

As Reported by the Senate Judiciary Committee

125th General Assembly

Regular Session

2003-2004

Sub. S. B. No. 271

**Senators Jordan, Wachtmann, Jacobson, Austria, Goodman, Hottinger,
Mumper, Stivers**

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A B I L L

To amend sections 5126.01, 5126.02, 5126.021, 1
5126.022, 5126.023, 5126.03, 5126.031, 5126.033, 2
5126.034, 5126.30, 5705.191, and 5705.222, to 3
amend, for the purpose of adopting new section 4
numbers as indicated in parentheses, sections 5
5126.02 (5126.0212), 5126.021 (5126.029), 5126.022 6
(5126.0215), 5126.023 (5126.0225), and 5126.024 7
(5126.0226), and to enact new sections 5126.02, 8
5126.021, 5126.022, 5126.023, and 5126.024 and 9
sections 5126.025, 5126.026, 5126.027, 5126.028, 10
5126.0210, 5126.0211, 5126.0213, 5126.0214, 11
5126.0216, 5126.0217, 5126.0218, 5126.0219, 12
5126.0220, 5126.0221, 5126.0222, 5126.0223, 13
5126.0224, 5126.0227, 5126.0228, 5126.037, and 14
5126.038 of the Revised Code to revise the law 15
governing county boards of mental retardation and 16
developmental disabilities. 17

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

Section 1. That sections 5126.01, 5126.02, 5126.021, 18
5126.022, 5126.023, 5126.03, 5126.031, 5126.033, 5126.034, 19
5126.30, 5705.191, and 5705.222 be amended, sections 5126.02 20

(5126.0212), 5126.021 (5126.029), 5126.022 (5126.0215), 5126.023
(5126.0225), and 5126.024 (5126.0226) be amended for the purpose
of adopting new section numbers as indicated in parentheses, and
new sections 5126.02, 5126.021, 5126.022, 5126.023, and 5126.024
and sections 5126.025, 5126.026, 5126.027, 5126.028, 5126.0210,
5126.0211, 5126.0213, 5126.0214, 5126.0216, 5126.0217, 5126.0218,
5126.0219, 5126.0220, 5126.0221, 5126.0222, 5126.0223, 5126.0224,
5126.0227, 5126.0228, 5126.037, and 5126.038 of the Revised Code
be enacted to read as follows:

Sec. 5126.01. As used in this chapter:

(A) As used in this division, "adult" means an individual who
is eighteen years of age or over and not enrolled in a program or
service under Chapter 3323. of the Revised Code and an individual
sixteen or seventeen years of age who is eligible for adult
services under rules adopted by the director of mental retardation
and developmental disabilities pursuant to Chapter 119. of the
Revised Code.

(1) "Adult services" means services provided to an adult
outside the home, except when they are provided within the home
according to an individual's assessed needs and identified in an
individual service plan, that support learning and assistance in
the area of self-care, sensory and motor development,
socialization, daily living skills, communication, community
living, social skills, or vocational skills.

(2) "Adult services" includes all of the following:

(a) Adult day habilitation services;

(b) Adult day care;

(c) Prevocational services;

(d) Sheltered employment;

(e) Educational experiences and training obtained through 50
entities and activities that are not expressly intended for 51
individuals with mental retardation and developmental 52
disabilities, including trade schools, vocational or technical 53
schools, adult education, job exploration and sampling, unpaid 54
work experience in the community, volunteer activities, and 55
spectator sports; 56

(f) Community employment services and supported employment 57
services. 58

(B)(1) "Adult day habilitation services" means adult services 59
that do the following: 60

(a) Provide access to and participation in typical activities 61
and functions of community life that are desired and chosen by the 62
general population, including such activities and functions as 63
opportunities to experience and participate in community 64
exploration, companionship with friends and peers, leisure 65
activities, hobbies, maintaining family contacts, community 66
events, and activities where individuals without disabilities are 67
involved; 68

(b) Provide supports or a combination of training and 69
supports that afford an individual a wide variety of opportunities 70
to facilitate and build relationships and social supports in the 71
community. 72

(2) "Adult day habilitation services" includes all of the 73
following: 74

(a) Personal care services needed to ensure an individual's 75
ability to experience and participate in vocational services, 76
educational services, community activities, and any other adult 77
day habilitation services; 78

(b) Skilled services provided while receiving adult day 79

habilitation services, including such skilled services as behavior
management intervention, occupational therapy, speech and language
therapy, physical therapy, and nursing services;

(c) Training and education in self-determination designed to
help the individual do one or more of the following: develop
self-advocacy skills, exercise the individual's civil rights,
acquire skills that enable the individual to exercise control and
responsibility over the services received, and acquire skills that
enable the individual to become more independent, integrated, or
productive in the community;

(d) Recreational and leisure activities identified in the
individual's service plan as therapeutic in nature or assistive in
developing or maintaining social supports;

(e) Counseling and assistance provided to obtain housing,
including such counseling as identifying options for either rental
or purchase, identifying financial resources, assessing needs for
environmental modifications, locating housing, and planning for
ongoing management and maintenance of the housing selected;

(f) Transportation necessary to access adult day habilitation
services;

(g) Habilitation management, as described in section 5126.14
of the Revised Code.

(3) "Adult day habilitation services" does not include
activities that are components of the provision of residential
services, family support services, or supported living services.

(C) "Appointing authority" means the following:

(1) In the case of a member of a county board of mental
retardation and developmental disabilities appointed by, or to be
appointed by, a board of county commissioners, the board of county
commissioners;

(2) In the case of a member of a county board appointed by, 110
or to be appointed by, a probate judge, the probate judge. 111

(D) "Community employment services" or "supported employment 112
services" means job training and other services related to 113
employment outside a sheltered workshop. "Community employment 114
services" or "supported employment services" include all of the 115
following: 116

(1) Job training resulting in the attainment of competitive 117
work, supported work in a typical work environment, or 118
self-employment; 119

(2) Supervised work experience through an employer paid to 120
provide the supervised work experience; 121

(3) Ongoing work in a competitive work environment at a wage 122
commensurate with workers without disabilities; 123

(4) Ongoing supervision by an employer paid to provide the 124
supervision. 125

~~(D)~~(E) As used in this division, "substantial functional 126
limitation," "developmental delay," and "established risk" have 127
the meanings established pursuant to section 5123.011 of the 128
Revised Code. 129

"Developmental disability" means a severe, chronic disability 130
that is characterized by all of the following: 131

(1) It is attributable to a mental or physical impairment or 132
a combination of mental and physical impairments, other than a 133
mental or physical impairment solely caused by mental illness as 134
defined in division (A) of section 5122.01 of the Revised Code; 135

(2) It is manifested before age twenty-two; 136

(3) It is likely to continue indefinitely; 137

(4) It results in one of the following: 138

(a) In the case of a person under age three, at least one 139
developmental delay or an established risk; 140

(b) In the case of a person at least age three but under age 141
six, at least two developmental delays or an established risk; 142

(c) In the case of a person age six or older, a substantial 143
functional limitation in at least three of the following areas of 144
major life activity, as appropriate for the person's age: 145
self-care, receptive and expressive language, learning, mobility, 146
self-direction, capacity for independent living, and, if the 147
person is at least age sixteen, capacity for economic 148
self-sufficiency. 149

(5) It causes the person to need a combination and sequence 150
of special, interdisciplinary, or other type of care, treatment, 151
or provision of services for an extended period of time that is 152
individually planned and coordinated for the person. 153

~~(E)~~(F) "Early childhood services" means a planned program of 154
habilitation designed to meet the needs of individuals with mental 155
retardation or other developmental disabilities who have not 156
attained compulsory school age. 157

~~(F)~~(G)(1) "Environmental modifications" means the physical 158
adaptations to an individual's home, specified in the individual's 159
service plan, that are necessary to ensure the individual's 160
health, safety, and welfare or that enable the individual to 161
function with greater independence in the home, and without which 162
the individual would require institutionalization. 163

(2) "Environmental modifications" includes such adaptations 164
as installation of ramps and grab-bars, widening of doorways, 165
modification of bathroom facilities, and installation of 166
specialized electric and plumbing systems necessary to accommodate 167
the individual's medical equipment and supplies. 168

(3) "Environmental modifications" does not include physical adaptations or improvements to the home that are of general utility or not of direct medical or remedial benefit to the individual, including such adaptations or improvements as carpeting, roof repair, and central air conditioning.

