

**As Reported by the House Public Utilities Committee**

**128th General Assembly**

**Regular Session**

**2009-2010**

**Sub. S. B. No. 162**

**Senator Buehrer**

**Cosponsors: Senators Gibbs, Gillmor, Grendell, Patton, Seitz, Stewart,  
Wagoner, Harris, Jones, Kearney, Strahorn, Wilson, Widener, Turner,  
Schiavoni, Miller, R., Hughes**

—

**A B I L L**

To amend sections 324.01, 324.03, 1332.24, 2317.02, 1  
2917.21, 2929.01, 4901.01, 4901.02, 4901.11, 2  
4901.15, 4901.22, 4903.01, 4903.20, 4903.22, 3  
4903.23, 4905.01, 4905.02, 4905.03, 4905.04, 4  
4905.09, 4905.12, 4905.14, 4905.16, 4905.18, 5  
4905.20, 4905.21, 4905.26, 4905.30, 4905.34, 6  
4905.40, 4905.402, 4905.41, 4905.42, 4905.45, 7  
4905.46, 4905.47, 4905.51, 4905.52, 4905.58, 8  
4905.59, 4905.61, 4905.63, 4905.71, 4905.73, 9  
4905.84, 4905.90, 4905.99, 4907.01, 4907.14, 10  
4907.30, 4909.01, 4909.02, 4909.03, 4909.17, 11  
4911.01, 4921.01, 4923.01, 4927.01, 4927.02, 12  
4929.02, 4931.02, 4931.03, 4931.04, 4931.11, 13  
4931.99, 4933.14, 4933.18, 4933.19, 4939.01, 14  
5515.01, 5733.57, 6101.17, and 6115.21, to amend 15  
sections 4931.11 (4931.05) and 4931.35 (4931.06) 16  
for the purpose of adopting new section numbers as 17  
shown in parentheses, to enact new sections 18  
4927.03 and 4927.04 and sections 4927.05, 4927.06, 19  
4927.07, 4927.08, 4927.09, 4927.11, 4927.12, 20  
4927.13, 4927.14, 4927.15, 4927.16, 4927.17, 21

4927.18, 4927.19, 4927.20, 4927.21, and 4931.01, 22  
and to repeal sections 4905.041, 4905.23, 23  
4905.231, 4905.24, 4905.241, 4905.242, 4905.243, 24  
4905.244, 4905.25, 4905.381, 4905.49, 4905.491, 25  
4905.50, 4927.03, 4927.04, 4931.06, 4931.07, 26  
4931.12, 4931.13, 4931.14, 4931.15, 4931.16, 27  
4931.17, 4931.18, 4931.19, 4931.21, 4931.22, 28  
4931.25, 4931.26, 4931.27, 4931.28, 4931.29, 29  
4931.30, and 4931.31 of the Revised Code to revise 30  
state regulation of telephone companies, remove 31  
telegraph companies from utility regulation, and 32  
to create the Select Committee on 33  
Telecommunications Regulatory Reform. 34

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

**Section 1.** That sections 324.01, 324.03, 1332.24, 2317.02, 35  
2917.21, 2929.01, 4901.01, 4901.02, 4901.11, 4901.15, 4901.22, 36  
4903.01, 4903.20, 4903.22, 4903.23, 4905.01, 4905.02, 4905.03, 37  
4905.04, 4905.09, 4905.12, 4905.14, 4905.16, 4905.18, 4905.20, 38  
4905.21, 4905.26, 4905.30, 4905.34, 4905.40, 4905.402, 4905.41, 39  
4905.42, 4905.45, 4905.46, 4905.47, 4905.51, 4905.52, 4905.58, 40  
4905.59, 4905.61, 4905.63, 4905.71, 4905.73, 4905.84, 4905.90, 41  
4905.99, 4907.01, 4907.14, 4907.30, 4909.01, 4909.02, 4909.03, 42  
4909.17, 4911.01, 4921.01, 4923.01, 4927.01, 4927.02, 4929.02, 43  
4931.02, 4931.03, 4931.04, 4931.11, 4931.99, 4933.14, 4933.18, 44  
4933.19, 4939.01, 5515.01, 5733.57, 6101.17, and 6115.21 be 45  
amended, that sections 4931.11 (4931.05) and 4931.35 (4931.06) be 46  
amended for the purpose of adopting new section numbers as shown 47  
in parentheses, and that new sections 4927.03 and 4927.04 and 48  
sections 4927.05, 4927.06, 4927.07, 4927.08, 4927.09, 4927.11, 49  
4927.12, 4927.13, 4927.14, 4927.15, 4927.16, 4927.17, 4927.18, 50  
4927.19, 4927.20, 4927.21, and 4931.01 of the Revised Code be 51

enacted to read as follows: 52

**Sec. 324.01.** As used in sections 324.01 to 324.12 of the 53  
Revised Code: 54

(A) "Utility" means: 55

(1) An electric company, gas company, heating company, 56  
cooling company, telephone company, ~~telegraph company~~, or 57  
communications company supplying a utility service; 58

(2) Any municipal corporation, county, or other political 59  
subdivision, instrumentality, or agency of the state supplying a 60  
utility service; 61

(3) Any individual, firm, partnership, association, trust, 62  
joint-stock company, joint venture, corporation, nonprofit 63  
corporation, cooperative, receiver, assignee, trustee in 64  
bankruptcy, estate, trustee, or organization of any kind which 65  
owns or operates any office building, storeroom building, shopping 66  
center, apartment building, apartment hotel, condominium, or other 67  
multiple business or dwelling unit, and which sells, furnishes, or 68  
delivers a utility service to the tenants or occupants thereof, 69  
provided the charge for such utility service is separately stated. 70

(B) Any individual, firm, partnership, association, trust, 71  
joint-stock company, joint venture, corporation, municipal 72  
corporation, county, or other political subdivision, 73  
instrumentality, or agency of the state, nonprofit corporation, 74  
cooperative, receiver, assignee, trustee in bankruptcy, estate, 75  
trustee, or organization of any kind: 76

(1) Is an electric company when supplying electricity for 77  
light, heat, cooling, or power purposes to customers within a 78  
county levying a utilities service tax; 79

(2) Is a gas company when supplying artificial gas or natural 80

gas for light, heat, cooling, or power purposes to customers 81  
within a county levying a utilities service tax; 82

(3) Is a heating company when supplying water, steam, or air 83  
through pipes or tubing for heating purposes to customers within a 84  
county levying a utilities service tax; 85

(4) Is a cooling company when supplying water, steam, or air 86  
through pipes or tubing for cooling purposes to customers within a 87  
county levying a utilities service tax; 88

(5) Is a telephone company when transmitting telephonic 89  
messages to, from, or within a county levying a utilities service 90  
tax; 91

~~(6) Is a telegraph company when transmitting telegraphic 92  
messages to, from, or within a county levying a utilities service 93  
tax; 94~~

~~(7) Is a communications company when supplying the services 95  
described in section ~~4931.11~~ 4931.05 of the Revised Code, other 96  
than transmitting telephonic ~~or telegraphic~~ messages, to, from, or 97  
within a county levying a utilities service tax. 98~~

(C) "Utility service" means the supplying of water, steam, or 99  
air through pipes or tubing for heating or cooling purposes to 100  
customers within the county, the supplying of electricity, 101  
artificial gas, or natural gas to customers within the county, and 102  
the transmission of telephonic ~~or telegraphic~~ messages or the 103  
supplying of any of the services described in section ~~4931.11~~ 104  
4931.05 of the Revised Code when the transmission or supplying 105  
originates from and is charged to or is received by and charged to 106  
a customer within the county. 107

(D) "Charge for utility service" means the amount charged to 108  
the customer for a utility service without deduction for any 109  
discount for early payment but after deducting the amount of any 110  
federal excise tax on such utility service, and excluding the 111

amount paid for the purchase of appliances or other merchandise, 112  
and the amount paid for the installation of pipes, meters, poles, 113  
apparatus, instruments, switchboards, and other facilities by the 114  
utility for the purpose of rendering utility service to the 115  
customer if the charge therefor is separately stated by the 116  
utility in its bill to the customer and is not included in the 117  
basic rates charged to customers of the utility. 118

(E) "Customer" means any individual, firm, partnership, 119  
association, trust, joint-stock company, joint venture, 120  
corporation, nonprofit corporation, cooperative, receiver, 121  
assignee, trustee in bankruptcy, estate, trustee, or organization 122  
of any kind receiving utility service from a utility, but does not 123  
include the United States, the state, any political subdivision of 124  
the state, or any agency or instrumentality of any of them. 125

(F) "Business" has the same meaning as in division (E) of 126  
section 5701.08 of the Revised Code. 127

**Sec. 324.03.** The utilities service tax shall not apply to the 128  
following: 129

(A) The first five dollars per month of any charge for 130  
utility service for each utility service rendered by a utility to 131  
a customer; 132

(B) The supplying of a utility service to a customer for 133  
resale; provided, that this division shall not include the 134  
supplying of a utility service to a utility as defined in division 135  
(A)(3) of section 324.01 of the Revised Code if the utility 136  
receiving the service when supplying the service to its customers 137  
does not separately state the charge therefor; 138

(C) The supplying of a utility service through a 139  
coin-operated device; 140

(D) Telephone service, ~~telegraph service,~~ and services 141

described in section ~~4931.11~~ 4931.05 of the Revised Code, to or 142  
from a point outside the state for which a separate charge is 143  
made; 144

(E) The supplying of a utility service not within the taxing 145  
power of the county under the constitution of the United States or 146  
the constitution of this state; 147

(F) The supplying of a utility service to a person engaged in 148  
business, for use or consumption in the production of tangible 149  
personal property. 150

For the purpose of the proper administration of the utilities 151  
service tax and to prevent the evasion of the tax, it is presumed 152  
that any supplying of utility service is subject to the tax until 153  
the contrary is shown. 154

**Sec. 1332.24.** (A)(1) In accordance with section 1332.25 of 155  
the Revised Code, the director of commerce may issue to any 156  
person, or renew, a video service authorization, which 157  
authorization confers on the person the authority, subject to 158  
sections 1332.21 to 1332.34 of the Revised Code, to provide video 159  
service in its video service area; construct and operate a video 160  
service network in, along, across, or on public rights-of-way for 161  
the provision of video service; and, when necessary to provide 162  
that service, exercise the power of a ~~telegraph~~ telephone company 163  
under section 4931.04 of the Revised Code. The term of a video 164  
service authorization or authorization renewal shall be ten years. 165

(2) For the purposes of the "Cable Communications Policy Act 166  
of 1984," Pub. L. No. 98-549, 98 Stat. 2779, 47 U.S.C. 521 et 167  
seq., a video service authorization shall constitute a franchise 168  
under that law, and the director shall be the sole franchising 169  
authority under that law for video service authorizations in this 170  
state. 171

(3) The director may impose upon and collect an annual assessment on video service providers. All money collected under division (A)(3) of this section shall be deposited to the credit of the division of administration fund created under section 121.08 of the Revised Code. The total amount assessed in a fiscal year shall not exceed the lesser of four hundred fifty thousand dollars or, as shall be determined annually by the director, the department's actual, current fiscal year administrative costs in carrying out its duties under sections 1332.21 to 1332.34 of the Revised Code. The director shall allocate that total amount proportionately among the video service providers to be assessed, using a formula based on subscriber counts as of the thirty-first day of December of the preceding calendar year, which counts shall be submitted to the director not later than the thirty-first day of January of each year, via a notarized statement signed by an authorized officer. Any information submitted by a video service provider to the director for the purpose of determining subscriber counts shall be considered trade secret information, shall not be disclosed except by court order, and shall not constitute a public record under section 149.43 of the Revised Code. On or about the first day of June of each year, the director shall send to each video service provider to be assessed written notice of its proportional amount of the total assessment. The provider shall pay that amount on a quarterly basis not later than forty-five days after the end of each calendar quarter. After the initial assessment, the director annually shall reconcile the amount collected with the total, current amount assessed pursuant to this section, and either shall charge each assessed video service provider its respective proportion of any insufficiency or proportionately credit the provider's next assessment for any excess collected.

(B)(1) The director may investigate alleged violations of or failures to comply with division (A) of section 1332.23, division

(A) of this section, division (C) of section 1332.25, division (C) 205  
or (D) of section 1332.26, division (A), (B), or (C) of section 206  
1332.27, division (A) of section 1332.28, division (A) or (B) of 207  
section 1332.29, or section 1332.30 or 1332.31 of the Revised 208  
Code, or complaints concerning any such violation or failure. 209  
Except as provided in this section, the director has no authority 210  
to regulate video service in this state, including, but not 211  
limited to, the rates, terms, or conditions of that service. 212

(2) In conducting an investigation under division (B)(1) of 213  
this section, the director, by subpoena, may compel witnesses to 214  
testify in relation to any matter over which the director has 215  
jurisdiction and may require the production of any book, record, 216  
or other document pertaining to that matter. If a person fails to 217  
file any statement or report, obey any subpoena, give testimony, 218  
produce any book, record, or other document as required by a 219  
subpoena, or permit photocopying of any book, record, or other 220  
document subpoenaed, the court of common pleas of any county in 221  
this state, upon application made to it by the director, shall 222  
compel obedience by attachment proceedings for contempt, as in the 223  
case of disobedience of the requirements of a subpoena issued from 224  
the court or a refusal to testify. 225

(C)(1) If the director finds that a person has violated or 226  
failed to comply with division (A) of section 1332.23, division 227  
(A) of this section, division (C) of section 1332.25, division (C) 228  
or (D) of section 1332.26, division (A), (B), or (C) of section 229  
1332.27, division (A) of section 1332.28, division (A) or (B) of 230  
section 1332.29, or section 1332.30 or 1332.31 of the Revised 231  
Code, and the person has failed to cure the violation or failure 232  
after reasonable, written notice and reasonable time to cure, the 233  
director may do any of the following: 234

(a) Apply to the court of common pleas of any county in this 235  
state for an order enjoining the activity or requiring compliance. 236



Such an action shall be commenced not later than three years after 237  
the date the alleged violation or failure occurred or was 238  
reasonably discovered. Upon a showing by the director that the 239  
person has engaged in a violation or failure to comply, the court 240  
shall grant an injunction, restraining order, or other appropriate 241  
relief. 242

(b) Enter into a written assurance of voluntary compliance 243  
with the person; 244

(c) Pursuant to an adjudication under Chapter 119. of the 245  
Revised Code, assess a civil penalty in an amount determined by 246  
the director, including for any failure to comply with an 247  
assurance of voluntary compliance under division (C)(1)(b) of this 248  
section. The amount shall be not more than one thousand dollars 249  
for each day of violation or noncompliance, not to exceed a total 250  
of ten thousand dollars, counting all subscriber impacts as a 251  
single violation or act of noncompliance. In determining whether a 252  
civil penalty is appropriate under division (C)(1)(c) of this 253  
section, the director shall consider all of the following factors: 254

(i) The seriousness of the noncompliance; 255

(ii) The good faith efforts of the person to comply; 256

(iii) The person's history of noncompliance; 257

(iv) The financial resources of the person; 258

(v) Any other matter that justice requires. 259

Civil penalties collected pursuant to division (C)(1)(c) of 260  
this section shall be deposited to the credit of the video service 261  
enforcement fund in the state treasury, which is hereby created, 262  
to be used by the department of commerce in carrying out its 263  
duties under this section. 264

(2) Pursuant to an adjudication under Chapter 119. of the 265  
Revised Code, the director may revoke, in whole or in part, the 266

video service authorization of any person that has repeatedly and 267  
knowingly violated or failed to comply with division (A) of 268  
section 1332.23, division (A) of this section, division (C) of 269  
section 1332.25, division (C) or (D) of section 1332.26, division 270  
(A), (B), or (C) of section 1332.27, division (A) of section 271  
1332.28, division (A) or (B) of section 1332.29, or section 272  
1332.30 or 1332.31 of the Revised Code and that has failed to cure 273  
the violations or noncompliances after reasonable written notice 274  
and reasonable time to cure. Such person acts knowingly, 275  
regardless of the person's purpose, when the person is aware that 276  
the person's conduct will probably cause a certain result or will 277  
probably be of a certain nature. A person has knowledge of 278  
circumstances when the person is aware that such circumstances 279  
probably exist. 280

(3) The court shall conduct a de novo review in any appeal 281  
from an adjudication under division (C)(1)(c) or (C)(2) of this 282  
section. 283

(D) The public utilities commission has no authority over a 284  
video service provider in its offering of video service or a cable 285  
operator in its offering of cable or video service, or over any 286  
person in its offering of video service pursuant to a competitive 287  
video service agreement. 288

**Sec. 2317.02.** The following persons shall not testify in 289  
certain respects: 290

(A)(1) An attorney, concerning a communication made to the 291  
attorney by a client in that relation or the attorney's advice to 292  
a client, except that the attorney may testify by express consent 293  
of the client or, if the client is deceased, by the express 294  
consent of the surviving spouse or the executor or administrator 295  
of the estate of the deceased client. However, if the client 296  
voluntarily testifies or is deemed by section 2151.421 of the 297

Revised Code to have waived any testimonial privilege under this 298  
division, the attorney may be compelled to testify on the same 299  
subject. 300

The testimonial privilege established under this division 301  
does not apply concerning a communication between a client who has 302  
since died and the deceased client's attorney if the communication 303  
is relevant to a dispute between parties who claim through that 304  
deceased client, regardless of whether the claims are by testate 305  
or intestate succession or by inter vivos transaction, and the 306  
dispute addresses the competency of the deceased client when the 307  
deceased client executed a document that is the basis of the 308  
dispute or whether the deceased client was a victim of fraud, 309  
undue influence, or duress when the deceased client executed a 310  
document that is the basis of the dispute. 311

(2) An attorney, concerning a communication made to the 312  
attorney by a client in that relationship or the attorney's advice 313  
to a client, except that if the client is an insurance company, 314  
the attorney may be compelled to testify, subject to an in camera 315  
inspection by a court, about communications made by the client to 316  
the attorney or by the attorney to the client that are related to 317  
the attorney's aiding or furthering an ongoing or future 318  
commission of bad faith by the client, if the party seeking 319  
disclosure of the communications has made a prima facie showing of 320  
bad faith, fraud, or criminal misconduct by the client. 321

(B)(1) A physician or a dentist concerning a communication 322  
made to the physician or dentist by a patient in that relation or 323  
the physician's or dentist's advice to a patient, except as 324  
otherwise provided in this division, division (B)(2), and division 325  
(B)(3) of this section, and except that, if the patient is deemed 326  
by section 2151.421 of the Revised Code to have waived any 327  
testimonial privilege under this division, the physician may be 328  
compelled to testify on the same subject. 329

The testimonial privilege established under this division 330  
does not apply, and a physician or dentist may testify or may be 331  
compelled to testify, in any of the following circumstances: 332

(a) In any civil action, in accordance with the discovery 333  
provisions of the Rules of Civil Procedure in connection with a 334  
civil action, or in connection with a claim under Chapter 4123. of 335  
the Revised Code, under any of the following circumstances: 336

(i) If the patient or the guardian or other legal 337  
representative of the patient gives express consent; 338

(ii) If the patient is deceased, the spouse of the patient or 339  
the executor or administrator of the patient's estate gives 340  
express consent; 341

(iii) If a medical claim, dental claim, chiropractic claim, 342  
or optometric claim, as defined in section 2305.113 of the Revised 343  
Code, an action for wrongful death, any other type of civil 344  
action, or a claim under Chapter 4123. of the Revised Code is 345  
filed by the patient, the personal representative of the estate of 346  
the patient if deceased, or the patient's guardian or other legal 347  
representative. 348

(b) In any civil action concerning court-ordered treatment or 349  
services received by a patient, if the court-ordered treatment or 350  
services were ordered as part of a case plan journalized under 351  
section 2151.412 of the Revised Code or the court-ordered 352  
treatment or services are necessary or relevant to dependency, 353  
neglect, or abuse or temporary or permanent custody proceedings 354  
under Chapter 2151. of the Revised Code. 355

(c) In any criminal action concerning any test or the results 356  
of any test that determines the presence or concentration of 357  
alcohol, a drug of abuse, a combination of them, a controlled 358  
substance, or a metabolite of a controlled substance in the 359  
patient's whole blood, blood serum or plasma, breath, urine, or 360

other bodily substance at any time relevant to the criminal 361  
offense in question. 362

(d) In any criminal action against a physician or dentist. In 363  
such an action, the testimonial privilege established under this 364  
division does not prohibit the admission into evidence, in 365  
accordance with the Rules of Evidence, of a patient's medical or 366  
dental records or other communications between a patient and the 367  
physician or dentist that are related to the action and obtained 368  
by subpoena, search warrant, or other lawful means. A court that 369  
permits or compels a physician or dentist to testify in such an 370  
action or permits the introduction into evidence of patient 371  
records or other communications in such an action shall require 372  
that appropriate measures be taken to ensure that the 373  
confidentiality of any patient named or otherwise identified in 374  
the records is maintained. Measures to ensure confidentiality that 375  
may be taken by the court include sealing its records or deleting 376  
specific information from its records. 377

(e)(i) If the communication was between a patient who has 378  
since died and the deceased patient's physician or dentist, the 379  
communication is relevant to a dispute between parties who claim 380  
through that deceased patient, regardless of whether the claims 381  
are by testate or intestate succession or by inter vivos 382  
transaction, and the dispute addresses the competency of the 383  
deceased patient when the deceased patient executed a document 384  
that is the basis of the dispute or whether the deceased patient 385  
was a victim of fraud, undue influence, or duress when the 386  
deceased patient executed a document that is the basis of the 387  
dispute. 388

(ii) If neither the spouse of a patient nor the executor or 389  
administrator of that patient's estate gives consent under 390  
division (B)(1)(a)(ii) of this section, testimony or the 391  
disclosure of the patient's medical records by a physician, 392

dentist, or other health care provider under division (B)(1)(e)(i) 393  
of this section is a permitted use or disclosure of protected 394  
health information, as defined in 45 C.F.R. 160.103, and an 395  
authorization or opportunity to be heard shall not be required. 396

(iii) Division (B)(1)(e)(i) of this section does not require 397  
a mental health professional to disclose psychotherapy notes, as 398  
defined in 45 C.F.R. 164.501. 399

(iv) An interested person who objects to testimony or 400  
disclosure under division (B)(1)(e)(i) of this section may seek a 401  
protective order pursuant to Civil Rule 26. 402

(v) A person to whom protected health information is 403  
disclosed under division (B)(1)(e)(i) of this section shall not 404  
use or disclose the protected health information for any purpose 405  
other than the litigation or proceeding for which the information 406  
was requested and shall return the protected health information to 407  
the covered entity or destroy the protected health information, 408  
including all copies made, at the conclusion of the litigation or 409  
proceeding. 410

(2)(a) If any law enforcement officer submits a written 411  
statement to a health care provider that states that an official 412  
criminal investigation has begun regarding a specified person or 413  
that a criminal action or proceeding has been commenced against a 414  
specified person, that requests the provider to supply to the 415  
officer copies of any records the provider possesses that pertain 416  
to any test or the results of any test administered to the 417  
specified person to determine the presence or concentration of 418  
alcohol, a drug of abuse, a combination of them, a controlled 419  
substance, or a metabolite of a controlled substance in the 420  
person's whole blood, blood serum or plasma, breath, or urine at 421  
any time relevant to the criminal offense in question, and that 422  
conforms to section 2317.022 of the Revised Code, the provider, 423  
except to the extent specifically prohibited by any law of this 424

state or of the United States, shall supply to the officer a copy 425  
of any of the requested records the provider possesses. If the 426  
health care provider does not possess any of the requested 427  
records, the provider shall give the officer a written statement 428  
that indicates that the provider does not possess any of the 429  
requested records. 430

(b) If a health care provider possesses any records of the 431  
type described in division (B)(2)(a) of this section regarding the 432  
person in question at any time relevant to the criminal offense in 433  
question, in lieu of personally testifying as to the results of 434  
the test in question, the custodian of the records may submit a 435  
certified copy of the records, and, upon its submission, the 436  
certified copy is qualified as authentic evidence and may be 437  
admitted as evidence in accordance with the Rules of Evidence. 438  
Division (A) of section 2317.422 of the Revised Code does not 439  
apply to any certified copy of records submitted in accordance 440  
with this division. Nothing in this division shall be construed to 441  
limit the right of any party to call as a witness the person who 442  
administered the test to which the records pertain, the person 443  
under whose supervision the test was administered, the custodian 444  
of the records, the person who made the records, or the person 445  
under whose supervision the records were made. 446

(3)(a) If the testimonial privilege described in division 447  
(B)(1) of this section does not apply as provided in division 448  
(B)(1)(a)(iii) of this section, a physician or dentist may be 449  
compelled to testify or to submit to discovery under the Rules of 450  
Civil Procedure only as to a communication made to the physician 451  
or dentist by the patient in question in that relation, or the 452  
physician's or dentist's advice to the patient in question, that 453  
related causally or historically to physical or mental injuries 454  
that are relevant to issues in the medical claim, dental claim, 455  
chiropractic claim, or optometric claim, action for wrongful 456

death, other civil action, or claim under Chapter 4123. of the 457  
Revised Code. 458

(b) If the testimonial privilege described in division (B)(1) 459  
of this section does not apply to a physician or dentist as 460  
provided in division (B)(1)(c) of this section, the physician or 461  
dentist, in lieu of personally testifying as to the results of the 462  
test in question, may submit a certified copy of those results, 463  
and, upon its submission, the certified copy is qualified as 464  
authentic evidence and may be admitted as evidence in accordance 465  
with the Rules of Evidence. Division (A) of section 2317.422 of 466  
the Revised Code does not apply to any certified copy of results 467  
submitted in accordance with this division. Nothing in this 468  
division shall be construed to limit the right of any party to 469  
call as a witness the person who administered the test in 470  
question, the person under whose supervision the test was 471  
administered, the custodian of the results of the test, the person 472  
who compiled the results, or the person under whose supervision 473  
the results were compiled. 474

(4) The testimonial privilege described in division (B)(1) of 475  
this section is not waived when a communication is made by a 476  
physician to a pharmacist or when there is communication between a 477  
patient and a pharmacist in furtherance of the physician-patient 478  
relation. 479

(5)(a) As used in divisions (B)(1) to (4) of this section, 480  
"communication" means acquiring, recording, or transmitting any 481  
information, in any manner, concerning any facts, opinions, or 482  
statements necessary to enable a physician or dentist to diagnose, 483  
treat, prescribe, or act for a patient. A "communication" may 484  
include, but is not limited to, any medical or dental, office, or 485  
hospital communication such as a record, chart, letter, 486  
memorandum, laboratory test and results, x-ray, photograph, 487  
financial statement, diagnosis, or prognosis. 488



(b) As used in division (B)(2) of this section, "health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.

(c) As used in division (B)(5)(b) of this section:

(i) "Ambulatory care facility" means a facility that provides medical, diagnostic, or surgical treatment to patients who do not require hospitalization, including a dialysis center, ambulatory surgical facility, cardiac catheterization facility, diagnostic imaging center, extracorporeal shock wave lithotripsy center, home health agency, inpatient hospice, birthing center, radiation therapy center, emergency facility, and an urgent care center. "Ambulatory health care facility" does not include the private office of a physician or dentist, whether the office is for an individual or group practice.

(ii) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.

(iii) "Health care practitioner" has the same meaning as in section 4769.01 of the Revised Code.

(iv) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(v) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; an adult care facility, as defined in section 3722.01 of the Revised Code; a nursing facility or intermediate care facility for the mentally retarded, as those terms are defined in section 5111.20 of the Revised Code; a facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended.

