

As Introduced

**127th General Assembly
Regular Session
2007-2008**

H. B. No. 606

Representative Peterson

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A B I L L

To amend sections 349.01, 349.03, 349.04, 349.05, and 1
349.06, to enact new section 349.16 and section 2
349.17, and to repeal section 349.16 of the 3
Revised Code to modify the governance and 4
authority of new community authorities. 5

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

Section 1. That sections 349.01, 349.03, 349.04, 349.05, and 6
349.06 be amended and new section 349.16 and section 349.17 of the 7
Revised Code be enacted to read as follows: 8

Sec. 349.01. As used in this chapter: 9

(A) "New community" means a community or an addition to an 10
existing community planned pursuant to this chapter so that it 11
includes facilities for the conduct of industrial, commercial, 12
residential, cultural, educational, and recreational activities, 13
and designed in accordance with planning concepts for the 14
placement of utility, open space, and other supportive facilities. 15

(B) "New community development program" means a program for 16
the development of a new community characterized by well-balanced 17
and diversified land use patterns and which includes land 18
acquisition and land development, the acquisition, construction, 19
operation, and maintenance of community facilities, and the 20

provision of services authorized in this chapter. 21

(C) "New community district" means the area of land described 22
by the developer in the petition as set forth in division (A) of 23
section 349.03 of the Revised Code for development as a new 24
community and any lands added to the district by amendment of the 25
resolution establishing the community authority. 26

(D) "New community authority" means a body corporate and 27
politic in this state, established pursuant to section 349.03 of 28
the Revised Code and governed by a board of trustees as provided 29
in section 349.04 of the Revised Code. 30

(E) "Developer" means any person, organized for carrying out 31
a new community development program who owns or controls, through 32
leases of at least seventy-five years' duration, options, or 33
contracts to purchase, the land within a new community district, 34
or any municipal corporation, county, or port authority that owns 35
the land within a new community district, or has the ability to 36
acquire such land, either by voluntary acquisition or condemnation 37
in order to eliminate slum, blighted, and deteriorated or 38
deteriorating areas and to prevent the recurrence thereof. 39

(F) "Organizational board of commissioners" means, if the new 40
community district is located in only one county, the board of 41
county commissioners of such county; if located in more than one 42
county, a board consisting of the members of the board of county 43
commissioners of each of the counties in which the district is 44
located, provided that action of such board shall require a 45
majority vote of the members of each separate board of county 46
commissioners; or, if more than half of the new community district 47
is located within the boundaries of the most populous municipal 48
corporation of a county, the legislative authority of the 49
municipal corporation. 50

(G) "Land acquisition" means the acquisition of real property 51

and interests in real property as part of a new community 52
development program. 53

(H) "Land development" means the process of clearing and 54
grading land, making, installing, or constructing water 55
distribution systems, sewers, sewage collection systems, steam, 56
gas, and electric lines, roads, streets, curbs, gutters, 57
sidewalks, storm drainage facilities, and other installations or 58
work, ~~whether within or without~~ the new community district, and 59
the construction of community facilities. 60

(I) "Community facilities" means all real property, 61
buildings, structures, or other facilities, including related 62
fixtures, equipment, and furnishings, to be owned, operated, 63
financed, constructed, and maintained under this chapter, 64
including public, community, village, neighborhood, or town 65
buildings, centers and plazas, auditoriums, day-care centers, 66
recreation halls, educational facilities, hospital facilities as 67
defined in section 140.01 of the Revised Code, recreational 68
facilities, natural resource facilities, including parks and other 69
open space land, lakes and streams, cultural facilities, community 70
streets, pathway and bikeway systems, pedestrian underpasses and 71
overpasses, lighting facilities, design amenities, or other 72
community facilities, and buildings needed in connection with 73
water supply or sewage disposal installations or steam, gas, or 74
electric lines or installation. "Community facilities" does not 75
include any project for which the geographic area primarily 76
benefited extends beyond the new community district. 77

(J) "Cost" as applied to a new community development program 78
means all costs related to land acquisition and land development, 79
the acquisition, construction, maintenance, and operation of 80
community facilities and offices of the community authority, and 81
of providing furnishings and equipment therefor, financing charges 82
including interest prior to and during construction and for the 83

duration of the new community development program, planning 84
expenses, engineering expenses, administrative expenses including 85
working capital, and all other expenses necessary and incident to 86
the carrying forward of the new community development program. 87