~~(G)~~(H) "Family support services" means the services provided under a family support services program operated under section 5126.11 of the Revised Code.

~~(H)~~(I) "Habilitation" means the process by which the staff of the facility or agency assists an individual with mental retardation or other developmental disability in acquiring and maintaining those life skills that enable the individual to cope more effectively with the demands of the individual's own person and environment, and in raising the level of the individual's personal, physical, mental, social, and vocational efficiency. Habilitation includes, but is not limited to, programs of formal, structured education and training.

~~(I)~~(J) "Habilitation center services" means services provided by a habilitation center certified by the department of mental retardation and developmental disabilities under section 5123.041 of the Revised Code and covered by the medicaid program pursuant to rules adopted under section 5111.041 of the Revised Code.

~~(J)~~(K) "Home and community-based services" means medicaid-funded home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code and provided under the medicaid components the department of mental retardation and developmental disabilities administers pursuant to section 5111.871 of the Revised Code.

~~(K)~~(L) "Immediate family" means parents, brothers, sisters, spouses, sons, daughters, mothers-in-law, fathers-in-law, brothers-in-law, sisters-in-law, sons-in-law, and

<u>daughters-in-law.</u>	200
<u>(M)</u> "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.	201 202
(L) <u>(N)</u> "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires.	203 204 205 206
(M) <u>(O)</u> "Mental retardation" means a mental impairment manifested during the developmental period characterized by significantly subaverage general intellectual functioning existing concurrently with deficiencies in the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of the individual's age and cultural group.	207 208 209 210 211 212 213
(N) <u>(P)</u> "Residential services" means services to individuals with mental retardation or other developmental disabilities to provide housing, food, clothing, habilitation, staff support, and related support services necessary for the health, safety, and welfare of the individuals and the advancement of their quality of life. "Residential services" includes program management, as described in section 5126.14 of the Revised Code.	214 215 216 217 218 219 220
(O) <u>(Q)</u> "Resources" means available capital and other assets, including moneys received from the federal, state, and local governments, private grants, and donations; appropriately qualified personnel; and appropriate capital facilities and equipment.	221 222 223 224 225
(P) <u>(R)</u> "Service and support administration" means the duties performed by a service and support administrator pursuant to section 5126.15 of the Revised Code.	226 227 228
(Q) <u>(S)</u> (1) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" means equipment, supplies, and	229 230

supports that enable an individual to increase the ability to 231
perform activities of daily living or to perceive, control, or 232
communicate within the environment. 233

(2) "Specialized medical, adaptive, and assistive equipment, 234
supplies, and supports" includes the following: 235

(a) Eating utensils, adaptive feeding dishes, plate guards, 236
mylatex straps, hand splints, reaches, feeder seats, adjustable 237
pointer sticks, interpreter services, telecommunication devices 238
for the deaf, computerized communications boards, other 239
communication devices, support animals, veterinary care for 240
support animals, adaptive beds, supine boards, prone boards, 241
wedges, sand bags, sidelayers, bolsters, adaptive electrical 242
switches, hand-held shower heads, air conditioners, humidifiers, 243
emergency response systems, folding shopping carts, vehicle lifts, 244
vehicle hand controls, other adaptations of vehicles for 245
accessibility, and repair of the equipment received. 246

(b) Nondisposable items not covered by medicaid that are 247
intended to assist an individual in activities of daily living or 248
instrumental activities of daily living. 249

~~(R)~~(T) "Supportive home services" means a range of services 250
to families of individuals with mental retardation or other 251
developmental disabilities to develop and maintain increased 252
acceptance and understanding of such persons, increased ability of 253
family members to teach the person, better coordination between 254
school and home, skills in performing specific therapeutic and 255
management techniques, and ability to cope with specific 256
situations. 257

~~(S)~~(U)(1) "Supported living" means services provided for as 258
long as twenty-four hours a day to an individual with mental 259
retardation or other developmental disability through any public 260
or private resources, including moneys from the individual, that 261

enhance the individual's reputation in community life and advance	262
the individual's quality of life by doing the following:	263
(a) Providing the support necessary to enable an individual	264
to live in a residence of the individual's choice, with any number	265
of individuals who are not disabled, or with not more than three	266
individuals with mental retardation and developmental disabilities	267
unless the individuals are related by blood or marriage;	268
(b) Encouraging the individual's participation in the	269
community;	270
(c) Promoting the individual's rights and autonomy;	271
(d) Assisting the individual in acquiring, retaining, and	272
improving the skills and competence necessary to live successfully	273
in the individual's residence.	274
(2) "Supported living" includes the provision of all of the	275
following:	276
(a) Housing, food, clothing, habilitation, staff support,	277
professional services, and any related support services necessary	278
to ensure the health, safety, and welfare of the individual	279
receiving the services;	280
(b) A combination of life-long or extended-duration	281
supervision, training, and other services essential to daily	282
living, including assessment and evaluation and assistance with	283
the cost of training materials, transportation, fees, and	284
supplies;	285
(c) Personal care services and homemaker services;	286
(d) Household maintenance that does not include modifications	287
to the physical structure of the residence;	288
(e) Respite care services;	289
(f) Program management, as described in section 5126.14 of	290
the Revised Code.	291

Sec. 5126.02. (A) Each county shall either have its own 292
county board of mental retardation and developmental disabilities 293
or, pursuant to section 5126.021 or 5126.022 of the Revised Code, 294
be a member of a multi-county board of mental retardation and 295
developmental disabilities. Subject to division (B) of this 296
section, a county board shall be operated as a separate 297
administrative and service entity. Subject to division (B) of this 298
section, the functions of a county board shall not be combined 299
with the functions of any other entity of county government. 300

(B) Division (A) of this section does not prohibit or 301
restrict any county board from sharing administrative functions or 302
personnel with one or more other county boards, including, but not 303
limited to, entering into an arrangement authorized by division 304
(B) of section 5126.0225 of the Revised Code. 305

Sec. 5126.021. Subject to section 5126.024 of the Revised 306
Code, prior to January 1, 2007, boards of county commissioners and 307
probate judges may create a multi-county board of mental 308
retardation and developmental disabilities. To create the 309
multi-county board, a majority of the members of each of the 310
boards of county commissioners seeking to create the multi-county 311
board shall adopt an identical resolution providing for the 312
creation within a one-hundred-eighty-day period, and the probate 313
judge of each county served by those boards of county 314
commissioners shall issue an identical order providing for the 315
creation within the same one-hundred-eighty-day period. No 316
multi-county board of mental retardation and developmental 317
disabilities shall be created on or after January 1, 2007. 318

