valuation, or incur without a vote of the electors 279  
net indebtedness that exceeds an amount equal to five and one-half 280  
per cent of that tax valuation. 281

(B) In calculating the net indebtedness of a municipal 282  
corporation, none of the following securities shall be considered: 283

(1) Self-supporting securities issued for any purposes 284  
including, without limitation, any of the following general 285  
purposes: 286

(a) Water systems or facilities; 287

(b) Sanitary sewerage systems or facilities, or surface and 288  
storm water drainage and sewerage systems or facilities, or a 289  
combination of those systems or facilities; 290

(c) Electric plants and facilities and steam or cogeneration 291  
facilities that generate or supply electricity, or steam and 292  
electrical or steam distribution systems and lines; 293

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| (d) Airports or landing fields or facilities;   | 294   |
| (e) Railroads, rapid transit, and other mass transit systems;   | 295   |
| (f) Off-street parking lots, facilities, or buildings, or<br>on-street parking facilities, or any combination of off-street and<br>on-street parking facilities;  | 296<br>297<br>298                             |
| (g) Facilities for the care or treatment of the sick or<br>infirm, and for housing the persons providing such care or<br>treatment and their families;  | 299<br>300<br>301                             |
| (h) Solid waste or hazardous waste collection or disposal<br>facilities, or resource recovery and solid or hazardous waste<br>recycling facilities, or any combination of those facilities;   | 302<br>303<br>304                             |
| (i) Urban redevelopment projects;   | 305   |
| (j) Recreational, sports, convention, auditorium, museum,<br>trade show, and other public attraction facilities;  | 306<br>307                                    |
| (k) Facilities for natural resources exploration,<br>development, recovery, use, and sale;  | 308<br>309                                    |
| (1) Correctional and detention facilities, including<br>multicounty-municipal jails, and related rehabilitation<br>facilities.  | 310<br>311<br>312                             |
| (2) Securities issued for the purpose of purchasing,<br>constructing, improving, or extending water or sanitary or surface<br>and storm water sewerage systems or facilities, or a combination<br>of those systems or facilities, to the extent that an agreement<br>entered into with another subdivision requires the other<br>subdivision to pay to the municipal corporation amounts equivalent<br>to debt charges on the securities; | 313<br>314<br>315<br>316<br>317<br>318<br>319 |
| (3) Securities issued under order of the director of health<br>or director of environmental protection under section 6109.18 of<br>the Revised Code;  | 320<br>321<br>322                             |

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| (4) Securities issued under Section 3, 10, or 12 of Article XVIII, Ohio Constitution;  | 323<br>324  |
| (5) Securities that are not general obligations of the municipal corporation;  | 325<br>326  |
| (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;   | 327<br>328<br>329<br>330                                    |
| (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; | 331<br>332<br>333<br>334<br>335<br>336<br>337<br>338<br>339 |
| (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;  | 340<br>341<br>342<br>343<br>344<br>345                      |
| (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  | 346<br>347<br>348<br>349<br>350<br>351<br>352<br>353        |

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

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| to proceedings related to the imposition of community control      | 383 |
| sanctions and post-release control sanctions;                      | 384 |
| (c) Records pertaining to actions under section 2151.85 and        | 385 |
| division (C) of section 2919.121 of the Revised Code and to        | 386 |
| appeals of actions arising under those sections;                   | 387 |
| (d) Records pertaining to adoption proceedings, including the      | 388 |
| contents of an adoption file maintained by the department of       | 389 |
| health under section 3705.12 of the Revised Code;                  | 390 |
| (e) Information in a record contained in the putative father       | 391 |
| registry established by section 3107.062 of the Revised Code,      | 392 |
| regardless of whether the information is held by the department of | 393 |
| job and family services or, pursuant to section 3111.69 of the     | 394 |
| Revised Code, the office of child support in the department or a   | 395 |
| child support enforcement agency;                                  | 396 |
| (f) Records listed in division (A) of section 3107.42 of the       | 397 |
| Revised Code or specified in division (A) of section 3107.52 of    | 398 |
| the Revised Code;  | 399 |
| (g) Trial preparation records;                                     | 400 |
| (h) Confidential law enforcement investigatory records;            | 401 |
| (i) Records containing information that is confidential under      | 402 |
| section 2317.023 or 4112.05 of the Revised Code;                   | 403 |
| (j) DNA records stored in the DNA database pursuant to             | 404 |
| section 109.573 of the Revised Code;                               | 405 |
| (k) Inmate records released by the department of                   | 406 |
| rehabilitation and correction to the department of youth services  | 407 |
| or a court of record pursuant to division (E) of section 5120.21   | 408 |
| of the Revised Code;   | 409 |
| (l) Records maintained by the department of youth services         | 410 |
| pertaining to children in its custody released by the department   | 411 |
| of youth services to the department of rehabilitation and          | 412 |

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| correction pursuant to section 5139.05 of the Revised Code;  | 413                             |
| (m) Intellectual property records;   | 414                             |
| (n) Donor profile records;   | 415                             |
| (o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;  | 416<br>417                      |
| (p) Peace officer, firefighter, or EMT residential and familial information;   | 418<br>419                      |
| (q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code <u>or a municipal hospital operated pursuant to Chapter 749. of the Revised Code</u> , information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;  | 420<br>421<br>422<br>423<br>424 |
| (r) Information pertaining to the recreational activities of a person under the age of eighteen;   | 425<br>426                      |
| (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;                                      | 427<br>428<br>429<br>430<br>431 |
| (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;   | 432<br>433<br>434<br>435        |
| (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; | 436<br>437<br>438<br>439<br>440 |
| (v) Records the release of which is prohibited by state or federal law;  | 441<br>442                      |

(w) Proprietary information of or relating to any person that 443  
is submitted to or compiled by the Ohio venture capital authority 444  
created under section 150.01 of the Revised Code; 445

(x) Information reported and evaluations conducted pursuant 446  
to section 3701.072 of the Revised Code. 447

(2) "Confidential law enforcement investigatory record" means 448  
any record that pertains to a law enforcement matter of a 449  
criminal, quasi-criminal, civil, or administrative nature, but 450  
only to the extent that the release of the record would create a 451  
high probability of disclosure of any of the following: 452

(a) The identity of a suspect who has not been charged with 453  
the offense to which the record pertains, or of an information 454  
source or witness to whom confidentiality has been reasonably 455  
promised; 456

(b) Information provided by an information source or witness 457  
to whom confidentiality has been reasonably promised, which 458  
information would reasonably tend to disclose the source's or 459  
witness's identity; 460

(c) Specific confidential investigatory techniques or 461  
procedures or specific investigatory work product; 462

(d) Information that would endanger the life or physical 463  
safety of law enforcement personnel, a crime victim, a witness, or 464  
a confidential information source. 465

(3) "Medical record" means any document or combination of 466  
documents, except births, deaths, and the fact of admission to or 467  
discharge from a hospital, that pertains to the medical history, 468  
diagnosis, prognosis, or medical condition of a patient and that 469  
is generated and maintained in the process of medical treatment. 470

(4) "Trial preparation record" means any record that contains 471  
information that is specifically compiled in reasonable 472



anticipation of, or in defense of, a civil or criminal action or 473  
proceeding, including the independent thought processes and 474  
personal trial preparation of an attorney. 475