(K) "Income source" means any and all sources of income to 88
the community authority, including community development charges 89
of which the new community authority is the beneficiary as 90
provided in section 349.07 of the Revised Code, rentals, user fees 91
and other charges received by the new community authority, any 92
gift or grant received, any moneys received from any funds 93
invested by or on behalf of the new community authority, and 94
proceeds from the sale or lease of land and community facilities. 95

(L) "Community development charge" means a dollar amount 96
which shall be determined on the basis of the assessed valuation 97
of real property or interests in real property in a new community 98
district sold, leased, or otherwise conveyed by the developer or 99
the new community authority, the income of the residents of such 100
property subject to such charge under section 349.07 of the 101
Revised Code, if such property is devoted to residential uses or 102
to the profits of any business, a uniform fee on each parcel of 103
such real property originally sold, leased, or otherwise conveyed 104
by the developer or new community authority, or any combination of 105
the foregoing bases. 106

(M) "Proximate city" means any city that, as of the date of 107
filing of the petition under section 349.03 of the Revised Code, 108
is the most populous city of the county in which the proposed new 109
community district is located, is the most populous city of an 110
adjoining county if any portion of such city is within five miles 111
of any part of the boundaries of such district, or exercises 112
extraterritorial subdivision authority under section 711.09 of the 113
Revised Code with respect to any part of such district. 114

(N) "Initial board of trustees" means the board of trustees 115

of a new community authority composed of members appointed under 116
division (A) of section 349.04 of the Revised Code for the sole 117
purpose of arranging for the election of citizen members under 118
division (B) of that section. 119

Sec. 349.03. (A) Proceedings for the organization of a new 120
community authority shall be initiated by a petition filed by the 121
developer in the office of the clerk of the board of county 122
commissioners of one of the counties in which all or part of the 123
proposed new community district is located. Such petition shall be 124
signed by the developer and may be signed by each township or 125
municipal corporation having territory located in, or within five 126
thousand feet of, the district, including such a township or 127
municipal corporation in an adjoining county, and each proximate 128
city. The legislative ~~authorities~~ authority of each such ~~proximate~~ 129
~~city~~ subdivision, or a duly authorized officer thereof, shall act 130
in behalf of ~~such city~~ the subdivision. ~~Such~~ 131

The petition shall contain all of the following: 132

(1) The name of the proposed new community authority; 133

(2) The address where the principal office of the authority 134
will be located or the manner in which the location will be 135
selected; 136

(3) A map and a full and accurate description of the 137
boundaries of the new community district together with a 138
description of the properties within such boundaries, if any, 139
which will not be included in the new community district. Unless 140
the district is wholly contained within municipalities, the total 141
acreage included in such district shall not be less than one 142
thousand acres, all of which acreage shall be owned by, or under 143
the control through leases of at least seventy-five years 144
duration, options, or contracts to purchase, of the developer, if 145
the developer is a private entity. Such acreage shall be a 146

blighted area as defined in section 1.08 of the Revised Code, 147
shall be contiguous or within five thousand feet of the largest 148
contiguous area of the district, and shall be developable as one 149
functionally interrelated community. 150

(4) A statement setting forth the zoning regulations proposed 151
for zoning the area within the boundaries of the new community 152
district for comprehensive development as a new community, and, if 153
the area has been zoned for such development, a certified copy of 154
the applicable zoning regulations therefor; 155

(5) A current plan indicating the projected total population 156
of the new community district, the proposed development program 157
for the new community district, the land acquisition and land 158
development activities, community facilities, and services which 159
it is proposed the new community authority will undertake under 160
such program, and the proposed method of financing such activities 161
and services ~~and the projected total population of the new~~ 162
~~community;~~ including the total principal amount of bonds 163
projected to be issued under this chapter for community 164
facilities. The plan's indication of community facilities shall be 165
itemized according to each kind of facility planned, as enumerated 166
under division (I) of section 349.01 of the Revised Code, the 167
projected cost of each such facility, and the portion of the 168
projected cost of each facility to be financed with bonds issued 169
under this chapter. 170

(6) A statement that all proposed community facilities 171
primarily benefit the new community district only; 172

(7) A suggested number of members, consistent with section 173
349.04 of the Revised Code, for the board of trustees; 174