(vi) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code. 520  
521

(d) As used in divisions (B)(1) and (2) of this section, "drug of abuse" has the same meaning as in section 4506.01 of the Revised Code. 522  
523  
524

(6) Divisions (B)(1), (2), (3), (4), and (5) of this section apply to doctors of medicine, doctors of osteopathic medicine, doctors of podiatry, and dentists. 525  
526  
527

(7) Nothing in divisions (B)(1) to (6) of this section affects, or shall be construed as affecting, the immunity from civil liability conferred by section 307.628 of the Revised Code or the immunity from civil liability conferred by section 2305.33 of the Revised Code upon physicians who report an employee's use of a drug of abuse, or a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee in accordance with division (B) of that section. As used in division (B)(7) of this section, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code. 528  
529  
530  
531  
532  
533  
534  
535  
536  
537  
538

(C)(1) A cleric, when the cleric remains accountable to the authority of that cleric's church, denomination, or sect, concerning a confession made, or any information confidentially communicated, to the cleric for a religious counseling purpose in the cleric's professional character. The cleric may testify by express consent of the person making the communication, except when the disclosure of the information is in violation of a sacred trust and except that, if the person voluntarily testifies or is deemed by division (A)(4)(c) of section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the cleric may be compelled to testify on the same subject except when disclosure of the information is in violation of a sacred trust. 539  
540  
541  
542  
543  
544  
545  
546  
547  
548  
549  
550  
551

(2) As used in division (C) of this section:	552
(a) "Cleric" means a member of the clergy, rabbi, priest, Christian Science practitioner, or regularly ordained, accredited, or licensed minister of an established and legally cognizable church, denomination, or sect.	553 554 555 556
(b) "Sacred trust" means a confession or confidential communication made to a cleric in the cleric's ecclesiastical capacity in the course of discipline enjoined by the church to which the cleric belongs, including, but not limited to, the Catholic Church, if both of the following apply:	557 558 559 560 561
(i) The confession or confidential communication was made directly to the cleric.	562 563
(ii) The confession or confidential communication was made in the manner and context that places the cleric specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine.	564 565 566 567
(D) Husband or wife, concerning any communication made by one to the other, or an act done by either in the presence of the other, during coverture, unless the communication was made, or act done, in the known presence or hearing of a third person competent to be a witness; and such rule is the same if the marital relation has ceased to exist;	568 569 570 571 572 573
(E) A person who assigns a claim or interest, concerning any matter in respect to which the person would not, if a party, be permitted to testify;	574 575 576
(F) A person who, if a party, would be restricted under section 2317.03 of the Revised Code, when the property or thing is sold or transferred by an executor, administrator, guardian, trustee, heir, devisee, or legatee, shall be restricted in the same manner in any action or proceeding concerning the property or thing.	577 578 579 580 581 582

(G)(1) A school guidance counselor who holds a valid educator license from the state board of education as provided for in section 3319.22 of the Revised Code, a person licensed under Chapter 4757. of the Revised Code as a professional clinical counselor, professional counselor, social worker, independent social worker, marriage and family therapist or independent marriage and family therapist, or registered under Chapter 4757. of the Revised Code as a social work assistant concerning a confidential communication received from a client in that relation or the person's advice to a client unless any of the following applies:

(a) The communication or advice indicates clear and present danger to the client or other persons. For the purposes of this division, cases in which there are indications of present or past child abuse or neglect of the client constitute a clear and present danger.

(b) The client gives express consent to the testimony.

(c) If the client is deceased, the surviving spouse or the executor or administrator of the estate of the deceased client gives express consent.

(d) The client voluntarily testifies, in which case the school guidance counselor or person licensed or registered under Chapter 4757. of the Revised Code may be compelled to testify on the same subject.

(e) The court in camera determines that the information communicated by the client is not germane to the counselor-client, marriage and family therapist-client, or social worker-client relationship.

(f) A court, in an action brought against a school, its administration, or any of its personnel by the client, rules after an in-camera inspection that the testimony of the school guidance

counselor is relevant to that action. 614

(g) The testimony is sought in a civil action and concerns 615  
court-ordered treatment or services received by a patient as part 616  
of a case plan journalized under section 2151.412 of the Revised 617  
Code or the court-ordered treatment or services are necessary or 618  
relevant to dependency, neglect, or abuse or temporary or 619  
permanent custody proceedings under Chapter 2151. of the Revised 620  
Code. 621

(2) Nothing in division (G)(1) of this section shall relieve 622  
a school guidance counselor or a person licensed or registered 623  
under Chapter 4757. of the Revised Code from the requirement to 624  
report information concerning child abuse or neglect under section 625  
2151.421 of the Revised Code. 626

(H) A mediator acting under a mediation order issued under 627  
division (A) of section 3109.052 of the Revised Code or otherwise 628  
issued in any proceeding for divorce, dissolution, legal 629  
separation, annulment, or the allocation of parental rights and 630  
responsibilities for the care of children, in any action or 631  
proceeding, other than a criminal, delinquency, child abuse, child 632  
neglect, or dependent child action or proceeding, that is brought 633  
by or against either parent who takes part in mediation in 634  
accordance with the order and that pertains to the mediation 635  
process, to any information discussed or presented in the 636  
mediation process, to the allocation of parental rights and 637  
responsibilities for the care of the parents' children, or to the 638  
awarding of parenting time rights in relation to their children; 639

(I) A communications assistant, acting within the scope of 640  
the communication assistant's authority, when providing 641  
telecommunications relay service pursuant to section ~~4931.35~~ 642  
4931.06 of the Revised Code or Title II of the "Communications Act 643  
of 1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a 644  
communication made through a telecommunications relay service. 645

Nothing in this section shall limit the obligation of a 646  
communications assistant to divulge information or testify when 647  
mandated by federal law or regulation or pursuant to subpoena in a 648  
criminal proceeding. 649

Nothing in this section shall limit any immunity or privilege 650  
granted under federal law or regulation. 651

(J)(1) A chiropractor in a civil proceeding concerning a 652  
communication made to the chiropractor by a patient in that 653  
relation or the chiropractor's advice to a patient, except as 654  
otherwise provided in this division. The testimonial privilege 655  
established under this division does not apply, and a chiropractor 656  
may testify or may be compelled to testify, in any civil action, 657  
in accordance with the discovery provisions of the Rules of Civil 658  
Procedure in connection with a civil action, or in connection with 659  
a claim under Chapter 4123. of the Revised Code, under any of the 660  
following circumstances: 661

(a) If the patient or the guardian or other legal 662  
representative of the patient gives express consent. 663

(b) If the patient is deceased, the spouse of the patient or 664  
the executor or administrator of the patient's estate gives 665  
express consent. 666

(c) If a medical claim, dental claim, chiropractic claim, or 667  
optometric claim, as defined in section 2305.113 of the Revised 668  
Code, an action for wrongful death, any other type of civil 669  
action, or a claim under Chapter 4123. of the Revised Code is 670  
filed by the patient, the personal representative of the estate of 671  
the patient if deceased, or the patient's guardian or other legal 672  
representative. 673

(2) If the testimonial privilege described in division (J)(1) 674  
of this section does not apply as provided in division (J)(1)(c) 675  
of this section, a chiropractor may be compelled to testify or to 676

submit to discovery under the Rules of Civil Procedure only as to 677  
a communication made to the chiropractor by the patient in 678  
question in that relation, or the chiropractor's advice to the 679  
patient in question, that related causally or historically to 680  
physical or mental injuries that are relevant to issues in the 681  
medical claim, dental claim, chiropractic claim, or optometric 682  
claim, action for wrongful death, other civil action, or claim 683  
under Chapter 4123. of the Revised Code. 684

(3) The testimonial privilege established under this division 685  
does not apply, and a chiropractor may testify or be compelled to 686  
testify, in any criminal action or administrative proceeding. 687

(4) As used in this division, "communication" means 688  
acquiring, recording, or transmitting any information, in any 689  
manner, concerning any facts, opinions, or statements necessary to 690  
enable a chiropractor to diagnose, treat, or act for a patient. A 691  
communication may include, but is not limited to, any 692  
chiropractic, office, or hospital communication such as a record, 693  
chart, letter, memorandum, laboratory test and results, x-ray, 694  
photograph, financial statement, diagnosis, or prognosis. 695

(K)(1) Except as provided under division (K)(2) of this 696  
section, a critical incident stress management team member 697  
concerning a communication received from an individual who 698  
receives crisis response services from the team member, or the 699  
team member's advice to the individual, during a debriefing 700  
session. 701

(2) The testimonial privilege established under division 702  
(K)(1) of this section does not apply if any of the following are 703  
true: 704

(a) The communication or advice indicates clear and present 705  
danger to the individual who receives crisis response services or 706  
to other persons. For purposes of this division, cases in which 707

there are indications of present or past child abuse or neglect of 708  
the individual constitute a clear and present danger. 709

(b) The individual who received crisis response services 710  
gives express consent to the testimony. 711

(c) If the individual who received crisis response services 712  
is deceased, the surviving spouse or the executor or administrator 713  
of the estate of the deceased individual gives express consent. 714

(d) The individual who received crisis response services 715  
voluntarily testifies, in which case the team member may be 716  
compelled to testify on the same subject. 717

(e) The court in camera determines that the information 718  
communicated by the individual who received crisis response 719  
services is not germane to the relationship between the individual 720  
and the team member. 721

(f) The communication or advice pertains or is related to any 722  
criminal act. 723

(3) As used in division (K) of this section: 724

(a) "Crisis response services" means consultation, risk 725  
assessment, referral, and on-site crisis intervention services 726  
provided by a critical incident stress management team to 727  
individuals affected by crisis or disaster. 728

(b) "Critical incident stress management team member" or 729  
"team member" means an individual specially trained to provide 730  
crisis response services as a member of an organized community or 731  
local crisis response team that holds membership in the Ohio 732  
critical incident stress management network. 733

(c) "Debriefing session" means a session at which crisis 734  
response services are rendered by a critical incident stress 735  
management team member during or after a crisis or disaster. 736

(L)(1) Subject to division (L)(2) of this section and except 737



as provided in division (L)(3) of this section, an employee 738  
assistance professional, concerning a communication made to the 739  
employee assistance professional by a client in the employee 740  
assistance professional's official capacity as an employee 741  
assistance professional. 742

(2) Division (L)(1) of this section applies to an employee 743  
assistance professional who meets either or both of the following 744  
requirements: 745

(a) Is certified by the employee assistance certification 746  
commission to engage in the employee assistance profession; 747

(b) Has education, training, and experience in all of the 748  
following: 749

(i) Providing workplace-based services designed to address 750  
employer and employee productivity issues; 751

(ii) Providing assistance to employees and employees' 752  
dependents in identifying and finding the means to resolve 753  
personal problems that affect the employees or the employees' 754  
performance; 755

(iii) Identifying and resolving productivity problems 756  
associated with an employee's concerns about any of the following 757  
matters: health, marriage, family, finances, substance abuse or 758  
other addiction, workplace, law, and emotional issues; 759

(iv) Selecting and evaluating available community resources; 760

(v) Making appropriate referrals; 761

(vi) Local and national employee assistance agreements; 762

(vii) Client confidentiality. 763

(3) Division (L)(1) of this section does not apply to any of 764  
the following: 765

(a) A criminal action or proceeding involving an offense 766

under sections 2903.01 to 2903.06 of the Revised Code if the 767  
employee assistance professional's disclosure or testimony relates 768  
directly to the facts or immediate circumstances of the offense; 769

(b) A communication made by a client to an employee 770  
assistance professional that reveals the contemplation or 771  
commission of a crime or serious, harmful act; 772

(c) A communication that is made by a client who is an 773  
unemancipated minor or an adult adjudicated to be incompetent and 774  
indicates that the client was the victim of a crime or abuse; 775

(d) A civil proceeding to determine an individual's mental 776  
competency or a criminal action in which a plea of not guilty by 777  
reason of insanity is entered; 778

(e) A civil or criminal malpractice action brought against 779  
the employee assistance professional; 780

(f) When the employee assistance professional has the express 781  
consent of the client or, if the client is deceased or disabled, 782  
the client's legal representative; 783

(g) When the testimonial privilege otherwise provided by 784  
division (L)(1) of this section is abrogated under law. 785

**Sec. 2917.21.** (A) No person shall knowingly make or cause to 786  
be made a telecommunication, or knowingly permit a 787  
telecommunication to be made from a telecommunications device 788  
under the person's control, to another, if the caller does any of 789  
the following: 790

(1) Fails to identify the caller to the recipient of the 791  
telecommunication and makes the telecommunication with purpose to 792  
harass or abuse any person at the premises to which the 793  
telecommunication is made, whether or not actual communication 794  
takes place between the caller and a recipient; 795

(2) Describes, suggests, requests, or proposes that the 796

caller, the recipient of the telecommunication, or any other 797  
person engage in sexual activity, and the recipient or another 798  
person at the premises to which the telecommunication is made has 799  
requested, in a previous telecommunication or in the immediate 800  
telecommunication, that the caller not make a telecommunication to 801  
the recipient or to the premises to which the telecommunication is 802  
made; 803

(3) During the telecommunication, violates section 2903.21 of 804  
the Revised Code; 805

(4) Knowingly states to the recipient of the 806  
telecommunication that the caller intends to cause damage to or 807  
destroy public or private property, and the recipient, any member 808  
of the recipient's family, or any other person who resides at the 809  
premises to which the telecommunication is made owns, leases, 810  
resides, or works in, will at the time of the destruction or 811  
damaging be near or in, has the responsibility of protecting, or 812  
insures the property that will be destroyed or damaged; 813

(5) Knowingly makes the telecommunication to the recipient of 814  
the telecommunication, to another person at the premises to which 815  
the telecommunication is made, or to those premises, and the 816  
recipient or another person at those premises previously has told 817  
the caller not to make a telecommunication to those premises or to 818  
any persons at those premises. 819

(B) No person shall make or cause to be made a 820  
telecommunication, or permit a telecommunication to be made from a 821  
telecommunications device under the person's control, with purpose 822  
to abuse, threaten, or harass another person. 823

(C)(1) Whoever violates this section is guilty of 824  
telecommunications harassment. 825

(2) A violation of division (A)(1), (2), (3), or (5) or (B) 826  
of this section is a misdemeanor of the first degree on a first 827

offense and a felony of the fifth degree on each subsequent 828  
offense. 829

(3) Except as otherwise provided in division (C)(3) of this 830  
section, a violation of division (A)(4) of this section is a 831  
misdemeanor of the first degree on a first offense and a felony of 832  
the fifth degree on each subsequent offense. If a violation of 833  
division (A)(4) of this section results in economic harm of five 834  
hundred dollars or more but less than five thousand dollars, 835  
telecommunications harassment is a felony of the fifth degree. If 836  
a violation of division (A)(4) of this section results in economic 837  
harm of five thousand dollars or more but less than one hundred 838  
thousand dollars, telecommunications harassment is a felony of the 839  
fourth degree. If a violation of division (A)(4) of this section 840  
results in economic harm of one hundred thousand dollars or more, 841  
telecommunications harassment is a felony of the third degree. 842

(D) No cause of action may be asserted in any court of this 843  
state against any provider of a telecommunications service or 844  
information service, or against any officer, employee, or agent of 845  
a telecommunication service or information service, for any 846  
injury, death, or loss to person or property that allegedly arises 847  
out of the provider's, officer's, employee's, or agent's provision 848  
of information, facilities, or assistance in accordance with the 849  
terms of a court order that is issued in relation to the 850  
investigation or prosecution of an alleged violation of this 851  
section ~~or section 4931.31 of the Revised Code~~. A provider of a 852  
telecommunications service or information service, or an officer, 853  
employee, or agent of a telecommunications service or information 854  
service, is immune from any civil or criminal liability for 855  
injury, death, or loss to person or property that allegedly arises 856  
out of the provider's, officer's, employee's, or agent's provision 857  
of information, facilities, or assistance in accordance with the 858  
terms of a court order that is issued in relation to the 859

investigation or prosecution of an alleged violation of this 860  
section ~~or section 4931.31 of the Revised Code.~~ 861

(E) As used in this section: 862

(1) "Economic harm" means all direct, incidental, and 863  
consequential pecuniary harm suffered by a victim as a result of 864  
criminal conduct. "Economic harm" includes, but is not limited to, 865  
all of the following: 866

(a) All wages, salaries, or other compensation lost as a 867  
result of the criminal conduct; 868

(b) The cost of all wages, salaries, or other compensation 869  
paid to employees for time those employees are prevented from 870  
working as a result of the criminal conduct; 871

(c) The overhead costs incurred for the time that a business 872  
is shut down as a result of the criminal conduct; 873

(d) The loss of value to tangible or intangible property that 874  
was damaged as a result of the criminal conduct. 875

(2) "Caller" means the person described in division (A) of 876  
this section who makes or causes to be made a telecommunication or 877  
who permits a telecommunication to be made from a 878  
telecommunications device under that person's control. 879

(3) "Telecommunication" and "telecommunications device" have 880  
the same meanings as in section 2913.01 of the Revised Code. 881

(4) "Sexual activity" has the same meaning as in section 882  
2907.01 of the Revised Code. 883

(F) Nothing in this section prohibits a person from making a 884  
telecommunication to a debtor that is in compliance with the "Fair 885  
Debt Collection Practices Act," 91 Stat. 874 (1977), 15 U.S.C. 886  
1692, as amended, or the "Telephone Consumer Protection Act," 105 887  
Stat. 2395 (1991), 47 U.S.C. 227, as amended. 888

Sec. 2929.01. As used in this chapter:	889
(A)(1) "Alternative residential facility" means, subject to	890
division (A)(2) of this section, any facility other than an	891
offender's home or residence in which an offender is assigned to	892
live and that satisfies all of the following criteria:	893
(a) It provides programs through which the offender may seek	894
or maintain employment or may receive education, training,	895
treatment, or habilitation.	896
(b) It has received the appropriate license or certificate	897
for any specialized education, training, treatment, habilitation,	898
or other service that it provides from the government agency that	899
is responsible for licensing or certifying that type of education,	900
training, treatment, habilitation, or service.	901
(2) "Alternative residential facility" does not include a	902
community-based correctional facility, jail, halfway house, or	903
prison.	904
(B) "Basic probation supervision" means a requirement that	905
the offender maintain contact with a person appointed to supervise	906
the offender in accordance with sanctions imposed by the court or	907
imposed by the parole board pursuant to section 2967.28 of the	908
Revised Code. "Basic probation supervision" includes basic parole	909
supervision and basic post-release control supervision.	910
(C) "Cocaine," "crack cocaine," "hashish," "L.S.D.," and	911
"unit dose" have the same meanings as in section 2925.01 of the	912
Revised Code.	913
(D) "Community-based correctional facility" means a	914
community-based correctional facility and program or district	915
community-based correctional facility and program developed	916
pursuant to sections 2301.51 to 2301.58 of the Revised Code.	917
(E) "Community control sanction" means a sanction that is not	918

a prison term and that is described in section 2929.15, 2929.16, 919  
2929.17, or 2929.18 of the Revised Code or a sanction that is not 920  
a jail term and that is described in section 2929.26, 2929.27, or 921  
2929.28 of the Revised Code. "Community control sanction" includes 922  
probation if the sentence involved was imposed for a felony that 923  
was committed prior to July 1, 1996, or if the sentence involved 924  
was imposed for a misdemeanor that was committed prior to January 925  
1, 2004. 926

(F) "Controlled substance," "marihuana," "schedule I," and 927  
"schedule II" have the same meanings as in section 3719.01 of the 928  
Revised Code. 929

(G) "Curfew" means a requirement that an offender during a 930  
specified period of time be at a designated place. 931

(H) "Day reporting" means a sanction pursuant to which an 932  
offender is required each day to report to and leave a center or 933  
other approved reporting location at specified times in order to 934  
participate in work, education or training, treatment, and other 935  
approved programs at the center or outside the center. 936

(I) "Deadly weapon" has the same meaning as in section 937  
2923.11 of the Revised Code. 938

(J) "Drug and alcohol use monitoring" means a program under 939  
which an offender agrees to submit to random chemical analysis of 940  
the offender's blood, breath, or urine to determine whether the 941  
offender has ingested any alcohol or other drugs. 942

(K) "Drug treatment program" means any program under which a 943  
person undergoes assessment and treatment designed to reduce or 944  
completely eliminate the person's physical or emotional reliance 945  
upon alcohol, another drug, or alcohol and another drug and under 946  
which the person may be required to receive assessment and 947  
treatment on an outpatient basis or may be required to reside at a 948  
facility other than the person's home or residence while 949

undergoing assessment and treatment. 950

(L) "Economic loss" means any economic detriment suffered by 951  
a victim as a direct and proximate result of the commission of an 952  
offense and includes any loss of income due to lost time at work 953  
because of any injury caused to the victim, and any property loss, 954  
medical cost, or funeral expense incurred as a result of the 955  
commission of the offense. "Economic loss" does not include 956  
non-economic loss or any punitive or exemplary damages. 957

(M) "Education or training" includes study at, or in 958  
conjunction with a program offered by, a university, college, or 959  
technical college or vocational study and also includes the 960  
completion of primary school, secondary school, and literacy 961  
curricula or their equivalent. 962

(N) "Firearm" has the same meaning as in section 2923.11 of 963  
the Revised Code. 964

(O) "Halfway house" means a facility licensed by the division 965  
of parole and community services of the department of 966  
rehabilitation and correction pursuant to section 2967.14 of the 967  
Revised Code as a suitable facility for the care and treatment of 968  
adult offenders. 969

(P) "House arrest" means a period of confinement of an 970  
offender that is in the offender's home or in other premises 971  
specified by the sentencing court or by the parole board pursuant 972  
to section 2967.28 of the Revised Code and during which all of the 973  
following apply: 974

(1) The offender is required to remain in the offender's home 975  
or other specified premises for the specified period of 976  
confinement, except for periods of time during which the offender 977  
is at the offender's place of employment or at other premises as 978  
authorized by the sentencing court or by the parole board. 979

(2) The offender is required to report periodically to a 980



person designated by the court or parole board. 981

(3) The offender is subject to any other restrictions and 982  
requirements that may be imposed by the sentencing court or by the 983  
parole board. 984

(Q) "Intensive probation supervision" means a requirement 985  
that an offender maintain frequent contact with a person appointed 986  
by the court, or by the parole board pursuant to section 2967.28 987  
of the Revised Code, to supervise the offender while the offender 988  
is seeking or maintaining necessary employment and participating 989  
in training, education, and treatment programs as required in the 990  
court's or parole board's order. "Intensive probation supervision" 991  
includes intensive parole supervision and intensive post-release 992  
control supervision. 993

(R) "Jail" means a jail, workhouse, minimum security jail, or 994  
other residential facility used for the confinement of alleged or 995  
convicted offenders that is operated by a political subdivision or 996  
a combination of political subdivisions of this state. 997

(S) "Jail term" means the term in a jail that a sentencing 998  
court imposes or is authorized to impose pursuant to section 999  
2929.24 or 2929.25 of the Revised Code or pursuant to any other 1000  
provision of the Revised Code that authorizes a term in a jail for 1001  
a misdemeanor conviction. 1002

(T) "Mandatory jail term" means the term in a jail that a 1003  
sentencing court is required to impose pursuant to division (G) of 1004  
section 1547.99 of the Revised Code, division (E) of section 1005  
2903.06 or division (D) of section 2903.08 of the Revised Code, 1006  
division (E) or (G) of section 2929.24 of the Revised Code, 1007  
division (B) of section 4510.14 of the Revised Code, or division 1008  
(G) of section 4511.19 of the Revised Code or pursuant to any 1009  
other provision of the Revised Code that requires a term in a jail 1010  
for a misdemeanor conviction. 1011

(U) "Delinquent child" has the same meaning as in section 1012  
2152.02 of the Revised Code. 1013

(V) "License violation report" means a report that is made by 1014  
a sentencing court, or by the parole board pursuant to section 1015  
2967.28 of the Revised Code, to the regulatory or licensing board 1016  
or agency that issued an offender a professional license or a 1017  
license or permit to do business in this state and that specifies 1018  
that the offender has been convicted of or pleaded guilty to an 1019  
offense that may violate the conditions under which the offender's 1020  
professional license or license or permit to do business in this 1021  
state was granted or an offense for which the offender's 1022  
professional license or license or permit to do business in this 1023  
state may be revoked or suspended. 1024

(W) "Major drug offender" means an offender who is convicted 1025  
of or pleads guilty to the possession of, sale of, or offer to 1026  
sell any drug, compound, mixture, preparation, or substance that 1027  
consists of or contains at least one thousand grams of hashish; at 1028  
least one hundred grams of crack cocaine; at least one thousand 1029  
grams of cocaine that is not crack cocaine; at least two thousand 1030  
five hundred unit doses or two hundred fifty grams of heroin; at 1031  
least five thousand unit doses of L.S.D. or five hundred grams of 1032  
L.S.D. in a liquid concentrate, liquid extract, or liquid 1033  
distillate form; or at least one hundred times the amount of any 1034  
other schedule I or II controlled substance other than marihuana 1035  
that is necessary to commit a felony of the third degree pursuant 1036  
to section 2925.03, 2925.04, 2925.05, or 2925.11 of the Revised 1037  
Code that is based on the possession of, sale of, or offer to sell 1038  
the controlled substance. 1039

(X) "Mandatory prison term" means any of the following: 1040

(1) Subject to division (X)(2) of this section, the term in 1041  
prison that must be imposed for the offenses or circumstances set 1042  
forth in divisions (F)(1) to (8) or (F)(12) to (18) of section 1043

2929.13 and division (D) of section 2929.14 of the Revised Code. 1044  
Except as provided in sections 2925.02, 2925.03, 2925.04, 2925.05, 1045  
and 2925.11 of the Revised Code, unless the maximum or another 1046  
specific term is required under section 2929.14 or 2929.142 of the 1047  
Revised Code, a mandatory prison term described in this division 1048  
may be any prison term authorized for the level of offense. 1049

(2) The term of sixty or one hundred twenty days in prison 1050  
that a sentencing court is required to impose for a third or 1051  
fourth degree felony OVI offense pursuant to division (G)(2) of 1052  
section 2929.13 and division (G)(1)(d) or (e) of section 4511.19 1053  
of the Revised Code or the term of one, two, three, four, or five 1054  
years in prison that a sentencing court is required to impose 1055  
pursuant to division (G)(2) of section 2929.13 of the Revised 1056  
Code. 1057

(3) The term in prison imposed pursuant to division (A) of 1058  
section 2971.03 of the Revised Code for the offenses and in the 1059  
circumstances described in division (F)(11) of section 2929.13 of 1060  
the Revised Code or pursuant to division (B)(1)(a), (b), or (c), 1061  
(B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or (d) of section 1062  
2971.03 of the Revised Code and that term as modified or 1063  
terminated pursuant to section 2971.05 of the Revised Code. 1064

(Y) "Monitored time" means a period of time during which an 1065  
offender continues to be under the control of the sentencing court 1066  
or parole board, subject to no conditions other than leading a 1067  
law-abiding life. 1068

(Z) "Offender" means a person who, in this state, is 1069  
convicted of or pleads guilty to a felony or a misdemeanor. 1070

(AA) "Prison" means a residential facility used for the 1071  
confinement of convicted felony offenders that is under the 1072  
control of the department of rehabilitation and correction but 1073  
does not include a violation sanction center operated under 1074

authority of section 2967.141 of the Revised Code. 1075

(BB) "Prison term" includes either of the following sanctions 1076  
for an offender: 1077

(1) A stated prison term; 1078

(2) A term in a prison shortened by, or with the approval of, 1079  
the sentencing court pursuant to section 2929.20, 2967.26, 1080  
5120.031, 5120.032, or 5120.073 of the Revised Code. 1081

(CC) "Repeat violent offender" means a person about whom both 1082  
of the following apply: 1083

(1) The person is being sentenced for committing or for 1084  
complicity in committing any of the following: 1085

(a) Aggravated murder, murder, any felony of the first or 1086  
second degree that is an offense of violence, or an attempt to 1087  
commit any of these offenses if the attempt is a felony of the 1088  
first or second degree; 1089

(b) An offense under an existing or former law of this state, 1090  
another state, or the United States that is or was substantially 1091  
equivalent to an offense described in division (CC)(1)(a) of this 1092  
section. 1093

(2) The person previously was convicted of or pleaded guilty 1094  
to an offense described in division (CC)(1)(a) or (b) of this 1095  
section. 1096

(DD) "Sanction" means any penalty imposed upon an offender 1097  
who is convicted of or pleads guilty to an offense, as punishment 1098  
for the offense. "Sanction" includes any sanction imposed pursuant 1099  
to any provision of sections 2929.14 to 2929.18 or 2929.24 to 1100  
2929.28 of the Revised Code. 1101

(EE) "Sentence" means the sanction or combination of 1102  
sanctions imposed by the sentencing court on an offender who is 1103  
convicted of or pleads guilty to an offense. 1104

(FF) "Stated prison term" means the prison term, mandatory 1105  
prison term, or combination of all prison terms and mandatory 1106  
prison terms imposed by the sentencing court pursuant to section 1107  
2929.14, 2929.142, or 2971.03 of the Revised Code or under section 1108  
2919.25 of the Revised Code. "Stated prison term" includes any 1109  
credit received by the offender for time spent in jail awaiting 1110  
trial, sentencing, or transfer to prison for the offense and any 1111  
time spent under house arrest or house arrest with electronic 1112  
monitoring imposed after earning credits pursuant to section 1113  
2967.193 of the Revised Code. 1114

(GG) "Victim-offender mediation" means a reconciliation or 1115  
mediation program that involves an offender and the victim of the 1116  
offense committed by the offender and that includes a meeting in 1117  
which the offender and the victim may discuss the offense, discuss 1118  
restitution, and consider other sanctions for the offense. 1119

(HH) "Fourth degree felony OVI offense" means a violation of 1120  
division (A) of section 4511.19 of the Revised Code that, under 1121  
division (G) of that section, is a felony of the fourth degree. 1122

(II) "Mandatory term of local incarceration" means the term 1123  
of sixty or one hundred twenty days in a jail, a community-based 1124  
correctional facility, a halfway house, or an alternative 1125  
residential facility that a sentencing court may impose upon a 1126  
person who is convicted of or pleads guilty to a fourth degree 1127  
felony OVI offense pursuant to division (G)(1) of section 2929.13 1128  
of the Revised Code and division (G)(1)(d) or (e) of section 1129  
4511.19 of the Revised Code. 1130

(JJ) "Designated homicide, assault, or kidnapping offense," 1131  
"violent sex offense," "sexual motivation specification," 1132  
"sexually violent offense," "sexually violent predator," and 1133  
"sexually violent predator specification" have the same meanings 1134  
as in section 2971.01 of the Revised Code. 1135

(KK) "Sexually oriented offense," "child-victim oriented offense," and "tier III sex offender/child-victim offender," have the same meanings as in section 2950.01 of the Revised Code.