(5) "Intellectual property record" means a record, other than 476  
a financial or administrative record, that is produced or 477  
collected by or for faculty or staff of a state institution of 478  
higher learning in the conduct of or as a result of study or 479  
research on an educational, commercial, scientific, artistic, 480  
technical, or scholarly issue, regardless of whether the study or 481  
research was sponsored by the institution alone or in conjunction 482  
with a governmental body or private concern, and that has not been 483  
publicly released, published, or patented. 484

(6) "Donor profile record" means all records about donors or 485  
potential donors to a public institution of higher education 486  
except the names and reported addresses of the actual donors and 487  
the date, amount, and conditions of the actual donation. 488

(7) "Peace officer, firefighter, or EMT residential and 489  
familial information" means either of the following: 490

(a) Any information maintained in a personnel record of a 491  
peace officer, firefighter, or EMT that discloses any of the 492  
following: 493

(i) The address of the actual personal residence of a peace 494  
officer, firefighter, or EMT, except for the state or political 495  
subdivision in which the peace officer, firefighter, or EMT 496  
resides; 497

(ii) Information compiled from referral to or participation 498  
in an employee assistance program; 499

(iii) The social security number, the residential telephone 500  
number, any bank account, debit card, charge card, or credit card 501  
number, or the emergency telephone number of, or any medical 502

information pertaining to, a peace officer, firefighter, or EMT; 503

(iv) The name of any beneficiary of employment benefits, 504  
including, but not limited to, life insurance benefits, provided 505  
to a peace officer, firefighter, or EMT by the peace officer's, 506  
firefighter's, or EMT's employer; 507

(v) The identity and amount of any charitable or employment 508  
benefit deduction made by the peace officer's, firefighter's, or 509  
EMT's employer from the peace officer's, firefighter's, or EMT's 510  
compensation unless the amount of the deduction is required by 511  
state or federal law; 512

(vi) The name, the residential address, the name of the 513  
employer, the address of the employer, the social security number, 514  
the residential telephone number, any bank account, debit card, 515  
charge card, or credit card number, or the emergency telephone 516  
number of the spouse, a former spouse, or any child of a peace 517  
officer, firefighter, or EMT. 518

(b) Any record that identifies a person's occupation as a 519  
peace officer, firefighter, or EMT other than statements required 520  
to include the disclosure of that fact under the campaign finance 521  
law. 522

As used in divisions (A)(7) and (B)(5) of this section, 523  
"peace officer" has the same meaning as in section 109.71 of the 524  
Revised Code and also includes the superintendent and troopers of 525  
the state highway patrol; it does not include the sheriff of a 526  
county or a supervisory employee who, in the absence of the 527  
sheriff, is authorized to stand in for, exercise the authority of, 528  
and perform the duties of the sheriff. 529

As used in divisions (A)(7) and (B)(5) of this section, 530  
"firefighter" means any regular, paid or volunteer, member of a 531  
lawfully constituted fire department of a municipal corporation, 532  
township, fire district, or village. 533

As used in divisions (A)(7) and (B)(5) of this section, "EMT" 534  
means EMTs-basic, EMTs-I, and paramedics that provide emergency 535  
medical services for a public emergency medical service 536  
organization. "Emergency medical service organization," 537  
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as in 538  
section 4765.01 of the Revised Code. 539

(8) "Information pertaining to the recreational activities of 540  
a person under the age of eighteen" means information that is kept 541  
in the ordinary course of business by a public office, that 542  
pertains to the recreational activities of a person under the age 543  
of eighteen years, and that discloses any of the following: 544

(a) The address or telephone number of a person under the age 545  
of eighteen or the address or telephone number of that person's 546  
parent, guardian, custodian, or emergency contact person; 547

(b) The social security number, birth date, or photographic 548  
image of a person under the age of eighteen; 549

(c) Any medical record, history, or information pertaining to 550  
a person under the age of eighteen; 551

(d) Any additional information sought or required about a 552  
person under the age of eighteen for the purpose of allowing that 553  
person to participate in any recreational activity conducted or 554  
sponsored by a public office or to use or obtain admission 555  
privileges to any recreational facility owned or operated by a 556  
public office. 557

(9) "Community control sanction" has the same meaning as in 558  
section 2929.01 of the Revised Code. 559

(10) "Post-release control sanction" has the same meaning as 560  
in section 2967.01 of the Revised Code. 561

(B)(1) Subject to division (B)(4) of this section, all public 562  
records shall be promptly prepared and made available for 563

inspection to any person at all reasonable times during regular 564  
business hours. Subject to division (B)(4) of this section, upon 565  
request, a public office or person responsible for public records 566  
shall make copies available at cost, within a reasonable period of 567  
time. In order to facilitate broader access to public records, 568  
public offices shall maintain public records in a manner that they 569  
can be made available for inspection in accordance with this 570  
division. 571

(2) If any person chooses to obtain a copy of a public record 572  
in accordance with division (B)(1) of this section, the public 573  
office or person responsible for the public record shall permit 574  
that person to choose to have the public record duplicated upon 575  
paper, upon the same medium upon which the public office or person 576  
responsible for the public record keeps it, or upon any other 577  
medium upon which the public office or person responsible for the 578  
public record determines that it reasonably can be duplicated as 579  
an integral part of the normal operations of the public office or 580  
person responsible for the public record. When the person seeking 581  
the copy makes a choice under this division, the public office or 582  
person responsible for the public record shall provide a copy of 583  
it in accordance with the choice made by the person seeking the 584  
copy. 585

(3) Upon a request made in accordance with division (B)(1) of 586  
this section, a public office or person responsible for public 587  
records shall transmit a copy of a public record to any person by 588  
United States mail within a reasonable period of time after 589  
receiving the request for the copy. The public office or person 590  
responsible for the public record may require the person making 591  
the request to pay in advance the cost of postage and other 592  
supplies used in the mailing. 593

Any public office may adopt a policy and procedures that it 594  
will follow in transmitting, within a reasonable period of time 595

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 628  
disclose to the journalist the address of the actual personal 629  
residence of the peace officer, firefighter or EMT and, if the 630  
peace officer's, firefighter's or EMT's spouse, former spouse, or 631  
child is employed by a public office, the name and address of the 632  
employer of the peace officer's, firefighter's, or EMT's spouse, 633  
former spouse, or child. The request shall include the 634  
journalist's name and title and the name and address of the 635  
journalist's employer and shall state that disclosure of the 636  
information sought would be in the public interest. 637

As used in division (B)(5) of this section, "journalist" 638  
means a person engaged in, connected with, or employed by any news 639  
medium, including a newspaper, magazine, press association, news 640  
agency, or wire service, a radio or television station, or a 641  
similar medium, for the purpose of gathering, processing, 642  
transmitting, compiling, editing, or disseminating information for 643  
the general public. 644

