

**As Introduced**

**128th General Assembly  
Regular Session  
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**H. B. No. 401**

**Representatives Lundy, Murray**

**Cosponsors: Representatives Domenick, Book, Letson, Evans, Goyal,  
Fende, Yuko**

**—**

**A B I L L**

To amend section 5709.081 of the Revised Code to 1  
authorize property tax exemption for municipally 2  
owned facilities housing independent professional 3  
minor league baseball teams. 4

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

**Section 1.** That section 5709.081 of the Revised Code be 5  
amended to read as follows: 6

**Sec. 5709.081.** (A) Real and tangible personal property owned 7  
by a political subdivision that is a public recreational facility 8  
for athletic events shall be exempt from taxation if all of the 9  
following apply: 10

(1) The property is controlled and managed by a political 11  
subdivision or a county-related corporation or by a similar 12  
corporation under the direct control of a political subdivision 13  
and whose members and trustees are chosen or appointed by the 14  
subdivision; 15

(2) All revenues and receipts derived by the subdivision or 16  
corporation that controls and manages the property, after 17  
deducting amounts needed to pay necessary expenses for the 18

operation and management of the property, accrue to the political subdivision owning the property;

(3) The property is not occupied and used for more than seven days in any calendar month by any private entity for profit or for more than a total of fifteen days in any calendar month by all such private entities for profit;

(4) The property is under the direction and control of the political subdivision or managing corporation whenever it is being used by a private entity for profit;

(5) The primary user or users of the property, if such a primary user exists, are controlled and managed by the political subdivision or corporation that controls and manages the property.

(B) Tangible personal property, and all buildings, structures, fixtures, and improvements of any kind to the land, that are constructed or, in the case of personal property, acquired after March 2, 1992, and are part of or used in a public recreational facility used by a major league professional athletic team or a class A to class AAA minor league affiliate of a major league baseball team for a significant portion of its home schedule, and land acquired by a political subdivision in 1999 for such purposes or originally leased from a political subdivision, such political subdivision qualifying as such pursuant to division (G) of this section, in 1998 for such purposes, are declared to be public property used for a public purpose and are exempt from taxation, if all of the following apply:

(1) Such property, or the land upon which such property is located if such land was originally leased in 1998 from a political subdivision that qualifies as such pursuant to division (G) of this section, is owned by one or more political subdivisions or by a corporation controlled by such subdivisions;

(2) Such property was or is any of the following:

(a) Constructed or, in the case of personal property, 50  
acquired pursuant to an agreement with a municipal corporation to 51  
implement a development, redevelopment, or renewal plan for an 52  
area declared by the municipal corporation to be a slum or 53  
blighted area, as those terms are defined in section 725.01 of the 54  
Revised Code; 55

(b) Financed in whole or in part with public obligations as 56  
defined in section 5709.76 of the Revised Code or otherwise paid 57  
for in whole or in part by one or more political subdivisions; 58

(c) An improvement or addition to property defined in 59  
division (B)(2)(a) or (b) of this section. 60

(3) Such property is controlled and managed by either of the 61  
following: 62

(a) One or more of the political subdivisions or the 63  
corporation that owns it; 64

(b) A designee, tenant, or agent of such political 65  
subdivision or subdivisions or corporation pursuant to a 66  
management, lease, or similar written agreement. 67

(4) The primary user or users of such property, if a primary 68  
user or primary users exist, either: 69

(a) Are controlled and managed by one or more of the 70  
political subdivisions or the corporation that owns the property; 71  
or 72

(b) Operate under leases, licenses, management agreements, or 73  
similar arrangements with, and providing for the payment of rents, 74  
revenues, or other remuneration to, one or more of the political 75  
subdivisions or the corporation that owns the property. 76

(5) Any residual cash accrues to the political subdivision or 77  
subdivisions that own the property or that control the corporation 78  
that owns the property, and is used for the public purposes of the 79

subdivision or subdivisions. As used in division (B)(5) of this 80  
section, "residual cash" means any revenue and receipts derived 81  
from the property by the political subdivision or subdivisions or 82  
corporation that owns the property and that are available for 83  
unencumbered use by the political subdivision or subdivisions or 84  
corporation, after deducting amounts needed to make necessary 85  
expenditures, pay debt service, and provide for working capital 86  
related to the ownership, management, operation, and use of the 87  
property, including payments of taxes on the taxable part of the 88  
public recreational facility, contractually obligated payments or 89  
deposits into reserves or otherwise, and service payments under 90  
section 307.699 of the Revised Code. 91