~~(7)~~(8) A preliminary economic feasibility analysis, including 175
the area development pattern and demand, location and proposed new 176
community district size, present and future socio-economic 177

conditions, public services provision, financial plan, and the 178
developer's management capability; 179

~~(8)~~(9) A statement that the development will comply with all 180
applicable environmental laws and regulations. 181

Upon the filing of such petition, the organizational board of 182
commissioners shall determine whether such petition complies with 183
the requirements of this section as to form and substance. The 184
board in subsequent proceedings may at any time permit the 185
petition to be amended in form and substance to conform to the 186
facts by correcting any errors in the description of the proposed 187
new community district or in any other particular, subject to 188
division (C) of this section. 189

Upon the determination of the organizational board of 190
commissioners that a sufficient petition has been filed in 191
accordance with this section, the board shall fix the time and 192
place of a hearing on the petition for the establishment of the 193
proposed new community authority. Such hearing shall be held not 194
less than ninety-five nor more than one hundred fifteen days after 195
the petition filing date, except that if the petition has been 196
signed by all ~~proximate cities~~ local governments referred to in 197
division (A) of this section, such hearing shall be held not less 198
than thirty nor more than forty-five days after the petition 199
filing date. The clerk of the board of county commissioners with 200
which the petition was filed shall give notice thereof by 201
publication once each week for three consecutive weeks in a 202
newspaper of general circulation in any county of which a portion 203
is within the proposed new community district. Such clerk shall 204
also give written notice of the date, time, and place of the 205
hearing and furnish a certified copy of the petition to the clerk 206
of the legislative authority of each proximate city which has not 207
signed such petition. In the event that the legislative authority 208
of a proximate city which did not sign the petition does not 209

approve by ordinance, resolution, or motion the establishment of 210
the proposed new community authority and does not deliver such 211
ordinance, resolution, or motion to the clerk of the board of 212
county commissioners with which the petition was filed within 213
ninety days following the date of the first publication of the 214
notice of the public hearing, the organizational board of 215
commissioners shall cancel such public hearing and terminate the 216
proceedings for the establishment of the new community authority. 217

Upon the hearing, if the organizational board of 218
commissioners determines by resolution that the proposed new 219
community district will be conducive to the public health, safety, 220
convenience, and welfare, and is intended to result in the 221
development of a new community, the board shall by its resolution, 222
entered of record in its journal and the journal of the board of 223
county commissioners with which the petition was filed, declare 224
the new community authority to be organized and a body politic and 225
corporate with the corporate name designated in the resolution, 226
and define the boundary of the new community district. In 227
addition, the resolution shall provide the method of selecting the 228
board of trustees of the new community authority and fix the 229
surety for their bonds in accordance with section 349.04 of the 230
Revised Code. 231

If the organizational board of commissioners finds that the 232
establishment of the district will not be conducive to the public 233
health, safety, convenience, or welfare, or is not intended to 234
result in the development of a new community, it shall reject the 235
petition thereby terminating the proceedings for the establishment 236
of the new community authority. 237

(B) At any time after the creation of a new community 238
authority, the developer may file an application with the clerk of 239
the board of county commissioners of the county in which the 240
original petition was filed, setting forth a general description 241

of territory it desires to add to or ~~to~~ delete from such district, 242
that such change will be conducive to the public health, safety, 243
convenience, and welfare, and will be consistent with the 244
development of a new community and will not jeopardize the plan of 245
the new community. If the developer is not a municipal corporation 246
or county, all of such an addition to such a district shall be 247
owned by, or under the control through leases of at least 248
seventy-five years duration, options, or contracts to purchase, of 249
the developer. Upon the filing of the application, the 250
organizational board of commissioners shall follow the same 251
procedure as required by this section in relation to the petition 252
for the establishment of the proposed new community. 253

~~(C) If all or any part of the new community district is 254
annexed to one or more existing municipal corporations, their 255
legislative authorities may appoint persons to replace any 256
appointed citizen member of the board of trustees. The number of 257
such trustees to be replaced by the municipal corporation shall be 258
the number, rounded to the lowest integer, bearing the 259
proportionate relationship to the number of existing appointed 260
citizen members as the acreage of the new community district 261
within such municipal corporation bears to the total acreage of 262
the new community district. If any such municipal corporation 263
chooses to replace an appointed citizen member, it shall do so by 264
ordinance, the term of the trustee being replaced shall terminate 265
thirty days from the date of passage of such ordinance, and the 266
trustee to be replaced shall be determined by lot. Each newly 267
appointed member shall assume the term of his predecessor. After 268
the organizational board of commissioners declares the new 269
community authority to be organized under this section, the kinds 270
of community facilities that may be acquired or constructed by or 271
for the new community authority shall not differ from the kinds 272
itemized in the plan, and the cost of the community facilities and 273
the portion of that cost financed with bonds issued under this 274~~