(C) If a person allegedly is aggrieved by the failure of a 645  
public office to promptly prepare a public record and to make it 646  
available to the person for inspection in accordance with division 647  
(B) of this section, or if a person who has requested a copy of a 648  
public record allegedly is aggrieved by the failure of a public 649  
office or the person responsible for the public record to make a 650  
copy available to the person allegedly aggrieved in accordance 651  
with division (B) of this section, the person allegedly aggrieved 652  
may commence a mandamus action to obtain a judgment that orders 653  
the public office or the person responsible for the public record 654  
to comply with division (B) of this section and that awards 655  
reasonable attorney's fees to the person that instituted the 656  
mandamus action. The mandamus action may be commenced in the court 657  
of common pleas of the county in which division (B) of this 658  
section allegedly was not complied with, in the supreme court 659

pursuant to its original jurisdiction under Section 2 of Article 660  
IV, Ohio Constitution, or in the court of appeals for the 661  
appellate district in which division (B) of this section allegedly 662  
was not complied with pursuant to its original jurisdiction under 663  
Section 3 of Article IV, Ohio Constitution. 664

(D) Chapter 1347. of the Revised Code does not limit the 665  
provisions of this section. 666

(E)(1) The bureau of motor vehicles may adopt rules pursuant 667  
to Chapter 119. of the Revised Code to reasonably limit the number 668  
of bulk commercial special extraction requests made by a person 669  
for the same records or for updated records during a calendar 670  
year. The rules may include provisions for charges to be made for 671  
bulk commercial special extraction requests for the actual cost of 672  
the bureau, plus special extraction costs, plus ten per cent. The 673  
bureau may charge for expenses for redacting information, the 674  
release of which is prohibited by law. 675

(2) As used in divisions (B)(3) and (E)(1) of this section: 676

(a) "Actual cost" means the cost of depleted supplies, 677  
records storage media costs, actual mailing and alternative 678  
delivery costs, or other transmitting costs, and any direct 679  
equipment operating and maintenance costs, including actual costs 680  
paid to private contractors for copying services. 681

(b) "Bulk commercial special extraction request" means a 682  
request for copies of a record for information in a format other 683  
than the format already available, or information that cannot be 684  
extracted without examination of all items in a records series, 685  
class of records, or data base by a person who intends to use or 686  
forward the copies for surveys, marketing, solicitation, or resale 687  
for commercial purposes. "Bulk commercial special extraction 688  
request" does not include a request by a person who gives 689  
assurance to the bureau that the person making the request does 690

not intend to use or forward the requested copies for surveys, 691  
marketing, solicitation, or resale for commercial purposes. 692

(c) "Commercial" means profit-seeking production, buying, or 693  
selling of any good, service, or other product. 694

(d) "Special extraction costs" means the cost of the time 695  
spent by the lowest paid employee competent to perform the task, 696  
the actual amount paid to outside private contractors employed by 697  
the bureau, or the actual cost incurred to create computer 698  
programs to make the special extraction. "Special extraction 699  
costs" include any charges paid to a public agency for computer or 700  
records services. 701

(3) For purposes of divisions (E)(1) and (2) of this section, 702  
"commercial surveys, marketing, solicitation, or resale" shall be 703  
narrowly construed and does not include reporting or gathering 704  
news, reporting or gathering information to assist citizen 705  
oversight or understanding of the operation or activities of 706  
government, or nonprofit educational research. 707

**Sec. 721.15.** (A) Personal property not needed for municipal 708  
purposes, the estimated value of which is less than one thousand 709  
dollars, may be sold by the board or officer having supervision or 710  
management of that property. If the estimated value of that 711  
property is one thousand dollars or more, it shall be sold only 712  
when authorized by an ordinance of the legislative authority of 713  
the municipal corporation and approved by the board, officer, or 714  
director having supervision or management of that property. When 715  
so authorized, the board, officer, or director shall make a 716  
written contract with the highest and best bidder after 717  
advertisement for not less than two or more than four consecutive 718  
weeks in a newspaper of general circulation within the municipal 719  
corporation, or with a board of county commissioners upon such 720  
lawful terms as are agreed upon, as provided by division (B)(1) of 721



section 721.27 of the Revised Code. 722

(B) When the legislative authority finds, by resolution, that 723  
the municipal corporation has vehicles, equipment, or machinery 724  
which is obsolete, or is not needed or is unfit for public use, 725  
that the municipal corporation has need of other vehicles, 726  
equipment, or machinery of the same type, and that it will be in 727  
the best interest of the municipal corporation that the sale of 728  
obsolete, unneeded, or unfit vehicles, equipment, or machinery be 729  
made simultaneously with the purchase of the new vehicles, 730  
equipment, or machinery of the same type, the legislative 731  
authority may offer to sell, or authorize a board, officer, or 732  
director of the municipal corporation having supervision or 733  
management of the property to offer to sell, those vehicles, 734  
equipment, or machinery and to have the selling price credited 735  
against the purchase price of other vehicles, equipment, or 736  
machinery and to consummate the sale and purchase by a single 737  
contract with the lowest and best bidder to be determined by 738  
subtracting from the selling price of the vehicles, equipment, or 739  
machinery to be purchased by the municipal corporation the 740  
purchase price offered for the municipally-owned vehicles, 741  
equipment, or machinery. When the legislative authority or the 742  
authorized board, officer, or director of a municipal corporation 743  
advertises for bids for the sale of new vehicles, equipment, or 744  
machinery to the municipal corporation, they may include in the 745  
same advertisement a notice of willingness to accept bids for the 746  
purchase of municipally-owned vehicles, equipment, or machinery 747  
which is obsolete, or is not needed or is unfit for public use, 748  
and to have the amount of those bids subtracted from the selling 749  
price as a means of determining the lowest and best bidder. 750

(C) If the legislative authority of the municipal corporation 751  
determines that municipal personal property is not needed for 752  
public use, or is obsolete or unfit for the use for which it was 753

acquired, and that the property has no value, the legislative  
authority may discard or salvage that property.

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(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.

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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

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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.

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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.

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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.

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(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:

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(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;~~

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(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.

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**Sec. 737.03.** The director of public safety shall manage and

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make all contracts with reference to police stations, fire houses, 816  
reform schools, infirmaries, hospitals other than municipal 817  
hospitals operated pursuant to Chapter 749. of the Revised Code, 818  
workhouses, farms, pesthouses, and all other charitable and 819  
reformatory institutions. In the control and supervision of those 820  
institutions, the director shall be governed by the provisions of 821  
Title VII of the Revised Code relating to those institutions. 822

The director may make all contracts and expenditures of money 823  
for acquiring lands for the erection or repairing of station 824  
houses, police stations, fire department buildings, fire cisterns, 825  
and plugs, that are required, for the purchase of engines, 826  
apparatus, and all other supplies necessary for the police and 827  
fire departments, and for other undertakings and departments under 828  
the director's supervision, but no obligation involving an 829  
expenditure of more than twenty-five thousand dollars shall be 830  
created unless first authorized and directed by ordinance. In 831  
making, altering, or modifying those contracts, the director shall 832  
be governed by sections 735.05 to 735.09 of the Revised Code, 833  
except that all bids shall be filed with and opened by the 834  
director. The director shall make no sale or disposition of any 835  
property belonging to the city without first being authorized by 836  
resolution or ordinance of the city legislative authority. 837

**Sec. 749.02.** The legislative authority of a municipal 838  
corporation may agree with a corporation organized for charitable 839  
purposes and not for profit, for the erection and management of a 840  
hospital suitably located for the treatment of the sick and 841  
disabled of such municipal corporation, or for an addition to such 842  
hospital, and for a permanent interest therein to such extent and 843  
upon such terms as are agreed upon between them, and the 844  
legislative authority shall provide for the payment of the amount 845  
agreed upon for such interest, either in one payment or in annual 846  
installments, as is agreed upon. 847