(C) The exemption provided in division (B) of this section 92  
also applies to both of the following: 93

(1) The property during its construction or, in the case of 94  
tangible personal property, acquisition during the construction 95  
period, if the owner meets the condition of division (B)(1) of 96  
this section and has agreements that provide for the satisfaction 97  
of all other conditions of division (B) of this section upon the 98  
completion of the construction; 99

(2) Any improvement or addition made after March 2, 1992, to 100  
a public recreational facility that was constructed before March 101  
2, 1992, as long as all other conditions in division (B) of this 102  
section are met. 103

(D) A corporation that owns property exempt from taxation 104  
under division (B) of this section is a public body for the 105  
purposes of section 121.22 of the Revised Code. The corporation's 106  
records are public records for the purposes of section 149.43 of 107  
the Revised Code, except records related to matters set forth in 108  
division (G) of section 121.22 of the Revised Code and records 109  
related to negotiations that are not yet completed for financing, 110  
leases, or other agreements. 111

(E) The exemption under division (B) of this section applies 112  
to property that is owned by the political subdivision or 113  
subdivisions or the corporation that owns the public recreational 114  
facility. Tangible personal property owned by users, managers, or 115  
lessees of the facility is taxable when used in the public 116  
recreational facility. 117

(F) All real property constituting a public recreational 118  
facility, including the land on which the facility is situated, 119  
that is owned by a municipal corporation and used primarily by an 120  
independent professional minor league baseball team for a 121  
significant portion of its home schedule is declared to be public 122  
property used for a public purpose, and is exempt from taxation, 123  
if the facility is constructed in 2008 or thereafter, the team 124  
operates at the facility under a lease, license, management 125  
agreement, or similar arrangement with the municipal corporation 126  
that requires the team to pay rent, revenue, or other remuneration 127  
to the municipal corporation, and any residual cash, as defined in 128  
division (B)(5) of this section, that accrues to the municipal 129  
corporation is used for the public purposes of the municipal 130  
corporation. 131

For the purposes of this division, an independent 132  
professional minor league baseball team is a baseball team that 133  
employs professional players and that is a member of an 134  
established league composed of teams that are not affiliated with 135  
a constituent member club of major league baseball, incorporated. 136

(G) Nothing in this section or in any other section of the 137  
Revised Code prohibits or otherwise precludes an agreement between 138  
a political subdivision, or a corporation controlled by a 139  
political subdivision, that owns or operates a public recreational 140  
facility that is exempted from taxation under division (A) ~~or~~ 141  
(B), or (F) of this section and the board of education of a school 142  
district or the legislative authority of a municipal corporation, 143

or both, in which all or a part of that facility is located, 144  
providing for payments to the school district or municipal 145  
corporation, or both, in lieu of taxes that otherwise would be 146  
charged against real and tangible personal property exempted from 147  
taxation under this section, for a period of time and under such 148  
terms and conditions as the legislative authority of the political 149  
subdivision and the board of education or municipal legislative 150  
authority, or both, may agree, which agreements are hereby 151  
specifically authorized. 152

~~(G)~~(H) As used in this section, "political subdivision" 153  
includes the state or an agency of the state if the city, local, 154  
or exempted village school district in which the property is 155  
situated expressly consents to exempting the property from 156  
taxation. 157

**Section 2.** That existing section 5709.081 of the Revised Code 158  
is hereby repealed. 159

**Section 3.** The amendment by this act of section 5709.081 of 160  
the Revised Code applies to tax years 2009 and thereafter. 161  
Notwithstanding section 5715.27 of the Revised Code, an 162  
application for exemption for property described in division (F) 163  
of section 5709.081 of the Revised Code, as amended by this act, 164  
for tax year 2009 may be filed after December 30, 2009, and before 165  
the first day of the second month following the month in which 166  
this act takes effect. If any taxes for tax year 2009 have been 167  
paid, the amount paid shall be refunded in the manner prescribed 168  
by section 5715.22 of the Revised Code for overpayment of taxes. 169