chapter shall not exceed the cost or portion indicated in the 275
plan, unless the change or increase is approved by a majority of 276
the board of trustees of the authority as constituted after the 277
election of citizen members under division (B) of section 349.04 278
of the Revised Code. If the authority increases the cost of a 279
community facility or the portion thereof to be financed with 280
bonds issued under this chapter, the principal amount of bonds 281
that may be issued under this chapter for community facilities is 282
increased by not more than that amount. If the authority decreases 283
the cost of a community facility or the portion thereof to be 284
financed with bonds issued under this chapter, the principal 285
amount of bonds that may be issued under this chapter for 286
community facilities is decreased by not less than that amount. 287

Sec. 349.04. (A) The following method of provided in this 288
section for selecting a board of trustees is deemed to be a 289
compelling state interest. Within ten days after the new community 290
authority has been established, as provided in section 349.03 of 291
the Revised Code, an initial board of trustees shall be appointed 292
as follows: the organizational board of commissioners shall 293
appoint by resolution ~~at least three, but not more than six,~~ 294
~~citizen members of the board of trustees to represent the~~ 295
~~interests of present and future residents of the new community~~ 296
~~district and one member to serve as a representative of local~~ 297
~~government, and the developer shall appoint a number of members~~ 298
~~equal to the number of citizen members to serve as representatives~~ 299
~~of the developer. Members shall serve two year overlapping terms,~~ 300
~~with two of each of the initial citizen and developer members~~ 301
~~appointed to serve initial one year terms. The organizational~~ 302
~~board of commissioners shall by further resolution adopted within~~ 303
~~one year of such resolution establishing such initial board of~~ 304
~~trustees adopt a method for selection of successor members thereof~~ 305
~~which determines the projected total population of the projected~~ 306

~~new community and meets the following criteria:~~ 307

~~(A) The appointed citizen members shall be replaced by 308
elected citizen members according to a schedule established by the 309
organizational board of commissioners calculated to achieve one 310
such replacement each time the new community district gains a 311
proportion, having a numerator of one and a denominator of twice 312
the number of citizen members, of its projected total population 313
until such time as all of the appointed citizen members are 314
replaced. 315~~

~~(B) Representatives of the developer shall be replaced by 316
elected citizen members according to a schedule established by the 317
organizational board of commissioners calculated to achieve one 318
such replacement each time the new community district gains a 319
proportion, having a numerator of one and a denominator equal to 320
the number of developer members, of its projected total population 321
until such time as all of the developer's representatives are 322
replaced. 323~~

~~(C) The representative of local government shall be replaced 324
by an elected citizen member at the time the new community 325
district gains three quarters of its projected total population. 326~~

~~Elected citizen members of the board of trustees shall be 327
elected by a majority of the residents of the new community 328
district voting at elections held on the first Tuesday after the 329
first Monday in December of each year. Each one resident of each 330
county in which the district is to be located to represent that 331
county; the legislative authority of each proximate city shall 332
appoint one resident of the city to represent the city; if any 333
part of the district is to be located within the limits of a 334
municipal corporation that is not a proximate city, the 335
legislative authority of the municipal corporation shall appoint 336
one resident of the municipal corporation to represent the 337
municipal corporation; if any part of the district is to be 338~~

located inside or within five thousand feet of the unincorporated 339
territory of a township, or inside or within five thousand feet of 340
the boundaries of a township whose boundaries have not been 341
conformed with the limits of the municipal corporation under 342
section 503.07 of the Revised Code, the board of township trustees 343
of each such township shall appoint one resident of the township 344
to represent the township; and the developer shall appoint one 345
member to represent the developer. All persons appointed under 346
this division are subject to the qualifications and conditions 347
prescribed in division (D) of this section. 348