Such agreement shall not become operative until approved by a 848  
vote of the electors of the municipal corporation as provided in 849  
section ~~749.03~~ 749.021 of the Revised Code. 850

**Sec. ~~749.03~~ 749.021.** Upon the execution of the agreement 851  
provided for in section 749.02 of the Revised Code the legislative 852  
authority of the municipal corporation shall submit to the 853  
electors thereof, at the next general election occurring not less 854  
than seventy-five days after the certification of the resolution 855  
to the board of elections, the question of the ratification of 856  
such agreement, and if the sum to be paid by the municipal 857  
corporation under the terms of such agreement is not available 858  
from current general revenues thereof, the legislative authority 859  
shall also submit to the electors, at the same election, the 860  
question of the issue of bonds of the municipal corporation in the 861  
amount specified in such agreement for the purpose of providing 862  
funds for the payment of such sum. The proceedings in the matter 863  
of such election and in the issuance and sale of such bonds shall 864  
be as provided by law for municipal bonds. Such agreement shall 865  
not be effective, and no bonds shall be issued, unless the 866  
electors approve of both the agreement and the bond issue, if the 867  
question of the issue of bonds is so submitted. 868

**Sec. 749.03.** (A) As used in this section, "health facility" 869  
means both of the following: 870

(1) A hospital, as defined in section 3727.01 of the Revised 871  
Code; 872

(2) A facility other than a hospital, as defined in section 873  
3727.01 of the Revised Code, where medical care and preventive, 874  
diagnostic, therapeutic, rehabilitative, or palliative items or 875  
services are provided to outpatients by or under the direction of 876  
a physician or dentist. 877

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(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.

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(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:

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(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.

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(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

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pursuant to division (B)(1) of this section, adopts a resolution 909  
denying the board the right to establish the facility. 910

(3) If the legislative authority of a municipal corporation 911  
provides a subsidy for uncompensated care to a board of hospital 912  
commissioners, the board may establish and operate the health 913  
facility only if that legislative authority approves the 914  
establishment of the facility. 915

**Sec. 749.08.** (A) The board of hospital commissioners shall 916  
have the entire management and control of a hospital erected under 917  
sections 749.02 to 749.14 of the Revised Code, when completed and 918  
ready for use, and shall assume and continue the operation of the 919  
hospital. Subject to the ordinances of the legislative authority 920  
of the municipal corporation, the board shall establish rules for 921  
the hospital's government, and the admission of persons to its 922  
privileges, as are expedient. 923

(B) The board has control of the property of the hospital. 924  
The board's control of property includes acquiring, holding, 925  
possessing, managing, and disposing of real and personal property. 926

(C) The board may enter into contracts with any person or 927  
government entity. No member of the board shall be interested, 928  
directly or indirectly, in any contract concerning the hospital. 929

(D)(1) The board has control of all funds used in the 930  
hospital's operation, including moneys received from the operation 931  
of the hospital, moneys appropriated for its operation by the 932  
legislative authority of the municipal corporation, and moneys 933  
resulting from special levies submitted by the legislative 934  
authority for operation of the hospital. Of those funds, all or 935  
part of any amount determined not to be necessary to meet current 936  
demands on the hospital may be invested by the board or its 937  
designee in any classifications of securities and obligations 938

eligible for deposit or investment of moneys pursuant to section 939  
135.14 of the Revised Code, subject to the approval of the board's 940  
written investment policy by the legislative authority of the 941  
municipal corporation. 942

(2) Each disbursement of funds shall be made on a voucher 943  
signed by signatories designated and approved by the board. 944

(3) Unless an expenditure is first authorized by the board, 945  
no money shall be paid for any of the following: 946

(a) The erection, rebuilding, or repair of the hospital; 947

(b) An addition to the hospital; 948

(c) Supplies for the hospital; 949

(d) Replacement of necessary equipment for the hospital; 950

(e) Acquisition, leasing, or construction of permanent 951  
improvements to hospital property; 952

(f) Donations authorized under division (H) of this section; 953

(g) Any other use or purpose related to the hospital. 954

(E) For the use and benefit of the hospital, the board may 955  
take and hold in trust any grant or devise of land and any 956  
donation or bequest of money or other personal property. 957

(F) With respect to taking title to or a leasehold interest 958  
in property on behalf of the hospital, both of the following 959  
apply: 960

(1) The title to or leasehold interest in the property may be 961  
taken in the name of the board or an entity organized for 962  
charitable purposes that is under the board's control. 963

(2) If a transaction occurs or has occurred in which the 964  
title to or leasehold interest in the property was taken in the 965  
name of the legislative authority of the municipality, the title 966  
to or leasehold interest in the property may be conveyed to the 967



board or an entity organized for charitable purposes that is under 968  
the board's control. 969

(G) When the legislative authority of a municipal corporation 970  
acquires property for purposes of the hospital, an easement may be 971  
acquired in the name of the board. 972

(H) For the public purpose of improving the health, safety, 973  
and general welfare of the community, the board of hospital 974  
commissioners may donate to a nonprofit entity any of the 975  
following: 976

(1) Moneys and other financial assets determined not to be 977  
necessary to meet current demands on the hospital; 978

(2) Surplus hospital property, including supplies, equipment, 979  
office facilities, and other property; 980

(3) Services rendered by the hospital. 981

**Sec. 749-08 749.081.** (A) For purposes of this section: 982

(1) "Bank" has the same meaning as in section 1101.01 of the 983  
Revised Code. 984

(2) "Savings and loan association" has the same meaning as in 985  
section 1151.01 of the Revised Code. 986

(3) "Savings bank" has the same meaning as in section 1161.01 987  
of the Revised Code. 988

~~(B) No money shall be paid for the erection, rebuilding, or~~ 989  
~~repair of a hospital, or for any addition thereto, or for supplies~~ 990  
~~therefor, unless such expenditure is first authorized by the board~~ 991  
~~of hospital commissioners, and upon the warrant of the proper~~ 992  
~~officer of the municipal corporation. No member of the board shall~~ 993  
~~be interested, directly or indirectly, in any contract concerning~~ 994  
~~such hospital.~~ 995

~~(C) The board of hospital commissioners may enter into a~~ 996

contract for a secured line of credit with a bank, savings and 997  
loan association, or savings bank if the contract meets all of the 998  
following requirements: 999

(1) The term of the contract does not exceed one hundred 1000  
eighty days; 1001

(2) The board's secured line of credit does not exceed five 1002  
hundred thousand dollars; 1003

(3) The contract provides that any amount extended must be 1004  
repaid in full before any additional credit can be extended; 1005

(4) The contract provides that the bank, savings and loan 1006  
association, or savings bank shall not commence a civil action 1007  
against the legislative authority of a municipal corporation or 1008  
any member thereof, or the municipal corporation to recover the 1009  
principal, interest, or any charges or other amounts that remain 1010  
outstanding on the secured line of credit at the time of any 1011  
default by the board of hospital commissioners; 1012

(5) The contract provides that no assets other than those of 1013  
the hospital can be used to secure the line of credit; 1014

(6) The terms and conditions of the contract comply with all 1015  
state and federal statutes and rules governing the extension of a 1016  
secured line of credit. 1017