(LL) An offense is "committed in the vicinity of a child" if the offender commits the offense within thirty feet of or within the same residential unit as a child who is under eighteen years of age, regardless of whether the offender knows the age of the child or whether the offender knows the offense is being committed within thirty feet of or within the same residential unit as the child and regardless of whether the child actually views the commission of the offense.

(MM) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code.

(NN) "Motor vehicle" and "manufactured home" have the same meanings as in section 4501.01 of the Revised Code.

(OO) "Detention" and "detention facility" have the same meanings as in section 2921.01 of the Revised Code.

(PP) "Third degree felony OVI offense" means a violation of division (A) of section 4511.19 of the Revised Code that, under division (G) of that section, is a felony of the third degree.

(QQ) "Random drug testing" has the same meaning as in section 5120.63 of the Revised Code.

(RR) "Felony sex offense" has the same meaning as in section 2967.28 of the Revised Code.

(SS) "Body armor" has the same meaning as in section 2941.1411 of the Revised Code.

(TT) "Electronic monitoring" means monitoring through the use of an electronic monitoring device.

(UU) "Electronic monitoring device" means any of the following:

(1) Any device that can be operated by electrical or battery power and that conforms with all of the following:

(a) The device has a transmitter that can be attached to a person, that will transmit a specified signal to a receiver of the type described in division (UU)(1)(b) of this section if the transmitter is removed from the person, turned off, or altered in any manner without prior court approval in relation to electronic monitoring or without prior approval of the department of rehabilitation and correction in relation to the use of an electronic monitoring device for an inmate on transitional control or otherwise is tampered with, that can transmit continuously and periodically a signal to that receiver when the person is within a specified distance from the receiver, and that can transmit an appropriate signal to that receiver if the person to whom it is attached travels a specified distance from that receiver.

(b) The device has a receiver that can receive continuously the signals transmitted by a transmitter of the type described in division (UU)(1)(a) of this section, can transmit continuously those signals by a wireless or landline telephone connection to a central monitoring computer of the type described in division (UU)(1)(c) of this section, and can transmit continuously an appropriate signal to that central monitoring computer if the ~~receiver is~~ device has been turned off or altered without prior court approval or otherwise tampered with. The device is designed specifically for use in electronic monitoring, is not a converted wireless phone or another tracking device that is clearly not designed for electronic monitoring, and provides a means of text-based or voice communication with the person.

(c) The device has a central monitoring computer that can receive continuously the signals transmitted by a wireless or landline telephone connection by a receiver of the type described in division (UU)(1)(b) of this section and can monitor

continuously the person to whom an electronic monitoring device of 1198  
the type described in division (UU)(1)(a) of this section is 1199  
attached. 1200

(2) Any device that is not a device of the type described in 1201  
division (UU)(1) of this section and that conforms with all of the 1202  
following: 1203

(a) The device includes a transmitter and receiver that can 1204  
monitor and determine the location of a subject person at any 1205  
time, or at a designated point in time, through the use of a 1206  
central monitoring computer or through other electronic means. 1207

(b) The device includes a transmitter and receiver that can 1208  
determine at any time, or at a designated point in time, through 1209  
the use of a central monitoring computer or other electronic means 1210  
the fact that the transmitter is turned off or altered in any 1211  
manner without prior approval of the court in relation to the 1212  
electronic monitoring or without prior approval of the department 1213  
of rehabilitation and correction in relation to the use of an 1214  
electronic monitoring device for an inmate on transitional control 1215  
or otherwise is tampered with. 1216

(3) Any type of technology that can adequately track or 1217  
determine the location of a subject person at any time and that is 1218  
approved by the director of rehabilitation and correction, 1219  
including, but not limited to, any satellite technology, voice 1220  
tracking system, or retinal scanning system that is so approved. 1221

(VV) "Non-economic loss" means nonpecuniary harm suffered by 1222  
a victim of an offense as a result of or related to the commission 1223  
of the offense, including, but not limited to, pain and suffering; 1224  
loss of society, consortium, companionship, care, assistance, 1225  
attention, protection, advice, guidance, counsel, instruction, 1226  
training, or education; mental anguish; and any other intangible 1227  
loss. 1228



(WW) "Prosecutor" has the same meaning as in section 2935.01 1229  
of the Revised Code. 1230

(XX) "Continuous alcohol monitoring" means the ability to 1231  
automatically test and periodically transmit alcohol consumption 1232  
levels and tamper attempts at least every hour, regardless of the 1233  
location of the person who is being monitored. 1234

(YY) A person is "adjudicated a sexually violent predator" if 1235  
the person is convicted of or pleads guilty to a violent sex 1236  
offense and also is convicted of or pleads guilty to a sexually 1237  
violent predator specification that was included in the 1238  
indictment, count in the indictment, or information charging that 1239  
violent sex offense or if the person is convicted of or pleads 1240  
guilty to a designated homicide, assault, or kidnapping offense 1241  
and also is convicted of or pleads guilty to both a sexual 1242  
motivation specification and a sexually violent predator 1243  
specification that were included in the indictment, count in the 1244  
indictment, or information charging that designated homicide, 1245  
assault, or kidnapping offense. 1246

(ZZ) An offense is "committed in proximity to a school" if 1247  
the offender commits the offense in a school safety zone or within 1248  
five hundred feet of any school building or the boundaries of any 1249  
school premises, regardless of whether the offender knows the 1250  
offense is being committed in a school safety zone or within five 1251  
hundred feet of any school building or the boundaries of any 1252  
school premises. 1253

(AAA) "Human trafficking" means a scheme or plan to which all 1254  
of the following apply: 1255

(1) Its object is to compel a victim or victims to engage in 1256  
sexual activity for hire, to engage in a performance that is 1257  
obscene, sexually oriented, or nudity oriented, or to be a model 1258  
or participant in the production of material that is obscene, 1259

sexually oriented, or nudity oriented.	1260
(2) It involves at least two felony offenses, whether or not	1261
there has been a prior conviction for any of the felony offenses,	1262
to which all of the following apply:	1263
(a) Each of the felony offenses is a violation of section	1264
2905.01, 2905.02, 2907.21, 2907.22, or 2923.32, division (A)(1) or	1265
(2) of section 2907.323, or division (B)(1), (2), (3), (4), or (5)	1266
of section 2919.22 of the Revised Code or is a violation of a law	1267
of any state other than this state that is substantially similar	1268
to any of the sections or divisions of the Revised Code identified	1269
in this division.	1270
(b) At least one of the felony offenses was committed in this	1271
state.	1272
(c) The felony offenses are related to the same scheme or	1273
plan, are not isolated instances, and are not so closely related	1274
to each other and connected in time and place that they constitute	1275
a single event or transaction.	1276
(BBB) "Material," "nudity," "obscene," "performance," and	1277
"sexual activity" have the same meanings as in section 2907.01 of	1278
the Revised Code.	1279
(CCC) "Material that is obscene, sexually oriented, or nudity	1280
oriented" means any material that is obscene, that shows a person	1281
participating or engaging in sexual activity, masturbation, or	1282
bestiality, or that shows a person in a state of nudity.	1283
(DDD) "Performance that is obscene, sexually oriented, or	1284
nudity oriented" means any performance that is obscene, that shows	1285
a person participating or engaging in sexual activity,	1286
masturbation, or bestiality, or that shows a person in a state of	1287
nudity.	1288
<b>Sec. 4901.01.</b> As used in sections 4901.01 to 4901.247	1289

<del>inclusive, of the Revised Code:</del>	1290
(A) "Public utility" has the <u>same</u> meaning <del>set forth</del> <u>as</u> in section 4905.02 of the Revised Code.	1291 1292
(B) <del>"Telegraph company," "telephone company," "electric light company," "gas company," "natural gas company," "pipe line company," "water works company," "sewage disposal system company," "heating or cooling company," "messenger company," "street railway company," "suburban railroad company," "interurban railroad company," and "motor propelled vehicle" have the meaning set forth in section 4905.03 of the Revised Code.</del>	1293 1294 1295 1296 1297 1298 1299
(C) "Railroad" has the <u>same</u> meaning <del>set forth</del> <u>as</u> in section 4907.02 of the Revised Code.	1300 1301
(D) <del>"Motor transportation company" has the meaning set forth in sections 4905.03 and 4921.02 of the Revised Code.</del>	1302 1303
(E) <del>"Trailer," "public highway," "fixed termini," "regular route," and "irregular route" have the meaning set forth in section 4921.02 of the Revised Code.</del>	1304 1305 1306
(F) <del>"Private motor carrier," "contract carrier by motor vehicle," "motor vehicle," and "charter party trip" have the meaning set forth in section 4923.02 of the Revised Code.</del>	1307 1308 1309
<b>Sec. 4901.02.</b> (A) There is hereby created the public utilities commission of Ohio, by which name the commission may sue and be sued. The commission shall consist of five public utilities commissioners appointed by the governor with the advice and consent of the senate. The governor shall designate one of such commissioners to be the <del>chairman</del> <u>chairperson</u> of the commission. The <del>chairman</del> <u>chairperson</u> of the commission shall serve as <del>chairman</del> <u>chairperson</u> at the governor's pleasure. The commissioners shall be selected from the lists of qualified persons submitted to the governor by the public utilities commission nominating council	1310 1311 1312 1313 1314 1315 1316 1317 1318 1319

pursuant to section 4901.021 of the ~~b~~Revised Revised Code. Not 1320  
more than three of said commissioners shall belong to or be 1321  
affiliated with the same political party. The commission shall 1322  
possess the powers and duties specified in, as well as all powers 1323  
necessary and proper to carry out the purposes of Chapters 4901., 1324  
4903., 4905., 4907., 4909., 4921., ~~and~~ 4923., and 4927. of the 1325  
Revised Code. 1326

(B) A majority of the public utilities commissioners 1327  
constitutes a quorum. 1328

(C) The terms of office of public utilities commissioners 1329  
shall be for five years, commencing on the eleventh day of April 1330  
and ending on the tenth day of April, except that terms of the 1331  
first commissioners shall be for one, two, three, four, and five 1332  
years, respectively, as designated by the governor at the time of 1333  
appointment. Each commissioner shall hold office from the date of 1334  
~~his~~ appointment until the end of the term for which ~~he~~ the 1335  
commissioner was appointed. Any commissioner appointed to fill a 1336  
vacancy occurring prior to the expiration of the term for which ~~he~~ 1337  
the commissioner was appointed shall hold office for the remainder 1338  
of such term. Any commissioner shall continue in office subsequent 1339  
to the expiration date of the term for which ~~he~~ the commissioner 1340  
was appointed until ~~his~~ the commissioner's successor takes office, 1341  
or until a period of sixty days has elapsed, whichever occurs 1342  
first. Each vacancy shall be filled by appointment within sixty 1343  
days after the vacancy occurs. 1344

(D) Public utilities commissioners shall have at least three 1345  
years of experience in one or more of the following fields: 1346  
economics, law, finance, accounting, engineering, physical or 1347  
natural sciences, natural resources, or environmental studies. At 1348  
least one commissioner shall be an attorney admitted to the 1349  
practice of law in any state or the District of Columbia. 1350

(E) The ~~chairman~~ chairperson of the commission shall be the 1351

head of the commission and its chief executive officer. The 1352  
appointment or removal of employees of the commission or any 1353  
division thereof, and all contracts for special service, are 1354  
subject to the approval of the ~~chairman~~ chairperson. The ~~chairman~~ 1355  
chairperson shall designate one of the commissioners to act as 1356  
deputy ~~chairman~~ chairperson, who shall possess during the absence 1357  
or disability of the ~~chairman~~ chairperson, all of the powers of 1358  
the ~~chairman~~ chairperson. 1359

**Sec. 4901.11.** The public utilities commission may procure all 1360  
necessary books, maps, charts, stationery, instruments, office 1361  
furniture, apparatus, and appliances, including telephone ~~and~~ 1362  
~~telegraph~~ service, and may purchase from the interstate commerce 1363  
commission blank forms for the use of railroads and other 1364  
utilities in making their annual reports, necessary for the proper 1365  
administration of the affairs of ~~said~~ the public utilities 1366  
commission, which expenses shall be audited and paid in the same 1367  
manner as other expenses. 1368

**Sec. 4901.15.** The public utilities commission shall, whenever 1369  
called upon by any officer, board, or commission of this state or 1370  
any political subdivision of this state, furnish any data or 1371  
information to such officer, board, or commission and shall aid or 1372  
assist any such officer, board, or commission in performing ~~the~~ 1373  
official duties ~~of his or its office~~. All officers, boards, or 1374  
commissions of this state or any political subdivision of this 1375  
state, shall furnish to the commission, upon request, any data or 1376  
information ~~which~~ that will assist the commission in the discharge 1377  
of the duties imposed upon it by Chapters 4901., 4903., 4905., 1378  
4907., 4909., 4921., 4923., and ~~4925-~~ 4927. of the Revised Code. 1379

**Sec. 4901.22.** Each of the public utilities commissioners, for 1380  
the purposes mentioned in Chapters 4901., 4903., 4905., 4907., 1381

4909., 4921., 4923., and ~~4925.~~ 4927. of the Revised Code, may 1382  
administer oaths, certify to official acts, issue subpoenas, and 1383  
compel the attendance of witnesses and the production of papers, 1384  
waybills, books, accounts, documents, and testimony. 1385

**Sec. 4903.01.** As used in sections 4903.01 to 4903.25~~7~~ 1386  
~~inclusive,~~ of the Revised Code: 1387

(A) "Public utility" has the same meaning ~~set forth as~~ in 1388  
section 4905.02 of the Revised Code. 1389

(B) ~~"Telegraph company," "telephone company," "electric light 1390  
company," "gas company," "natural gas company," "pipe line 1391  
company," "water works company," "sewage disposal system company," 1392  
"heating or cooling company," "messenger company," "street railway 1393  
company," "suburban railroad company," "interurban railroad 1394  
company," and "motor propelled vehicle" have the meaning set forth 1395  
in section 4905.03 of the Revised Code.~~ 1396

(C) "Railroad" has the same meaning ~~set forth as~~ in section 1397  
4907.02 of the Revised Code. 1398

(D) ~~"Motor transportation company" has the meaning set forth 1399  
in sections 4905.03 and 4921.02 of the Revised Code.~~ 1400

(E) ~~"Trailer," "public highway," "fixed termini," "regular 1401  
route," and "irregular route" have the meaning set forth in 1402  
section 4921.02 of the Revised Code.~~ 1403

(F) ~~"Private motor carrier," "contract carrier by motor 1404  
vehicle," "motor vehicle," and "charter party trip" have the 1405  
meaning set forth in section 4923.02 of the Revised Code.~~ 1406

**Sec. 4903.20.** All actions and proceedings in the supreme 1407  
court under Chapters 4901., 4903., 4905., 4906., 4907., 4909., 1408  
4921., ~~and~~ 4923., and 4927. of the Revised Code, and all actions 1409  
of proceedings to which the public utilities commission, power 1410

siting board, or this state is a party, and in which any question 1411  
arises under ~~such~~ those chapters, or under or concerning any order 1412  
or decision of the commission or the board, to reverse, vacate, or 1413  
modify an order of the commission or the board, shall be taken up 1414  
and disposed of by the court out of their order on the docket. 1415

**Sec. 4903.22.** Except when otherwise provided by law, all 1416  
processes in actions and proceedings in a court arising under 1417  
Chapters 4901., 4903., 4905., 4906., 4907., 4909., 4921., 4923., 1418  
and ~~4925-~~ 4927. of the Revised Code shall be served, and the 1419  
practice and rules of evidence in such actions and proceedings 1420  
shall be the same, as in civil actions. A sheriff or other officer 1421  
empowered to execute civil processes shall execute process issued 1422  
under ~~such~~ those chapters and receive compensation therefor as 1423  
prescribed by law for like services. 1424

**Sec. 4903.23.** The public utilities commission or power siting 1425  
board may charge and collect a fee, which shall not exceed cost, 1426  
for furnishing any copy of any paper, record, testimony, or 1427  
writing made, taken, or filed under Chapters 4901., 4903., 4905., 1428  
4906., 4907., 4909., 4921., ~~and~~ 4923., and 4927. of the Revised 1429  
Code, except such transcript and other papers as are required to 1430  
be filed in any court proceedings authorized in ~~such~~ those 1431  
chapters, whether under seal and certified to or otherwise; and 1432  
may charge and collect a fee for certifying a document, which 1433  
shall not exceed that charged by the secretary of state under 1434  
division (K) of section 111.16 of the Revised Code. All such fees, 1435  
itemized, shall be paid into the state treasury on the first day 1436  
of each month. 1437

Upon application of any person and payment of the proper fee, 1438  
the commission or board shall furnish certified copies under the 1439  
seal of the commission or board of any order made by it, which 1440  
order is prima-facie evidence in any court of the facts stated in 1441

such copies. The copies of schedules, classifications, and tariffs 1442  
of rates, tolls, prices, rentals, regulations, practices, 1443  
services, fares, and charges, and copies of all contracts, 1444  
agreements, and arrangements between public utilities and 1445  
railroads, or either, filed with the commission, and the 1446  
statistics, tables, and figures contained in the annual or other 1447  
reports of such companies made to the commission as required by 1448  
~~such~~ the chapters, shall be preserved as public records in the 1449  
custody of the commission and shall be received as prima-facie 1450  
evidence of what they purport to be, for the purpose of 1451  
investigations and prosecutions by the commission and in all 1452  
judicial proceedings. Copies of and extracts from any of such 1453  
schedules, classifications, tariffs, contracts, agreements, 1454  
arrangements, or reports, made public records, certified by the 1455  
commission under its seal, shall be received in evidence with like 1456  
effect as the originals. 1457

**Sec. 4905.01.** As used in this chapter: 1458

(A) "Railroad" has the same meaning ~~set forth as~~ in section 1459  
4907.02 of the Revised Code. 1460

(B) "Motor transportation company" has the same meaning ~~set~~ 1461  
~~forth as~~ in sections 4905.03 and 4921.02 of the Revised Code. 1462

(C) "Trailer<sub>7</sub>" and "public highway<sub>7</sub>" "~~fixed termini,~~" 1463  
"~~regular route,~~" and "~~irregular route~~" have the same meanings ~~set~~ 1464  
~~forth as~~ in section 4921.02 of the Revised Code. 1465

(D) "Private motor carrier<sub>7</sub>" "~~contract carrier by motor~~ 1466  
~~vehicle,~~" and "motor vehicle<sub>7</sub>" and "~~charter party trip~~" have the 1467  
same meanings ~~set forth as~~ in section 4923.02 of the Revised Code. 1468

(E) "Ohio coal research and development costs" means all 1469  
reasonable costs associated with a facility or project undertaken 1470  
by a public utility for which a recommendation to allow the 1471



recovery of costs associated therewith has been made under 1472  
division (B)(7) of section 1551.33 of the Revised Code, including, 1473  
but not limited to, capital costs, such as costs of debt and 1474  
equity; construction and operation costs; termination and 1475  
retirement costs; costs of feasibility and marketing studies 1476  
associated with the project; and the acquisition and delivery 1477  
costs of Ohio coal used in the project, less any expenditures of 1478  
grant moneys. 1479

**Sec. 4905.02.** As used in this chapter, "public utility" 1480  
includes every corporation, company, copartnership, person, or 1481  
association, ~~their~~ the lessees, trustees, or receivers of the 1482  
foregoing, defined in section 4905.03 of the Revised Code, 1483  
including all any public ~~utilities~~ utility that ~~operate their~~ 1484  
~~utilities~~ operates its utility not for profit, except the 1485  
following: 1486

(A) ~~Electric~~ An electric light ~~companies~~ company that ~~operate~~ 1487  
~~their utilities~~ operates its utility not for profit; 1488

(B) ~~Public utilities~~ A public utility, other than a telephone 1489  
~~companies~~ company, that ~~are~~ is owned and operated exclusively by 1490  
and solely for the ~~utilities'~~ utility's customers, including any 1491  
consumer or group of consumers purchasing, delivering, storing, or 1492  
transporting, or seeking to purchase, deliver, store, or 1493  
transport, natural gas exclusively by and solely for the 1494  
consumer's or consumers' own intended use as the end user or end 1495  
users and not for profit; 1496

(C) ~~Public utilities~~ A public utility that ~~are~~ is owned or 1497  
operated by any municipal corporation; 1498

(D) ~~Railroads~~ A railroad as defined in sections 4907.02 and 1499  
4907.03 of the Revised Code; 1500

(E) Any provider, including a telephone company, with respect 1501

<u>to its provision of any of the following:</u>	1502
<u>(1) Advanced services as defined in 47 C.F.R. 51.5;</u>	1503
<u>(2) Broadband service, however defined or classified by the federal communications commission;</u>	1504 1505
<u>(3) Information service as defined in the "Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C. 153(20);</u>	1506 1507
<u>(4) Subject to division (A) of section 4927.03 of the Revised Code, internet protocol-enabled services as defined in section 4927.01 of the Revised Code;</u>	1508 1509 1510
<u>(5) Subject to division (A) of section 4927.03 of the Revised Code, any telecommunications service as defined in section 4927.01 of the Revised Code to which both of the following apply:</u>	1511 1512 1513
<u>(a) The service was not commercially available on the effective date of the amendment of this section by S.B. 162 of the 128th general assembly.</u>	1514 1515 1516
<u>(b) The service employs technology that became available for commercial use only after the effective date of the amendment of this section by S.B. 162 of the 128th general assembly.</u>	1517 1518 1519
 <b>Sec. 4905.03.</b> As used in this chapter:	 1520
(A) Any person, firm, copartnership, voluntary association, joint-stock association, company, or corporation, wherever organized or incorporated, is:	1521 1522 1523
(1) <del>A telegraph company, when engaged in the business of transmitting telegraphic messages to, from, through, or in this state;</del>	1524 1525 1526
<del>(2) A telephone company, when engaged in the business of transmitting telephonic messages to, from, through, or in this state and as such is a common carrier;</del>	1527 1528 1529
<del>(3)</del> (2) A motor transportation company, when engaged in the	1530

business of carrying and transporting persons or property or the 1531  
business of providing or furnishing such transportation service, 1532  
for hire, in or by motor-propelled vehicles of any kind, including 1533  
trailers, for the public in general, over any public street, road, 1534  
or highway in this state, except as provided in section 4921.02 of 1535  
the Revised Code; 1536

~~(4)~~(3) An electric light company, when engaged in the 1537  
business of supplying electricity for light, heat, or power 1538  
purposes to consumers within this state, including supplying 1539  
electric transmission service for electricity delivered to 1540  
consumers in this state, but excluding a regional transmission 1541  
organization approved by the federal energy regulatory commission; 1542

~~(5)~~(4) A gas company, when engaged in the business of 1543  
supplying artificial gas for lighting, power, or heating purposes 1544  
to consumers within this state or when engaged in the business of 1545  
supplying artificial gas to gas companies or to natural gas 1546  
companies within this state, but a producer engaged in supplying 1547  
to one or more gas or natural gas companies, only such artificial 1548  
gas as is manufactured by that producer as a by-product of some 1549  
other process in which the producer is primarily engaged within 1550  
this state is not thereby a gas company. All rates, rentals, 1551  
tolls, schedules, charges of any kind, or agreements between any 1552  
gas company and any other gas company or any natural gas company 1553  
providing for the supplying of artificial gas and for compensation 1554  
for the same are subject to the jurisdiction of the public 1555  
utilities commission. 1556

~~(6)~~(5) A natural gas company, when engaged in the business of 1557  
supplying natural gas for lighting, power, or heating purposes to 1558  
consumers within this state. Notwithstanding the above, neither 1559  
the delivery nor sale of Ohio-produced natural gas by a producer 1560  
or gatherer under a public utilities commission-ordered exemption, 1561  
adopted before, as to producers, or after, as to producers or 1562

gatherers, January 1, 1996, or the delivery or sale of 1563  
Ohio-produced natural gas by a producer or gatherer of 1564  
Ohio-produced natural gas, either to a lessor under an oil and gas 1565  
lease of the land on which the producer's drilling unit is 1566  
located, or the grantor incident to a right-of-way or easement to 1567  
the producer or gatherer, shall cause the producer or gatherer to 1568  
be a natural gas company for the purposes of this section. 1569

All rates, rentals, tolls, schedules, charges of any kind, or 1570  
agreements between a natural gas company and other natural gas 1571  
companies or gas companies providing for the supply of natural gas 1572  
and for compensation for the same are subject to the jurisdiction 1573  
of the public utilities commission. The commission, upon 1574  
application made to it, may relieve any producer or gatherer of 1575  
natural gas, defined in this section as a gas company or a natural 1576  
gas company, of compliance with the obligations imposed by this 1577  
chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. 1578  
of the Revised Code, so long as the producer or gatherer is not 1579  
affiliated with or under the control of a gas company or a natural 1580  
gas company engaged in the transportation or distribution of 1581  
natural gas, or so long as the producer or gatherer does not 1582  
engage in the distribution of natural gas to consumers. 1583

Nothing in division (A)~~(6)~~(5) of this section limits the 1584  
authority of the commission to enforce sections 4905.90 to 4905.96 1585  
of the Revised Code. 1586

~~(7)~~(6) A pipe-line company, when engaged in the business of 1587  
transporting natural gas, oil, or coal or its derivatives through 1588  
pipes or tubing, either wholly or partly within this state; 1589

~~(8)~~(7) A water-works company, when engaged in the business of 1590  
supplying water through pipes or tubing, or in a similar manner, 1591  
to consumers within this state; 1592

~~(9)~~(8) A heating or cooling company, when engaged in the 1593

business of supplying water, steam, or air through pipes or tubing	1594
to consumers within this state for heating or cooling purposes;	1595
<del>(10)</del> <u>(9)</u> A messenger company, when engaged in the business of	1596
supplying messengers for any purpose;	1597
<del>(11)</del> <u>(10)</u> A street railway company, when engaged in the	1598
business of operating as a common carrier, a railway, wholly or	1599
partly within this state, with one or more tracks upon, along,	1600
above, or below any public road, street, alleyway, or ground,	1601
within any municipal corporation, operated by any motive power	1602
other than steam and not a part of an interurban railroad, whether	1603
the railway is termed street, inclined-plane, elevated, or	1604
underground railway;	1605
<del>(12)</del> <u>(11)</u> A suburban railroad company, when engaged in the	1606
business of operating as a common carrier, whether wholly or	1607
partially within this state, a part of a street railway	1608
constructed or extended beyond the limits of a municipal	1609
corporation, and not a part of an interurban railroad;	1610
<del>(13)</del> <u>(12)</u> An interurban railroad company, when engaged in the	1611
business of operating a railroad, wholly or partially within this	1612
state, with one or more tracks from one municipal corporation or	1613
point in this state to another municipal corporation or point in	1614
this state, whether constructed upon the public highways or upon	1615
private rights-of-way, outside of municipal corporations, using	1616
electricity or other motive power than steam power for the	1617
transportation of passengers, packages, express matter, United	1618
States mail, baggage, and freight. Such an interurban railroad	1619
company is included in the term "railroad" as used in section	1620
4907.02 of the Revised Code.	1621
<del>(14)</del> <u>(13)</u> A sewage disposal system company, when engaged in	1622
the business of sewage disposal services through pipes or tubing,	1623
and treatment works, or in a similar manner, within this state.	1624

(B) "Motor-propelled vehicle" means any automobile, 1625  
automobile truck, motor bus, or any other self-propelled vehicle 1626  
not operated or driven upon fixed rails or tracks. 1627

**Sec. 4905.04.** ~~(A)~~ The public utilities commission is hereby 1628  
vested with the power and jurisdiction to supervise and regulate 1629  
public utilities and railroads, to require all public utilities to 1630  
furnish their products and render all services exacted by the 1631  
commission or by law, and to promulgate and enforce all orders 1632  
relating to the protection, welfare, and safety of railroad 1633  
employees and the traveling public, including the apportionment 1634  
between railroads and the state and its political subdivisions of 1635  
the cost of constructing protective devices at railroad grade 1636  
crossings. 1637

~~(B) Subject to sections 4905.041 and 4905.042 of the Revised 1638  
Code, division (A) of this section includes such power and 1639  
jurisdiction as is reasonably necessary for the commission to 1640  
perform pursuant to federal law, including federal regulations, 1641  
the acts of a state commission as defined in 47 U.S.C. 153. 1642~~

**Sec. 4905.09.** A substantial compliance by the public 1643  
utilities commission with the requirements of Chapters 4901., 1644  
4903., 4905., 4907., 4909., 4921., 4923., and ~~4925.~~ 4927. of the 1645  
Revised Code is sufficient to give effect to all its rules, and 1646  
~~orders, acts, and regulations. Such~~ Those rules, and ~~orders, acts,~~ 1647  
~~and regulations~~ shall not be declared inoperative, illegal, or 1648  
void for an omission of a technical nature ~~in respect to such~~ 1649  
~~requirements. Such~~ And, those chapters do not affect, modify, or 1650  
repeal any law fixing the rate ~~which~~ that a company operating a 1651  
railroad may demand and receive for the transportation of 1652  
passengers. 1653

**Sec. 4905.12.** A railroad company ~~or telegraph company which~~ 1654

that violates section 4905.10, 4907.13, or 4907.15 of the Revised Code shall forfeit to the state one thousand dollars, and twenty-five dollars for each day ~~such~~ the company fails to comply with a requirement of any such ~~sections~~ section. ~~Such~~ The forfeiture does not release ~~such~~ the company from the assessment provided in section 4905.10 of the Revised Code.