Sec. 5126.022. Subject to section 5126.024 of the Revised 319
Code, a county that is not part of the creation of a multi-county 320
board of mental retardation and developmental disabilities under 321

section 5126.021 of the Revised Code may join the multi-county board if all of the following occur within a sixty-day period: 322
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(A) A majority of the members of the board of county commissioners of the county seeking to join the multi-county board adopt an identical resolution providing for the joining; 324
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(B) A majority of the members of each of the boards of county commissioners of the counties that are members of the multi-county board adopt an identical resolution providing for the joining; 327
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(C) The probate judge of the county seeking to join the multi-county board issues an order providing for the joining; 330
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(D) The probate judge of each of the counties that are members of the multi-county board issues an order providing for the joining. 332
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Sec. 5126.023. (A) The board of county commissioners of a county that is a member of a multi-county board of mental retardation and developmental disabilities and the probate judge of that county may terminate the county's membership in the multi-county board in the manner provided in this section. To terminate the county's membership in the multi-county board, the board of county commissioners shall adopt a resolution, and the probate judge shall issue an order, providing for the termination. 335
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(B) A resolution of termination and an order of termination adopted under this section shall specify the last day that the county will be a member of the multi-county board. The resolution and order also shall provide for the county to do one of the following on the day immediately following the last day that the county will be a member of the multi-county board: 343
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(1) Create a single county board of mental retardation and developmental disabilities; 349
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(2) Co-create a new multi-county board pursuant to section 5126.021 of the Revised Code; 351
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(3) Join a different multi-county board pursuant to section 5126.022 of the Revised Code. 353
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(C) A resolution of termination and an order of termination adopted under this section shall include a plan for the equitable adjustment and division of all services, assets, property, debts, and obligations, if any, of the multi-county board that the county will cease to be a member of. 355
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(D) Any county terminating its membership in a multi-county board shall continue to have levied against its tax list and duplicate any tax levied by the board of county commissioners for mental retardation and developmental disability services during the period in which the county was a member of the multi-county board until the levy expires or is renewed or replaced. 360
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Sec. 5126.024. No more than five counties may be members of the same multi-county board of mental retardation and developmental disabilities. Only contiguous counties may be members of the same multi-county board. 366
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Sec. 5126.025. A board of county commissioners, and a probate judge, shall provide the director of mental retardation and developmental disabilities with a copy of each resolution the board adopts, or each order the judge issues, whichever is applicable, under section 5126.021, 5126.022, or 5126.023 of the Revised Code. 370
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Sec. 5126.026. (A) A reference to a county board of mental retardation and developmental disabilities in a law enacted by the general assembly shall mean the following: 376
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(1) In the case of a county with its own county board, a 379

single county board;

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(2) In the case of a county that is a member of a
multi-county board, a multi-county board.

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(B) Unless the context provides otherwise, a law enacted by
the general assembly that refers to a county, or an entity or
official of a county, that a county board of mental retardation
and developmental disabilities serves shall be deemed to refer to
the following:

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(1) In the case of a county with a single county board, that
county or the county entity or official specified in the law;

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(2) In the case of a county that is a member of a
multi-county board, each of the counties that are members of the
multi-county board or the specified entity or official of each of
those counties.

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Sec. 5126.027. Each county board of mental retardation and
developmental disabilities shall consist of seven members. In the
case of a single county board, the board of county commissioners
of the county shall appoint five members and the probate judge of
the county shall appoint two members. In the case of a
multi-county board, the membership shall be appointed as follows:

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(A) If there are five member counties, the board of county
commissioners of each of the member counties shall each appoint
one member and the probate judges of the member counties with the
largest and second largest population shall each appoint one
member.

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(B) If there are four member counties, the board of county
commissioners of the member county with the largest population
shall appoint two members, the other three boards of county
commissioners shall each appoint one member, and the probate
judges of the member counties with the largest and second largest

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population shall each appoint one member.

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(C) If there are three member counties, the boards of county commissioners of the member counties with the largest and second largest populations shall each appoint two members, the other board of county commissioners shall appoint one member, and the probate judges of the member counties with the largest and second largest population shall each appoint one member.

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(D) If there are two member counties, the board of county commissioners of the member county with the largest population shall appoint three members, the board of county commissioners of the other county shall appoint two members, and the probate judge of each county shall each appoint one member.

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Sec. 5126.028. (A) As used in this section and section 5126.0211 of the Revised Code, "relative" means a spouse, parent, parent-in-law, sibling, sibling-in-law, child, child-in-law, grandparent, aunt, or uncle.

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(B) When making appointments to a county board of mental retardation and developmental disabilities, an appointing authority shall do all of the following:

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(1) Appoint only individuals who are residents of the county the appointing authority serves, citizens of the United States, and interested and knowledgeable in the field of mental retardation and other allied fields;

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(2) If the appointing authority is a board of county commissioners, appoint, subject to division (C) of this section, at least two individuals who are relatives of individuals eligible for services provided by the county board and, whenever possible, ensure that one of those two members is a relative of an individual eligible for adult services and the other is a relative of an individual eligible for early intervention services or

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services for preschool or school-age children; 440

(3) If the appointing authority is a probate judge, appoint, 441
subject to division (C) of this section, at least one individual 442
who is a relative of an individual eligible for residential 443
services or supported living; 444

(4) Appoint, to the maximum extent possible, individuals who 445
have professional training and experience in business management, 446
finance, law, health care practice, personnel administration, or 447
government service; 448

(5) Provide for the county board's membership to reflect, as 449
nearly as possible, the composition of the county or counties that 450
the county board serves. 451

(C) The appointing authorities of a multi-county board shall 452
coordinate their appointments to the extent necessary to satisfy 453
the requirements of this section. The coordination may provide for 454
one of the boards of county commissioners making one of the two 455
appointments required by division (B)(2) of this section and 456
another board of county commissioners making the other appointment 457
required by that division. The coordination shall ensure that at 458
least one of the probate judges satisfies the requirement of 459
division (B)(3) of this section. 460

~~Sec. 5126.021 5126.029. As used in this section, "immediate~~ 461
~~family" means parents, brothers, sisters, spouses, sons,~~ 462
~~daughters, mothers in law, fathers in law, brothers in law,~~ 463
~~sisters in law, sons in law, and daughters in law.~~ 464

~~(A) The None of the following individuals shall not may serve~~ 465
~~as members a member of a county boards board of mental retardation~~ 466
~~and developmental disabilities:~~ 467

~~(1) Elected (A) An elected public officials official, except~~ 468
~~for a township trustees trustee, township clerks clerk, and those~~ 469

or individual excluded from the definition of public official or 470
employee in division (B) of section 102.01 of the Revised Code; 471

~~(2) Members of the (B) An immediate family member of another 472
county board member; 473~~

~~(3) Board employees and members of the (C) A county board 474
employee or immediate family member of a county board employees 475
employee; 476~~

~~(4) Former board employees within (D) An individual who had 477
been employed by the county board not less than one calendar year 478
of the termination of employment with the board on which the 479
former employee before the individual would begin to serve. 480~~

~~(B) A person may not serve as a member of a the county board 481
of mental retardation and developmental disabilities when either 482
the person or a member of the person's; 483~~