~~(D)~~(C) Any obligation incurred by a board of hospital 1018  
commissioners under division ~~(E)~~(B) of this section is an 1019  
obligation of that board only and not a general obligation of the 1020  
legislative authority of a municipal corporation or the municipal 1021  
corporation within the meaning of division (Q) of section 133.01 1022  
of the Revised Code. 1023

~~(E)~~(D) No board of hospital commissioners shall at any time 1024  
have more than one secured line of credit under division (B) of 1025  
this section. 1026

~~Sec. 749.15 749.082.~~ (A) ~~The director of public safety shall~~ 1027  
~~have the entire management and control following apply to the~~ 1028  
~~board of hospital commissioners in relation to its employees and~~ 1029  
~~the employees~~ of a hospital erected under sections 749.02 to 1030  
749.14 of the Revised Code, ~~when completed and ready for use, and,~~ 1031  
subject to the ordinances of the legislative authority of the 1032  
city, ~~shall establish rules for its government, and the admission~~ 1033  
~~of persons to its privileges, as he deems expedient. The director~~ 1034  
~~may employ a superintendent, steward, physicians, nurses, and such~~ 1035  
~~other employees as are necessary, and fix the compensation of all~~ 1036  
~~such persons, which compensation shall be subject to the approval~~ 1037  
~~of the legislative authority. The director with the approval of~~ 1038  
~~the mayor may also employ counsel to bring legal action for the~~ 1039  
~~collection of delinquent accounts.~~ 1040

~~(B) The director of public safety~~ municipal corporation: 1041

(1) The board may adopt the wage and salary schedule for 1042  
employees. 1043

(2) The board may employ the hospital's administrator 1044  
pursuant to section 749.083 of the Revised Code, and the 1045  
administrator may employ individuals for the hospital in 1046  
accordance with that section. 1047

(3) The board may employ assistants as necessary to perform 1048  
its clerical work, superintend properly the construction of the 1049  
hospital, and pay the hospital's expenses. The employees may be 1050  
paid from funds provided for the hospital. 1051

(4) The board may enter into a contract with an employer or 1052  
other entity whereby the services of any employee of the board or 1053  
hospital are rendered to or on behalf of the employer or other 1054  
entity for a fee paid to the board or hospital. 1055

(5) The board may grant to employees ~~of a hospital erected~~ 1056

~~under sections 749.02 to 749.14 of the Revised Code any of the~~ 1057  
~~following as he~~ fringe benefits the board determines to be 1058  
customary and usual in the nonprofit hospital field in the 1059  
community, including the following: 1060

~~(1)~~(a) Additional vacation leave with full pay for full-time 1061  
employees, including hourly rate employees, after service of one 1062  
year; 1063

~~(2)~~(b) Vacation leave and holiday pay for part-time employees 1064  
on a pro rata basis; 1065

~~(3)~~(c) Leave with full pay, which shall not be deducted from 1066  
the employee's accumulated sick leave, due to death in the 1067  
employee's immediate family; 1068

~~(4)~~(d) Moving expenses for new employees; 1069

~~(5)~~(e) Premium pay for working on holidays observed by other 1070  
municipal agencies; 1071

~~(6)~~(f) Discounts on purchases from the hospital pharmacy. 1072

~~The director~~ (6) The board may provide holiday leave by 1073  
observing Martin Luther King day, Washington-Lincoln day, Columbus 1074  
day, and Veterans' day on days other than those specified in 1075  
section 1.14 of the Revised Code. 1076

(7) The board may grant to employees the insurance benefits 1077  
authorized by division (B) of this section. 1078

(8) The board may provide employee recognition awards and may 1079  
hold employee recognition dinners. ~~The director~~ 1080

(9) The board may provide scholarships for education in the 1081  
health care professions, tuition reimbursement, and other staff 1082  
development programs for the purpose of recruiting or retaining 1083  
qualified employees. ~~The~~ 1084

(10) The board may pay reasonable expenses for recruiting 1085  
physicians into the city or for retaining them if all or part of 1086

the city has been designated as an area with a shortage of 1087  
personal health services under the "Health Maintenance 1088  
Organization Act of 1973," 87 Stat. 914, 42 U.S.C. 300e, as 1089  
amended. 1090

(B)(1) The board of hospital commissioners may contract for, 1091  
purchase, or otherwise procure on behalf of any or all of its 1092  
employees, the employees of the hospital, or such employees and 1093  
their immediate dependents the following types of fringe benefits: 1094

(a) Group or individual insurance contracts which may include 1095  
life, sickness, accident, disability, annuities, endowment, 1096  
health, medical expense, hospital, dental, surgical and related 1097  
coverage or any combination thereof; 1098

(b) Group or individual contracts with health insuring 1099  
corporations or other providers of professional services, care, or 1100  
benefits duly authorized to do business in this state. 1101

(2) The board of hospital commissioners may contract for, 1102  
purchase, or otherwise procure insurance contracts which provide 1103  
protection for the commissioners, the board's employees, and the 1104  
employees of the hospital against liability, including 1105  
professional liability, provided that this section or any 1106  
insurance contract issued pursuant to this section shall not be 1107  
construed as a waiver of or in any manner affect the immunity of 1108  
the hospital or municipal corporation. 1109

(3) All or any portion of the cost, premium, fees, or charges 1110  
for the insurance benefits specified in divisions (B)(1) and (2) 1111  
of this section may be paid in such manner or combination of 1112  
manners as the board may determine, including direct payment by an 1113  
employee, and, if authorized in writing by an employee, by the 1114  
board with moneys made available by deduction from or reduction in 1115  
salary or wages or by the foregoing of a salary or wage increase. 1116

Notwithstanding sections 3917.01 and 3917.06 of the Revised 1117

Code, the board may purchase group life insurance authorized by 1118  
this section by reason of payment of premiums therefor by the 1119  
board from its funds, and such group life insurance may be issued 1120  
and purchased if otherwise consistent with sections 3917.01 to 1121  
3917.06 of the Revised Code. 1122

(C) The board with the approval of the legislative authority 1123  
may retain counsel to bring actions for the collection of 1124  
delinquent accounts. 1125

**Sec. 749.083.** (A) The board of hospital commissioners shall 1126  
provide for the administration of the hospital by directly 1127  
employing a hospital administrator or by entering into a contract 1128  
for the management of the hospital under which an administrator is 1129  
provided. When an administrator is employed directly, the board 1130  
shall adopt a job description delineating the administrator's 1131  
powers and duties and the board may pay the administrator's salary 1132  
and other benefits from funds provided for the hospital. 1133

(B) During the construction and equipping of the hospital, 1134  
the administrator shall act in an advisory capacity to the board. 1135  
After the hospital is completed, the administrator shall serve as 1136  
the chief executive officer and shall carry out the administration 1137  
of the hospital according to the policies set forth by the board. 1138

The administrator shall administer the hospital, make 1139  
reports, and take any other action that the administrator 1140  
determines is necessary for the operation of the hospital. 1141

At the end of each fiscal year, the administrator shall 1142  
submit to the board a complete financial statement showing the 1143  
receipts, revenues, and expenditures in detail for the entire 1144  
fiscal year. 1145