(B) Within thirty days after the new community authority has 349
been established, the initial board of trustees shall convene a 350
meeting for the sole purpose of arranging for the initial election 351
of citizen members of the board of trustees to serve as 352
representatives of the present and future residents of the 353
district. The arrangements shall include the calling for 354
nominations of persons whose names are to appear on the ballot, 355
the printing of ballots, the time and place of the election, and 356
the publication or distribution of information regarding such 357
matters to all persons who are qualified to be a candidate or to 358
vote at the election, and other matters as may be necessary to 359
conduct the election. The requirement to publish or distribute 360
such information may be satisfied by the publication of such 361
information at least once per week for three consecutive weeks in 362
a newspaper of general circulation, as defined in section 5721.01 363
of the Revised Code, in the county in which the majority of the 364
territory of the new community district is located . If a 365
newspaper of general circulation is not published in that county, 366
publication shall be in a newspaper of general circulation in an 367
adjoining county. The developer shall pay all expenses of 368
conducting the election. The initial board of trustees may elect 369
from among the appointed members a chairperson and such other 370
officers, take such actions, and hold successive meetings, as are 371

necessary to arrange for the election of citizen members, but no 372
other business of the new community authority shall be conducted. 373
The terms of officers so appointed shall continue only until the 374
elected citizen members enter upon their official duties on the 375
board. 376

The number of citizen members of the board of trustees to be 377
elected shall at all times be equal to at least one more than the 378
total number of members appointed to the board under division (A) 379
of this section so that the number of citizen members constitutes 380
the majority of the entire number of board members. The number of 381
members on the board of trustees may be reduced as citizen members 382
are elected to replace appointed members under division (C) of 383
this section, as may be provided in the resolution creating the 384
authority. 385

The initial election of citizen members shall be held at a 386
location open to the public and within the boundaries of the 387
district or, if no such location exists, at a location open to the 388
public within a township or municipal corporation within which the 389
district is located. The election shall be conducted within ninety 390
days after the first meeting of the initial board of trustees. To 391
be qualified to be a citizen member elected at the initial 392
election under this division, a candidate must satisfy the 393
qualifications of citizen members prescribed by division (D) of 394
this section. To be qualified to vote at the election, a person 395
must satisfy the qualifications of citizen members prescribed by 396
that division. To cast a vote, a person must be present at the 397
location of the election. The seats on the board shall be filled 398
by the number of candidates, equal to the number of such seats, 399
receiving the greatest number of votes cast at the election. 400

Any business conducted by the initial board of trustees other 401
than the appointment of officers or the arrangement for the 402
election of citizen members, as provided by this division, is void 403

and without effect. 404

Appointed members shall serve a term of two years, and a 405
member may be reappointed, except that the terms of appointed 406
members terminate as provided in division (C) of this section. The 407
terms of initially elected citizen members shall be two years. The 408
terms of the appointed members and of the initially elected 409
citizen members shall be measured from the first day of January 410
that follows the date of the election of the initially elected 411
citizen members. 412

The organizational board of commissioners may remove an 413
appointed member of the board of trustees for misfeasance, 414
nonfeasance, or malfeasance in office. The developer may remove 415
the developer's appointed member representative on the board 416
without a showing of cause. 417

(C) The appointed members representing the developer and the 418
local governments shall be replaced by elected citizen members at 419
the time the population of the new community district equals sixty 420
per cent of the district's projected population. The seats of the 421
members being replaced shall be filled by the number of citizen 422
member candidates, equal to the number of such seats, receiving 423
the greatest number of votes. The election shall be held on the 424
first Tuesday after the first Monday in December of each year 425
beginning with the year in which the population of the district 426
equals sixty per cent of the district's projected population. 427

(D) Each appointed member shall be a qualified elector as 429
defined in section 3501.01 of the Revised Code. Each citizen 430
member ~~except an appointed citizen member~~ shall be a qualified 431
elector who resides and owns the fee of land situated in or within 432
five thousand feet of the new community district. ~~Citizen members~~ 433
~~shall not be employees of or have financial interest in the~~ 434
~~developer. If~~ An appointed member or elected citizen member of the 435

board, except the member appointed by the developer under this 436
section, may not be an employee of the developer, may not have a 437
financial interest in the developer, and may not have sold, 438
transferred, or leased to the developer real property located 439
within the district. If, while serving as a member of the board, a 440
person, other than the member appointed by the developer, sells, 441
transfers, or leases to the developer real property located in the 442
district or added to the district, the person's term as such a 443
member shall terminate immediately upon the sale or transfer or 444
commencement of the lease, and the vacancy so created shall be 445
filled as provided in division (E) of this section. Before 446
assuming duties on the board, each member of the board, except the 447
developer's representative, shall execute an affidavit declaring 448
those facts. A new affidavit shall be executed each time a member 449
is appointed or elected. The affidavits shall be kept on file at 450
the board's offices and shall be made available during normal 451
business hours for inspection by any resident of the district. 452