~~(E) An individual who or whose immediate family member is a 484
board member of a contract an agency of that contracting with the 485
county board unless there is no conflict of interest. In no 486
circumstance shall a member of a county board vote on any matter 487
before the board concerning a contract agency of which the member 488
or a member of the member's immediate family is also a board 489
member or an employee. All questions relating to the existence of 490
a conflict of interest shall be submitted to the local prosecuting 491
attorney and the Ohio ethics commission for resolution. 492~~

~~(C) No 493~~

~~(F) An employee of an agency contracting with a the county 494
board of mental retardation and developmental disabilities or 495
member of the or an immediate family member of such an employee 496
shall serve as a board member or an employee of the county board 497
except that a county board may, pursuant to a resolution adopted 498
by the board, employ a member of the immediate family of an 499
employee of an agency contracting with the board. 500~~

~~(D) No person shall serve as a member or employee of a county board of mental retardation and developmental disabilities if a member of the person's;~~

(G) An individual with an immediate family member who serves as a county commissioner of the a county served by the county board unless the person individual was a member ~~or employee prior to of the county board before~~ October 31, 1980.

~~(E) A county board of mental retardation and developmental disabilities shall not contract with an agency whose board includes a county commissioner of the county served by the county board.~~

~~(F) Notwithstanding any provision of the Revised Code to the contrary, including applicable provisions of sections 102.03, 102.04, 2921.42, and 2921.43 of the Revised Code, an employee of a county board of mental retardation and developmental disabilities also may be a member of the governing board of an agency or a political subdivision, including the board of education of a school district. The county board of mental retardation and developmental disabilities may contract with the governing board of an agency or political subdivision whose member is also an employee of the county board, provided that in no circumstances shall such employee of the county board vote on any matter before the governing board of the agency or political subdivision concerning a county board contract or participate in any discussion or debate regarding that contract.~~

Sec. 5126.0210. (A) No individual may be appointed or reappointed to a county board of mental retardation and developmental disabilities unless the individual, before the appointment or reappointment, provides to the appointing authority a written declaration specifying both of the following:

(1) That no circumstance described in section 5126.029 of the Revised Code exists that bars the individual from serving on the county board; 531
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(2) Whether the individual or an immediate family member of the individual has an ownership interest in or is under contract with an agency contracting with the county board, and, if such an ownership interest or contract exists, the identity of the agency and the nature of the relationship to that agency. 534
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(B) On appointment or reappointment of an individual to the county board, the appointing authority shall provide a copy of the individual's declaration to the superintendent of the county board. The declaration is a public record for the purpose of section 149.43 of the Revised Code. 539
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Sec. 5126.0211. Except for members appointed under section 5126.0213 of the Revised Code to fill a vacancy, members of a county board of mental retardation and developmental disabilities shall be appointed or reappointed not later than the last day of November, commence their terms on the date of the stated annual organizational meeting in the following January as provided under section 5126.0215 of the Revised Code, and serve terms of four years. The membership of an individual appointed as a relative of a recipient of services shall not be terminated because the services are no longer received. 544
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Sec. 5126.02 5126.0212. (A) As used in this section, "relative" means a spouse, parent, parent in law, sibling, sibling in law, child, child in law, grandparent, aunt, or uncle. 554
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(B)(1) There is hereby created in each county a county board of mental retardation and developmental disabilities consisting of seven members, five of whom shall be appointed by the board of county commissioners of the county, and two of whom shall be 557
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~~appointed by the probate judge of the county. Each member shall be
a resident of the county. The membership of the board shall, as
nearly as possible, reflect the composition of the population of
the county.~~

~~All board members shall be persons interested and
knowledgeable in the field of mental retardation and other allied
fields. All board members shall be citizens of the United States.
Of the members appointed by the board of county commissioners, at
least two shall be relatives of persons eligible for services
provided by the county board of mental retardation and
developmental disabilities, and, whenever possible, one shall be a
relative of a person eligible for adult services, and the other
shall be a relative of a person eligible for early intervention
services or services for pre school or school age children. Of the
two members appointed by the probate judge, at least one shall be
a relative of a person eligible for residential services or
supported living.~~

~~Both the board of county commissioners and the probate judge
shall appoint under this section, to the maximum extent possible,
members who fulfill any applicable requirements of this section
for appointment and who also have professional training and
experience in business management, finance, law, health care
practice, personnel administration, or government service.~~

~~(2) All appointments shall be for terms of four years. The
membership of a person appointed as a relative of a recipient of
services shall not be terminated because the services are no
longer received.~~

~~Members may be reappointed, except Except as otherwise
provided in division (B)(3) of this section and section 5126.022
5126.0224 of the Revised Code, a member of a county board of
mental retardation and developmental disabilities may be~~

reappointed to the county board. Prior to making a reappointment, 592
the appointing authority shall ascertain, through written 593
communication with the board, that the member being considered for 594
reappointment meets the requirements of ~~this section and section~~ 595
~~5126.022~~ sections 5126.028 and 5126.0224 of the Revised Code. 596

~~(3)~~ A member who has served during each of three consecutive 597
terms shall not be reappointed for a subsequent term until two 598
years after ceasing to be a member of the board, except that a 599
member who has served for ten years or less within three 600
consecutive terms may be reappointed for a subsequent term before 601
becoming ineligible for reappointment for two years. 602

~~(4)~~ ~~Within sixty days after a vacancy occurs, it shall be~~ 603
~~filled by the appointing authority for the unexpired term. Any~~ 604
~~member appointed to fill a vacancy occurring prior to the~~ 605
~~expiration of the term for which the member's predecessor was~~ 606
~~appointed shall hold office for the remainder of that term.~~ 607
~~Appointment other than appointment to fill a vacancy shall be made~~ 608
~~no later than the last day of November of each year, and the term~~ 609
~~of office shall commence on the date of the stated annual~~ 610
~~organizational meeting in January.~~ 611

~~(5)~~ ~~Board members shall serve without compensation, but shall~~ 612
~~be reimbursed for necessary expenses incurred in the conduct of~~ 613
~~board business, including those incurred within the county of~~ 614
~~residence.~~ 615

~~(C)~~ ~~Each year each board member shall attend at least one~~ 616
~~in-service training session provided by or approved by the~~ 617
~~department of mental retardation and developmental disabilities.~~ 618
~~These training sessions shall not be considered regularly~~ 619
~~scheduled meetings of the board.~~ 620

~~(D)~~ ~~A county board of mental retardation and developmental~~ 621
~~disabilities shall be operated as a separate administrative and~~ 622

~~service entity. The board's functions shall not be combined with
the functions of any other entity of county government.~~

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Sec. 5126.0213. Within sixty days after a vacancy on a county
board of mental retardation and developmental disabilities occurs,
including a vacancy created under section 5126.0219 of the Revised
Code, the appointing authority shall fill the vacancy for the
unexpired term. A member appointed to fill a vacancy occurring
before the expiration of the term for which the member's
predecessor was appointed shall hold office for the remainder of
that term.

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Sec. 5126.0214. Members of a county board of mental
retardation and developmental disabilities shall serve without
compensation, but shall be reimbursed for necessary expenses
incurred in the conduct of county board business, including
expenses that are incurred in the member's county of residence.