The administrator shall ensure that the hospital has such 1146  
physicians, nurses, and other employees as are necessary for the 1147

proper care, control, and management of the hospital and its 1148  
patients. The physicians, nurses, and other employees may be 1149  
suspended or removed by the administrator at any time the welfare 1150  
of the hospital warrants suspension or removal. The administrator 1151  
may obtain physicians, nurses, and other employees by direct 1152  
employment, entering into contracts, or granting authority to 1153  
practice in the hospital. 1154

Sec. 749.084. The board of hospital commissioners may do any 1155  
of the following if the board determines that the action is 1156  
reasonably related to the operation of the hospital: 1157

(A) Construct an addition to the hospital under the powers 1158  
vested the board under section 749.04 of the Revised Code; 1159

(B) Acquire an existing structure for the purpose of leasing 1160  
office space to local physicians; 1161

(C) Lease real property to any person to construct facilities 1162  
for providing medical services other than inpatient hospital 1163  
services or otherwise lease or convey interests in real estate for 1164  
providing medical services other than inpatient hospital services. 1165

Sec. 749.10. All contracts for the erection of a hospital 1166  
building shall be made in the name of the municipal corporation or 1167  
the board of hospital commissioners, and it shall be stipulated 1168  
therein that the contractor will not execute any extra work, or 1169  
make any modifications or alterations mentioned in the 1170  
specifications and plans, unless ordered in writing by the board 1171  
of hospital commissioners, that ~~he~~ the contractor will not claim 1172  
any pay therefor unless such written order is given, and the 1173  
additional compensation fixed and agreed upon. Copies of the plans 1174  
and drawings, attested by the contractor, and the original bids, 1175  
specifications, and contracts shall be deposited in the office of 1176  
the clerk of the municipal corporation. 1177

**Sec. 749.18.** Where an agreement under section 749.16 of the 1178  
Revised Code concerns or includes participation of a joint 1179  
township hospital district, or of a county, in the maintenance and 1180  
operation of a municipal hospital, the municipal corporation may 1181  
establish a board of governors to exercise, subject to such 1182  
further limitations as are imposed by the agreement, the powers 1183  
vested ~~under section 749.15 of the Revised Code in the director of~~ 1184  
~~public safety~~ board of hospital commissioners, provided that any 1185  
such limitations shall not deny the board of governors the 1186  
authority to ~~employ~~ retain counsel, to institute legal action in 1187  
its own name, or to employ any other lawful means, for the 1188  
collection of delinquent accounts. The board may include in its 1189  
membership such representatives of the participating district, or 1190  
of the county, as are provided for in such agreement. The 1191  
municipal members of the board shall consist of the mayor, who by 1192  
virtue of ~~his~~ that office shall be its president, and four 1193  
resident freeholders of the municipal corporation, at least one of 1194  
whom shall be a doctor of medicine, to be appointed by the mayor 1195  
with the consent of the legislative authority. The term of office 1196  
of such municipal members shall be as provided in section 749.05 1197  
of the Revised Code. The board shall, subject to the terms of the 1198  
agreement, establish such regulations and elect such officers, 1199  
other than president, as its members determine. The members shall 1200  
be entitled to such compensation for their services as is provided 1201  
by the agreement. 1202

**Sec. 749.24.** The board of hospital trustees shall, subject to 1203  
any ordinance of the municipal corporation, have the entire 1204  
management and control of the property or funds mentioned in 1205  
section 749.20 of the Revised Code, and shall establish such rules 1206  
for the government thereof as it deems expedient. Such board shall 1207  
also have the entire control of the expenditure of all moneys 1208



therefrom and they shall be disbursed by the treasurer of the 1209  
municipal corporation only upon the warrant of the municipal 1210  
auditor or clerk, drawn in accordance with the order of such 1211  
board. 1212

The board may apply, control, invest, and reinvest the funds 1213  
coming or arising from any gift, devise, or ~~request~~ bequest 1214  
according to the terms on which it was acquired. 1215

**Sec. 749.33.** The board of hospital trustees may employ such 1216  
~~superintendents, physicians, nurses, and other~~ employees as are 1217  
necessary for the execution of its duties and fix their 1218  
compensation. Any of such persons may be removed by the board at 1219  
any time. The board may provide to its employees such of the 1220  
benefits, awards, and staff development programs listed in section 1221  
~~749.15~~ 749.082 of the Revised Code as the board determines to be 1222  
customary and usual in the nonprofit hospital field in its 1223  
community. 1224

**Sec. 749.37.** Notwithstanding any conflicting provision of 1225  
sections 749.09 to 749.14 and 749.26 to 749.31 of the Revised 1226  
Code, Chapter 153. of the Revised Code, or any other competitive 1227  
bidding requirement specified in the Revised Code that requires a 1228  
public authority to enter into separate contracts for the design 1229  
and construction of a public improvement, a board of hospital 1230  
commissioners or a board of hospital trustees may enter into a 1231  
single contract under which the entity awarded the contract is 1232  
responsible for providing both design and construction services 1233  
related to the erection of a hospital, any addition to the 1234  
hospital, or any other improvement to the hospital or its 1235  
properties involving alteration, repair, replacement, renovation, 1236  
installation, or demolition. This section does not otherwise alter 1237  
the competitive bidding requirements that apply to the board when 1238  
entering into a contract for a public improvement. 1239

**Sec. 751.07.** In the management of a city infirmary, in the 1240  
care and treatment of the inmates thereof, and in the erection, 1241  
enlargement, or repair of any building for infirmary purposes, or 1242  
of any addition thereto, the director of public safety shall have 1243  
the same powers, be governed by the same regulations, and perform 1244  
the same duties, as far as applicable, as are vested in ~~him~~ a 1245  
board of hospital commissioners established under section 749.04 1246  
of the Revised Code in relation to municipal hospitals. The power 1247  
of the legislative authority in relation thereto shall be the 1248  
same, so far as applicable, as provided to the legislative 1249  
authority by sections 749.01 to 749.34, ~~inclusive~~, of the Revised 1250  
Code, in relation to hospitals. 1251

**Sec. 2744.01.** As used in this chapter: 1252

(A) "Emergency call" means a call to duty, including, but not 1253  
limited to, communications from citizens, police dispatches, and 1254  
personal observations by peace officers of inherently dangerous 1255  
situations that demand an immediate response on the part of a 1256  
peace officer. 1257

(B) "Employee" means an officer, agent, employee, or servant, 1258  
whether or not compensated or full-time or part-time, who is 1259  
authorized to act and is acting within the scope of the officer's, 1260  
agent's, employee's, or servant's employment for a political 1261  
subdivision. "Employee" does not include an independent contractor 1262  
and does not include any individual engaged by a school district 1263  
pursuant to section 3319.301 of the Revised Code. "Employee" 1264  
includes any elected or appointed official of a political 1265  
subdivision. "Employee" also includes a person who has been 1266  
convicted of or pleaded guilty to a criminal offense and who has 1267  
been sentenced to perform community service work in a political 1268  
subdivision whether pursuant to section 2951.02 of the Revised 1269

Code or otherwise, and a child who is found to be a delinquent 1270  
child and who is ordered by a juvenile court pursuant to section 1271  
2152.19 or 2152.20 of the Revised Code to perform community 1272  
service or community work in a political subdivision. 1273

(C)(1) "Governmental function" means a function of a 1274  
political subdivision that is specified in division (C)(2) of this 1275  
section or that satisfies any of the following: 1276