**Sec. 4905.14.** (A)(1) Every public utility shall file an annual report with the public utilities commission. The report shall be filed at the time and in the form prescribed by the commission, shall be duly verified, and shall cover the yearly period fixed by the commission. The commission shall prescribe the character of the information to be embodied in the annual report, and shall furnish to each public utility a blank form for it. Every public utility also shall file a copy of the annual report with the office of the consumers' counsel; the copy shall be filed at the same time that the original is filed with the commission. If any annual report filed with the commission is defective or erroneous, the commission may order that it be amended within a prescribed time. Any amendments made pursuant to such an order shall be filed with the commission and with the office of the consumers' counsel. Each annual report filed with the commission shall be preserved in the office of the commission. The commission may, at any time, require specific answers to questions upon which it desires information.

(2)(a) Except as provided in division (A)(2)(b) of this section, in the case of a telephone company, including a wireless service provider, the annual report shall be limited to information necessary for the commission to calculate the assessment provided for in section 4905.10 of the Revised Code. The commission shall protect any confidential information in every company and provider report.

(b) With respect to a telephone company subject to section 4905.71 of the Revised Code, the commission shall adopt rules that require such a telephone company to also include in the annual report information required by the commission to calculate pole attachment and conduit occupancy rates and any other information the commission determines necessary and requires by rule for the commission to fulfill its responsibility under section 4905.71 of the Revised Code.

(B) On the first day of July and the first day of November of each year, each gas company and natural gas company shall file with the commission a report in quintuplicate stating:

(1) The total demand, stated in terms of cubic feet, that the company projects will be expected of the company for the following twelve months;

(2) The pertinent details of supply contracts with pipeline companies and producers for the following twelve months that they have executed and the quantity of the gas that they will possess in storage and will be available for delivery as of the first day of July and the first day of November;

(3) Where it appears from a comparison of the information reported in division (B)(1) of this section with that reported in division (B)(2) of this section that the total demand projected by the company for the twelve months following the date of the report will exceed the ability of the company to furnish it, the means which the company intends to employ in order to prevent any interruption or curtailment of service.

~~(C) The public utilities commission may require any telephone company to file with its annual report, supplementary reports of each exchange area owned or operated by it, in such detail as the commission may prescribe. Upon request of fifteen per cent of the subscribers of any telephone exchange, the public utilities~~



~~commission shall require the report for such exchange area.~~ 1717

**Sec. 4905.16.** When and as required by the public utilities 1718  
commission, every public utility shall file with it a copy of any 1719  
contract, agreement, or arrangement, in writing, with any other 1720  
public utility relating in any way to the construction, 1721  
maintenance, or use of its plant or property, or to any service, 1722  
rate, or charge. 1723

~~Unless otherwise ordered by the commission each telephone 1724  
company shall file with the commission a copy of any contract, 1725  
agreement, note, bond, or other arrangement entered into with any 1726  
telephone management, service or operating company.~~ 1727

**Sec. 4905.18.** Every public utility shall carry a proper and 1728  
adequate depreciation or deferred maintenance account, whenever 1729  
the public utilities commission, after investigation, determines 1730  
that a depreciation account can be reasonably required. The 1731  
commission shall ascertain, determine, and prescribe what are 1732  
proper and adequate charges for depreciation of the several 1733  
classes of property for each public utility. ~~The public utility 1734  
commission shall require every telephone company to carry a proper 1735  
and adequate depreciation or deferred maintenance account and 1736  
shall ascertain, determine, and prescribe what are proper and 1737  
adequate charges in each exchange area of such company.~~ 1738  
The charge 1739  
for depreciation shall be such as will provide the amount required 1740  
over the cost and expense of maintenance to keep the property of 1741  
the public utility in a state of efficiency corresponding to the 1742  
progress of the art or industry. The commission may prescribe such 1743  
changes in such charges for depreciation as it finds necessary.

**Sec. 4905.20.** No railroad as defined in section 4907.02 of 1744  
the Revised Code, operating any railroad in this state, and no 1745  
public utility as defined in section 4905.02 of the Revised Code 1746

furnishing service or facilities within this state, shall abandon 1747  
or be required to abandon or withdraw any main track or depot of a 1748  
railroad, or main pipe line, gas line, ~~telegraph line, telephone~~ 1749  
~~toll line,~~ electric light line, water line, sewer line, steam pipe 1750  
line, or any portion thereof, pumping station, generating plant, 1751  
power station, sewage treatment plant, or service station of a 1752  
public utility, or the service rendered thereby, ~~which~~ that has 1753  
once been laid, constructed, opened, and used for public business, 1754  
nor shall any such facility be closed for traffic or service 1755  
thereon, therein, or thereover except as provided in section 1756  
4905.21 of the Revised Code. Any railroad or public utility 1757  
violating this section shall forfeit and pay into the state 1758  
treasury not less than one hundred dollars, nor more than one 1759  
thousand dollars, and shall be subject to all other legal and 1760  
equitable remedies for the enforcement of this section and section 1761  
4905.21 of the Revised Code. 1762

**Sec. 4905.21.** Any railroad or any political subdivision 1763  
desiring to abandon, close, or have abandoned, withdrawn, or 1764  
closed for traffic or service all or any part of a main track or 1765  
depot, and any public utility or political subdivision desiring to 1766  
abandon or close, or have abandoned, withdrawn, or closed for 1767  
traffic or service all or any part of any line, pumping station, 1768  
generating plant, power station, sewage treatment plant, or 1769  
service station, referred to in section 4905.20 of the Revised 1770  
Code, shall make application to the public utilities commission in 1771  
writing. The commission shall thereupon cause reasonable notice of 1772  
the application to be given, stating the time and place fixed by 1773  
the commission for the hearing of the application. 1774

Upon the hearing of the application, the commission shall 1775  
ascertain the facts and make its findings thereon, and if such 1776  
facts satisfy the commission that the proposed abandonment, 1777  
withdrawal, or closing for traffic or service is reasonable, 1778

having due regard for the welfare of the public and the cost of 1779  
operating the service or facility, it may allow such abandonment, 1780  
withdrawal, or closing; otherwise it shall be denied, or if the 1781  
facts warrant, the application may be granted in a modified form. 1782  
If the application asks for the abandonment or withdrawal of any 1783  
main track, main pipe line, gas line, ~~telegraph line, telephone~~ 1784  
~~toll line,~~ electric light line, water line, sewer line, steam pipe 1785  
line, pumping station, generating plant, power station, sewage 1786  
treatment plant, service station, or the service rendered thereby, 1787  
in such manner as can result in the permanent abandonment of 1788  
service between any two points on such railroad, or of service and 1789  
facilities of any such public utility, no application shall be 1790  
granted unless the railroad or public utility has operated the 1791  
track, pipe line, gas line, ~~telegraph line, telephone toll line,~~ 1792  
electric light line, water line, sewer line, steam pipe line, 1793  
pumping station, generating plant, power station, sewage treatment 1794  
plant, or service station for at least five years. ~~Such~~ The notice 1795  
shall be given by publication in a newspaper of general 1796  
circulation throughout any county or municipal corporation ~~which~~ 1797  
that has granted a franchise to the railroad or public utility, 1798  
under which the track, pipe line, gas line, ~~telegraph line,~~ 1799  
~~telephone toll line,~~ electric light line, water line, sewer line, 1800  
steam pipe line, pumping station, generating plant, power station, 1801  
sewage treatment plant, or service station is operated or in which 1802  
the same is located, once a week for two consecutive weeks before 1803  
the hearing of the application. Notice of the hearing shall be 1804  
given such county, municipal corporation, or public utility in the 1805  
manner provided for the service of orders of the commission in 1806  
section 4903.15 of the Revised Code. This section and section 1807  
4905.20 of the Revised Code do not apply to a gas company when it 1808  
is removing or exchanging abandoned field lines. 1809

This section applies to all service now rendered and 1810  
facilities furnished or hereafter built and operated, and an order 1811

of the commission authorizing the abandonment or withdrawal of any 1812  
such service or facility shall not affect rights and obligations 1813  
of a railroad or public utility beyond the scope of the order, 1814  
anything in its franchise to the contrary notwithstanding. 1815

**Sec. 4905.26.** Upon complaint in writing against any public 1816  
utility by any person, firm, or corporation, or upon the 1817  
initiative or complaint of the public utilities commission, that 1818  
any rate, fare, charge, toll, rental, schedule, classification, or 1819  
service, or any joint rate, fare, charge, toll, rental, schedule, 1820  
classification, or service rendered, charged, demanded, exacted, 1821  
or proposed to be rendered, charged, demanded, or exacted, is in 1822  
any respect unjust, unreasonable, unjustly discriminatory, 1823  
unjustly preferential, or in violation of law, or that any 1824  
regulation, measurement, or practice affecting or relating to any 1825  
service furnished by the public utility, or in connection with 1826  
such service, is, or will be, in any respect unreasonable, unjust, 1827  
insufficient, unjustly discriminatory, or unjustly preferential, 1828  
or that any service is, or will be, inadequate or cannot be 1829  
obtained, and, upon complaint of a public utility as to any matter 1830  
affecting its own product or service, if it appears that 1831  
reasonable grounds for complaint are stated, the commission shall 1832  
fix a time for hearing and shall notify complainants and the 1833  
public utility thereof. ~~Such~~ The notice shall be served not less 1834  
than fifteen days before hearing and shall state the matters 1835  
complained of. The commission may adjourn such hearing from time 1836  
to time. 1837

The parties to the complaint shall be entitled to be heard, 1838  
represented by counsel, and to have process to enforce the 1839  
attendance of witnesses. 1840

~~Upon the filing of a complaint by one hundred subscribers or 1841  
five per cent of the subscribers to any telephone exchange, 1842~~

~~whichever number be smaller, or by the legislative authority of 1843  
any municipal corporation served by such telephone company that 1844  
any regulation, measurement, standard of service, or practice 1845  
affecting or relating to any service furnished by the telephone 1846  
company, or in connection with such service is, or will be, in any 1847  
respect unreasonable, unjust, discriminatory, or preferential, or 1848  
that any service is, or will be, inadequate or cannot be obtained, 1849  
the commission shall fix a time for the hearing of such complaint. 1850~~

~~The hearing provided for in the next preceding paragraph 1851  
shall be held in the county wherein resides the majority of the 1852  
signers of such complaint, or wherein is located such municipal 1853  
corporation. Notice of the date, time of day, and location of the 1854  
hearing shall be served upon the telephone company complained of, 1855  
upon each municipal corporation served by the telephone company in 1856  
the county or counties affected, and shall be published for not 1857  
less than two consecutive weeks in a newspaper of general 1858  
circulation in the county or counties affected. 1859~~

~~Such hearing shall be held not less than fifteen nor more 1860  
than thirty days after the second publication of such notice. 1861~~

**Sec. 4905.30.** ~~Every~~ (A) A public utility shall print and file 1862  
with the public utilities commission schedules showing all rates, 1863  
joint rates, rentals, tolls, classifications, and charges for 1864  
service of every kind furnished by it, and all rules and 1865  
regulations affecting them. ~~Such~~ The schedules shall be plainly 1866  
printed and kept open to public inspection. The commission may 1867  
prescribe the form of every such schedule, and may prescribe, by 1868  
order, changes in the form of such schedules. The commission may 1869  
establish and modify rules and regulations for keeping such 1870  
schedules open to public inspection. A copy of ~~such~~ the schedules, 1871  
or so much thereof as the commission deems necessary for the use 1872  
and information of the public, shall be printed in plain type and 1873

kept on file or posted in such places and in such manner as the 1874  
commission orders. 1875

(B) Division (A) of this section applies to a telephone 1876  
company only regarding rates, joint rates, tolls, classifications, 1877  
charges, rules, and regulations established pursuant to sections 1878  
4905.71, 4927.12, 4927.13, 4927.14, 4927.15, 4927.18, and 4931.47 1879  
of the Revised Code. 1880

**Sec. 4905.34.** Except as provided in sections 4905.33 and 1881  
4905.35 and Chapter 4928. of the Revised Code, Chapters 4901., 1882  
4903., 4905., 4907., 4909., 4921., ~~and 4923.~~, and 4927. of the 1883  
Revised Code do not prevent any public utility or railroad from 1884  
granting any of its property for any public purpose, or granting 1885  
reduced rates or free service of any kind to the United States, to 1886  
the state or any political subdivision of the state, for 1887  
charitable purposes, for fairs or expositions, to a law 1888  
enforcement officer residing in free housing provided pursuant to 1889  
section 3735.43 of the Revised Code, or to any officer or employee 1890  
of such public utility or railroad or the officer's or employee's 1891  
family. All contracts and agreements made or entered into by such 1892  
public utility or railroad for such use, reduced rates, or free 1893  
service are valid and enforcible at law. As used in this section, 1894  
"employee" includes furloughed, pensioned, and superannuated 1895  
employees. 1896

**Sec. 4905.40.** (A) A public utility or a railroad may, when 1897  
authorized by order of the public utilities commission, issue 1898  
stocks, bonds, notes, and other evidences of indebtedness, payable 1899  
at periods of more than twelve months after their date of 1900  
issuance, when necessary: 1901

(1) For the acquisition of property, the construction, 1902  
completion, extension, renewal, or improvement of its facilities, 1903

or the improvement of its service; or 1904

(2) For reorganization or readjustment of its indebtedness 1905  
and capitalization, for the discharge or lawful refunding of its 1906  
obligation, or for the reimbursement of moneys actually expended 1907  
for such purposes from income or from any other moneys in the 1908  
treasury of the public utility or railroad not secured or obtained 1909  
from the issue of stocks, bonds, notes, or other evidences of 1910  
indebtedness of such public utility or railroad. No reimbursement 1911  
of moneys expended for such purposes from income or other moneys 1912  
in the treasury shall be authorized unless the applicant has kept 1913  
its accounts and vouchers of such expenditures in such manner as 1914  
to enable the commission to ascertain the amount and purposes of 1915  
such expenditures. 1916

(B) Any public utility, subject to the jurisdiction of the 1917  
commission, may, when authorized by the commission, issue shares 1918  
of common capital stock to acquire or pay for shares of common 1919  
capital stock of a public utility of this or an adjoining state 1920  
whose property is so located as to permit the operation of the 1921  
properties of such utilities as an integrated system if the 1922  
applicant owns, or by this issue will acquire, not less than 1923  
sixty-five per cent of the issued and outstanding common capital 1924  
shares of the company whose shares are to be acquired, and if the 1925  
consideration to be capitalized by the acquiring company does not 1926  
exceed the par or stated value at which the shares so acquired 1927  
were issued. 1928

(C) Any bonds, notes, or other evidences of indebtedness 1929  
payable at periods of more than twelve months after their date may 1930  
be issued as provided in sections 4905.40 to 4905.43 of the 1931  
Revised Code, regardless of the amount of the capital stock of the 1932  
public utility or railroad, subject to the approval of the 1933  
commission of the excess of such bonds, notes, or other evidences 1934  
of indebtedness above the amount of the capital stock of such 1935

public utility or railroad. 1936

(D) The commission shall authorize on the best terms 1937  
obtainable such issues of stocks, bonds, and other evidences of 1938  
indebtedness as are necessary to enable any public utility to 1939  
comply with any contract made between such public utility and any 1940  
municipal corporation prior to June 30, 1911. 1941

(E) The commission may authorize a public utility that is an 1942  
electric light company to issue equity securities, or debt 1943  
securities having a term of more than twelve months from the date 1944  
of issuance, for the purpose of yielding to the company the 1945  
capacity to acquire a facility that produces fuel for the 1946  
generation of electricity. 1947

(F) In any proceeding under division (A)(1) of this section 1948  
initiated by a public utility, the commission shall determine and 1949  
set forth in its order: 1950

(1) Whether the purpose to which the issue or any proceeds of 1951  
it shall be applied was or is reasonably required by the utility 1952  
to meet its present and prospective obligations to provide utility 1953  
service; 1954

(2) Whether the amount of the issue and the probable cost of 1955  
such stocks, bonds, notes, or other evidences of indebtedness is 1956  
just and reasonable; 1957

(3) What effect, if any, the issuance of such stocks, bonds, 1958  
notes, or other evidences of indebtedness and the cost thereof 1959  
will have upon the present and prospective revenue requirements of 1960  
the utility. 1961

(G) Sections 4905.40 to 4905.42 of the Revised Code do not 1962  
apply to stocks, bonds, notes, or other evidence of indebtedness 1963  
issued for the purpose of financing oil or natural gas drilling, 1964  
producing, gathering, and associated activities and facilities by 1965  
a producer which supplies to no more than twenty purchasers only 1966



such gas as is produced, gathered, or purchased by such producer 1967  
within this state. 1968

(H) Each public utility seeking authorization from the 1969  
commission for the issuance of securities to finance the 1970  
installation, construction, extension, or improvement of an air 1971  
quality facility, as defined in section 3706.01 of the Revised 1972  
Code, shall consider the availability of financing therefor from 1973  
the Ohio air quality development authority and shall demonstrate 1974  
to the commission that the proposed financing will be obtained on 1975  
the best terms obtainable. 1976

(I) This section does not apply to a telephone company. 1977

**Sec. 4905.402.** (A) As used in this section: 1978

(1) "Control" means the possession of the power to direct the 1979  
management and policies of a domestic telephone company or a 1980  
holding company of a domestic telephone company, or the management 1981  
and policies of a domestic electric utility or a holding company 1982  
of a domestic electric utility, through the ownership of voting 1983  
securities, by contract, or otherwise, but does not include the 1984  
power that results from holding an official position or the 1985  
possession of corporate office with the domestic company or 1986  
utility or the holding company. Control is presumed to exist if 1987  
any person, directly or indirectly, owns, controls, holds the 1988  
power to vote, or holds with the power to vote proxies that 1989  
constitute, twenty per cent or more of the total voting power of 1990  
the domestic company or utility or the holding company. 1991

(2) "Electric utility" has the same meaning as in section 1992  
4928.07 of the Revised Code. 1993

(3) "Holding company" excludes any securities broker 1994  
performing the usual and customary broker's function. 1995

(4) "Telephone company" means any company described in 1996

division (A)~~(2)~~(1) of section 4905.03 of the Revised Code that is 1997  
a public utility under section 4905.02 of the Revised Code and 1998  
provides basic local exchange service, as defined in section 1999  
4927.01 of the Revised Code. 2000

(B) No person shall acquire control, directly or indirectly, 2001  
of a domestic telephone company or a holding company controlling a 2002  
domestic telephone company or of a domestic electric utility or a 2003  
holding company controlling a domestic electric utility unless 2004  
that person obtains the prior approval of the public utilities 2005  
commission under this section. To obtain approval the person shall 2006  
file an application with the commission demonstrating that the 2007  
acquisition will promote public convenience and result in the 2008  
provision of adequate service for a reasonable rate, rental, toll, 2009  
or charge. The application shall contain such information as the 2010  
commission may require. If the commission considers a hearing 2011  
necessary, it may fix a time and place for hearing. If, after 2012  
review of the application and after any necessary hearing, the 2013  
commission is satisfied that approval of the application will 2014  
promote public convenience and result in the provision of adequate 2015  
service for a reasonable rate, rental, toll, or charge, the 2016  
commission shall approve the application and make such order as it 2017  
considers proper. If the commission fails to issue an order within 2018  
thirty days of the filing of the application, or within twenty 2019  
days of the conclusion of a hearing, if one is held, the 2020  
application shall be deemed approved by operation of law. 2021

(C) No domestic telephone company shall merge with another 2022  
domestic telephone company unless the merging companies obtain the 2023  
prior approval of the commission. An application seeking such 2024  
approval shall be filed, processed, and decided in the manner 2025  
provided for an application under division (B) of this section. 2026

(D) The commission shall adopt such rules as it finds 2027  
necessary to carry out the provisions of this section. 2028

~~(D)~~(E) If it appears to the commission or to any person that  
may be adversely affected that any person is engaged in or about  
to engage in any acts or practices that would violate division (B)  
or (C) of this section or any provision of a rule adopted under  
this section, the attorney general, when directed to do so by the  
commission, or the person claiming to be adversely affected may  
bring an action in any court of common pleas that has jurisdiction  
and venue to enjoin such acts or practices and enforce compliance  
~~with this section~~. Upon a proper showing, the court shall grant,  
without bond, a restraining order or temporary or permanent  
injunction.

~~(E)~~(F) The courts of this state have jurisdiction over every  
person not a resident of or domiciled or authorized to do business  
in this state that files, or is prohibited from acting without  
first filing, an application under division (B) or (C) of this  
section, and over all actions involving such person arising out of  
violations of any provision of this section or of a rule adopted  
under this section. The secretary of state shall be the agent for  
service of process for any such person in any action, suit, or  
proceeding arising out of such violations ~~of this section~~. Copies  
of all such lawful process shall be served upon the secretary of  
state and transmitted by certified mail, with return receipt  
requested, by the secretary of state to such person at the  
person's last known address.