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~~Sec. 5126.022~~ 5126.0215. Each county board of mental
retardation and developmental disabilities shall hold an
organizational meeting no later than the thirty-first day of
January of each year and shall elect its officers, which shall
include a president, vice-president, and recording secretary.
After its annual organizational meeting, the board shall meet in
such manner and at such times as prescribed by rules adopted by
the board, but the board shall meet at least ten times annually in
regularly scheduled sessions in accordance with section 121.22 of
the Revised Code, not including in-service training sessions. A
majority of the board constitutes a quorum. The board shall adopt
rules for the conduct of its business and a record shall be kept
of board proceedings, which shall be open for public inspection.

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~~A board member shall be removed from the board by the
appointing authority for neglect of duty, misconduct, malfeasance,~~

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~~failure to attend at least one in-service training session each
year, a violation of section 5126.021 of the Revised Code, or upon
the absence of a member within one year from either four regularly
scheduled board meetings or from two regularly scheduled board
meetings if the member gave no prior notice of the member's
absence. This removal provision does not apply to absences from
special meetings or work sessions. The board shall supply the
board member and the member's appointing authority with written
notice of the charges against the member. The appointing authority
shall afford the member an opportunity for a hearing, in
accordance with procedures it adopts, and shall, upon determining
that the charges are accurate, remove the member and appoint
another person to complete the member's term.~~

~~A member removed from the board is ineligible for
reappointment for not less than one year. When a member is
removed, the appointing authority shall specify the time during
which the member is ineligible for reappointment. If the member is
removed for failing to attend in-service training, the board also
shall specify the training the member must complete prior to being
eligible for reappointment.~~

Sec. 5126.0216. Each year, each member of a county board of
mental retardation and developmental disabilities shall attend at
least one in-service training session provided or approved by the
department of mental retardation and developmental disabilities.
These training sessions shall not be considered regularly
scheduled meetings of the county board.

Sec. 5126.0217. A member of a county board of mental
retardation and developmental disabilities shall be considered
present at an in-service training session even though the member
is not physically present in the room in which the session is held

if the member is connected to the session through a system that 683
enables the member to communicate with the individuals 684
participating in the session and such individuals to communicate 685
with the member. 686

Sec. 5126.0218. In no circumstance shall a member of a county 687
board of mental retardation and developmental disabilities 688
participate in or vote on any matter before the county board 689
concerning a contract agency of which the member or an immediate 690
family member of the member is also a board member or an employee. 691

Sec. 5126.0219. (A) Subject to sections 5126.0220 and 692
5126.0223 of the Revised Code, an appointing authority shall 693
remove a member of a county board of mental retardation and 694
developmental disabilities for any of the following reasons: 695

(1) Neglect of duty; 696

(2) Misconduct; 697

(3) Malfeasance; 698

(4) Ineligibility to serve on the county board pursuant to 699
section 5126.029 of the Revised Code; 700

(5) Failure to attend at least one in-service training 701
session each year; 702

(6) Failure to attend within one year four regularly 703
scheduled board meetings; 704

(7) Failure to attend within one year two regularly scheduled 705
board meetings if the member gave no prior notice of the member's 706
absence; 707

(8) Consistently poor performance on the county board, as 708
demonstrated by documentation that the president of the county 709
board provides to the appointing authority and the appointing 710

authority determines is convincing evidence.

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(B) The removal provisions of divisions (A)(6) and (7) of this section do not apply to absences from special meetings or work sessions.

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Sec. 5126.0220. An appointing authority shall not remove a member of a county board of mental retardation and developmental disabilities from the county board by reason of division (A)(5), (6), or (7) of section 5126.0219 of the Revised Code if the director of mental retardation and developmental disabilities waives the requirement that the member be removed. The director may issue the waiver only if the appointing authority requests that the director issue the waiver and provides the director evidence that is satisfactory to the director that the member's absences from the in-service training sessions or regularly scheduled board meetings are due to a serious health problem of the member or a member of the member's immediate family. The director's decision on whether to issue the waiver is final and not subject to appeal.

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The county board on which the member serves may pass a resolution urging the appointing authority to request that the director issue the waiver. The member whose absences from the sessions or meetings are at issue may not vote on the resolution. The appointing authority may request the waiver regardless of whether the county board adopts the resolution.

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Sec. 5126.0221. If there are grounds for the mandatory removal of a member of a county board of mental retardation and developmental disabilities under section 5126.0219 of the Revised Code, the county board shall supply the board member and the member's appointing authority with written notice of the grounds.

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Sec. 5126.0222. An appointing authority shall afford a member of a county board of mental retardation and developmental disabilities an opportunity for a hearing on the member's proposed removal in accordance with procedures the appointing authority shall establish, unless the appointing authority requested that the director of mental retardation and developmental disabilities waive the mandatory removal under section 5126.0220 of the Revised Code and the director refused to issue the waiver. The appointing authority shall hold the hearing if the member requests the hearing not later than thirty days after the date that the county board sends the member the notice required by section 5126.0221 of the Revised Code.

Sec. 5126.0223. If a member of a county board of mental retardation and developmental disabilities requests a hearing within the time required by section 5126.0222 of the Revised Code, the appointing authority may not remove the member from the board before the conclusion of the hearing.

Sec. 5126.0224. A member of a county board of mental retardation and developmental disabilities who is removed from the county board is ineligible for reappointment to the board for not less than one year. The appointing authority shall specify the time during which the member is ineligible for reappointment. If the member is removed under division (A)(5) of section 5126.0219 of the Revised Code, the county board shall specify the training the member must complete before being eligible for reappointment.

~~Sec. 5126.023~~ 5126.0225. (A) Each county board of mental retardation and developmental disabilities shall either employ a superintendent or obtain the services of the superintendent of another county board of mental retardation and developmental

disabilities. The board shall provide for a superintendent who is 769
qualified, as specified in rules adopted by the department of 770
mental retardation and developmental disabilities in accordance 771
with Chapter 119. of the Revised Code. The superintendent shall 772
have no voting privileges on the board. 773

The board shall prescribe the duties of its superintendent 774
and review the superintendent's performance. The superintendent 775
may be removed, suspended, or demoted for cause pursuant to 776
section 5126.23 of the Revised Code. The board shall fix the 777
superintendent's compensation and reimburse the superintendent for 778
actual and necessary expenses. 779

Each county board that employs its own superintendent shall 780
employ the superintendent under a contract. To enter into a 781
contract, the board shall adopt a resolution agreeing to the 782
contract. Each contract for employment or re-employment of a 783
superintendent shall be for a term of not less than one and not 784
more than five years. At the expiration of a superintendent's 785
current term of employment, the superintendent ~~shall~~ may be 786
re-employed ~~for a term of one year at the same salary, plus any~~ 787
~~increments that may be authorized by the board, unless. If~~ 788
~~board gives~~ intends not to re-employ the superintendent, the board 789
shall give the superintendent written notification of its 790
intention ~~not to re-employ the superintendent. With regard to an~~ 791
~~initial contract, if the contract is for one year, the notice~~ 792
~~shall be provided not less than sixty days prior to the contract's~~ 793
~~expiration; if the contract is for more than one year, the notice~~ 794
~~shall be provided not less than ninety days prior to the~~ 795
~~contract's expiration. With regard to contracts for re-employment,~~ 796
~~the~~ The notice shall be given not less than ~~ninety~~ thirty days 797
prior to the ~~contract's~~ expiration, ~~regardless of its duration~~ the 798
superintendent's contract. 799

(B) Two or more county boards may enter into an arrangement 800

under which the superintendent of one county board acts as the
superintendent of another county board. To enter into such an
arrangement, each board shall adopt a resolution agreeing to the
arrangement. The resolutions shall specify the duration of the
arrangement and the contribution each board is to make to the
superintendent's compensation and reimbursement for expenses.