(a) A function that is imposed upon the state as an 1277  
obligation of sovereignty and that is performed by a political 1278  
subdivision voluntarily or pursuant to legislative requirement; 1279

(b) A function that is for the common good of all citizens of 1280  
the state; 1281

(c) A function that promotes or preserves the public peace, 1282  
health, safety, or welfare; that involves activities that are not 1283  
engaged in or not customarily engaged in by nongovernmental 1284  
persons; and that is not specified in division (G)(2) of this 1285  
section as a proprietary function. 1286

(2) A "governmental function" includes, but is not limited 1287  
to, the following: 1288

(a) The provision or nonprovision of police, fire, emergency 1289  
medical, ambulance, and rescue services or protection; 1290

(b) The power to preserve the peace; to prevent and suppress 1291  
riots, disturbances, and disorderly assemblages; to prevent, 1292  
mitigate, and clean up releases of oil and hazardous and extremely 1293  
hazardous substances as defined in section 3750.01 of the Revised 1294  
Code; and to protect persons and property; 1295

(c) The provision of a system of public education; 1296

(d) The provision of a free public library system; 1297

(e) The regulation of the use of, and the maintenance and 1298  
repair of, roads, highways, streets, avenues, alleys, sidewalks, 1299

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| bridges, aqueducts, viaducts, and public grounds;   | 1300 |
| (f) Judicial, quasi-judicial, prosecutorial, legislative, and quasi-legislative functions;  | 1301 |
|   | 1302 |
| (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;   | 1303 |
|   | 1304 |
|   | 1305 |
|   | 1306 |
| (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;  | 1307 |
|   | 1308 |
|   | 1309 |
|   | 1310 |
| (i) The enforcement or nonperformance of any law;   | 1311 |
| (j) The regulation of traffic, and the erection or nonerection of traffic signs, signals, or control devices;   | 1312 |
|   | 1313 |
| (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. | 1314 |
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| (l) The provision or nonprovision, planning or design, construction, or reconstruction of a public improvement, including, but not limited to, a sewer system;  | 1326 |
|   | 1327 |
|   | 1328 |
| (m) The operation of a job and family services department or  | 1329 |

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| agency, including, but not limited to, the provision of assistance | 1330 |
| to aged and infirm persons and to persons who are indigent;        | 1331 |
| (n) The operation of a health board, department, or agency,        | 1332 |
| including, but not limited to, any statutorily required or         | 1333 |
| permissive program for the provision of immunizations or other     | 1334 |
| inoculations to all or some members of the public, provided that a | 1335 |
| "governmental function" does not include the supply, manufacture,  | 1336 |
| distribution, or development of any drug or vaccine employed in    | 1337 |
| any such immunization or inoculation program by any supplier,      | 1338 |
| manufacturer, distributor, or developer of the drug or vaccine;    | 1339 |
| (o) The operation of mental health facilities, mental              | 1340 |
| retardation or developmental disabilities facilities, alcohol      | 1341 |
| treatment and control centers, and children's homes or agencies;   | 1342 |
| (p) The provision or nonprovision of inspection services of        | 1343 |
| all types, including, but not limited to, inspections in           | 1344 |
| connection with building, zoning, sanitation, fire, plumbing, and  | 1345 |
| electrical codes, and the taking of actions in connection with     | 1346 |
| those types of codes, including, but not limited to, the approval  | 1347 |
| of plans for the construction of buildings or structures and the   | 1348 |
| issuance or revocation of building permits or stop work orders in  | 1349 |
| connection with buildings or structures;                           | 1350 |
| (q) Urban renewal projects and the elimination of slum             | 1351 |
| conditions;  | 1352 |
| (r) Flood control measures;  | 1353 |
| (s) The design, construction, reconstruction, renovation,          | 1354 |
| operation, care, repair, and maintenance of a township cemetery;   | 1355 |
| (t) The issuance of revenue obligations under section 140.06       | 1356 |
| of the Revised Code;   | 1357 |
| (u) The design, construction, reconstruction, renovation,          | 1358 |
| repair, maintenance, and operation of any school athletic          | 1359 |

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|--|------|
| facility, school auditorium, or gymnasium or any recreational area | 1360 |
| or facility, including, but not limited to, any of the following:  | 1361 |
| (i) A park, playground, or playfield;                              | 1362 |
| (ii) An indoor recreational facility;                              | 1363 |
| (iii) A zoo or zoological park;                                    | 1364 |
| (iv) A bath, swimming pool, pond, water park, wading pool,         | 1365 |
| wave pool, water slide, or other type of aquatic facility;         | 1366 |
| (v) A golf course;   | 1367 |
| (vi) A bicycle motocross facility or other type of                 | 1368 |
| recreational area or facility in which bicycling, skating, skate   | 1369 |
| boarding, or scooter riding is engaged;                            | 1370 |
| (vii) A rope course or climbing walls;                             | 1371 |
| (viii) An all-purpose vehicle facility in which all-purpose        | 1372 |
| vehicles, as defined in section 4519.01 of the Revised Code, are   | 1373 |
| contained, maintained, or operated for recreational activities.    | 1374 |
| (v) The provision of public defender services by a county or       | 1375 |
| joint county public defender's office pursuant to Chapter 120. of  | 1376 |
| the Revised Code;  | 1377 |
| (w)(i) At any time before regulations prescribed pursuant to       | 1378 |
| 49 U.S.C.A 20153 become effective, the designation, establishment, | 1379 |
| design, construction, implementation, operation, repair, or        | 1380 |
| maintenance of a public road rail crossing in a zone within a      | 1381 |
| municipal corporation in which, by ordinance, the legislative      | 1382 |
| authority of the municipal corporation regulates the sounding of   | 1383 |
| locomotive horns, whistles, or bells;                              | 1384 |
| (ii) On and after the effective date of regulations                | 1385 |
| prescribed pursuant to 49 U.S.C.A. 20153, the designation,         | 1386 |
| establishment, design, construction, implementation, operation,    | 1387 |
| repair, or maintenance of a public road rail crossing in such a    | 1388 |

zone or of a supplementary safety measure, as defined in 49 1389  
U.S.C.A 20153, at or for a public road rail crossing, if and to 1390  
the extent that the public road rail crossing is excepted, 1391  
pursuant to subsection (c) of that section, from the requirement 1392  
of the regulations prescribed under subsection (b) of that 1393  
section. 1394

(x) A function that the general assembly mandates a political 1395  
subdivision to perform. 1396

(D) "Law" means any provision of the constitution, statutes, 1397  
or rules of the United States or of this state; provisions of 1398  
charters, ordinances, resolutions, and rules of political 1399  
subdivisions; and written policies adopted by boards of education. 1400  
When used in connection with the "common law," this definition 1401  
does not apply. 1402

(E) "Motor vehicle" has the same meaning as in section 1403  
4511.01 of the Revised Code. 1404