(E) The terms of members of the board of trustees elected 453
under division (C) of this section shall be two years. 454

If a vacancy occurs in the office of a member other than a 455
member appointed by the developer, the ~~organizational~~ board of 456
~~commissioners~~ trustees may appoint a successor member for the 457
remainder of the unexpired term. ~~Any appointed member of the board~~ 458
~~of trustees may at any time be removed by the organizational board~~ 459
~~of commissioners for misfeasance, nonfeasance, or malfeasance in~~ 460
~~office. Members appointed by the developer may also at any time be~~ 461
~~removed by the developer without a showing of cause.~~ 462

(F) Each member of the board of trustees, including a member 463
of the initial board of trustees, before entering upon ~~his~~ 464
official duties, shall take and subscribe to an oath before an 465
officer authorized to administer oaths in Ohio that ~~he~~ the member 466
will honestly and faithfully perform the duties of ~~his~~ the 467

member's office. Such oath shall be filed in the office of the 468
clerk of the board of county commissioners in which the petition 469
was filed. ~~Upon taking the oath~~ Once the initially elected citizen 470
members have been elected under division (C) of this section, and 471
after each election thereafter, the board of trustees shall elect 472
one of its number as ~~chairman~~ chairperson and another as 473
~~vice-chairman~~ vice-chairperson, and shall appoint suitable persons 474
as secretary and treasurer who need not be members of the board. 475
The treasurer shall be the fiscal officer of the authority. The 476
board shall adopt by-laws governing the administration of the 477
affairs of the new community authority. Each member of the board 478
shall post a bond for the faithful performance of ~~his~~ official 479
duties and give surety therefor in such amount, but not less than 480
ten thousand dollars, as the resolution creating such board shall 481
prescribe. 482

(G) All of the powers of the new community authority shall be 483
exercised by its board of trustees, but without relief of such 484
responsibility, such powers may be delegated to committees of the 485
board or its officers and employees in accordance with its 486
by-laws. A majority of the board, including at least one more 487
elected citizen member than noncitizen members, shall constitute a 488
quorum, and a concurrence of a majority of a quorum in any matter 489
within the board's duties is sufficient for its determination, 490
provided a quorum is present when such concurrence is had ~~and a~~ 491
~~majority of those members constituting such quorum are trustees~~ 492
~~not appointed by the developer.~~ All trustees shall be empowered to 493
vote on all matters within the authority of the board of trustees, 494
and no vote by a member appointed by the developer shall be 495
construed to give rise to civil or criminal liability for conflict 496
of interest on the part of public officials. 497

Sec. 349.05. A new community authority established pursuant 498
to this chapter is a body corporate and politic, and shall have 499

the powers specifically granted by this chapter. This chapter does 500
not limit or restrict the power and authority of cities, counties, 501
and townships. The new community authority shall have no power or 502
authority over zoning or subdivision regulation, provision of fire 503
or police protection, or, unless such services cannot be obtained 504
from other existing political subdivisions, water supply or sewage 505
treatment and disposal. 506

The exercise of police power granted to the authority by this 507
chapter does not invalidate the exercise of police power by any 508
municipal corporation and the exercise of police power by a 509
municipal corporation shall prevail in the case of a conflict with 510
powers exercised by the authority. The grant of power to the 511
authority under divisions (N) and (O) of section 349.06 of the 512
Revised Code shall not remove municipal, regional, or county 513
planning commissions and agencies from jurisdiction within the 514
district, nor shall such powers invalidate municipal ordinances 515
and resolutions or other regulations of such planning commission 516
and agencies. 517

A new community authority is a public body for the purposes 518
of section 121.22 of the Revised Code. 519

Sec. 349.06. In furtherance of the purposes of this chapter, 520
a new community authority may do any of the following, subject to 521
limitation by other sections of this chapter: 522

(A) Acquire by purchase, lease, gift, or otherwise, on such 523
terms and in such manner as it considers proper, real and personal 524
property or any estate, interest, or right therein, within or 525
without the new community district; 526