**Sec. 4905.41.** The proceedings for obtaining the authority of  
the public utilities commission for the issue of stocks, bonds,  
notes and other evidences of indebtedness, as provided in section  
4905.40 of the Revised Code, shall be as follows:

(A) In case the stocks, bonds, notes, or other evidence of  
indebtedness are to be issued for money only, the public utility  
or railroad shall file with the commission a statement, signed and

verified by the president or vice president and the secretary or treasurer of such public utility or railroad, setting forth:	2060 2061
(1) The amount and character of the stocks, bonds, or other evidence of indebtedness;	2062 2063
(2) The purposes for which they are to be issued;	2064
(3) The terms upon which they are to be issued;	2065
(4) The total assets and liabilities and an income statement of the public utility or railroad in such detail as the commission requires;	2066 2067 2068
(5) If the issue is desired for the purpose of the reimbursement of money expended from income, as provided by section 4905.40 of the Revised Code, the amount expended and when and for what purposes it was expended;	2069 2070 2071 2072
(6) <del>If the application is filed by a telephone company, a statement that such company is not in violation of section 4905.23 of the Revised Code, and is not in violation of any order of the commission made under sections 4905.231 and 4905.381 of the Revised Code; or, if it is in violation thereof, that a portion or all of the proceeds will be used to correct such violation and that none of the proceeds will be used for expansion into or acquisition of any additional territory.</del>	2073 2074 2075 2076 2077 2078 2079 2080
<del>(7) Such other facts and information pertinent to the inquiry as the commission requires.</del>	2081 2082
(B) If the stocks, bonds, notes, or other evidence of indebtedness are to be issued partly or wholly for property, services, or other consideration than money, the public utility or railroad shall file with the commission a statement, signed and verified by its president or vice president and its secretary, or treasurer setting forth:	2083 2084 2085 2086 2087 2088
(1) The amount and character of the stocks, bonds, or other	2089

evidence of indebtedness proposed to be issued;	2090
(2) The purposes for which they are to be issued;	2091
(3) The description and estimated value of the property or services for which they are to be issued;	2092 2093
(4) The terms on which they are to be issued or exchanged;	2094
(5) The amount of money to be received in addition to the property, service, or other consideration;	2095 2096
<del>(6) If the application is made by a telephone company, that the company is not in violation of section 4905.23 of the Revised Code and is not in violation of any order of the commission made under sections 4905.231 and 4905.381 of the Revised Code.</del>	2097 2098 2099 2100
<del>(7)</del> The total assets and liabilities and an income statement of the public utility or railroad in such detail as the commission requires;	2101 2102 2103
<del>(8)</del> <u>(7)</u> Such other facts and information pertinent to the inquiry as the commission requires.	2104 2105
This section and section 4905.40 of the Revised Code do not apply to union depot companies organized and under contract prior to June 30, 1911, until the same are completed.	2106 2107 2108
<u>This section does not apply to a telephone company.</u>	2109
<b>Sec. 4905.42.</b> To determine whether it should issue the order referred to in section 4905.40 of the Revised Code, the public utilities commission shall hold such hearings, make such inquiries or investigations, and examine such witnesses, books, papers, documents, and contracts as it deems proper.	2110 2111 2112 2113 2114
An order issued under this section shall fix the amount, character, and terms of any issue of stocks, bonds, notes, or other evidence of indebtedness, and the purposes to which the issue or any proceeds of it shall be applied, shall recite that	2115 2116 2117 2118

the money, property, consideration, or labor procured or to be 2119  
procured or paid for by such issue was or is reasonably required 2120  
for the purposes specified in the order, and shall recite the 2121  
value of any property, consideration, or service, as found by the 2122  
commission, for which in whole or in part such issue is proposed 2123  
to be made. 2124

No public utility or railroad shall, without the consent of 2125  
the commission, apply any such issue or its proceeds to any 2126  
purpose not specified in the order. Such public utilities or 2127  
railroads may issue notes for proper corporate purposes, payable 2128  
at periods of not more than twelve months, without the consent of 2129  
the commission, but no such notes shall, in whole or in part, 2130  
directly or indirectly, be refunded by any issue of stocks or 2131  
bonds, or by any evidence of indebtedness, running for more than 2132  
twelve months, without the consent of the commission. 2133

All stocks, bonds, notes, or other evidence of indebtedness 2134  
issued by any public utility or railroad without the permission of 2135  
the commission are void. No interstate railroad or public utility 2136  
shall be required to apply to the commission for authority to 2137  
issue stocks, bonds, notes, or other evidence of indebtedness for 2138  
the acquisition of property, the construction, completion, 2139  
extension, or improvement of its facilities, or the improvement or 2140  
maintenance of its service outside this state, or for authority 2141  
for the discharge or refunding of obligations issued or incurred 2142  
for such purposes or the reimbursement of moneys actually expended 2143  
for such purposes outside this state. 2144

No pipe-line company—when engaged in the business of 2145  
transporting oil through pipes or tubing, either wholly or 2146  
partly—within this state, shall be required to apply to the 2147  
commission for authority to issue stocks, bonds, notes, or other 2148  
evidence of indebtedness for the purpose of acquiring or paying 2149  
for stocks, bonds, notes, or other evidence of indebtedness of any 2150

other corporation organized under the laws of this state, any 2151  
other state, the District of Columbia, the United States, any 2152  
territory of the United States, any foreign country, or otherwise. 2153

No company that is both a pipe-line company engaged as such 2154  
in the business of transporting natural gas through pipes or 2155  
tubing in interstate commerce, wholly or partly within this state, 2156  
and a natural gas company engaged as such in this state solely in 2157  
the business of supplying natural gas to gas companies or to 2158  
natural gas companies shall be required to apply to the commission 2159  
for authority to issue stocks, bonds, notes, or other evidence of 2160  
indebtedness. 2161

This section does not apply to a telephone company. 2162

**Sec. 4905.45.** Public utility or railroad corporations may, 2163  
incident to the sale or pledge of bonds, notes, or other 2164  
securities owned by them, jointly or severally indorse such 2165  
securities and guarantee due payment of them, in any case in which 2166  
such indorsement and guarantee is authorized by the public 2167  
utilities commission or the interstate commerce commission. 2168

This section does not apply to telephone companies. 2169

**Sec. 4905.46.** (A) No public utility or railroad shall declare 2170  
any stock, bond, or scrip dividend or distribution, or divide the 2171  
proceeds of the sale of any stock, bond, or scrip among its 2172  
stockholders, unless it is authorized to do so by the public 2173  
utilities commission. 2174

~~(B) No telephone company shall declare any cash, stock, bond,~~ 2175  
~~or scrip dividend or distribution, or divide the proceeds of the~~ 2176  
~~sale of any stock, bond, or scrip among its common or voting~~ 2177  
~~shareholders, while such telephone company is in violation of any~~ 2178  
~~order of the commission, or against which telephone company there~~ 2179  
~~exists a finding of inadequate service, except when the public~~ 2180

~~utilities commission makes a finding after hearing and notice, as 2181  
provided in section 4905.26 of the Revised Code, that such 2182  
dividend or distribution will in no way postpone compliance with 2183  
any order or affect the adequacy of service rendered or to be 2184  
rendered by such telephone company. If a telephone company, while 2185  
in violation of any order of the commission, or against which 2186  
there exists a finding of inadequate service, desires to declare a 2187  
cash dividend or distribution without the consent of the 2188  
commission, it shall set aside in a special reserve fund a sum of 2189  
money equivalent to the amount necessary to pay the proposed 2190  
dividend or distribution, which, while said company is in 2191  
violation of said order or against which such finding exists, may 2192  
be expended only with the consent of the commission This section 2193  
does not apply to telephone companies. 2194~~

**Sec. 4905.47.** The public utilities commission shall not 2195  
authorize the capitalization of any franchise or right to own, 2196  
operate, or enjoy any franchise in excess of the amount, exclusive 2197  
of any tax or annual charge, actually paid to any political 2198  
subdivision of the state or county as the consideration for the 2199  
grant of such franchise or right, nor shall the capital stock of a 2200  
public utility or railroad corporation formed by the merger or 2201  
consolidation of two or more corporations exceed the sum of the 2202  
capital stock of the corporations consolidated or merged, at the 2203  
par value of such stock, and such sum or any additional sum 2204  
actually paid in cash. No contract for consolidation or lease 2205  
shall be capitalized in the stock of any public utility or 2206  
railroad corporation, and no such corporation shall issue any 2207  
bonds against or as a lien upon any contract for consolidation or 2208  
merger. The aggregate amount of the debt of such consolidated 2209  
companies by reason of such consolidation shall not be increased. 2210

This section does not apply to telephone companies. 2211



**Sec. 4905.51.** Every public utility having any equipment on, 2212  
over, or under any street or highway shall, subject to section 2213  
4951.04 of the Revised Code, for a reasonable compensation, permit 2214  
the use of such equipment by any other public utility whenever the 2215  
public utilities commission determines, as provided in section 2216  
4905.51 of the Revised Code, that public convenience, welfare, and 2217  
necessity require such use or joint use, and that such use or 2218  
joint use will not result in irreparable injury to the owner or 2219  
other users of such equipment or any substantial detriment to the 2220  
service to be rendered by such owners or other users. 2221

In case of failure to agree upon such use or joint use, or 2222  
upon the conditions or compensation for such use or joint use, any 2223  
public utility may apply to the commission, and if after 2224  
investigation the commission ascertains that the public 2225  
convenience, welfare, and necessity require such use or joint use 2226  
and that it would not result in irreparable injury to the owner or 2227  
other users of such property or equipment or in any substantial 2228  
detriment to the service to be rendered by such owner or other 2229  
users, the commission shall direct that such use or joint use be 2230  
permitted and prescribe reasonable conditions and compensation for 2231  
such joint use. 2232

Such use or joint use so ordered shall be permitted and such 2233  
conditions and compensation so prescribed shall be the lawful 2234  
conditions and compensation to be observed, followed, and paid, 2235  
subject to recourse to the courts by any interested party as 2236  
provided in Chapters 4901., 4903., 4905., 4907., 4909., 4921., 2237  
4923., and ~~4925.~~ 4927. of the Revised Code. The commission may 2238  
revoke or revise any such order. 2239

**Sec. 4905.52.** No officer, agent, or employee of a railroad 2240  
company shall refuse to answer a question propounded to ~~him~~ the 2241  
officer, agent, or employee by a public utilities commissioner in 2242

the course of an examination authorized by Chapters 4901., 4903., 2243  
4905., 4907., 4909., 4921., 4923., and ~~4925-~~ 4927. of the Revised 2244  
Code. The property of the railroad company of which such person is 2245  
an officer, agent, or employee, is liable to be taken in execution 2246  
to satisfy the fines and costs in case of a violation of this 2247  
section. 2248

**Sec. 4905.58.** All prosecutions against a railroad ~~or~~ 2249  
~~telegraph company,~~ or an officer, agent, or employee thereof, 2250  
under Chapters 4901., 4903., 4905., 4907., 4909., 4921., and 2251  
4923., ~~and 4925.~~ and other sections of the Revised Code for 2252  
penalties involving imprisonment shall be by indictment. 2253

**Sec. 4905.59.** If the public utilities commission, the officer 2254  
requested by it, or a village solicitor or city director of law, 2255  
when the cause of action arises in a municipal corporation, fails 2256  
to prosecute a civil action for forfeiture against a railroad ~~or~~ 2257  
~~telegraph company,~~ or an officer, agent, or employee thereof as 2258  
provided by law, the prosecuting attorney of the county in which a 2259  
cause of action for forfeiture arises, upon the request of any 2260  
taxpayer of the county, shall bring such action if ~~he~~ the 2261  
prosecuting attorney is furnished with evidence ~~which~~ that in ~~his~~ 2262  
the prosecuting attorney's judgment will sustain it. If the action 2263  
fails, the costs of the action shall be adjudged against the 2264  
county. 2265

If a cause of action for forfeiture arises within a municipal 2266  
corporation, and the commission, the officer requested by it, or 2267  
the prosecuting attorney, fails to prosecute such action, the 2268  
village solicitor or city director of law of the municipal 2269  
corporation, when required by resolution of the legislative 2270  
authority, shall institute the action and prosecute it to final 2271  
judgment. If the action fails, the cost of the action shall be 2272  
adjudged against the municipal corporation. The time for notice of 2273

appeal and giving a bond does not apply to cases within the 2274  
meaning of this section. 2275

**Sec. 4905.61.** If any public utility or railroad does, or 2276  
causes to be done, any act or thing prohibited by Chapters 4901., 2277  
4903., 4905., 4907., 4909., 4921., 4923., and ~~4925.~~ 4927. of the 2278  
Revised Code, or declared to be unlawful, or omits to do any act 2279  
or thing required by ~~such~~ the provisions of those chapters, or by 2280  
order of the public utilities commission, ~~such~~ the public utility 2281  
or railroad is liable to the person, firm, or corporation injured 2282  
thereby in treble the amount of damages sustained in consequence 2283  
of ~~such~~ the violation, failure, or omission. Any recovery under 2284  
this section does not affect a recovery by the state for any 2285  
penalty provided for in ~~such~~ the chapters. 2286

**Sec. 4905.63.** ~~Companies~~ A company formed to acquire property 2287  
or to transact business ~~which~~ that would be subject to Chapters 2288  
4901., 4903., 4905., 4907., 4909., 4921., 4923., and ~~4925.~~ 4927. 2289  
of the Revised Code, and ~~companies~~ a company owning or possessing 2290  
franchises for any of the purposes contemplated in ~~such~~ those 2291  
chapters, ~~are subject to such chapters~~ those chapters' provisions, 2292  
although no property has been acquired, no business has been 2293  
transacted, or no franchises have been exercised by ~~them~~ the 2294  
company. 2295

**Sec. 4905.71.** (A) Every telephone, ~~telegraph,~~ or electric 2296  
light company, ~~which~~ that is a public utility as defined by 2297  
section 4905.02 of the Revised Code, ~~shall permit,~~ upon reasonable 2298  
terms and conditions and the payment of reasonable charges, the 2299  
attachment of any wire, cable, facility, or apparatus to its 2300  
poles, pedestals, or placement of same in conduit duct space, by 2301  
any person or entity other than a public utility that is 2302  
authorized and has obtained, under law, any necessary public or 2303

private authorization and permission to construct and maintain the attachment, so long as the attachment does not interfere, obstruct, or delay the service and operation of the telephone, telegraph, or electric light company, or create a hazard to safety. Every such telephone, ~~telegraph~~, or electric light company shall file tariffs with the public utilities commission containing the charges, terms, and conditions established for such use.

(B) The ~~public utilities~~ commission shall regulate the justness and reasonableness of the charges, terms, and conditions contained in any such tariff, and may, upon complaint of any persons in which it appears that reasonable grounds for complaint are stated, or upon its own initiative, investigate such charges, terms, and conditions and conduct a hearing to establish just and reasonable charges, terms, and conditions, and to resolve any controversy ~~which~~ that may arise among the parties as to such attachment.

**Sec. 4905.73.** (A) The public utilities commission, upon complaint by any person or complaint or initiative of the commission, has jurisdiction under section 4905.26 of the Revised Code regarding any violation of division (B) of section 4905.72 of the Revised Code by a public utility.

(B) Upon complaint or initiative under division (A) of this section, if the commission finds, after notice and hearing pursuant to section 4905.26 of the Revised Code, that a public utility has violated section 4905.72 of the Revised Code, the commission, by order, shall do all of the following:

(1) Rescind the aggrieved consumer's change in service provider;

(2) Require the public utility to absolve the aggrieved consumer of any liability for any charges assessed the consumer, or refund to the aggrieved consumer any charges collected from the

consumer, by the public utility during the thirty-day period after 2335  
the violation or failure to comply occurred or, where appropriate, 2336  
during such other period after that occurrence as determined 2337  
reasonable by the commission; 2338

(3) Require the public utility to refund or pay to the 2339  
aggrieved consumer any fees paid or costs incurred by the consumer 2340  
resulting from the change of the consumer's service provider or 2341  
providers, or from the resumption of the consumer's service with 2342  
the service provider or providers from which the consumer was 2343  
switched; 2344

(4) Require the public utility to make the consumer whole 2345  
regarding any bonuses or benefits, such as airline mileage or 2346  
product discounts, to which the consumer is entitled, by restoring 2347  
bonuses or benefits the consumer lost as a result of the violation 2348  
or failure to comply and providing bonuses or benefits the 2349  
consumer would have earned if not for the violation or failure to 2350  
comply, or by providing something of equal value. 2351

(C) In addition to the remedies under division (B) of this 2352  
section, if the commission finds, after notice and hearing 2353  
pursuant to section 4905.26 of the Revised Code, that a public 2354  
utility has violated section 4905.72 of the Revised Code, the 2355  
commission, by order, may impose any of the following remedies or 2356  
forfeitures: 2357

(1) Require the public utility to comply or undertake any 2358  
necessary corrective action; 2359

(2) Require the public utility to compensate the service 2360  
provider or providers from which the aggrieved consumer was 2361  
switched in the amount of all charges the consumer would have paid 2362  
that particular service provider for the same or comparable 2363  
service had the violation or failure to comply not occurred; 2364

(3) Require the public utility to compensate the service 2365

provider or providers from which the aggrieved consumer was 2366  
switched for any costs that the particular service provider incurs 2367  
as a result of making the consumer whole as provided in division 2368  
(B)(4) of this section or of effecting the resumption of the 2369  
consumer's service; 2370

(4) Assess upon the public utility forfeitures of not more 2371  
than one thousand dollars for each day of each violation or 2372  
failure to comply. However, if the commission finds that the 2373  
public utility has engaged or is engaging in a pattern or practice 2374  
of committing any such violations or failures to comply, the 2375  
commission may assess upon the public utility forfeitures of not 2376  
more than five thousand dollars for each day of each violation or 2377  
failure. Any forfeiture collected pursuant to this division shall 2378  
be deposited into the state treasury to the credit of the general 2379  
revenue fund. 2380

(5) Require the public utility to file with the commission a 2381  
security payable to the state in such amount and upon such terms 2382  
as the commission determines necessary to ensure compliance and 2383  
payment of any forfeitures assessed pursuant to division (C)(4) of 2384  
this section; 2385

(6) Rescind the public utility's authority to provide natural 2386  
gas service or public telecommunications service within this 2387  
state. 2388

(D) Proceedings of the commission pursuant to division (B) or 2389  
(C) of this section are governed by Chapter 4903. of the Revised 2390  
Code. 2391

(E) The commission may direct the attorney general to 2392  
commence an action under section 4905.57 or 4905.60 of the Revised 2393  
Code to enforce an order of the commission issued under division 2394  
(B) or (C) of this section, including orders assessing 2395  
forfeitures. Notwithstanding section 4905.57 of the Revised Code, 2396

an action authorized under this division may be brought in the 2397  
court of common pleas of Franklin county or the court of common 2398  
pleas of any county in which venue is proper under the Rules of 2399  
Civil Procedure. 2400

(F) The remedy available under section 4905.61 of the Revised 2401  
Code may be applied to any violation of section 4905.72 of the 2402  
Revised Code. 2403

(G) The powers, remedies, forfeitures, and penalties provided 2404  
by this section and section 4905.72 and division ~~(D)~~(C) of section 2405  
4905.99 of the Revised Code are in addition to any other power, 2406  
remedy, forfeiture, or penalty provided by law. 2407

**Sec. 4905.84.** (A) As used in this section: 2408

(1) "Telecommunications relay service" means intrastate 2409  
transmission services that provide the ability for an individual 2410  
who has a hearing or speech impairment to engage in a 2411  
communication by wire or radio with a hearing individual in a 2412  
manner that is functionally equivalent to the ability of an 2413  
individual who does not have a hearing or speech impairment to 2414  
communicate using voice communication services by wire or radio. 2415  
"Telecommunications relay service" includes services that enable 2416  
two-way communication between an individual who uses a 2417  
telecommunications device for the deaf or other nonvoice terminal 2418  
device and an individual who does not use such a device. 2419

(2) "TRS provider" means an entity selected by the public 2420  
utilities commission as the provider of telecommunications relay 2421  
service for this state as part of the commission's intrastate 2422  
telecommunications relay service program certified pursuant to 2423  
federal law. 2424

(B) For the sole purpose of funding telecommunications relay 2425  
service, the commission shall, not earlier than January 1, 2009, 2426

impose on and collect from each service provider that is required 2427  
under federal law to provide its customers access to 2428  
telecommunications relay service an annual assessment to pay for 2429  
costs incurred by the TRS provider for providing such service in 2430  
Ohio. The commission shall determine the appropriate service 2431  
providers to be assessed the telecommunications relay service 2432  
costs, including telephone companies as defined in division 2433  
(A)~~(2)~~(1) of section 4905.03 of the Revised Code, commercial 2434  
mobile radio service providers, and providers of advanced services 2435  
or internet protocol-enabled services that are competitive with or 2436  
functionally equivalent to basic local exchange service as defined 2437  
in section 4927.01 of the Revised Code. 2438

(C) The assessment shall be allocated proportionately among 2439  
the appropriate service providers using a competitively neutral 2440  
formula established by the commission based on the number of 2441  
retail intrastate customer access lines or their equivalent. The 2442  
commission shall annually reconcile the funds collected with the 2443  
actual costs of providing telecommunications relay service when it 2444  
issues the assessment and shall either proportionately charge the 2445  
service providers for any amounts not sufficient to cover the 2446  
actual costs or proportionately credit amounts collected in excess 2447  
of the actual costs. The total amount assessed from all service 2448  
providers shall not exceed the total telecommunications relay 2449  
service costs. 2450

Each service provider that pays the assessment shall be 2451  
permitted to recover the cost of the assessment. The method of 2452  
recovery may include, but is not limited to, a customer billing 2453  
surcharge. 2454

The commission shall deposit the money collected in the 2455  
telecommunications relay service fund, which is hereby created in 2456  
the state treasury, and shall use the money in that fund solely to 2457  
compensate the TRS provider. 2458



(D) The commission shall take such measures as it considers necessary to protect the confidentiality of information provided to the commission pursuant to this section by service providers required to pay the assessment.

(E) The commission may assess a forfeiture of not more than one thousand dollars on any service provider failing to comply with this section. Each day's continuance of such failure is a separate offense. The forfeiture shall be recovered in accordance with sections 4905.55 to 4905.60 of the Revised Code.

(F) The jurisdiction and authority granted to the commission by this section is limited to the administration and enforcement of this section. The commission may adopt such rules as it finds necessary to carry out this section. The commission shall adopt rules under section 111.15 of the Revised Code to establish the assessment amounts and procedures.

**Sec. 4905.90.** As used in sections 4905.90 to 4905.96 of the Revised Code:

(A) "Contiguous property" includes, but is not limited to, a manufactured home park as defined in section 3733.01 of the Revised Code; a public or publicly subsidized housing project; an apartment complex; a condominium complex; a college or university; an office complex; a shopping center; a hotel; an industrial park; and a race track.

(B) "Gas" means natural gas, flammable gas, or gas which is toxic or corrosive.

(C) "Gathering lines" and the "gathering of gas" have the same meaning as in the Natural Gas Pipeline Safety Act and the rules adopted by the United States department of transportation pursuant to the Natural Gas Pipeline Safety Act, including 49 C.F.R. part 192, as amended.

(D) "Intrastate pipe-line transportation" has the same meaning as in 82 Stat. 720 (1968), 49 U.S.C.A. App. 1671, as amended, but excludes the gathering of gas exempted by the Natural Gas Pipeline Safety Act.

(E) "Master-meter system" means a pipe-line system that distributes gas within a contiguous property for which the system operator purchases gas for resale to consumers, including tenants. Such pipe-line system supplies consumers who purchase the gas directly through a meter, or by paying rent, or by other means. The term includes a master-meter system as defined in 49 C.F.R. 191.3, as amended. The term excludes a pipeline within a manufactured home, mobile home, or a building.

(F) "Natural Gas Pipeline Safety Act" means the "Natural Gas Pipeline Safety Act of 1968," 82 Stat. 720, 49 U.S.C.A. App. 1671 et seq., as amended.

(G) "Operator" means any of the following:

(1) A gas company or natural gas company as defined in section 4905.03 of the Revised Code, except that division (A)~~(6)~~(5) of that section does not authorize the public utilities commission to relieve any producer of gas, as a gas company or natural gas company, of compliance with sections 4905.90 to 4905.96 of the Revised Code or the pipe-line safety code created under section 4905.91 of the Revised Code;

(2) A pipe-line company, as defined in section 4905.03 of the Revised Code, when engaged in the business of transporting gas by pipeline;

(3) A public utility that is excepted from the definition of "public utility" under division (B) or (C) of section 4905.02 of the Revised Code, when engaged in supplying or transporting gas by pipeline within this state;

(4) Any person that owns, operates, manages, controls, or

leases any of the following:	2520
(a) Intrastate pipe-line transportation facilities within this state;	2521 2522
(b) Gas gathering lines within this state which are not exempted by the Natural Gas Pipeline Safety Act;	2523 2524
(c) A master-meter system within this state.	2525
"Operator" does not include an ultimate consumer who owns a service line, as defined in 49 C.F.R. 192.3, as amended, on the real property of that ultimate consumer.	2526 2527 2528
(H) "Operator of a master-meter system" means a person described under division (F)(4)(c) of this section. An operator of a master-meter system is not a public utility under section 4905.02 or a gas or natural gas company under section 4905.03 of the Revised Code.	2529 2530 2531 2532 2533
(I) "Person" means:	2534
(1) In addition to those defined in division (C) of section 1.59 of the Revised Code, a joint venture or a municipal corporation;	2535 2536 2537
(2) Any trustee, receiver, assignee, or personal representative of persons defined in division (H)(1) of this section.	2538 2539 2540
(J) "Safety audit" means the public utilities commission's audit of the premises, pipe-line facilities, and the records, maps, and other relevant documents of a master-meter system to determine the operator's compliance with sections 4905.90 to 4905.96 of the Revised Code and the pipe-line safety code.	2541 2542 2543 2544 2545
(K) "Safety inspection" means any inspection, survey, or testing of a master-meter system which is authorized or required by sections 4905.90 to 4905.96 of the Revised Code and the pipe-line safety code. The term includes, but is not limited to,	2546 2547 2548 2549

leak surveys, inspection of regulators and critical valves, and 2550  
monitoring of cathodic protection systems, where applicable. 2551

(L) "Safety-related condition" means any safety-related 2552  
condition defined in 49 C.F.R. 191.23, as amended. 2553

(M) "Total Mcfs of gas it supplied or delivered" means the 2554  
sum of the following volumes of gas that an operator supplied or 2555  
delivered, measured in units per one thousand cubic feet: 2556

(1) Residential sales; 2557

(2) Commercial and industrial sales; 2558

(3) Other sales to public authorities; 2559

(4) Interdepartmental sales; 2560

(5) Sales for resale; 2561

(6) Transportation of gas. 2562

**Sec. 4905.99.** (A) Whoever violates section 4905.52 of the 2563  
Revised Code shall be fined not less than fifty nor more than five 2564  
hundred dollars. 2565

(B) Whoever violates section 4905.56 of the Revised Code is 2566  
guilty of a felony of the fifth degree. 2567

~~(C) Coincident with the operation of section 4905.78 of the 2568  
Revised Code, whoever violates that section is guilty of a 2569  
misdemeanor of the fourth degree. 2570~~

~~(D) Whoever violates section 4905.74 of the Revised Code is 2571  
guilty of a misdemeanor of the third degree. 2572~~

**Sec. 4907.01.** As used in sections 4907.01 to 4907.63~~7~~ 2573  
~~inclusive,~~ of the Revised Code: 2574

(A) "Public utility" has the same meaning ~~set forth as~~ in 2575  
section 4905.02 of the Revised Code. 2576

(B) ~~"Telegraph company," "telephone~~ Telephone company," 2577  
~~"electric light company," "gas company," "natural gas company,"~~ 2578  
~~"pipe line company," "water works company," "sewage disposal~~ 2579  
~~system company," "heating or cooling company," "messenger~~ 2580  
~~company," "street railway company," "suburban railroad company,"~~ 2581  
and "interurban railroad company," ~~and "motor propelled vehicle"~~ 2582  
have the ~~meaning set forth~~ same meanings as in section 4905.03 of 2583  
the Revised Code. 2584

(C) "Railroad" has the same meaning ~~set forth~~ as in section 2585  
4907.02 of the Revised Code. 2586

(D) ~~"Motor transportation company," "trailer," "public~~ Public 2587  
~~highway," "fixed termini," "regular route," and "irregular route"~~ 2588  
have has the same meaning ~~set forth~~ as in sections 4905.03 and 2589  
4921.02 of the Revised Code. 2590

~~(E) "Private motor carrier," "contract carrier by motor~~ 2591  
~~vehicle," "motor vehicle," and "charter party trip" have the~~ 2592  
~~meaning set forth in section 4923.02 of the Revised Code.~~ 2593

**Sec. 4907.14.** Within thirty days after the election of the 2594  
directors of a railroad ~~or telegraph company~~ doing business in 2595  
this state, the secretary of ~~such companies~~ the railroad shall 2596  
forward to the public utilities commission a list of the officers 2597  
and directors thereof, giving the place of residence and 2598  
post-office address of each. If a change occurs in the 2599  
organization of the officers or board of directors of a railroad 2600  
~~or telegraph company~~, the secretary shall notify the commission of 2601  
such change and the residence and post-office address of each of 2602  
the officers and directors. 2603

**Sec. 4907.30.** No railroad company owning or operating a 2604  
railroad wholly or partly within this state shall, directly or 2605  
indirectly, issue or give a free ticket, free pass, or free 2606

transportation for passengers, except to:	2607
(A) Its employees and their families, its officers, agents,	2608
surgeons, physicians, and attorneys at law;	2609
(B) Ministers of religion, traveling secretaries of railroad	2610
young men's or young women's <del>christian</del> <u>Christian</u> associations,	2611
inmates of hospitals and charitable institutions, and persons	2612
exclusively engaged in charitable work;	2613
(C) Indigent, destitute, and homeless persons, and to such	2614
persons when transported by charitable societies or hospitals, and	2615
the necessary agents employed in such transportation;	2616
(D) Residents of the national homes or state homes for	2617
disabled volunteer soldiers, and residents of veterans' homes,	2618
including those about to enter and those returning home after	2619
discharge, and boards of managers of such homes;	2620
(E) Necessary caretakers of livestock, poultry, and fruit;	2621
(F) Employees on sleeping cars, <del>and</del> <u>or</u> express cars;	2622
(G) Line workers of <del>telegraph and</del> telephone companies;	2623
(H) Railway mail service employees, post-office inspectors,	2624
custom inspectors, and immigration inspectors;	2625
(I) News carriers on trains, baggage agents, witnesses	2626
attending any legal investigation in which the railroad is	2627
interested, persons injured in wrecks, and physicians and nurses	2628
attending such persons.	2629
As used in this section, "employee" includes furloughed,	2630
pensioned, and superannuated employees, persons who have become	2631
disabled or infirm in the service of any such common carrier, the	2632
remains of a person killed in the employment of a carrier, and	2633
ex-employees traveling for the purpose of entering the service of	2634
any such common carrier, and "families" includes the families of	2635
such persons and also the surviving spouses and dependent children	2636

of employees who died while in the service of any common carrier. 2637

**Sec. 4909.01.** As used in this chapter: 2638

(A) "Public utility" has the same meaning ~~set forth~~ as in 2639  
section 4905.02 of the Revised Code. 2640

(B) "~~Telegraph company,~~" "~~telephone company,~~" "~~electric~~ 2641  
Electric light company," "gas company," "natural gas company," 2642  
"pipeline company," "water-works company," "sewage disposal system 2643  
company," "~~heating or cooling company,~~" "~~messenger company,~~" and 2644  
"street railway company," "~~suburban railroad company,~~" "~~interurban~~ 2645  
~~railroad company,~~" and "motor propelled vehicle" have the same 2646  
meanings ~~set forth~~ as in section 4905.03 of the Revised Code. 2647

(C) "Railroad" has the same meaning ~~set forth~~ as in section 2648  
4907.02 of the Revised Code. 2649

(D) "Motor transportation company" has the same meaning ~~set~~ 2650  
~~forth~~ as in sections 4905.03 and 4921.02 of the Revised Code. 2651

~~(E) "Trailers," "public highway," "fixed termini," "regular~~ 2652  
~~route," and "irregular route" have the meanings set forth in~~ 2653  
~~section 4921.02 of the Revised Code.~~ 2654

~~(F) "Private motor carrier," "contract carrier by motor~~ 2655  
~~vehicle," "motor vehicle," and "charter party trip" have the~~ 2656  
~~meanings set forth in section 4923.02 of the Revised Code.~~ 2657

**Sec. 4909.02.** All regulations, practices, and service of 2658  
railroad companies ~~and telegraph companies~~ prescribed by the 2659  
public utilities commission shall be in force and be prima-facie 2660  
reasonable, unless suspended or found otherwise in an action 2661  
brought for that purpose pursuant to Chapters 4901., 4903., 4905., 2662  
4907., 4909., 4921., and 4923. of the Revised Code, or until 2663  
changed or modified by the commission. 2664

**Sec. 4909.03.** All rates, fares, charges, classifications, and joint rates of railroad companies ~~and telegraph companies~~ fixed by the public utilities commission shall be in force and be prima-facie lawful for two years from the day they take effect, or until changed or modified by the commission or by an order of a competent court in an action under Chapters 4901., 4903., 4905., 4907., 4909., 4921., and 4923., ~~and 4925.~~ of the Revised Code.