(C) If a vacancy occurs in the position of superintendent, a
county board may appoint a person who holds a valid
superintendent's certificate issued under the rules of the
department to work under a contract for an interim period not to
exceed one hundred eighty days until a permanent superintendent
can be employed or arranged for under division (A) or (B) of this
section. The director of the department may approve additional
periods of time for these types of interim appointments when so
requested by a resolution adopted by a county board, if the
director determines that the additional periods are warranted and
the services of a permanent superintendent are not available.

Sec. ~~5126.024~~ 5126.0226. The superintendent of the county
board of mental retardation and developmental disabilities shall:

(A) Administer the work of the board, subject to the board's
rules;

(B) Recommend to the board the changes necessary to increase
the effectiveness of the programs and services offered pursuant to
Chapters 3323. and 5126. of the Revised Code;

(C) Employ persons for all positions authorized by the board,
approve contracts of employment for management employees that are
for a term of one year or less, and approve personnel actions that
involve employees in the classified civil service as may be
necessary for the work of the board;

(D) Approve compensation for employees within the limits set

by the salary schedule and budget set by the board and in 831
accordance with section 5126.26 of the Revised Code, and ensure 832
that all employees and consultants are properly reimbursed for 833
actual and necessary expenses incurred in the performance of 834
official duties; 835

(E) Provide consultation to public agencies as defined in 836
division (C) of section 102.01 of the Revised Code, including 837
other county boards of mental retardation and developmental 838
disabilities, and to individuals, agencies, or organizations 839
providing services supported by the board. 840

The superintendent may authorize the payment of board 841
obligations by the county auditor. 842

Sec. 5126.0227. (A) As used in this section, "specialized 843
services" has the same meaning as in section 5126.281 of the 844
Revised Code. 845

(B) Except as provided in division (C) of section 5126.033 of 846
the Revised Code, none of the following individuals may be 847
employed by a county board of mental retardation and developmental 848
disabilities: 849

(1) An employee of an agency contracting with the county 850
board; 851

(2) An immediate family member of an employee of an agency 852
contracting with the county board unless the county board adopts a 853
resolution authorizing the immediate family member's employment 854
with the county board; 855

(3) An individual with an immediate family member who serves 856
as a county commissioner of any of the counties served by the 857
county board unless the individual was an employee of the county 858
board before October 31, 1980; 859

(4) An individual who is employed by, has an ownership 860

interest in, performs or provides administrative duties for, or is 861
a member of the governing board of an entity that provides 862
specialized services, regardless of whether the entity contracts 863
with the county board to provide specialized services. 864

Sec. 5126.0228. As used in this section, "specialized 865
services" has the same meaning as in section 5126.281 of the 866
Revised Code. 867

Notwithstanding any provision of the Revised Code to the 868
contrary, including applicable provisions of sections 102.03, 869
102.04, 2921.42, and 2921.43 of the Revised Code, an employee of a 870
county board of mental retardation and developmental disabilities 871
also may be a member of the governing board of a political 872
subdivision, including the board of education of a school 873
district, or an agency that does not provide specialized services. 874
The county board may contract with such a governing board even 875
though the governing board includes an individual who is an 876
employee of the county board. That member of the governing board 877
may not vote on any matter before the governing board concerning a 878
contract with the county board or participate in any discussion or 879
debate regarding such a contract. 880

Sec. 5126.03. As used in this section and in sections 881
5126.031 to 5126.034 of the Revised Code: 882

(A) "Direct services contract" means any legally enforceable 883
agreement with an individual, agency, or other entity that, 884
pursuant to its terms or operation, may result in a payment from a 885
county board of mental retardation and developmental disabilities 886
to an eligible person or to a member of the immediate family of an 887
eligible person for services rendered to the eligible person. 888
"Direct services contract" includes a contract for supported 889
living pursuant to sections 5126.40 to 5126.47 of the Revised 890

Code, family support services under section 5126.11 of the Revised Code, and reimbursement for transportation expenses. 891
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(B) "Eligible person" means a person eligible to receive services from a county board or from an entity under contract with a county board. 893
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(C) "Former board member" means a person whose service on the county board ended less than one year prior to commencement of services under a direct services contract. 896
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(D) "Former employee" means a person whose employment by the county board ended less than one year prior to commencement of services under a direct services contract. 899
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~~(E) "Immediate family" has the same meaning as in section 5126.021 of the Revised Code.~~ 902
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Sec. 5126.031. (A) Except as provided in division (B) of this section, annually at the ~~organization~~ organizational meeting required by section ~~5126.022~~ 5126.0215 of the Revised Code, the chairperson of the county board of mental retardation and developmental disabilities shall appoint three members of the board to an ethics council to review all direct services contracts. The board's chairperson may be one of those appointed. The superintendent of the board shall be a nonvoting member of the council. The chairperson shall not appoint a person to the council if the person, or any member of the person's immediate family, will have any interest in any direct services contract under review by the council while the person serves on the council or during the twelve-month period after completing service on the council. If a council member or a member of the council member's immediate family has or will have such an interest, the chairperson shall replace the member by appointing another board member to the council. 904
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The council shall meet regularly as directed by the board to 921
perform its duties. Minutes shall be kept of the actions of the 922
council. The minutes shall be part of the public record of the 923
county board. 924

Any action taken by the council on direct services contracts 925
under its review shall be in public. The council shall afford an 926
affected party the opportunity to meet with the council on matters 927
related to a direct services contract or any action taken by the 928
council. 929

(B) If a county board establishes a policy specifying that 930
the board is not willing to enter into direct services contracts 931
with any person who is a board member or former board member or a 932
member of the immediate family of a board member or former board 933
member, the board may assume the responsibilities and perform the 934
duties of an ethics council specified in section 5126.032 of the 935
Revised Code. The policy shall be established by resolution 936
adopted by a majority of the members of the board in attendance at 937
a meeting at which there is a quorum and shall be in effect for 938
one year after its adoption, at which time the board shall, by 939
resolution adopted in the same manner as the initial resolution, 940
either renew the policy or establish a new one. 941

Sec. 5126.033. (A) A county board of mental retardation and 942
developmental disabilities shall not enter into a direct services 943
contract unless the contract is limited either to the actual 944
amount of the expenses or to a reasonable and allowable amount 945
projected by the board. 946

(B) A county board shall not enter into a direct services 947
contract that would result in payment to a board member, former 948
board member, employee, former employee, or member of the 949
immediate family of a board member, former board member, employee, 950
or former employee if the person who would receive services under 951

the contract stands to receive any preferential treatment or any 952
unfair advantage over other eligible persons. 953

(C) A county board shall not enter into a direct services 954
contract for services provided in accordance with section 5126.11 955
or sections 5126.40 to 5126.46 of the Revised Code under which an 956
individual, agency, or other entity will employ ~~a management~~ 957
~~employee, professional employee, or service employee, as defined~~ 958
~~in section 5126.20 of the Revised Code, an individual~~ who is also 959
an employee of that county board unless all of the following 960
conditions are met: 961

(1) The employee is not in a capacity to influence the award 962
of the contract. 963

(2) The employee has not attempted in any manner to secure 964
the contract on behalf of the individual, agency, or other entity. 965

(3) The employee is not in management level two or three 966
according to rules adopted by the director of mental retardation 967
and developmental disabilities. 968

(4) The employee is not employed by the board during the 969
period when the contract is developed as an administrator or 970
supervisor responsible for approving or supervising services to be 971
provided under the contract and agrees not to take such a position 972
while the contract is in effect, regardless of whether the 973
position is related to the services provided under the contract. 974

(5) The employee has not taken any actions that create the 975
need for the services to be provided under the contract. 976

(6) The individual, agency, or other entity seeks the 977
services of the employee because of the employee's expertise and 978
familiarity with the care and condition of one or more eligible 979
persons and other individuals with such expertise and familiarity 980
are unavailable, or an eligible person has requested to have the 981

services provided by that employee.