(B) Improve, maintain, sell, lease or otherwise dispose of 527
real and personal property and community facilities, on such terms 528
and in such manner as it considers proper; 529

(C) Landscape and otherwise aesthetically improve areas	530
within the new community district, including but not limited to	531
maintenance, landscaping and other community improvement services;	532
(D) Provide, engage in, or otherwise sponsor recreational,	533
educational, health, social, vocational, cultural, beautification,	534
and amusement activities and related services primarily for	535
residents of the district;	536
(E) Fix, alter, impose, collect and receive service and user	537
fees, rentals, and other charges to cover all costs in carrying	538
out the new community development program;	539
(F) Adopt, modify, and enforce reasonable rules and	540
regulations governing the use of community facilities;	541
(G) Employ <u>Subject to section 349.17 of the Revised Code,</u>	542
<u>employ</u> such managers, administrative officers, agents, engineers,	543
architects, attorneys, contractors, sub-contractors, and employees	544
as may be appropriate in the exercise of the rights, powers and	545
duties conferred upon it, prescribe the duties and compensation	546
for such persons, require bonds to be given by any such persons	547
and by officers of the authority for the faithful performance of	548
their duties, and fix the amount and surety therefor +, and pay the	549
same;	550
(H) Sue and be sued in its corporate name;	551
(I) Make <u>Subject to sections 349.16 and 349.17 of the Revised</u>	552
<u>Code, make</u> and enter into all contracts and agreements and execute	553
all instruments relating to a new community development program ,	554
including contracts with the developer and other persons or	555
entities related thereto for land acquisition and land	556
development; acquisition, construction, and maintenance of	557
community facilities; the provision of community services and	558
management and coordinating services; with federal, state,	559
interstate, regional, and local agencies and political	560

subdivisions or combinations thereof in connection with the 561
financing of such program, and with any municipal corporation or 562
other public body, or combination thereof, providing for the 563
acquisition, construction, improvement, extension, maintenance or 564
operation of joint lands or facilities or for the provision of any 565
services or activities relating to and in furtherance of a new 566
community development program, including the creation of or 567
participation in a regional transit authority created pursuant to 568
the Revised Code; 569

(J) Apply for and accept grants, loans or commitments of 570
guarantee or insurance including any guarantees of community 571
authority bonds and notes, from the United States, the state, or 572
other public body or other sources, and provide any consideration 573
which may be required in order to obtain such grants, loans or 574
contracts of guarantee or insurance. Such loans or contracts of 575
guarantee or insurance may be evidenced by the issuance of bonds 576
as provided in section 349.08 of the Revised Code; 577

(K) Procure insurance against loss to it by reason of damage 578
to its properties resulting from fire, theft, accident, or other 579
casualties, or by reason of its liability for any damages to 580
persons or property occurring in the construction or operation of 581
facilities or areas under its jurisdiction or the conduct of its 582
activities; 583

(L) Maintain such funds or reserves as it considers necessary 584
for the efficient performance of its duties; 585

(M) Enter agreements with the boards of education of any 586
school districts in which all or part of the new community 587
district lies, whereby the community authority may acquire 588
property for, may construct and equip, and may sell, lease, 589
dedicate, with or without consideration, or otherwise transfer 590
lands, schools, classrooms, or other facilities, whether or not 591
within the new community district, from the authority to the 592

school district for school and related purposes; 593

(N) Prepare plans for acquisition and development of lands 594
and facilities, and enter into agreements with city, county, or 595
regional planning commissions to perform or obtain all or any part 596
of planning services for the new community district; 597

(O) Engage in planning for the new community district, which 598
may be predominantly residential and open space, and prepare or 599
approve a development plan or plans therefor, and engage in land 600
acquisitions and land development in accordance with such plan or 601
plans; 602

(P) Issue new community authority bonds and notes and 603
community authority refunding bonds, payable solely from the 604
income source provided in section 349.08 of the Revised Code, 605
unless the bonds are refunded by refunding bonds, for the purpose 606
of paying any part of the cost as applied to the new community 607
development program or parts thereof; 608