**Sec. 4909.17.** No rate, joint rate, toll, classification, charge, or rental, no change in any rate, joint rate, toll, classification, charge, or rental, and no regulation or practice affecting any rate, joint rate, toll, classification, charge, or rental of a public utility shall become effective until the public utilities commission, by order, determines it to be just and reasonable, except as provided in this section and sections 4909.18 and 4909.19 of the Revised Code. Such sections do not apply to any rate, joint rate, toll, classification, charge, or rental, or any regulation or practice affecting the same, of railroads, street and electric railways, motor transportation companies, ~~telegraph companies,~~ and pipe line companies. ~~Any change of any rate, joint rate, toll, classification, charge, or rental, or any regulation or practice affecting the same, of telegraph companies, may be made in the same manner as such changes may be made by railroad companies. All laws respecting such changes by railroad companies apply to such changes by telegraph companies.~~

**Sec. 4911.01.** As used in this chapter:

(A) "Public utility" means every one as defined in divisions (A)(1), ~~(2)~~ (3), (4), (5), (6), (7), (8), ~~(9)~~, and ~~(14)~~ (13) of section 4905.03 of the Revised Code, including all public utilities that ~~operating~~ operate their utilities not for profit,



except the following:	2695
(1) Electric light companies that operate their utilities not for profit;	2696 2697
(2) Public utilities, other than telephone companies, that are owned and operated exclusively by and solely for the utilities' customers;	2698 2699 2700
(3) Public utilities that are owned or operated by any municipal corporation;	2701 2702
(4) Railroads as defined in sections 4907.02 and 4907.03 of the Revised Code.	2703 2704
(B) "Residential consumer" means urban, suburban, and rural patrons of public utilities insofar as their needs for utility services are limited to their residence.	2705 2706 2707
<b>Sec. 4921.01.</b> As used in sections 4921.01 to 4921.32 <del>7</del> <del>inclusive</del> , of the Revised Code:	2708 2709
(A) "Public utility" has the <u>same</u> meaning <del>set forth</del> <u>as</u> in section 4905.02 of the Revised Code.	2710 2711
(B) " <del>Telegraph company,</del> " " <del>telephone company,</del> " " <del>electric light company,</del> " " <del>gas company,</del> " " <del>natural gas company,</del> " " <del>pipe line company,</del> " " <del>water works company,</del> " " <del>sewage disposal system company,</del> " " <del>heating or cooling company,</del> " " <del>messenger company,</del> " " <del>street Street railway company,</del> " " <del>suburban railroad company,</del> " "interurban railroad company," and "motor-propelled vehicle" have the <del>meaning set forth</del> <u>same meanings as</u> in section 4905.03 of the Revised Code.	2712 2713 2714 2715 2716 2717 2718
(C) "Railroad" has the <u>same</u> meaning <del>set forth</del> <u>as</u> in section 4907.02 of the Revised Code.	2719 2720
(D) "Motor transportation company" has the <u>same</u> meaning <del>set forth</del> <u>as</u> in sections 4905.03 and 4921.02 of the Revised Code.	2721 2722
(E) "Private motor carrier," "contract carrier by motor	2723

vehicle," "motor vehicle," and "charter party trip" have the 2724  
meaning ~~set forth~~ same meanings as in section 4923.02 of the 2725  
Revised Code. 2726

**Sec. 4923.01.** As used in sections 4923.01 to 4923.17, 2727  
~~inclusive,~~ of the Revised Code: 2728

(A) "Public utility" has the same meaning ~~set forth~~ as in 2729  
section 4905.02 of the Revised Code. 2730

(B) "~~Telegraph company," "telephone company," "electric light~~ 2731  
~~company," "gas company," "natural gas company," "pipe line~~ 2732  
~~company," "water works company," "sewage disposal system company,"~~ 2733  
~~"heating or cooling company," "messenger company," "street railway~~ 2734  
~~company," "suburban railroad company," "interurban railroad~~ 2735  
~~company,"~~ and "motor propelled Motor-propelled vehicle" have has 2736  
the same meaning ~~set forth~~ as in section 4905.03 of the Revised 2737  
Code. 2738

(C) "~~Railroad~~" has the meaning ~~set forth~~ in section 4907.02 2739  
~~of the Revised Code.~~ 2740

~~(D)~~ "Motor transportation company" has the same meaning ~~set~~ 2741  
~~forth~~ as in sections 4905.03 and 4921.02 of the Revised Code. 2742

~~(E)~~(D) "Trailer," "public highway," "~~fixed termini,~~" and 2743  
"regular route," ~~and "irregular route"~~ have the meaning ~~set forth~~ 2744  
same meanings as in section 4921.02 of the Revised Code. 2745

**Sec. 4927.01.** (A) As used in this chapter: 2746

~~(A)~~(1) "Basic local exchange service" means: 2747

~~(1)~~ End residential-end-user access to and usage of 2748  
telephone-company-provided services over a single line or 2749  
small-business-end-user access to and usage of 2750  
telephone-company-provided services over the primary access line 2751  
of service, which in the case of residential and small-business 2752

access and usage is not part of a bundle or package of services, 2753  
that enable does both of the following: 2754

(a) Enables a customer, over the primary line serving the 2755  
customer's premises, to originate or receive voice communications 2756  
within a local service area, and that consist as that area exists 2757  
on the effective date of the amendment of this section by S.B. 162 2758  
of the 128th general assembly; 2759

(b) Consists of all of the following services: 2760

~~(a)~~(i) Local dial tone service; 2761

~~(b)~~(ii) For residential end users, flat-rate telephone 2762  
exchange service; 2763

(iii) Touch tone dialing service; 2764

~~(c)~~(iv) Access to and usage of 9-1-1 services, where such 2765  
services are available; 2766

~~(d)~~(v) Access to operator services and directory assistance; 2767

~~(e)~~(vi) Provision of a telephone directory in any reasonable 2768  
format for no additional charge and a listing in that directory, 2769  
with reasonable accommodations made for private listings; 2770

~~(f)~~(vii) Per call, caller identification blocking services; 2771

~~(g)~~(viii) Access to telecommunications relay service; and 2772

~~(h)~~(ix) Access to toll presubscription, interexchange or toll 2773  
providers or both, and networks of other telephone companies. 2774

(2) "Bundle or package of services" means one or more 2775  
telecommunications services or other services offered together as 2776  
one service option at a single price. 2777

(3) "Carrier access" means access to and usage of telephone 2778  
company-provided facilities that enable end user customers 2779  
originating or receiving voice grade, data, or image 2780  
communications, over a local exchange telephone company network 2781

operated within a local service area, to access interexchange or 2782  
other networks and includes special access. 2783

~~(B) "Cable television service" means any transmission of 2784  
video or other programming service to subscribers and any 2785  
subscriber interaction required for the selection of that video or 2786  
other programming service.~~ 2787

~~(C)(4) "Federal poverty level" means the income level 2788  
represented by the poverty guidelines as revised annually by the 2789  
United States department of health and human services in 2790  
accordance with section 673(2) of the "Omnibus Reconciliation Act 2791  
of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family 2792  
size equal to the size of the family of the person whose income is 2793  
being determined.~~ 2794

(5) "Incumbent local exchange carrier" means, with respect to 2795  
an area, the local exchange carrier that: 2796

(a) On February 8, 1996, provided telephone exchange service 2797  
in such area; and 2798

(b)(i) On February 8, 1996, was deemed to be a member of the 2799  
exchange carrier association pursuant to 47 C.F.R. 69.601(b); or 2800

(ii) Is a person or entity that, on or after February 8, 2801  
1996, became a successor or assign of a member described in 2802  
division (A)(5)(b)(i) of this section. 2803

(6) "Internet protocol-enabled services" means any services, 2804  
capabilities, functionalities, or applications that are provided 2805  
using internet protocol or a successor protocol to enable an end 2806  
user to send or receive communications in internet protocol format 2807  
or a successor format, regardless of how any particular such 2808  
service is classified by the federal communications commission, 2809  
and includes voice over internet protocol service. 2810

(7) "Local exchange carrier" means any person engaged in the 2811

provision of telephone exchange service, or the offering of access 2812  
to telephone exchange service or facilities for the purpose of 2813  
originating or terminating telephone toll service. 2814

(8) "Local service area" means the geographic area that may 2815  
encompass more than one exchange area and within which a telephone 2816  
customer, by paying the rate for basic local exchange service, may 2817  
complete a call calls to another other telephone customer 2818  
customers without being assessed long distance toll charges. 2819

~~(D) "Public telecommunications service" means the~~ 2820  
~~transmission by a telephone company, by electromagnetic or other~~ 2821  
~~means, of signs, signals, writings, images, sounds, messages, or~~ 2822  
~~data originating and terminating in this state regardless of~~ 2823  
~~actual call routing, but does not include a system, including its~~ 2824  
~~construction, maintenance, or operation, for the provision of~~ 2825  
~~telecommunications service, or any portion of such service, by any~~ 2826  
~~entity for the sole and exclusive use of that entity, its parent,~~ 2827  
~~a subsidiary, or an affiliated entity, and not for resale,~~ 2828  
~~directly or indirectly; the provision of terminal equipment used~~ 2829  
~~to originate or terminate telecommunications service; broadcast~~ 2830  
~~transmission by radio, television, or satellite broadcast stations~~ 2831  
~~regulated by the federal government; or cable television service.~~ 2832

~~(E)(9) "Small business" means a nonresidential service~~ 2833  
~~customer with three or fewer service access lines.~~ 2834

(10) "Telecommunications" means the transmission, between or 2835  
among points specified by the user, of information of the user's 2836  
choosing, without change in the form or content of the information 2837  
as sent and received. 2838

(11) "Telecommunications carrier" has the same meaning as in 2839  
the "Telecommunications Act of 1996," 110 Stat. 60, 47 U.S.C. 153. 2840

(12) "Telecommunications service" means the offering of 2841  
telecommunications for a fee directly to the public, or to such 2842

classes of users as to be effectively available directly to the 2843  
public, regardless of the facilities used. 2844

(13) "Telephone company" means ~~any~~ a company described in 2845  
division (A)(2)(1) of section 4905.03 of the Revised Code that is 2846  
a public utility under section 4905.02 of the Revised Code. 2847

(14) "Telephone exchange service" means telecommunications 2848  
service that is within a telephone exchange, or within a connected 2849  
system of telephone exchanges within the same exchange area 2850  
operated to furnish to subscribers intercommunicating service of 2851  
the character ordinarily furnished by a single exchange, and that 2852  
is covered by the exchange service charge; or comparable service 2853  
provided through a system of switches, transmission equipment, or 2854  
other facilities, or combination thereof, by which a customer can 2855  
originate and terminate a telecommunications service. 2856

(15) "Telephone toll service" means telephone service between 2857  
stations in different exchange areas for which there is made a 2858  
separate charge not included in contracts with customers for 2859  
exchange service. 2860

(16) "Voice over internet protocol service" means a service 2861  
that uses a broadband connection from an end user's location and 2862  
enables real-time, two-way, voice communications that originate or 2863  
terminate from the user's location using internet protocol or a 2864  
successor protocol, including, but not limited to, any such 2865  
service that permits an end user to receive calls from and 2866  
terminate calls to the public switched network. 2867

(17) "Wireless service" means federally licensed commercial 2868  
mobile service as defined in the "Telecommunications Act of 1996," 2869  
110 Stat. 61, 151, 153, 47 U.S.C. 332(d) and further defined as 2870  
commercial mobile radio service in 47 C.F.R. 20.3. Under division 2871  
(A)(17) of this section, commercial mobile radio service is 2872  
specifically limited to mobile telephone, mobile cellular 2873

telephone, paging, personal communications services, and 2874  
specialized mobile radio service provided by a common carrier in 2875  
this state and excludes fixed wireless service. 2876

(18) "Wireless service provider" means a facilities-based 2877  
provider of wireless service to one or more end users in this 2878  
state. 2879

(B) The definitions of this section shall be applied 2880  
consistent with the definitions in the "Telecommunications Act of 2881  
1996," 110 Stat. 56, 47 U.S.C. 151 et seq., as amended, and with 2882  
federal decisions interpreting those definitions. 2883

**Sec. 4927.02.** (A) It is the policy of this state to: 2884

(1) Ensure the availability of adequate basic local exchange 2885  
service to citizens throughout the state; 2886

(2) Provide incentives for competing providers of 2887  
telecommunications service to provide advanced, high-quality 2888  
telecommunications service to citizens throughout the state; 2889

(3) Rely primarily on market forces, where they are ~~present~~ 2890  
~~and capable of supporting a healthy and sustainable, competitive~~ 2891  
~~telecommunications market exist~~, to maintain ~~just and~~ reasonable 2892  
~~rates, rentals, tolls, and charges for public telecommunications~~ 2893  
service levels for telecommunications services at reasonable 2894  
rates; 2895

~~(3)~~(4) Encourage innovation in the telecommunications 2896  
industry and the deployment of advanced telecommunications 2897  
services; 2898

~~(4)~~(5) Create a regulatory climate that provides incentives 2899  
to create and maintain high technology jobs for Ohioans; 2900

(6) Promote diversity and options in the supply of ~~public~~ 2901  
telecommunications services and equipment throughout the state; 2902

~~(5)(7)~~ Recognize the continuing emergence of a competitive 2903  
telecommunications environment through flexible regulatory 2904  
treatment of ~~public~~ telecommunications services where appropriate; 2905

~~(6)(8)~~ Consider the regulatory treatment of competing and 2906  
functionally equivalent services ~~in determining the scope of and,~~ 2907  
to the extent practicable, provide for equivalent regulation of 2908  
all telephone companies and services ~~that are subject to the~~ 2909  
~~jurisdiction of the public utilities commission;~~ 2910

~~(7)(9)~~ Not unduly favor or advantage any provider and not 2911  
unduly disadvantage providers of competing and functionally 2912  
equivalent services; and 2913

~~(8)(10)~~ Protect the affordability of telephone service for 2914  
low-income subscribers through the continuation of federal 2915  
lifeline assistance programs. 2916

(B) The public utilities commission shall consider the policy 2917  
set forth in this section in carrying out ~~sections 4927.03 and~~ 2918  
~~4927.04 of the Revised Code and in reducing or eliminating the~~ 2919  
~~regulation of telephone companies under those sections as to any~~ 2920  
~~public telecommunications service~~ this chapter. 2921

**Sec. 4927.03.** (A) Except as provided in divisions (A) and (B) 2922  
of section 4927.04 of the Revised Code and except to the extent 2923  
required to exercise authority under federal law, the commission 2924  
has no authority over any interconnected voice over internet 2925  
protocol-enabled service or any telecommunications service that is 2926  
not commercially available on the effective date of this section 2927  
and that employs technology that became available for commercial 2928  
use only after the effective date of this section, unless the 2929  
commission, upon a finding that the exercise of the commission's 2930  
authority is necessary for the protection, welfare, and safety of 2931  
the public, adopts rules specifying the necessary regulation. A 2932  
consumer purchase of a service that is not commercially available 2933



on the effective date of this section and that employs technology 2934  
that became available for commercial use only after the effective 2935  
date of this section shall constitute a consumer transaction for 2936  
purposes of sections 1345.01 to 1345.13 of the Revised Code, 2937  
notwithstanding any provision of those sections to the contrary, 2938  
unless the commission exercises jurisdiction over the service in 2939  
accordance with this division. Notwithstanding any contrary 2940  
provision of Chapter 4911. of the Revised Code, to the extent that 2941  
the commission adopts rules under division (A) of this section 2942  
regarding any interconnected voice over internet protocol enabled 2943  
service provided to residential customers or regarding any 2944  
telecommunications service that is provided to residential 2945  
customers, that is not commercially available on the effective 2946  
date of this section, and that employs technology that became 2947  
available for commercial use only after the effective date of this 2948  
section, the office of the consumers' counsel shall have authority 2949  
to assist and represent residential customers in the 2950  
implementation and enforcement of those rules. 2951

(B)(1) The commission has no authority over wireless service, 2952  
resellers of wireless service, or wireless service providers, 2953  
except as follows: 2954

(a) As provided under sections 4905.84, 4931.40 to 4931.70, 2955  
and 4931.99 of the Revised Code; 2956

(b) With respect to division (C) of section 4927.15 of the 2957  
Revised Code; 2958

(c) As provided in divisions (B)(2), (3), and (4) of this 2959  
section. 2960

(2) The commission has authority over wireless service and 2961  
wireless service providers as follows, but only to the extent 2962  
authorized by federal law, including federal regulations: 2963

(a) To the extent that the commission carries out the acts 2964

described in divisions (A), (B), (C), (D), and (F) of section 2965  
4927.04 of the Revised Code; 2966

(b) As provided in sections 4927.05, 4927.20, and 4927.21 of 2967  
the Revised Code. 2968

(3) The requirements of sections 4905.10, 4905.14, and 2969  
4911.18 of the Revised Code shall apply to a wireless service 2970  
provider. 2971

(4) The commission has such authority as is necessary to 2972  
enforce division (B) of this section. 2973

(C) For purposes of sections 4927.01 to 4927.21 of the 2974  
Revised Code, sections 4903.02, 4903.03, 4903.24, 4903.25, 2975  
4905.04, 4905.05, 4905.06, 4905.13, 4905.15, 4905.16, 4905.17, 2976  
4905.22, 4905.26, 4905.27, 4905.28, 4905.29, 4905.31, 4905.32, 2977  
4905.33, 4905.35, 4905.37, 4905.38, 4905.39, 4905.48, 4905.54, 2978  
4905.55, 4905.56, and 4905.60 of the Revised Code do not apply to 2979  
a telephone company or, as applicable, to an officer, employee, or 2980  
agent of such company or provider, except to the extent necessary 2981  
for the commission to carry out sections 4927.01 to 4927.21 of the 2982  
Revised Code. 2983

(D) Except as specifically authorized in sections 4927.01 to 2984  
4927.21 of the Revised Code, the commission has no authority over 2985  
the quality of service and the service rates, terms, and 2986  
conditions of telecommunications service provided to end users by 2987  
a telephone company. 2988

(E) The commission shall initially adopt the rules required 2989  
by this chapter not later than one hundred twenty days after the 2990  
effective date of this section. Subject to the authority granted 2991  
to the commission under this chapter, the commission may adopt 2992  
other rules, including rules regarding the removal from tariffs of 2993  
services that were required to be filed in tariffs prior to the 2994  
effective date of this section, as it finds necessary to carry out 2995

this chapter. 2996

Sec. 4927.04. The public utilities commission has such power 2997  
and jurisdiction as is reasonably necessary for it to perform the 2998  
obligations authorized by or delegated to it under federal law, 2999  
including federal regulations, which obligations include 3000  
performing the acts of a state commission as defined in the 3001  
"Communications Act of 1934," 48 Stat. 1064, 47 U.S.C. 153, as 3002  
amended, and include, but are not limited to, carrying out any of 3003  
the following: 3004

(A) Rights and obligations under the "Telecommunications Act 3005  
of 1996," 110 Stat. 56, 47 U.S.C. 251, as amended; 3006

(B) Authority to mediate and arbitrate disputes and approve 3007  
agreements under the "Telecommunications Act of 1996," 110 Stat. 3008  
56, 47 U.S.C. 252, as amended; 3009

(C) Administration of telephone numbers and number 3010  
portability; 3011

(D) Certification of telecommunications carriers eligible for 3012  
universal-service funding under 47 U.S.C. 214(e); 3013

(E) Administration of truth-in-billing; 3014

(F) Administration of customer proprietary network 3015  
information under 47 U.S.C. 222 and federal regulations adopted 3016  
thereunder; 3017

(G) Outage reporting consistent with federal requirements. 3018

Except as provided in division (B) of section 4927.03 of the 3019  
Revised Code, the commission has power and jurisdiction under this 3020  
section over a telecommunications carrier to the extent necessary 3021  
to perform the obligations described in this section. Nothing in 3022  
this chapter limits the commission's authority under the 3023  
"Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 151, et 3024  
seq., as amended, including the commission's authority over the 3025

provision of universal-service funding. 3026

Sec. 4927.05. (A)(1) No telephone company shall operate in 3027  
this state without first obtaining a certificate from the public 3028  
utilities commission, and no wireless service provider shall 3029  
operate in this state without first being registered with the 3030  
commission. A telephone company not holding such a certificate on 3031  
the effective date of this section, or a wireless service provider 3032  
not so registered on that date, shall file, respectively, a 3033  
certification application or registration with the commission, 3034  
each in the manner set forth in rules adopted by the commission. 3035  
The application or registration shall include all of the 3036  
following: 3037

(a) The company's or provider's name and address; 3038

(b) The name of a contact person and that person's contact 3039  
information; 3040

(c) A service description, including the general geographic 3041  
areas served, but not maps of service areas; 3042

(d) Evidence of registration with the secretary of state; 3043

(e) Evidence of notice to the public utilities tax division 3044  
of the department of taxation of the company's or provider's 3045  
intent to provide service; 3046

(f) As to a certification application, evidence of financial, 3047  
technical, and managerial ability to provide adequate service to 3048  
the public consistent with law. 3049

Division (A)(1) of this section does not apply to any 3050  
incumbent local exchange carrier with respect to its geographic 3051  
service area as that area existed on the effective date of this 3052  
section. 3053

(2) The commission may suspend or reject the certification 3054  
application of a telephone company if it finds, within thirty days 3055

after the application's submission and based on the evidence 3056  
provided under division (A)(1)(f) of this section, that the 3057  
applicant lacks financial, technical, or managerial ability 3058  
sufficient to provide adequate service to the public consistent 3059  
with law. 3060

(B) If any of the filed information described in divisions 3061  
(A)(1)(a) to (f) of this section changes, a telephone company 3062  
shall update its certification and provide any necessary notice to 3063  
customers, and a wireless service provider shall update its 3064  
registration. The commission shall adopt rules governing the 3065  
requirements of this division. 3066

**Sec. 4927.06.** (A) No telephone company shall commit any 3067  
unfair or deceptive act or practice in connection with the 3068  
offering or provision of any telecommunications service in this 3069  
state. A failure to comply with any of the following requirements 3070  
shall constitute an unfair or deceptive act or practice by a 3071  
telephone company: 3072

(1) Any communication by the company, including, but not 3073  
limited to, a solicitation, offer, or contract term or condition, 3074  
shall be truthful, clear, conspicuous, and accurate in disclosing 3075  
any material terms and conditions of service and any material 3076  
exclusions or limitations. The public utilities commission may 3077  
prescribe, by rule, a commission review process to determine when 3078  
disclosing such information is not practicable, and therefore 3079  
nondisclosure does not result in an unfair or deceptive act or 3080  
practice. 3081

(2) Any written service solicitation, marketing material, 3082  
offer, contract, or agreement, as well as any written response 3083  
from the company to a service-related inquiry or complaint that 3084  
the company receives from a customer or others, shall disclose the 3085  
company's name and contact information. The commission may 3086

prescribe, by rule, a commission review process to determine when 3087  
disclosing such information is not practicable, and therefore 3088  
nondisclosure does not result in an unfair or deceptive act or 3089  
practice. 3090

(3) The company shall inform its customers, as applicable and 3091  
in any reasonable manner, of their rights and responsibilities 3092  
concerning inside wire, the repair and maintenance of 3093  
customer-owned equipment, and the use of a network interface 3094  
device, and of any charges that the company imposes for a 3095  
diagnostic visit, consistent with rules adopted by the public 3096  
utilities commission. 3097

(4) The company shall not commit any act, practice, or 3098  
omission that the commission determines, by rulemaking under 3099  
section 4927.03 of the Revised Code or adjudication under section 3100  
4927.21 of the Revised Code, constitutes an unfair or deceptive 3101  
act or practice in connection with the offering or provision of 3102  
telecommunications service in this state. 3103

(B) The commission shall provide notice to all telephone 3104  
companies specifying any act, practice, or omission that it 3105  
prescribes pursuant to division (A)(4) of this section. No 3106  
telephone company is liable for any act, practice, or omission 3107  
absent that notice and adequate time for implementation. 3108

(C) This section does not apply to wireless service. A 3109  
consumer purchase of wireless service or a related product shall 3110  
constitute a consumer transaction for purposes of sections 1345.01 3111  
to 1345.13 of the Revised Code, notwithstanding any provision of 3112  
those sections to the contrary. 3113

**Sec. 4927.07.** (A) A telephone company may withdraw any 3114  
telecommunications service if it gives at least thirty days' prior 3115  
notice to the public utilities commission and to its affected 3116  
customers. 3117

(B) A telephone company may abandon entirely telecommunications service in this state if it gives at least thirty days' prior notice to the commission, to its wholesale and retail customers, and to any telephone company wholesale provider of its services. 3118  
3119  
3120  
3121  
3122

(C) Divisions (A) and (B) of this section do not apply to any of the following: 3123  
3124

(1) Basic local exchange service provided by an incumbent local exchange carrier; 3125  
3126

(2) Pole attachments under section 4905.71 of the Revised Code; 3127  
3128

(3) Conduit occupancy under section 4905.71 of the Revised Code; 3129  
3130

(4) Interconnection and resale agreements approved under the "Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 151 et seq., as amended. 3131  
3132  
3133

(D) An incumbent local exchange carrier may not withdraw or abandon basic local exchange service. 3134  
3135

(E) A telephone company may not, without first filing a request with the commission and obtaining commission approval, withdraw any tariff filed with the commission for pole attachments or conduit occupancy under section 4905.71 of the Revised Code or abandon service provided under that section. 3136  
3137  
3138  
3139  
3140

**Sec. 4927.08.** (A) A telephone company providing basic local exchange service shall conduct its operations so as to ensure that the service is available, adequate, and reliable, consistent with applicable industry standards. 3141  
3142  
3143  
3144

(B) The public utilities commission shall adopt rules prescribing the following standards for the provision of basic local exchange service, and shall adopt no other rules regarding 3145  
3146  
3147

that service except as expressly authorized in this chapter: 3148

(1) Basic local exchange service shall be installed within 3149  
five business days of the receipt by a telephone company of a 3150  
completed application for that service. 3151

(2) A basic local exchange service outage or 3152  
service-affecting problem shall be repaired within seventy-two 3153  
hours after it is reported to the telephone company, and the 3154  
telephone company shall make reasonable efforts to repair a basic 3155  
local exchange service outage within twenty-four hours, excluding 3156  
Sundays and legal holidays, after the outage is reported to the 3157  
telephone company. 3158

(3)(a) Except as provided in division (B)(3)(b) of this 3159  
section, if a basic local exchange service outage is reported to 3160  
the telephone company and lasts more than seventy-two hours, the 3161  
telephone company shall credit every affected customer, of which 3162  
the telephone company is aware, in the amount of one month's 3163  
charges for basic local exchange service. 3164