(F) "Political subdivision" or "subdivision" means a 1405  
municipal corporation, township, county, school district, or other 1406  
body corporate and politic responsible for governmental activities 1407  
in a geographic area smaller than that of the state. "Political 1408  
subdivision" includes, but is not limited to, a county hospital 1409  
commission appointed under section 339.14 of the Revised Code, 1410  
board of hospital commissioners appointed for a municipal hospital 1411  
under section 749.04 of the Revised Code, board of hospital 1412  
trustees appointed for a municipal hospital under section 749.22 1413  
of the Revised Code, regional planning commission created pursuant 1414  
to section 713.21 of the Revised Code, county planning commission 1415  
created pursuant to section 713.22 of the Revised Code, joint 1416  
planning council created pursuant to section 713.231 of the 1417  
Revised Code, interstate regional planning commission created 1418  
pursuant to section 713.30 of the Revised Code, port authority 1419

created pursuant to section 4582.02 or 4582.26 of the Revised Code 1420  
or in existence on December 16, 1964, regional council established 1421  
by political subdivisions pursuant to Chapter 167. of the Revised 1422  
Code, emergency planning district and joint emergency planning 1423  
district designated under section 3750.03 of the Revised Code, 1424  
joint emergency medical services district created pursuant to 1425  
section 307.052 of the Revised Code, fire and ambulance district 1426  
created pursuant to section 505.375 of the Revised Code, joint 1427  
interstate emergency planning district established by an agreement 1428  
entered into under that section, county solid waste management 1429  
district and joint solid waste management district established 1430  
under section 343.01 or 343.012 of the Revised Code, and community 1431  
school established under Chapter 3314. of the Revised Code. 1432

(G)(1) "Proprietary function" means a function of a political 1433  
subdivision that is specified in division (G)(2) of this section 1434  
or that satisfies both of the following: 1435

(a) The function is not one described in division (C)(1)(a) 1436  
or (b) of this section and is not one specified in division (C)(2) 1437  
of this section; 1438

(b) The function is one that promotes or preserves the public 1439  
peace, health, safety, or welfare and that involves activities 1440  
that are customarily engaged in by nongovernmental persons. 1441

(2) A "proprietary function" includes, but is not limited to, 1442  
the following: 1443

(a) The operation of a hospital by one or more political 1444  
subdivisions; 1445

(b) The design, construction, reconstruction, renovation, 1446  
repair, maintenance, and operation of a public cemetery other than 1447  
a township cemetery; 1448

(c) The establishment, maintenance, and operation of a 1449  
utility, including, but not limited to, a light, gas, power, or 1450



heat plant, a railroad, a busline or other transit company, an 1451  
airport, and a municipal corporation water supply system; 1452

(d) The maintenance, destruction, operation, and upkeep of a 1453  
sewer system; 1454

(e) The operation and control of a public stadium, 1455  
auditorium, civic or social center, exhibition hall, arts and 1456  
crafts center, band or orchestra, or off-street parking facility. 1457

(H) "Public roads" means public roads, highways, streets, 1458  
avenues, alleys, and bridges within a political subdivision. 1459  
"Public roads" does not include berms, shoulders, rights-of-way, 1460  
or traffic control devices unless the traffic control devices are 1461  
mandated by the Ohio manual of uniform traffic control devices. 1462

(I) "State" means the state of Ohio, including, but not 1463  
limited to, the general assembly, the supreme court, the offices 1464  
of all elected state officers, and all departments, boards, 1465  
offices, commissions, agencies, colleges and universities, 1466  
institutions, and other instrumentalities of the state of Ohio. 1467  
"State" does not include political subdivisions. 1468

**Sec. 3702.62.** (A) Any action pursuant to section 140.03, 1469  
140.04, 140.05, 307.091, 313.21, 339.01, 339.021, 339.03, 339.06, 1470  
339.08, 339.09, 339.12, 339.14, 513.05, 513.07, 513.08, 513.081, 1471  
513.12, 513.15, 513.17, 513.171, 749.02, 749.03, 749.14, 749.16, 1472  
749.20, 749.25, 749.28, 749.35, 1751.06, or 3707.29 of the Revised 1473  
Code shall be taken in accordance with sections 3702.51 to 3702.61 1474  
of the Revised Code. 1475

(B) A nursing home certified as an intermediate care facility 1476  
for the mentally retarded under Title XIX of the "Social Security 1477  
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, that is 1478  
required to apply for licensure as a residential facility under 1479  
section 5123.19 of the Revised Code is not, with respect to the 1480

portion of the home certified as an intermediate care facility for 1481  
the mentally retarded, subject to sections 3702.51 to 3702.61 of 1482  
the Revised Code. 1483

**Sec. 4115.04.** (A) Every public authority authorized to 1484  
contract for or construct with its own forces a public 1485  
improvement, before advertising for bids or undertaking such 1486  
construction with its own forces, shall have the director of 1487  
commerce determine the prevailing rates of wages of mechanics and 1488  
laborers in accordance with section 4115.05 of the Revised Code 1489  
for the class of work called for by the public improvement, in the 1490  
locality where the work is to be performed. Such schedule of wages 1491  
shall be attached to and made part of the specifications for the 1492  
work, and shall be printed on the bidding blanks where the work is 1493  
done by contract. A copy of the bidding blank shall be filed with 1494  
the director before such contract is awarded. A minimum rate of 1495  
wages for common laborers, on work coming under the jurisdiction 1496  
of the department of transportation, shall be fixed in each county 1497  
of the state by said department of transportation, in accordance 1498  
with section 4115.05 of the Revised Code. 1499

(B) Sections 4115.03 to 4115.16 of the Revised Code do not 1500  
apply to: 1501

(1) Public improvements in any case where the federal 1502  
government or any of its agencies furnishes by loan or grant all 1503  
or any part of the funds used in constructing such improvements, 1504  
provided the federal government or any of its agencies prescribes 1505  
predetermined minimum wages to be paid to mechanics and laborers 1506  
employed in the construction of such improvements; 1507

(2) A participant in a work activity, developmental activity, 1508  
or an alternative work activity under sections 5107.40 to 5107.69 1509  
of the Revised Code when a public authority directly uses the 1510  
labor of the participant to construct a public improvement if the 1511

participant is not engaged in paid employment or subsidized 1512  
employment pursuant to the activity; 1513

(3) Public improvements undertaken by, or under contract for, 1514  
the board of education of any school district or the governing 1515  
board of any educational service center; 1516

(4) Public improvements undertaken by, or under contract for, 1517  
a county hospital operated pursuant to Chapter 339. of the Revised 1518  
Code or a municipal hospital operated pursuant to Chapter 749. of 1519  
the Revised Code if none of the funds used in constructing the 1520  
improvements are the proceeds of bonds or other obligations which 1521  
are secured by the full faith and credit of the state, ~~the a~~ 1522  
county, a township, or a municipal corporation and none of the 1523  
funds used in constructing the improvements, including funds used 1524  
to repay any amounts borrowed to construct the improvements, are 1525  
funds that have been appropriated for that purpose by the state, a 1526  
board of county commissioners, ~~the state,~~ a township, or a 1527  
municipal corporation from funds generated by the levy of a tax; 1528  
provided, however, that a county hospital or municipal hospital 1529  
may elect to apply sections 4115.03 to 4115.16 of the Revised Code 1530  
to a public improvement undertaken by, or under contract for, the 1531  
~~county~~ hospital. 1532

**Section 2.** That existing sections 121.22, 133.05, 149.43, 1533  
721.15, 721.27, 737.03, 749.02, 749.03, 749.08, 749.10, 749.15, 1534  
749.18, 749.24, 749.33, 751.07, 2744.01, 3702.62, and 4115.04 of 1535  
the Revised Code are hereby repealed. 1536