(Q) Enforce any covenants running with the land of which the 609
new community authority is the beneficiary, including but not 610
limited to the collection by any and all appropriate means of any 611
community improvement charge deemed to be a covenant running with 612
the land and enforceable by the new community authority pursuant 613
to section 349.07 of the Revised Code; and to waive, reduce, or 614
terminate any community development charge of which it is the 615
beneficiary to the extent not needed for any of the purposes 616
provided in section 349.07 of the Revised Code, the procedure for 617
which shall be provided in such covenants, and if new community 618
authority bonds have been issued pledging any such community 619
improvement charge, to the extent not prohibited in the resolution 620
authorizing the issuance of such new community authority bonds or 621
the trust agreement or indenture of mortgage securing the bonds; 622

(R) Appropriate for its use, under sections 163.01 to 163.22 623

of the Revised Code, any land, easement, rights, rights-of-way, 624
franchises, or other property in the new community district 625
required by the authority for community facilities. The authority 626
may not so appropriate any land, easement, rights, rights-of-way, 627
franchises, or other property that is not included in the new 628
community district. 629

Sec. 349.16. (A) Anything to be purchased, leased, leased 630
with an option or agreement to purchase, or constructed, including 631
any product, structure, construction, reconstruction, improvement, 632
maintenance, repair, or service by or on behalf of a new community 633
authority at a cost of more than ten thousand dollars shall be 634
obtained through competitive bidding, except as follows: 635

(1) The board of trustees of the authority, by vote of 636
two-thirds of its membership, determines that a real and present 637
emergency exists because of actual physical damage to community 638
facilities and that the estimated cost of repair or reconstruction 639
is less than twenty thousand dollars. 640

(2) The service to be purchased is the service of an 641
accountant, architect, appraiser, attorney at law, consultant, 642
professional engineer, or surveyor. 643

(3) The purchase is of supplies or a replacement or 644
supplemental part for tangible personal property of the authority 645
and the only source of supply for the supplies or part is a single 646
supplier. 647

(4) The purchase is of services related to information 648
technology, such as programming services, that are proprietary or 649
limited to a single source. 650

(B) The board of trustees of a new community authority shall 651
let bids required to be bid competitively in conformance with the 652
procedures prescribed by sections 307.87 to 307.91 of the Revised 653

Code, except as follows: 654

(1) References in those sections to the board of county commissioners or the contracting authority shall be construed to mean the board of trustees of the new community authority. 655
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(2) "Ten thousand dollars" shall be substituted for any reference in those sections to twenty-five thousand dollars. 658
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(3) References in those sections to a contracting authority's internet site or address do not apply unless the new community authority elects for those references to apply. 660
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Sec. 349.17. (A) A new community authority shall not contract with the developer organized for the purpose of carrying out the authority's new community development program, or a member of an affiliated group including that developer, for the performance of any land development or for the construction or improvement of community facilities unless the developer or affiliated group member is the successful bidder for the contract let competitively under section 349.16 of the Revised Code. 663
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(B) Any payments by a new community authority to a developer, or to a member of an affiliated group including the developer, for administrative or professional services rendered to or for the authority by the developer or affiliated group member shall be paid only on the basis of an hourly rate approved by the authority as being reasonable within industry standards for the services performed. The developer or affiliated group member shall submit to the authority for its approval a budget, for each calendar year, of the administrative or professional services to be provided and shall provide to the authority, at least once per year at the time specified by the authority, the hourly records upon which such compensation is to be determined. 671
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The total of all payments during any calendar year from a new 683

community authority to a developer and to members of any 684
affiliated group including the developer for administrative or 685
professional services shall not exceed three per cent of the first 686
five million dollars in cost of the new community development 687
program, two per cent of the next five million in cost of the 688
program, and one per cent of such cost in excess of ten million 689
dollars in cost. The limit on such payments does not prohibit the 690
developer or affiliated group member from incurring costs or 691
investing money in excess of the limit to provide administrative 692
or professional services to the new community authority, but the 693
authority shall not pay any amount in excess of the limit. 694

(C) As used in this section, "affiliated group" means two or 696
more persons related in such a way that one person owns or 697
controls the business operations of another member of the group. 698
In the case of corporations with stock, one corporation owns or 699
controls another if it owns more than fifty per cent of the other 700
corporation's common stock with voting rights. The attribution 701
rules of section 318 of the Internal Revenue Code, 26 U.S.C. 318, 702
apply for purposes of determining whether the ownership 703
requirements are met. 704

Section 2. That existing sections 349.01, 349.03, 349.04, 705
349.05, and 349.06 and section 349.16 of the Revised Code are 706
hereby repealed. 707