(b) If the outage is caused by a customer, the telephone 3165  
company may elect not to credit that customer. 3166

(4) No telephone company shall establish a due date earlier 3167  
than fourteen consecutive days after the date the bill is 3168  
postmarked for a bill for basic local exchange service provided to 3169  
end users. 3170

(5) A telephone company may disconnect basic local exchange 3171  
service for nonpayment of any amount past due on a billed account 3172  
not earlier than fourteen days after the due date of the 3173  
customer's bill, provided that the customer is given notice of the 3174  
disconnection seven days before the disconnection. 3175

(6) A telephone company may require a deposit, not to exceed 3176  
two hundred thirty per cent of a reasonable estimate of one 3177  
month's service charges, for the installation of basic local 3178



exchange service for any person that it determines, in its 3179  
discretion, is not creditworthy. 3180

(7) A telephone company shall, unless prevented from doing so 3181  
by circumstances beyond the telephone company's control or unless 3182  
the customer requests otherwise, reconnect a customer whose basic 3183  
local exchange service was disconnected for nonpayment of past due 3184  
charges not later than one business day after the day the earlier 3185  
of the following occurs: 3186

(a) The receipt by the telephone company of the full amount 3187  
of past due charges; 3188

(b) The receipt by the telephone company of the first payment 3189  
under a mutually agreed-upon payment arrangement. 3190

(C) The rules described in division (B) of this section shall 3191  
provide for a waiver of the standards described in that division 3192  
in circumstances determined appropriate by the commission. 3193

**Sec. 4927.09.** Every telephone company providing telephone 3194  
exchange service shall maintain access to 9-1-1 service on a 3195  
residential customer's line for a minimum of fourteen consecutive 3196  
days immediately following any disconnection for nonpayment of a 3197  
customer's telephone exchange service. 3198

**Sec. 4927.11.** (A) Except as otherwise provided in this 3199  
section, an incumbent local exchange carrier shall provide basic 3200  
local exchange service to all persons or entities in its service 3201  
area requesting that service, and that service shall be provided 3202  
on a reasonable and nondiscriminatory basis. 3203

(B)(1) An incumbent local exchange carrier is not obligated 3204  
to construct facilities and provide basic local exchange service, 3205  
or any other telecommunications service, to the occupants of 3206  
multitenant real estate, including, but not limited to, 3207  
apartments, condominiums, subdivisions, office buildings, or 3208

office parks, if the owner, operator, or developer of the 3209  
multitenant real estate does any of the following to the benefit 3210  
of any other telecommunications service provider: 3211

(a) Permits only one provider of telecommunications service 3212  
to install the company's facilities or equipment during the 3213  
construction or development phase of the multitenant real estate; 3214

(b) Accepts or agrees to accept incentives or rewards that 3215  
are offered by a telecommunications service provider to the owner, 3216  
operator, developer, or occupants of the multitenant real estate 3217  
and are contingent on the provision of telecommunications service 3218  
by that provider to the occupants, to the exclusion of services 3219  
provided by other telecommunications service providers; 3220

(c) Collects from the occupants of the multitenant real 3221  
estate any charges for the provision of telecommunications service 3222  
to the occupants, including charges collected through rents, fees, 3223  
or dues. 3224

(2) A carrier not obligated to construct facilities and 3225  
provide basic local exchange service pursuant to division (B)(1) 3226  
of this section shall notify the public utilities commission of 3227  
that fact within one hundred twenty days of receiving knowledge 3228  
thereof. 3229

(3) The commission by rule may establish a process for 3230  
determining a necessary successor telephone company to provide 3231  
service to real estate described in division (B)(1) of this 3232  
section when the circumstances described in that division cease to 3233  
exist. 3234

(4) An incumbent local exchange carrier that receives a 3235  
request from any person or entity to provide service under the 3236  
circumstances described in division (B)(1) of this section shall, 3237  
within fifteen days of such receipt, provide notice to the person 3238  
or entity specifying whether the carrier will provide the 3239

requested service. If the carrier provides notice that it will not 3240  
serve the person or entity, the notice shall describe the person's 3241  
or entity's right to file a complaint with the commission under 3242  
section 4927.21 of the Revised Code within thirty days after 3243  
receipt of the notice. In resolving any such complaint, the 3244  
commission's determination shall be limited to whether any 3245  
circumstance described in divisions (B)(1)(a) to (c) of this 3246  
section exists. Upon a finding by the commission that such a 3247  
circumstance exists, the complaint shall be dismissed. Upon a 3248  
finding that such circumstances do not exist, the person's or 3249  
entity's sole remedy shall be provision by the carrier of the 3250  
requested service within a reasonable time. 3251

(C) An incumbent local exchange carrier may apply to the 3252  
commission for a waiver from compliance with division (A) of this 3253  
section. The application shall include, at a minimum, the reason 3254  
for the requested waiver, the number of persons or entities who 3255  
would be impacted by the waiver, and the alternatives that would 3256  
be available to those persons or entities if the waiver were 3257  
granted. The incumbent local exchange carrier applying for the 3258  
waiver shall publish notice of the waiver application one time in 3259  
a newspaper of general circulation throughout the service area 3260  
identified in the application and shall provide additional notice 3261  
to affected persons or entities as required by the commission in 3262  
rules adopted under this division. The commission's rules shall 3263  
define "affected" for purposes of this division. The commission 3264  
shall afford such persons or entities a reasonable opportunity to 3265  
comment to the commission on the application. This opportunity 3266  
shall include a public hearing conducted in accordance with rules 3267  
adopted under this division and conducted in the service area 3268  
identified in the application. After a reasonable opportunity to 3269  
comment has been provided, but not later than one hundred twenty 3270  
days after the application is filed, the commission either shall 3271  
issue an order granting the waiver if, upon investigation, it 3272

finds the waiver to be just, reasonable, and not contrary to the 3273  
public interest, and that the applicant demonstrates a financial 3274  
hardship or an unusual technical limitation, or shall issue an 3275  
order denying the waiver based on a failure to meet those 3276  
standards and specifying the reasons for the denial. The 3277  
commission shall adopt rules to implement division (C) of this 3278  
section. 3279

Sec. 4927.12. (A) As used in this section, "exchange area" 3280  
means a geographical service area established by an incumbent 3281  
local exchange carrier and approved by the public utilities 3282  
commission. 3283

(B) Subject to divisions (C), (D), and (E) of this section, 3284  
and upon not less than thirty days' notice to the public utilities 3285  
commission and to affected customers, an incumbent local exchange 3286  
carrier may alter its rates for basic local exchange service. 3287

(C) In addition to the requirements of division (B) of this 3288  
section, all of the following apply to any upward alteration of 3289  
rates for basic local exchange service made under that division: 3290

(1) If the incumbent local exchange carrier, within twelve 3291  
months prior to the effective date of this section, increased the 3292  
carrier's rates for basic local exchange service for an exchange 3293  
area, both of the following apply: 3294

(a) The incumbent local exchange carrier may not alter the 3295  
carrier's rates for basic local exchange service for the exchange 3296  
area upward by any amount during the period that ends twelve 3297  
months after the date of the last increase of the rates for basic 3298  
local exchange service. 3299

(b) In no event may the incumbent local exchange carrier, 3300  
during the twelve-month period that begins immediately after the 3301  
end date of the period described in division (C)(1)(a) of this 3302

section, and during any subsequent twelve-month period, alter the 3303  
carrier's rates for basic local exchange service upward for the 3304  
exchange area by more than the amount authorized for an annual 3305  
increase in the rate for basic local exchange service by division 3306  
(A) of rule 4901:1-4-11 of the Ohio Administrative Code as that 3307  
rule existed on the effective date of this section. 3308

(2) If the incumbent local exchange carrier did not, within 3309  
twelve months prior to the effective date of this section, 3310  
increase the carrier's rates for basic local exchange service for 3311  
an exchange area, and if the commission has made a prior 3312  
determination that the exchange area qualified for alternative 3313  
regulation of basic local exchange service under Chapter 4901:1-4 3314  
of the Ohio Administrative Code as that chapter existed on the 3315  
effective date of this section, in no event may the incumbent 3316  
local exchange carrier, during the twelve-month period that begins 3317  
on the effective date of this section, and during any subsequent 3318  
twelve-month period, alter the carrier's rates for basic local 3319  
exchange service upward for the exchange area by more than the 3320  
amount described in division (C)(1)(b) of this section. 3321

(3)(a) If the commission has not made a prior determination 3322  
that the exchange area qualified for alternative regulation of 3323  
basic local exchange service under Chapter 4901:1-4 of the Ohio 3324  
Administrative Code as that chapter existed on the effective date 3325  
of this section, an incumbent local exchange carrier may not alter 3326  
its rates for basic local exchange service upward for that 3327  
exchange area unless the carrier first applies to the commission 3328  
and the commission determines that the application demonstrates 3329  
that two or more alternative providers offer, in the exchange 3330  
area, competing service to the basic local exchange service 3331  
offered by an incumbent local exchange carrier in the exchange 3332  
area, regardless of the technology and facilities used by the 3333  
alternative provider, the alternative provider's location, and the 3334

extent of the alternative provider's service area within the 3335  
exchange area. An alternative provider includes a telephone 3336  
company, including a wireless service provider, a 3337  
telecommunications carrier, and a provider of internet 3338  
protocol-enabled services, including voice over internet protocol. 3339

(b) Upon the filing of an application under division 3340  
(C)(3)(a) of this section, the commission shall be deemed to have 3341  
found that the application meets the requirements of that division 3342  
unless the commission, within thirty days after the filing of the 3343  
application, issues an order finding that the requirements have 3344  
not been met. 3345

(c) In no event may an incumbent local exchange carrier that 3346  
applies to the commission under division (C)(3)(a) of this 3347  
section, during the twelve-month period that begins on the 3348  
thirty-first day after the company files the application, and 3349  
during any subsequent twelve-month period, alter the carrier's 3350  
rates for basic local exchange service upward for the exchange 3351  
area to which the application applies by more than the amount 3352  
described in division (C)(1)(b) of this section. 3353

(4) In no event may an incumbent local exchange carrier, 3354  
before January 1, 2012, alter the carrier's rates for basic local 3355  
exchange service upward for a customer receiving lifeline service 3356  
under section 4927.13 of the Revised Code. 3357

(D) Except as provided in division (E) of this section, no 3358  
banking of upward rate alterations made under division (B) of this 3359  
section is permitted. 3360

(E) At any time and upon not less than thirty days' notice to 3361  
the commission and to affected customers, an incumbent local 3362  
exchange carrier owned and operated exclusively by and solely for 3363  
its customers may alter its rates for basic local exchange service 3364  
by any amount. 3365

(F) The rates, terms, and conditions for basic local exchange service and for installation and reconnection fees for basic local exchange service shall be tariffed in the manner prescribed by rule adopted by the commission. 3366  
3367  
3368  
3369

**Sec. 4927.13.** (A) An incumbent local exchange carrier that is an eligible telecommunications carrier under 47 C.F.R. 54.201 shall implement lifeline service throughout the carrier's traditional service area for its eligible residential customers. 3370  
3371  
3372  
3373

(1) Lifeline service shall consist of all of the following: 3374

(a) Flat-rate, monthly, primary access line service with touch-tone service, at a recurring discount to the monthly basic local exchange service rate that provides for the maximum contribution of federally available assistance; 3375  
3376  
3377  
3378

(b) Not more than once per customer at a single address in a twelve-month period, a waiver of all nonrecurring service order charges for establishing service; 3379  
3380  
3381

(c) Free blocking of toll service, 900 service, and 976 service. 3382  
3383

The carrier may offer to lifeline service customers any other services and bundles or packages of services at the prevailing prices, less the lifeline discount. 3384  
3385  
3386

(2) The carrier also shall offer special payment arrangements to lifeline service customers that have past due bills for regulated local service charges, with the initial payment not to exceed twenty-five dollars before service is installed, and the balance for regulated local service charges to be paid over six, equal, monthly payments. Lifeline service customers with past due bills for toll service charges shall have toll restricted service until the past due toll service charges have been paid or until the customer establishes service with another toll service 3387  
3388  
3389  
3390  
3391  
3392  
3393  
3394  
3395

provider. 3396

(3)(a) Every incumbent local exchange carrier required to 3397  
implement lifeline service under division (A) of this section 3398  
shall establish an annual marketing budget for promoting lifeline 3399  
service and performing outreach regarding lifeline service. All 3400  
funds allocated to this budget shall be spent for the promotion 3401  
and marketing of lifeline service and outreach regarding lifeline 3402  
service and only for those purposes and not for any administrative 3403  
costs of implementing lifeline service. All activities relating to 3404  
the promotion of, marketing of, and outreach regarding lifeline 3405  
service shall be coordinated through a single advisory board 3406  
composed of staff of the public utilities commission, the office 3407  
of the consumers' counsel, consumer groups representing low-income 3408  
constituents, two representatives from the Ohio association of 3409  
community action agencies, and, except as provided in division 3410  
(A)(3)(b) of this section, every incumbent local exchange carrier 3411  
required to implement lifeline service under division (A) of this 3412  
section. The public utilities commission may review and approve 3413  
decisions of the advisory board in accordance with commission 3414  
rules, including decisions on how the lifeline marketing, 3415  
promotion, and outreach activities are implemented. 3416

(b) Division (A)(3)(a) of this section does not apply to an 3417  
incumbent local exchange carrier with fewer than fifty thousand 3418  
access lines. 3419

(4) All other aspects of the carrier's state-specific 3420  
lifeline service shall be consistent with federal requirements. 3421

(B) The rates, terms, and conditions for the carrier's 3422  
lifeline service shall be tariffed in the manner prescribed by 3423  
rule adopted by the public utilities commission. 3424

(C)(1) Eligibility for lifeline service under division (A) of 3425  
this section shall be based on either of the following criteria: 3426



(a) An individual's verifiable participation in any federal or state low-income assistance program, specified in rules adopted by the commission, that limits assistance based on household income; 3427  
3428  
3429  
3430

(b) Other verification that an individual's household income is at or below one hundred fifty per cent of the federal poverty level. 3431  
3432  
3433

The public utilities commission shall adopt rules establishing requirements for the implementation of automatic enrollment of eligible individuals for lifeline assistance. The public utilities commission shall work with the appropriate state agencies that administer federal or state low-income assistance programs and with carriers to negotiate and acquire information necessary to verify an individual's eligibility and the data necessary to automatically enroll eligible individuals for lifeline service. Every incumbent local exchange carrier required to implement lifeline service under division (A) of this section shall implement automatic enrollment in accordance with the applicable rules of the public utilities commission and to the extent that appropriate state agencies are able to accommodate the automatic enrollment. 3434  
3435  
3436  
3437  
3438  
3439  
3440  
3441  
3442  
3443  
3444  
3445  
3446  
3447

(2) The carrier shall provide written notification if the carrier determines that an individual is not eligible for lifeline service and shall provide the individual an additional thirty days to prove eligibility. 3448  
3449  
3450  
3451

(3) The carrier shall provide written customer notification if a customer's lifeline service is to be terminated due to failure to submit acceptable documentation for continued eligibility for that assistance and shall provide the customer an additional sixty days to submit acceptable documentation of continued eligibility or dispute the carrier's findings regarding termination of the lifeline service. 3452  
3453  
3454  
3455  
3456  
3457  
3458

(D) An incumbent local exchange carrier required to implement 3459  
lifeline service under division (A) of this section may recover 3460  
from end users of the carrier's telecommunications service other 3461  
than lifeline service customers, by a method approved by the 3462  
public utilities commission, any lifeline service discounts and 3463  
any other lifeline service expenses that the public utilities 3464  
commission prescribes by rule and that are not recovered through 3465  
federal or state funding, except for expenses incurred under 3466  
division (A)(3)(a) of this section. A carrier seeking recovery of 3467  
discounts or expenses shall, in accordance with rules adopted by 3468  
the public utilities commission, apply to the public utilities 3469  
commission for approval of the method of recovery. If the method 3470  
of recovery includes a customer billing surcharge, the public 3471  
utilities commission shall prescribe by rule how the surcharge is 3472  
to be identified on customer bills. 3473

(E) Every incumbent local exchange carrier required to 3474  
implement lifeline service under division (A) of this section 3475  
shall annually file with the public utilities commission a report 3476  
that identifies the number of its customers who receive, at the 3477  
time of the filing of the report, lifeline service. 3478

**Sec. 4927.14.** The public utilities commission may adopt rules 3479  
requiring any telephone company that is a telephone toll service 3480  
provider to offer discounts for operator-assisted and direct-dial 3481  
services for persons with communication disabilities. 3482

**Sec. 4927.15.** (A) The rates, terms, and conditions for 9-1-1 3483  
service provided in this state by a telephone company or a 3484  
telecommunications carrier and each of the following provided in 3485  
this state by a telephone company shall be approved and tariffed 3486  
in the manner prescribed by rule adopted by the public utilities 3487  
commission and shall be subject to the applicable laws, including 3488  
rules or regulations adopted and orders issued by the commission 3489

<u>or the federal communications commission and, including, as to</u>	3490
<u>9-1-1 service, sections 4931.40 to 4931.70 and 4931.99 of the</u>	3491
<u>Revised Code:</u>	3492
<u>(1) Carrier access;</u>	3493
<u>(2) N-1-1 services, other than 9-1-1 service;</u>	3494
<u>(3) Pole attachments and conduit occupancy under section</u>	3495
<u>4905.71 of the Revised Code;</u>	3496
<u>(4) Pay telephone access lines;</u>	3497
<u>(5) Toll presubscription;</u>	3498
<u>(6) Telecommunications relay service.</u>	3499
<u>(B) The public utilities commission may order changes in a</u>	3500
<u>telephone company's rates for carrier access in this state subject</u>	3501
<u>to this division. In the event that the public utilities</u>	3502
<u>commission reduces a telephone company's rates for carrier access</u>	3503
<u>that are in effect on the effective date of this section, that</u>	3504
<u>reduction shall be on a revenue-neutral basis under terms and</u>	3505
<u>conditions established by the public utilities commission, and any</u>	3506
<u>resulting rate changes necessary to comply with division (B) or</u>	3507
<u>(C) of this section shall be in addition to any upward rate</u>	3508
<u>alteration made under section 4927.12 of the Revised Code.</u>	3509
<u>(C) The public utilities commission has authority to address</u>	3510
<u>carrier access policy and to create and administer mechanisms for</u>	3511
<u>carrier access reform, including, but not limited to, high cost</u>	3512
<u>support.</u>	3513
<u>Sec. 4927.16. (A) The public utilities commission shall not</u>	3514
<u>establish any requirements for the unbundling of network elements,</u>	3515
<u>for the resale of telecommunications service, or for network</u>	3516
<u>interconnection that exceed or are inconsistent with or prohibited</u>	3517
<u>by federal law, including federal regulations.</u>	3518

(B) The commission shall not establish pricing for such unbundled elements, resale, or interconnection that is inconsistent with or prohibited by federal law, including federal regulations, and shall comply with federal law, including federal regulations, in establishing such pricing.

**Sec. 4927.17.** (A) Except as provided in sections 4927.07 and 4927.12 of the Revised Code and, if applicable, under rules adopted by the public utilities commission for the pilot program for community-voicemail service created in S.B. 162 of the 128th general assembly, a telephone company shall provide at least fifteen days' advance notice to its affected customers of any material change in the rates, terms, and conditions of a service and any change in the company's operations that are not transparent to customers and may impact service.

(B) A telephone company shall inform its customers of the commission's toll-free number and e-mail address on all bills and disconnection notices and any residential customers of the office of the consumers' counsel's toll-free number and e-mail address on all residential bills and disconnection notices.

**Sec. 4927.18.** The public utilities commission may adopt rules regarding the rates, terms, and conditions of intrastate telecommunications service initiated from a telephone instrument set aside for use by inmates or juvenile offenders by authorities of a secured correctional facility.

**Sec. 4927.19.** The public utilities commission may investigate or examine the books, records, or practices of any telephone company, but only to the extent of the commission's jurisdiction over the company under sections 4927.01 to 4927.21 of the Revised Code. Subject to that limitation, the commission may do any of the following:

(A) Through its commissioners or by inspectors or employees 3549  
authorized by it, examine the books, records, contracts, 3550  
documents, and papers of any such company for any purpose 3551  
incidental to the commission's authority under those sections; 3552

(B) By subpoena duces tecum, compel the production of such 3553  
books, records, contracts, documents, and papers; 3554

(C) Compel the attendance of such witnesses as it requires to 3555  
give evidence in connection with such an investigation. 3556

**Sec. 4927.20.** To the extent subject to the public utilities 3557  
commission's jurisdiction under this chapter, all of the following 3558  
shall comply with every order, direction, and requirement of the 3559  
commission made under authority of this chapter: 3560

(A) Every telephone company, including every wireless service 3561  
provider; 3562

(B) Every telecommunications carrier; 3563

(C) Every provider of internet protocol-enabled services, 3564  
including voice over internet protocol. 3565

**Sec. 4927.21.** (A) Any person may file with the public 3566  
utilities commission, or the commission may initiate, a complaint 3567  
against a telephone company other than a wireless service 3568  
provider, alleging that any rate, practice, or service of the 3569  
company is unjust, unreasonable, unjustly discriminatory, or in 3570  
violation of or noncompliance with any provision of sections 3571  
4927.01 to 4927.20 of the Revised Code or a rule or order adopted 3572  
or issued under those sections. Any dispute between telephone 3573  
companies, between telephone companies and wireless service 3574  
providers, or between wireless service providers that is within 3575  
the commission's jurisdiction under sections 4927.01 to 4927.20 of 3576  
the Revised Code may be brought by a filing pursuant to this 3577  
division. 3578

(B) If it appears that reasonable grounds for complaint are 3579  
stated by a complaint filed under division (A) of this section, 3580  
the commission shall fix a time for hearing and shall notify 3581  
complainants and the telephone company or wireless service 3582  
provider thereof. The parties to the complaint shall be entitled 3583  
to be heard, represented by counsel, and to have a process for the 3584  
attendance of witnesses. 3585

(C) If the commission after hearing in a proceeding under 3586  
division (B) of this section makes a finding against the party 3587  
complained of, the commission may do either or both of the 3588  
following: 3589

(1) Determine, but only to the extent authorized under 3590  
sections 4927.01 to 4927.20 of the Revised Code, the rate, 3591  
practice, or service thereafter to be adopted and observed, 3592  
including any appropriate remedy for a complaint; 3593

(2) Assess a forfeiture of not more than ten thousand dollars 3594  
for each violation or failure. Each day's continuance of the 3595  
violation or failure is a separate offense, and all occurrences of 3596  
a violation or failure on each such day shall be deemed one 3597  
violation. All forfeitures authorized under this section are 3598  
cumulative, and a suit for and recovery of one does not bar the 3599  
recovery of any other. Collected forfeitures shall be deposited 3600  
into the state treasury to the credit of the general revenue fund. 3601  
Actions to recover such forfeitures shall be prosecuted in the 3602  
name of the state and shall be brought in the court of common 3603  
pleas of any county in which the party complained of is located. 3604  
The attorney general shall commence such actions and prosecute 3605  
them when the commission directs. 3606

(D) The commission also may suspend, rescind, or 3607  
conditionally rescind the certification of a telephone company 3608  
under section 4927.05 of the Revised Code under either of the 3609  
following circumstances: 3610

(1) The commission determines, after notice and opportunity for hearing, that the telephone company has failed to comply with any provision of section 4905.10 or 4905.14 of the Revised Code.

(2) The commission determines in a proceeding under division (B) of this section that the telephone company has willfully or repeatedly failed to comply with any other applicable state or federal law.

(E) The commission has no authority to order credits to any customer of a telephone company, except in response to a complaint determined in accordance with this section.

(F) Upon request of the commission, the attorney general may commence and prosecute such action or proceeding in mandamus, by injunction, or by other appropriate civil remedy in the name of the state, as is directed by the commission, alleging any violation or noncompliance specified in division (A) of this section, and praying for such proper relief as the court may prescribe.

**Sec. 4929.02.** (A) It is the policy of this state to, throughout this state:

(1) Promote the availability to consumers of adequate, reliable, and reasonably priced natural gas services and goods;

(2) Promote the availability of unbundled and comparable natural gas services and goods that provide wholesale and retail consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs;

(3) Promote diversity of natural gas supplies and suppliers, by giving consumers effective choices over the selection of those supplies and suppliers;

(4) Encourage innovation and market access for cost-effective supply- and demand-side natural gas services and goods;

(5) Encourage cost-effective and efficient access to	3641
information regarding the operation of the distribution systems of	3642
natural gas companies in order to promote effective customer	3643
choice of natural gas services and goods;	3644
(6) Recognize the continuing emergence of competitive natural	3645
gas markets through the development and implementation of flexible	3646
regulatory treatment;	3647
(7) Promote an expeditious transition to the provision of	3648
natural gas services and goods in a manner that achieves effective	3649
competition and transactions between willing buyers and willing	3650
sellers to reduce or eliminate the need for regulation of natural	3651
gas services and goods under Chapters 4905. and 4909. of the	3652
Revised Code;	3653
(8) Promote effective competition in the provision of natural	3654
gas services and goods by avoiding subsidies flowing to or from	3655
regulated natural gas services and goods;	3656
(9) Ensure that the risks and rewards of a natural gas	3657
company's offering of nonjurisdictional and exempt services and	3658
goods do not affect the rates, prices, terms, or conditions of	3659
nonexempt, regulated services and goods of a natural gas company	3660
and do not affect the financial capability of a natural gas	3661
company to comply with the policy of this state specified in this	3662
section;	3663
(10) Facilitate the state's competitiveness in the global	3664
economy;	3665
(11) Facilitate additional choices for the supply of natural	3666
gas for residential consumers, including aggregation;	3667
(12) Promote an alignment of natural gas company interests	3668
with consumer interest in energy efficiency and energy	3669
conservation.	3670



(B) The public utilities commission and the office of the consumers' counsel shall follow the policy specified in this section in exercising their respective authorities relative to sections 4929.03 to 4929.30 of the Revised Code.

(C) Nothing in Chapter 4929. of the Revised Code shall be construed to alter the public utilities commission's construction or application of division (A)~~(6)~~(5) of section 4905.03 of the Revised Code.

Sec. 4931.01. As used in sections 4931.02 to 4931.05 of the Revised Code, "telephone company" has the same meaning as in section 4927.01 of the Revised Code.

Sec. 4931.02. (A) A ~~telegraph~~ telephone company may construct, own, use, and maintain ~~telegraph~~ telecommunications lines and facilities, whether described in its original articles of incorporation or not, and whether such lines or facilities are wholly within or partly beyond the limits of this state. It may join with another company or association in conducting, leasing, owning, using, or maintaining such lines or facilities, on terms agreed upon between the directors or managers of the respective companies. Such companies may own and hold any interest in such lines or facilities, or become lessees thereof on such terms as they agree upon, but no such company and the owner of rights of way shall contract for the exclusive use of such rights of way for telegraphic telecommunications purposes.

(B) A telephone company's lines and facilities shall not unreasonably interfere with the practical uses of the property on which they are located. A telephone company shall repair defective lines and facilities, which repairs shall be consistent with reasonable business practices and applicable industry standards.