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The superintendent of the county board shall notify the employee and the individual, agency, or other entity that seeks the employee's services of the ethics council's determination under section 5126.032 of the Revised Code regarding the contract. The council's determination shall be binding on all parties.

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The employee who is the subject of the contract shall inform the superintendent of the county board of any employment the employee has outside the county board that is with any individual, agency, or other entity that has a contract with the county board.

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Sec. 5126.034. (A) If the requirements of section 5126.033 of the Revised Code have been met for a particular direct services contract, a former member of a county board of mental retardation and developmental disabilities, ~~former board member~~, a board employee, or former employee, or an immediate family member of a county board member, former board member, employee, or former employee, is not in violation of the restrictions in Chapter 102. and sections 2921.42 and ~~5126.021~~ 5126.029 of the Revised Code with regard to that contract.

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(B) Nothing in section 5126.033 of the Revised Code shall be construed to allow a member or employee of a county board to authorize, or use the authority of the member's or employee's office or employment to secure authorization of, a contract that could result in receipt by the board member or employee or a member of the immediate family of the board member or employee of payment for expenses incurred on behalf of an immediate family member who is an eligible person.

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Sec. 5126.037. No county board of mental retardation and developmental disabilities shall contract with an agency whose board includes a county commissioner of any of the counties served

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by the county board. 1012

Sec. 5126.038. (A)(1) As used in this section, "professional services" means all of the following services provided on behalf of a county board of mental retardation and developmental disabilities, members or employees of a county board, or both: 1013
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(a) Lobbying and other governmental affairs services; 1017

(b) Legal services other than the legal services provided by a county prosecutor; 1018
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(c) Public relation services; 1020

(d) Consulting services; 1021

(e) Personnel training services. 1022

(2) "Professional services" does not mean services provided pursuant to a service contract as defined in section 5126.035 of the Revised Code. 1023
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(B) Each county board of mental retardation and developmental disabilities shall submit to the board of county commissioners of each county that is served by the county board, in accordance with the normal budget process and as part of its budget request, an itemized list of all expenditures the county board expects to make in each year covered by the budget for any of the following: 1026
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(1) Any membership dues of the members or employees of the county board, in any organization, association, or other entity; 1032
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(2) Any professional services of the county board, its members or employees, or both; 1034
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(3) Any training of the members or employees of the county board. 1036
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Sec. 5126.30. As used in sections 5126.30 to 5126.34 of the 1038

Revised Code:	1039
(A) "Adult" means a person eighteen years of age or older with mental retardation or a developmental disability.	1040 1041
(B) "Caretaker" means a person who is responsible for the care of an adult by order of a court, including an order of guardianship, or who assumes the responsibility for the care of an adult as a volunteer, as a family member, by contract, or by the acceptance of payment for care.	1042 1043 1044 1045 1046
(C) "Abuse" has the same meaning as in section 5123.50 of the Revised Code, except that it includes a misappropriation, as defined in that section.	1047 1048 1049
(D) "Neglect" has the same meaning as in section 5123.50 of the Revised Code.	1050 1051
(E) "Exploitation" means the unlawful or improper act of a caretaker using an adult or an adult's resources for monetary or personal benefit, profit, or gain, including misappropriation, as defined in section 5123.50 of the Revised Code, of an adult's resources.	1052 1053 1054 1055 1056
(F) "Working day" means Monday, Tuesday, Wednesday, Thursday, or Friday, except when that day is a holiday as defined in section 1.14 of the Revised Code.	1057 1058 1059
(G) "Incapacitated" means lacking understanding or capacity, with or without the assistance of a caretaker, to make and carry out decisions regarding food, clothing, shelter, health care, or other necessities, but does not include mere refusal to consent to the provision of services.	1060 1061 1062 1063 1064
(H) "Emergency protective services" means protective services furnished to a person with mental retardation or a developmental disability to prevent immediate physical harm.	1065 1066 1067
(I) "Protective services" means services provided by the	1068

county board of mental retardation and developmental disabilities 1069
to an adult with mental retardation or a developmental disability 1070
for the prevention, correction, or discontinuance of an act of as 1071
well as conditions resulting from abuse, neglect, or exploitation. 1072

(J) "Protective service plan" means an individualized plan 1073
developed by the county board of mental retardation and 1074
developmental disabilities to prevent the further abuse, neglect, 1075
or exploitation of an adult with mental retardation or a 1076
developmental disability. 1077

(K) "Substantial risk" has the same meaning as in section 1078
2901.01 of the Revised Code. 1079

(L) "Party" means all of the following: 1080

(1) An adult who is the subject of a probate proceeding under 1081
sections 5126.30 to 5126.33 of the Revised Code; 1082

(2) A caretaker, unless otherwise ordered by the probate 1083
court; 1084

(3) Any other person designated as a party by the probate 1085
court including but not limited to, the adult's spouse, custodian, 1086
guardian, or parent. 1087

(M) "Board" ~~has the same meaning as in section 5126.02 of the~~ 1088
~~Revised Code~~ means a county board of mental retardation and 1089
developmental disabilities. 1090

Sec. 5705.191. The taxing authority of any subdivision, other 1091
than the board of education of a school district or the taxing 1092
authority of a county school financing district, by a vote of 1093
two-thirds of all its members, may declare by resolution that the 1094
amount of taxes that may be raised within the ten-mill limitation 1095
by levies on the current tax duplicate will be insufficient to 1096
provide an adequate amount for the necessary requirements of the 1097
subdivision, and that it is necessary to levy a tax in excess of 1098

such limitation for any of the purposes in section 5705.19 of the Revised Code, or to supplement the general fund for the purpose of making appropriations for one or more of the following purposes: public assistance, human or social services, relief, welfare, hospitalization, health, and support of general hospitals, and that the question of such additional tax levy shall be submitted to the electors of the subdivision at a general, primary, or special election to be held at a time therein specified. Such resolution shall not include a levy on the current tax list and duplicate unless such election is to be held at or prior to the general election day of the current tax year. Such resolution shall conform to the requirements of section 5705.19 of the Revised Code, except that a levy to supplement the general fund for the purposes of public assistance, human or social services, relief, welfare, hospitalization, health, or the support of general or tuberculosis hospitals may not be for a longer period than ten years. All other levies under this section may not be for a longer period than five years unless a longer period is permitted by section 5705.19 of the Revised Code, and the resolution shall specify the date of holding such election, which shall not be earlier than seventy-five days after the adoption and certification of such resolution. The resolution shall go into immediate effect upon its passage and no publication of the same is necessary other than that provided for in the notice of election. A copy of such resolution, immediately after its passage, shall be certified to the board of elections of the proper county or counties in the manner provided by section 5705.25 of the Revised Code, and such section shall govern the arrangements for the submission of such question and other matters with respect to such election, to which section 5705.25 of the Revised Code refers, excepting that such election shall be held on the date specified in the resolution, which shall be consistent with the requirements of section 3501.01 of the Revised Code,

provided that only one special election for the submission of such 1132
question may be held in any one calendar year and provided that a 1133
special election may be held upon the same day a primary election 1134
is held. Publication of notice of such election shall be made in 1135
one or more newspapers of general circulation in the county once a 1136
week for four consecutive weeks. 1137