Sec. 4931.03. (A) A ~~telegraph~~ or telephone company may do

either of the following in the unincorporated area of the township: 3701  
3702

(1) Construct ~~telegraph or telephone lines~~ telecommunications lines or facilities upon and along any of the public roads and highways and across any waters within that area by the erection of the necessary fixtures, including posts, piers, or abutments for sustaining the cords or wires of those lines or facilities. ~~These~~ The lines and facilities shall be constructed so as not to incommode the public in the use of the roads or highways, or endanger or injuriously interrupt the navigation of the waters. 3703  
3704  
3705  
3706  
3707  
3708  
3709  
3710

(2) Construct ~~telegraph or telephone~~ telecommunications lines and ~~the fixtures necessary for containing and protecting those lines~~ facilities in such a manner as to protect them beneath the surface of any of the public roads and highways and beneath any waters within that area. Those lines and facilities shall be constructed so as not to incommode the public in the use of the roads or highways, or endanger or injuriously interrupt the navigation of the waters. 3711  
3712  
3713  
3714  
3715  
3716  
3717  
3718

(B)(1) This section does not authorize the construction of a bridge across any waters within the state. 3719  
3720

(2) Construction under this section is subject to section 5571.16 of the Revised Code, as applicable, and any other applicable law, including, but not limited to, any law requiring approval of the legislative authority, the county engineer, or the director of transportation. 3721  
3722  
3723  
3724  
3725

**Sec. 4931.04.** A ~~telegraph~~ telephone company may enter upon any land held by an individual or a corporation, whether such land was acquired by purchase, appropriation, or by virtue of any provision in its charter, for the purpose of making preliminary examination and surveys, with a view to the location and 3726  
3727  
3728  
3729  
3730

construction of ~~telegraph~~ telecommunications lines and facilities, 3731  
and may appropriate so much of such land in accordance with 3732  
sections 163.01 to 163.22, ~~inclusive~~, of the Revised Code, as it 3733  
deems necessary for the construction and maintenance of ~~its~~ 3734  
~~telegraph poles, cables, conduits, piers, abutments, wires, and~~ 3735  
~~other necessary fixtures, stations~~ those lines and facilities, and 3736  
the right of way in, through, over, across, and under such lands 3737  
and adjacent lands, sufficient to enable it to construct and 3738  
repair ~~its~~ the lines and facilities. 3739

**Sec. ~~4931.11~~ 4931.05.** Any company organized at any time to 3740  
transact a ~~telegraph~~, telephone, or communications business may 3741  
construct, reconstruct, own, use, lease, operate, maintain, and 3742  
improve communications systems for the transmission of voices, 3743  
sounds, writings, signs, signals, pictures, visions, images, or 3744  
other forms of intelligence, as public utility services, by means 3745  
of wire, cable, radio, radio relay, or other telecommunications 3746  
facilities, methods, or media. Any such company has the powers and 3747  
is subject to the restrictions prescribed in sections 4931.02 to 3748  
~~4931.22~~ 4931.04 of the Revised Code, for ~~telegraph~~ or telephone 3749  
companies. 3750

**Sec. ~~4931.35~~ 4931.06.** (A) As used in this section and in 3751  
sections 2317.02 and 2921.22 of the Revised Code: 3752

(1) "Communications assistant" means a person who 3753  
transliterates conversation from text to voice and from voice to 3754  
text between the end users of a telecommunications relay service 3755  
provided pursuant to this section or Title II of the 3756  
"Communications Act of 1934," 104 Stat. 366 (1990), 47 U.S.C. 225. 3757

(2) "Communicative impairment" means deafness or speech 3758  
impairment. 3759

(3) "Deafness" means a hearing loss that prevents a person 3760

from being able to understand speech over the telephone. 3761

(4) "Speech impairment" means a speech impairment that 3762  
renders a person's speech unintelligible on the telephone. 3763

(5) "Telecommunications relay service" means telephone 3764  
transmission services that provide the ability for an individual 3765  
who has a communicative impairment to engage in a communication by 3766  
wire or radio with a hearing individual in a manner that is 3767  
functionally equivalent to the ability of an individual who does 3768  
not have a communicative impairment to communicate using voice 3769  
communication services by wire or radio. "Telecommunications relay 3770  
service" includes services that enable two-way communication 3771  
between an individual who uses a text telephone or other nonvoice 3772  
terminal device and an individual who does not use such a device. 3773

(B) Any communication made by or to a person with a 3774  
communicative impairment with the assistance of a communications 3775  
assistant at a telecommunications relay service is confidential 3776  
and privileged and shall not be disclosed by the communications 3777  
assistant in any civil case or proceeding or in any legislative or 3778  
administrative proceeding, unless the person making the 3779  
communication and the person to whom the communication is made 3780  
each waive the privilege of confidentiality or the obligation to 3781  
divulge the communication is mandated by federal law or regulation 3782  
or pursuant to subpoena in a criminal proceeding. 3783

(C) A communications assistant or a telecommunications relay 3784  
service provider is not subject to criminal prosecution and is not 3785  
liable in damages in any civil action on account of the act of 3786  
transliterating or the content of any communication 3787  
transliterated, or any injury, death, or loss to person or 3788  
property allegedly arising from the act of transliterating or the 3789  
content of any communication transliterated, between the end users 3790  
of a telecommunications relay service, except in cases of willful 3791  
or wanton misconduct. 3792

**Sec. 4931.99.** (A) Whoever violates division (D) of section 4931.49 of the Revised Code is guilty of a misdemeanor of the fourth degree. 3793  
3794  
3795

(B) ~~Whoever violates section 4931.25, 4931.26, 4931.27, 4931.30, or 4931.31 of the Revised Code is guilty of a misdemeanor of the third degree.~~ 3796  
3797  
3798

~~(C) Whoever violates section 4931.28 of the Revised Code is guilty of a felony of the fourth degree.~~ 3799  
3800

~~(D)~~ Whoever violates ~~section 4931.29~~ or division (B) of section ~~4931.35~~ 4931.06 of the Revised Code is guilty of a misdemeanor in the first degree. 3801  
3802  
3803

~~(E)~~(C) Whoever violates division (E) or (F) of section 4931.49 or division (B)(2) of section 4931.66 of the Revised Code is guilty of a misdemeanor of the fourth degree on a first offense and a felony of the fifth degree on each subsequent offense. 3804  
3805  
3806  
3807

~~(F)~~(D) Whoever violates section 4931.75 of the Revised Code is guilty of a minor misdemeanor for a first offense and a misdemeanor of the first degree on each subsequent offense. 3808  
3809  
3810

**Sec. 4933.14.** (A) ~~and except~~ Except as otherwise provided in division (B) of this section ~~Sections, division (A) of section 4931.02 to 4931.22, and sections 4931.03, 4931.04, and 4933.13 to 4933.16~~ of the Revised Code apply to a company organized for supplying public and private buildings, manufacturing establishments, streets, alleys, lanes, lands, squares, and public places with electric light and power, and to an automatic package carrier. ~~Every and except~~ Except as otherwise provided in division (B) of this section, every such company has the powers and is subject to the restrictions prescribed for a ~~telegraph~~ telephone company by ~~sections~~ division (A) of section 4931.02 to 4931.22 and sections 4931.03 and 4931.04 of the Revised Code. 3811  
3812  
3813  
3814  
3815  
3816  
3817  
3818  
3819  
3820  
3821  
3822

(B) ~~Sections~~ Section 4931.04, ~~4931.06, 4931.07, 4931.12, and~~ 3823  
~~4931.13~~ of the Revised Code ~~apply~~ applies to a company organized 3824  
for supplying electricity only if the company transmits or 3825  
distributes electricity, and every such company has the powers and 3826  
is subject to the restrictions prescribed for a ~~telegraph~~ 3827  
telephone company by ~~those sections~~ that section except for the 3828  
purpose of erecting, operating, or maintaining an electric 3829  
generating station. 3830

**Sec. 4933.18.** (A) In a prosecution for a theft offense, as 3831  
defined in section 2913.01 of the Revised Code, that involves 3832  
alleged tampering with a gas, electric, steam, or water meter, 3833  
conduit, or attachment of a utility that has been disconnected by 3834  
the utility, proof that a meter, conduit, or attachment of a 3835  
utility has been tampered with is prima-facie evidence that the 3836  
person who is obligated to pay for the service rendered through 3837  
the meter, conduit, or attachment and is in possession or control 3838  
of the meter, conduit, or attachment at the time the tampering 3839  
occurred has caused the tampering with intent to commit a theft 3840  
offense. 3841

In a prosecution for a theft offense, as defined in section 3842  
2913.01 of the Revised Code, that involves the alleged 3843  
reconnection of a gas, electric, steam, or water meter, conduit, 3844  
or attachment of a utility that has been disconnected by the 3845  
utility, proof that a meter, conduit, or attachment disconnected 3846  
by a utility has been reconnected without the consent of the 3847  
utility is prima-facie evidence that the person in possession or 3848  
control of the meter, conduit, or attachment at the time of the 3849  
reconnection has reconnected the meter, conduit, or attachment 3850  
with intent to commit a theft offense. 3851

(B) As used in this section: 3852

(1) "Utility" means any electric light company, gas company, 3853

natural gas company, pipe-line company, water-works company, or 3854  
heating or cooling company, as defined by division (A)(3), (4), 3855  
(5), (6), (7), or (8), ~~or (9)~~ of section 4905.03 of the Revised 3856  
Code, its lessees, trustees, or receivers, or any similar utility 3857  
owned or operated by a political subdivision. 3858

(2) "Tamper" means to interfere with, damage, or by-pass a 3859  
utility meter, conduit, or attachment with the intent to impede 3860  
the correct registration of a meter or the proper functions of a 3861  
conduit or attachment so as to reduce the amount of utility 3862  
service that is registered on the meter. 3863

**Sec. 4933.19.** Each electric light company, gas company, 3864  
natural gas company, pipe-line company, water-works company, or 3865  
heating or cooling company, as defined by division (A)(3), (4), 3866  
(5), (6), (7), or (8), ~~or (9)~~ of section 4905.03 of the Revised 3867  
Code, or its lessees, trustees, or receivers, and each similar 3868  
utility owned or operated by a political subdivision shall notify 3869  
its customers, on an annual basis, that tampering with or 3870  
bypassing a meter constitutes a theft offense that could result in 3871  
the imposition of criminal sanctions. 3872

**Sec. 4939.01.** As used in sections 4939.01 to 4939.08 of the 3873  
Revised Code: 3874

(A) "Cable operator," "cable service," and "franchise" have 3875  
the same meanings as in the "Cable Communications Policy Act of 3876  
1984," 98 Stat. 2779, 47 U.S.C.A. 522. 3877

(B) "Occupy or use" means, with respect to a public way, to 3878  
place a tangible thing in a public way for any purpose, including, 3879  
but not limited to, constructing, repairing, positioning, 3880  
maintaining, or operating lines, poles, pipes, conduits, ducts, 3881  
equipment, or other structures, appurtenances, or facilities 3882  
necessary for the delivery of public utility services or any 3883

services provided by a cable operator. 3884

(C) "Person" means any natural person, corporation, or 3885  
partnership and also includes any governmental entity. 3886

(D) "Public utility" means any company described in section 3887  
4905.03 of the Revised Code except in divisions (A)~~(3)~~(2) and 3888  
~~(10)~~(9) of that section, which company also is a public utility as 3889  
defined in section 4905.02 of the Revised Code; and includes any 3890  
electric supplier as defined in section 4933.81 of the Revised 3891  
Code. 3892

(E) "Public way" means the surface of, and the space within, 3893  
through, on, across, above, or below, any public street, public 3894  
road, public highway, public freeway, public lane, public path, 3895  
public alley, public court, public sidewalk, public boulevard, 3896  
public parkway, public drive, and any other land dedicated or 3897  
otherwise designated for a compatible public use, which, on or 3898  
after the effective date of this section, is owned or controlled 3899  
by a municipal corporation. "Public way" excludes a private 3900  
easement. 3901

(F) "Public way fee" means a fee levied to recover the costs 3902  
incurred by a municipal corporation and associated with the 3903  
occupancy or use of a public way. 3904

**Sec. 5515.01.** The director of transportation may upon formal 3905  
application being made to the director, grant a permit to any 3906  
individual, firm, or corporation to use or occupy such portion of 3907  
a road or highway on the state highway system as will not 3908  
incommode the traveling public. Such permits, when granted, shall 3909  
be upon the following conditions: 3910

(A) The director may issue a permit to any individual, firm, 3911  
or corporation for any use of a road or highway on the state 3912  
highway system that is consistent with applicable federal law or 3913



federal regulations. 3914

(B) Such location shall be changed as prescribed by the 3915  
director when the director deems such change necessary for the 3916  
convenience of the traveling public, or in connection with or 3917  
contemplation of the construction, reconstruction, improvement, 3918  
relocating, maintenance, or repair of such road or highway. 3919

(C) The placing of objects or things shall be at a grade and 3920  
in accordance with such plans, specifications, or both, as shall 3921  
be first approved by the director. 3922

(D) The road or highway in all respects shall be fully 3923  
restored to its former condition of usefulness and at the expense 3924  
of such individual, firm, or corporation. 3925

(E) Such individual, firm, or corporation shall maintain all 3926  
objects and things in a proper manner, promptly repair all damages 3927  
resulting to such road or highway on account thereof, and in event 3928  
of failure to so repair such road or highway to pay to the state 3929  
all costs and expenses ~~which~~ that may be expended by the director 3930  
in repairing any damage. 3931

(F) Such other conditions as may seem reasonable to the 3932  
director, but no condition shall be prescribed ~~which~~ that imposes 3933  
the payment of a money consideration for the privilege granted. 3934  
Nothing in this division prohibits the director from requiring 3935  
payment of money consideration for a lease, easement, license, or 3936  
other interest in a transportation facility under control of the 3937  
department of transportation. 3938

(G) Permits may be revoked by the director at any time for a 3939  
noncompliance with the conditions imposed. 3940

(H) As a condition precedent to the issuance of any permit 3941  
for telecommunications facilities or carbon capture and storage 3942  
pipelines, the director shall require the applicant to provide 3943  
proof it is party to a lease, easement, or license for the 3944

construction, placement, or operation of such facility or pipeline 3945  
in or on a transportation facility. 3946

Except as otherwise provided in this section and section 3947  
5501.311 of the Revised Code, Chapters 5501., 5503., 5511., 5513., 3948  
5515., 5516., 5517., 5519., 5521., 5523., 5525., 5527., 5528., 3949  
5529., 5531., 5533., and 5535. of the Revised Code do not prohibit 3950  
~~telegraph,~~ telephone, and electric light and power companies from 3951  
constructing, maintaining, and using ~~telegraph,~~ telephone, or 3952  
electric light and power lines along and upon such roads or 3953  
highways under ~~sections 4931.19,~~ section 4933.14, or other 3954  
sections of the Revised Code, or to affect existing rights of any 3955  
such companies, or to require such companies to obtain a permit 3956  
from the director, except with respect to the location of poles, 3957  
wires, conduits, and other equipment comprising lines on or 3958  
beneath the surface of such road or highways. 3959

This section does not prohibit steam or electric railroad 3960  
companies from constructing tracks across such roads or highways, 3961  
nor authorize the director to grant permission to any company 3962  
owning, operating, controlling, or managing a steam railroad or 3963  
interurban railway in this state to build a new line of railroad, 3964  
or to change or alter the location of existing tracks across any 3965  
road or highway on the state highway system at grade. No such 3966  
company shall change the elevation of any of its tracks across 3967  
such road or highway except in accordance with plans and 3968  
specifications first approved by the director. 3969

This section does not relieve any individual, firm, or 3970  
corporation from the obligation of satisfying any claim or demand 3971  
of an owner of lands abutting on such road or highway on the state 3972  
highway system on account of placing in such road or highway a 3973  
burden in addition to public travel. 3974

**Sec. 5733.57.** (A) As used in this section: 3975

(1) "Small telephone company" means a telephone company, 3976  
existing as such as of January 1, 2003, with twenty-five thousand 3977  
or fewer access lines ~~as shown on the company's annual report~~ 3978  
~~filed under section 4905.14 of the Revised Code~~ for the calendar 3979  
year immediately preceding the tax year, and is an "incumbent 3980  
local exchange carrier" under 47 U.S.C. 251(h). 3981

(2) "Gross receipts tax amount" means the product obtained by 3982  
multiplying four and three-fourths per cent by the amount of a 3983  
small telephone company's taxable gross receipts, excluding the 3984  
deduction of twenty-five thousand dollars, that the tax 3985  
commissioner would have determined under section 5727.33 of the 3986  
Revised Code for that small telephone company for the annual 3987  
period ending on the thirtieth day of June of the calendar year 3988  
immediately preceding the tax year, as that section applied in the 3989  
measurement period from July 1, 2002, to June 30, 2003. 3990

(3) "Applicable percentage" means one hundred per cent for 3991  
tax year 2005; eighty per cent for tax year 2006; sixty per cent 3992  
for tax year 2007; forty per cent for tax year 2008; twenty per 3993  
cent for tax year 2009; and zero per cent for each subsequent tax 3994  
year thereafter. 3995

(4) "Applicable amount" means the amount resulting from 3996  
subtracting the gross receipts tax amount from the tax imposed by 3997  
sections 5733.06, 5733.065, and 5733.066 of the Revised Code for 3998  
the tax year, without regard to any credits available to the small 3999  
telephone company. 4000

(B)(1) Except as provided in division (B)(2) of this section, 4001  
beginning in tax year 2005, a small telephone company is hereby 4002  
allowed a nonrefundable credit against the tax imposed by sections 4003  
5733.06, 5733.065, and 5733.066 of the Revised Code, equal to the 4004  
product obtained by multiplying the applicable percentage by the 4005  
applicable amount. The credit shall be claimed in the order 4006  
required by section 5733.98 of the Revised Code. 4007

(2) If the applicable amount for a tax year is less than 4008  
zero, a small telephone company shall not be allowed for that tax 4009  
year the credit provided under this section. 4010

**Sec. 6101.17.** The board of directors of a conservancy 4011  
district, when it is necessary for the purposes of this chapter, 4012  
shall have a dominant right of eminent domain over the right of 4013  
eminent domain of railroad, ~~telegraph,~~ telephone, gas, water 4014  
power, and other companies and corporations, and over townships, 4015  
counties, and municipal corporations. 4016

In the exercise of this right, due care shall be taken to do 4017  
no unnecessary damage to other public utilities, and, in case of 4018  
failure to agree upon the mode and terms of interference, not to 4019  
interfere with their operation or usefulness beyond the actual 4020  
necessities of the case, due regard being paid to the other public 4021  
interests involved. 4022

**Sec. 6115.21.** The board of directors of a sanitary district, 4023  
when it is necessary for the purposes of sections 6115.01 to 4024  
6115.79, ~~inclusive,~~ of the Revised Code, shall have a dominant 4025  
right of eminent domain over the right of eminent domain of 4026  
railroad, ~~telegraph,~~ telephone, gas, water power, and other 4027  
companies and corporations, and over townships, counties, and 4028  
municipal corporations. 4029

In the exercise of this right due care shall be taken to do 4030  
no unnecessary damage to other public utilities, and, in case of 4031  
failure to agree upon the mode and terms of interference, not to 4032  
interfere with their operation or usefulness beyond the actual 4033  
necessities of the case, due regard being paid to the other public 4034  
interests involved. 4035

**Section 2.** That existing sections 324.01, 324.03, 1332.24, 4036  
2317.02, 2917.21, 2929.01, 4901.01, 4901.02, 4901.11, 4901.15, 4037

4901.22, 4903.01, 4903.20, 4903.22, 4903.23, 4905.01, 4905.02, 4038  
4905.03, 4905.04, 4905.09, 4905.12, 4905.14, 4905.16, 4905.18, 4039  
4905.20, 4905.21, 4905.26, 4905.30, 4905.34, 4905.40, 4905.402, 4040  
4905.41, 4905.42, 4905.45, 4905.46, 4905.47, 4905.51, 4905.52, 4041  
4905.58, 4905.59, 4905.61, 4905.63, 4905.71, 4905.73, 4905.84, 4042  
4905.90, 4905.99, 4907.01, 4907.14, 4907.30, 4909.01, 4909.02, 4043  
4909.03, 4909.17, 4911.01, 4921.01, 4923.01, 4927.01, 4927.02, 4044  
4929.02, 4931.02, 4931.03, 4931.04, 4931.11, 4931.35, 4931.99, 4045  
4933.14, 4933.18, 4933.19, 4939.01, 5515.01, 5733.57, 6101.17, and 4046  
6115.21 and sections 4905.041, 4905.23, 4905.231, 4905.24, 4047  
4905.241, 4905.242, 4905.243, 4905.244, 4905.25, 4905.381, 4048  
4905.49, 4905.491, 4905.50, 4927.03, 4927.04, 4931.06, 4931.07, 4049  
4931.12, 4931.13, 4931.14, 4931.15, 4931.16, 4931.17, 4931.18, 4050  
4931.19, 4931.21, 4931.22, 4931.25, 4931.26, 4931.27, 4931.28, 4051  
4931.29, 4931.30, and 4931.31 of the Revised Code are hereby 4052  
repealed. 4053

**Section 3.** Coincident with the adoption of initial rules as 4054  
provided for in section 4927.03 of the Revised Code as enacted by 4055  
this act, the Public Utilities Commission shall rescind the 4056  
following rules and shall file the requisite notice of the 4057  
rescissions with the Legislative Service Commission and the 4058  
Secretary of State within five days: Chapters 4901:1-4, 4901:1-5, 4059  
and 4901:1-6 of the Ohio Administrative Code, except for Rule No. 4060  
4901:1-5-09 and related definitions in Rule No. 4901:1-5-01 and 4061  
except for Rule Nos. 4901:1-6-18 and 4901:1-6-24 and related 4062  
definitions in Rule No. 4901:1-6-01. Rescission of these rules 4063  
shall take effect as provided by law and, notwithstanding any 4064  
other provision of the Revised Code, is not subject to legislative 4065  
review or invalidation. Except as provided in section 4927.12 of 4066  
the Revised Code, the Public Utilities Commission shall not 4067  
enforce on or after the effective date of this act against any 4068

telephone company as defined in section 4905.03 of the Revised Code as amended by this act any provision of any of the rules specified in this section, except for Rule No. 4901:1-5-09 and related definitions in Rule No. 4901:1-5-01 and Rule Nos. 4901:1-6-18 and 4901:1-6-24 and related definitions in Rule No. 4901:1-6-01.

**Section 4.** Any complaint filed pursuant to section 4905.26 of the Revised Code and pending on the effective date of Sections 1 and 2 of this act shall be determined by the Public Utilities Commission pursuant to the Revised Code as it existed immediately preceding that effective date.

**Section 5.** (A) There is hereby created the Select Committee on Telecommunications Regulatory Reform consisting of the following members:

(1) The chairperson and ranking minority member of the committee in the Senate to which legislation pertaining to public utilities is referred;

(2) The chairperson and ranking minority member of the committee in the House of Representatives to which legislation pertaining to public utilities is referred;

(3) The chairperson of the Public Utilities Commission or an officer or employee of the Commission who shall serve as the chairperson's designee;

(4) The Consumers' Counsel or an officer or employee of the Office of the Consumers' Counsel who shall serve as the designee of the Consumers' Counsel;

(5) One member appointed by the Governor, who is a member of the Governor's staff;

(6) One member appointed by the Governor who is a

representative of the telecommunications industry. 4098

(B) The Governor shall make appointments to the Committee not 4099  
later than sixty days after the effective date of this section. 4100  
Vacancies on the Committee shall be filled in the manner provided 4101  
for original appointments. 4102

(C) The members who serve as chairpersons of the House and 4103  
Senate committees to which public utility legislation is referred 4104  
shall serve as co-chairpersons of the Select Committee on 4105  
Telecommunications Regulatory Reform. The Committee shall meet at 4106  
the call of the co-chairpersons who shall determine the time, 4107  
meeting location, and agenda for each meeting of the Committee. 4108

(D) The Committee shall study the impacts of S.B. 162 as 4109  
enacted by the 128th General Assembly. The Committee's study shall 4110  
include, but shall not be limited to, a review of both the 4111  
economic benefits of the act and the act's impact on jobs, 4112  
telephone company rates, telephone company quality of service, 4113  
lifeline program customers, rural markets, rural broadband 4114  
deployment, and carrier access to private property. The 4115  
Committee's study shall also include a report on the 4116  
Community-voicemail Service Pilot Program created in S.B. 162 of 4117  
the 128th General Assembly. The Public Utilities Commission shall 4118  
cooperate with the Committee as it performs its duties and shall 4119  
provide reports and any other information requested by the 4120  
Committee. 4121

(E) The Committee may request assistance from the Legislative 4122  
Service Commission. 4123

(F) Not later than four years after the effective date of 4124  
this section, the Committee shall submit a written report of its 4125  
findings and recommendations to the General Assembly and the 4126  
Governor. Upon submission of its report, the Committee shall cease 4127  
to exist. 4128

**Section 6.** (A) The Public Utilities Commission shall 4129  
implement a Community-voicemail Service Pilot Program for 4130  
individuals who are in a state of transition and have no access to 4131  
traditional telephone exchange service or readily available 4132  
alternatives, including the homeless, clients of battered-spouse 4133  
programs, and displaced and returning veterans. The Commission 4134  
shall establish a competitive bidding process to implement the 4135  
program in at least one urban area and one rural area in this 4136  
state. Not later than one year after the effective date of this 4137  
section, the Commission shall select one or more vendors of 4138  
community-voicemail service through that competitive bidding 4139  
process. The vendor or vendors selected shall begin providing 4140  
services under the program not later than 60 days after being 4141  
officially notified of selection, unless the vendor or vendors 4142  
apply to the Commission for an extension or extensions and the 4143  
Commission grants the application or applications. The Commission 4144  
shall grant an application for an extension if the applicant 4145  
demonstrates good cause. The Commission shall determine the length 4146  
of time for any extensions. 4147

The Commission may not contract for the service if the total 4148  
amount of expenditures under all contracts exceeds five hundred 4149  
thousand dollars. 4150

(B) For the sole purpose of funding the program implemented 4151  
under this section, the Commission shall impose on and collect 4152  
from each telephone company that is a local exchange carrier an 4153  
assessment to pay for costs incurred by vendors under any contract 4154  
for the provision of the program in this state. The assessment 4155  
shall be allocated proportionately based on the number of retail, 4156  
intrastate, customer-access lines, or the equivalent, of each 4157  
carrier. 4158

(C) Each local exchange carrier that pays an assessment under 4159



division (B) of this section may not recover the cost of the 4160  
assessment directly from customers through a billing surcharge. 4161

(D) The Commission shall deposit the money collected under 4162  
division (B) of this section in the Community-voicemail Service 4163  
Pilot Program Fund, which is hereby created in the state treasury. 4164  
The Commission shall use the money in that fund solely to 4165  
compensate the vendors selected by the Commission to provide the 4166  
service. 4167

(E) The Commission shall take any measures that it considers 4168  
necessary to protect the confidentiality of information provided 4169  
to the Commission under this section by local exchange carriers 4170  
required to pay the assessment. 4171

(F) The Commission may assess a forfeiture of not more than 4172  
one thousand dollars on any local exchange carrier that fails to 4173  
comply with this section. Each day of continued violation of this 4174  
section shall constitute a separate offense. The forfeiture shall 4175  
be recovered in accordance with sections 4905.55 to 4905.60 of the 4176  
Revised Code. 4177

(G) The Commission may adopt rules as it finds necessary to 4178  
carry out this section, except that the Commission shall adopt 4179  
rules specifying how recipients of services under the program are 4180  
to be notified or educated of the program's termination. 4181

(H) The program shall last for two years after the date that 4182  
any services begin to be provided under the program. At the 4183  
conclusion of the program, the Commission shall evaluate the 4184  
effectiveness of the program, the costs and benefits of the 4185  
program, and the availability of other options that may better 4186  
serve the needs of individuals who are in a state of transition. 4187  
The Commission shall report its findings, including any 4188  
recommendations for continuation, expansion, or changes to the 4189  
program, to the Select Committee on Telecommunications Regulatory 4190

Reform created in S.B. 162 of the 128th general assembly. The 4191  
report shall be filed not later than 120 days after the conclusion 4192  
of the program. 4193

**Section 7.** Section 2917.21 of the Revised Code is presented 4194  
in this act as a composite of the section as amended by both H.B. 4195  
565 and S.B. 215 of the 122nd General Assembly. Section 2929.01 of 4196  
the Revised Code is presented in this act as a composite of the 4197  
section as amended by both Am. Sub. H.B. 130 and Am. Sub. H.B. 280 4198  
of the 127th General Assembly. Section 4933.14 of the Revised Code 4199  
is presented in this act as a composite of the section as amended 4200  
by both H.B. 283 and S.B. 3 of the 123rd General Assembly. The 4201  
General Assembly, applying the principle stated in division (B) of 4202  
section 1.52 of the Revised Code that amendments are to be 4203  
harmonized if reasonably capable of simultaneous operation, finds 4204  
that the composites are the resulting versions of those sections 4205  
in effect prior to the effective date of those sections as 4206  
presented in this act. 4207