If a majority of the electors voting on the question vote in 1138
favor thereof, the taxing authority of the subdivision may make 1139
the necessary levy within such subdivision at the additional rate 1140
or at any lesser rate outside the ten-mill limitation on the tax 1141
list and duplicate for the purpose stated in the resolution. Such 1142
tax levy shall be included in the next annual tax budget that is 1143
certified to the county budget commission. 1144

After the approval of such a levy by the electors, the taxing 1145
authority of the subdivision may anticipate a fraction of the 1146
proceeds of such levy and issue anticipation notes. In the case of 1147
a continuing levy that is not levied for the purpose of current 1148
expenses, notes may be issued at any time after approval of the 1149
levy in an amount not more than fifty per cent of the total 1150
estimated proceeds of the levy for the succeeding ten years, less 1151
an amount equal to the fraction of the proceeds of the levy 1152
previously anticipated by the issuance of anticipation notes. In 1153
the case of a levy for a fixed period that is not for the purpose 1154
of current expenses, notes may be issued at any time after 1155
approval of the levy in an amount not more than fifty per cent of 1156
the total estimated proceeds of the levy throughout the remaining 1157
life of the levy, less an amount equal to the fraction of the 1158
proceeds of the levy previously anticipated by the issuance of 1159
anticipation notes. In the case of a levy for current expenses, 1160
notes may be issued after the approval of the levy by the electors 1161
and prior to the time when the first tax collection from the levy 1162
can be made. Such notes may be issued in an amount not more than 1163

fifty per cent of the total estimated proceeds of the levy 1164
throughout the term of the levy in the case of a levy for a fixed 1165
period, or fifty per cent of the total estimated proceeds for the 1166
first ten years of the levy in the case of a continuing levy. 1167

No anticipation notes that increase the net indebtedness of a 1168
county may be issued without the prior consent of the board of 1169
county commissioners of that county. The notes shall be issued as 1170
provided in section 133.24 of the Revised Code, shall have 1171
principal payments during each year after the year of their 1172
issuance over a period not exceeding the life of the levy 1173
anticipated, and may have a principal payment in the year of their 1174
issuance. 1175

"Taxing authority" and "subdivision" have the same meanings 1176
as in section 5705.01 of the Revised Code. 1177

"Human or social services" includes a county's contributions 1178
to a multi-county board of mental retardation and developmental 1179
disabilities of which the county is a member. 1180

This section is supplemental to and not in derogation of 1181
sections 5705.20, 5705.21, and 5705.22 of the Revised Code. 1182

Sec. 5705.222. (A) At any time the board of county 1183
commissioners of any county by a majority vote of the full 1184
membership may declare by resolution and certify to the board of 1185
elections of the county that the amount of taxes which may be 1186
raised within the ten-mill limitation by levies on the current tax 1187
duplicate will be insufficient to provide the necessary 1188
requirements of the single county board of mental retardation and 1189
developmental disabilities established pursuant to Chapter 5126. 1190
of the Revised Code, or the county's contribution to a 1191
multi-county board created under that chapter of which the county 1192
is a member, and that it is necessary to levy a tax in excess of 1193

such limitation for the operation of programs and services by 1194
county boards of mental retardation and developmental disabilities 1195
and for the acquisition, construction, renovation, financing, 1196
maintenance, and operation of mental retardation and developmental 1197
disabilities facilities. 1198

Such resolution shall conform to section 5705.19 of the 1199
Revised Code, except that the increased rate may be in effect for 1200
any number of years not exceeding ten or for a continuing period 1201
of time. 1202

The resolution shall be certified and submitted in the manner 1203
provided in section 5705.25 of the Revised Code, except that it 1204
may be placed on the ballot in any election, and shall be 1205
certified to the board of elections not less than seventy-five 1206
days before the election at which it will be voted upon. 1207

If the majority of the electors voting on a levy for the 1208
support of the programs and services of the county board of mental 1209
retardation and developmental disabilities vote in favor of the 1210
levy, the board of county commissioners may levy a tax within the 1211
county at the additional rate outside the ten-mill limitation 1212
during the specified or continuing period, for the purpose stated 1213
in the resolution. The county board of mental retardation and 1214
developmental disabilities, within its budget and with the 1215
approval of the board of county commissioners through annual 1216
appropriations, shall use the proceeds of a levy approved under 1217
this section solely for the purposes authorized by this section. 1218

(B) When electors have approved a tax levy under this 1219
section, the county commissioners may anticipate a fraction of the 1220
proceeds of the levy and issue anticipation notes in accordance 1221
with section 5705.191 or 5705.193 of the Revised Code. 1222

(C) The county auditor, upon receipt of a resolution from the 1223
county board of mental retardation and developmental disabilities, 1224

shall establish a capital improvements account or a reserve
balance account, or both, as specified in the resolution. The
capital improvements account shall be a contingency account for
the necessary acquisition, replacement, renovation, or
construction of facilities and movable and fixed equipment. Upon
the request of the county board of mental retardation and
developmental disabilities, moneys not needed to pay for current
expenses may be appropriated to this account, in amounts such that
this account does not exceed twenty-five per cent of the
replacement value of all capital facilities and equipment
currently used by the county board of mental retardation and
developmental disabilities for mental retardation and
developmental disabilities programs and services. Other moneys
available for current capital expenses from federal, state, or
local sources may also be appropriated to this account.

The reserve balance account shall contain those moneys that
are not needed to pay for current operating expenses and not
deposited in the capital improvements account but that will be
needed to pay for operating expenses in the future. Upon the
request of a county board of mental retardation and developmental
disabilities, the board of county commissioners may appropriate
moneys to the reserve balance account.

Section 2. That existing sections 5126.01, 5126.02, 5126.021,
5126.022, 5126.023, 5126.024, 5126.03, 5126.031, 5126.033,
5126.034, 5126.30, 5705.191, and 5705.222 of the Revised Code are
hereby repealed.

Section 3. (A) As used in this section, "immediate family"
has the same meaning as in section 5126.01 of the Revised Code.

Not later than thirty days after the effective date of this
section, each individual who serves as a member of a county board
of mental retardation and developmental disabilities on the

effective date of this section shall provide to the superintendent 1256
of the county board a written declaration specifying both of the 1257
following: 1258

(1) That no circumstance described in section 5126.029 of the 1259
Revised Code exists that bars the individual from serving on the 1260
county board; 1261

(2) Whether the individual or an immediate family member of 1262
the individual has an ownership interest in or is under contract 1263
with an agency contracting with the county board, and, if such an 1264
ownership interest or contract exists, the identity of the agency 1265
and the nature of the relationship to that agency. 1266

(B) Each declaration provided to a county board 1267
superintendent under this section is a public record for the 1268
purpose of section 149.43 of the Revised Code. 1269