

**As Concurred by the Senate**

**130th General Assembly  
Regular Session  
2013-2014**

**Am. S. B. No. 67**

**Senator Peterson**

**Cosponsors: Senators Obhof, Seitz, Hughes, Beagle, Hite, Balderson, Coley,  
Eklund, Faber, Gardner, LaRose, Manning, Oelslager, Patton, Widener  
Representatives Amstutz, Beck, Buchy, Dovilla, Hackett, Hall, Henne,  
Huffman, Johnson, Maag, McClain, McGregor, Scherer, Sprague, Terhar,  
Young Speaker Batchelder**

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**A B I L L**

To amend sections 111.15, 117.01, 117.10, 117.11, 1  
117.12, 117.16, 117.20, 127.18, 187.01 and 187.04 2  
and to enact sections 117.114 and 117.431 of the 3  
Revised Code to create an agreed-upon procedure 4  
audit for certain eligible political subdivisions, 5  
to eliminate the Auditor of State's exemption from 6  
filing a rule summary and fiscal analysis with 7  
proposed rules, to exclude from public moneys 8  
subject to audit by the Auditor of State any 9  
revenue earned by or from a person's ownership, 10  
operation, or use of a tangible or intangible 11  
asset that was sold, was leased, was licensed, was 12  
the granting of a franchise, or was transferred or 13  
conveyed by a public office to the person pursuant 14  
to an agreement under which the public office 15  
received consideration, to specify which JobsOhio 16  
revenues are not public moneys subject to audit by 17  
the Auditor of State, to clarify by whom JobsOhio 18  
is to be audited and which audit records are 19

public records, and to provide for annual 20  
compliance and control reviews of JobsOhio. 21

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

**Section 1.** That sections 111.15, 117.01, 117.10, 117.11, 22  
117.12, 117.16, 117.20, 127.18, 187.01, and 187.04 be amended and 23  
sections 117.114 and 117.431 of the Revised Code be enacted to 24  
read as follows: 25

**Sec. 111.15.** (A) As used in this section: 26

(1) "Rule" includes any rule, regulation, bylaw, or standard 27  
having a general and uniform operation adopted by an agency under 28  
the authority of the laws governing the agency; any appendix to a 29  
rule; and any internal management rule. "Rule" does not include 30  
any guideline adopted pursuant to section 3301.0714 of the Revised 31  
Code, any order respecting the duties of employees, any finding, 32  
any determination of a question of law or fact in a matter 33  
presented to an agency, or any rule promulgated pursuant to 34  
Chapter 119., section 4141.14, division (C)(1) or (2) of section 35  
5117.02, or section 5703.14 of the Revised Code. "Rule" includes 36  
any amendment or rescission of a rule. 37

(2) "Agency" means any governmental entity of the state and 38  
includes, but is not limited to, any board, department, division, 39  
commission, bureau, society, council, institution, state college 40  
or university, community college district, technical college 41  
district, or state community college. "Agency" does not include 42  
the general assembly, the controlling board, the adjutant 43  
general's department, or any court. 44

(3) "Internal management rule" means any rule, regulation, 45  
bylaw, or standard governing the day-to-day staff procedures and 46  
operations within an agency. 47

(4) "Substantive revision" has the same meaning as in 48  
division (J) of section 119.01 of the Revised Code. 49

(B)(1) Any rule, other than a rule of an emergency nature, 50  
adopted by any agency pursuant to this section shall be effective 51  
on the tenth day after the day on which the rule in final form and 52  
in compliance with division (B)(3) of this section is filed as 53  
follows: 54

(a) The rule shall be filed in electronic form with both the 55  
secretary of state and the director of the legislative service 56  
commission; 57

(b) The rule shall be filed in electronic form with the joint 58  
committee on agency rule review. Division (B)(1)(b) of this 59  
section does not apply to any rule to which division (D) of this 60  
section does not apply. 61

An agency that adopts or amends a rule that is subject to 62  
division (D) of this section shall assign a review date to the 63  
rule that is not later than five years after its effective date. 64  
If no review date is assigned to a rule, or if a review date 65  
assigned to a rule exceeds the five-year maximum, the review date 66  
for the rule is five years after its effective date. A rule with a 67  
review date is subject to review under section 119.032 of the 68  
Revised Code. This paragraph does not apply to a rule of a state 69  
college or university, community college district, technical 70  
college district, or state community college. 71

If all filings are not completed on the same day, the rule 72  
shall be effective on the tenth day after the day on which the 73  
latest filing is completed. If an agency in adopting a rule 74  
designates an effective date that is later than the effective date 75  
provided for by division (B)(1) of this section, the rule if filed 76  
as required by such division shall become effective on the later 77  
date designated by the agency. 78

Any rule that is required to be filed under division (B)(1) 79  
of this section is also subject to division (D) of this section if 80  
not exempted by division (D)(1), (2), (3), (4), (5), (6), (7), or 81  
(8) of this section. 82

If a rule incorporates a text or other material by reference, 83  
the agency shall comply with sections 121.71 to 121.76 of the 84  
Revised Code. 85

(2) A rule of an emergency nature necessary for the immediate 86  
preservation of the public peace, health, or safety shall state 87  
the reasons for the necessity. The emergency rule, in final form 88  
and in compliance with division (B)(3) of this section, shall be 89  
filed in electronic form with the secretary of state, the director 90  
of the legislative service commission, and the joint committee on 91  
agency rule review. The emergency rule is effective immediately 92  
upon completion of the latest filing, except that if the agency in 93  
adopting the emergency rule designates an effective date, or date 94  
and time of day, that is later than the effective date and time 95  
provided for by division (B)(2) of this section, the emergency 96  
rule if filed as required by such division shall become effective 97  
at the later date, or later date and time of day, designated by 98  
the agency. 99

An emergency rule becomes invalid at the end of the ninetieth 100  
day it is in effect. Prior to that date, the agency may file the 101  
emergency rule as a nonemergency rule in compliance with division 102  
(B)(1) of this section. The agency may not refile the emergency 103  
rule in compliance with division (B)(2) of this section so that, 104  
upon the emergency rule becoming invalid under such division, the 105  
emergency rule will continue in effect without interruption for 106  
another ninety-day period. 107

(3) An agency shall file a rule under division (B)(1) or (2) 108  
of this section in compliance with the following standards and 109  
procedures: 110

(a) The rule shall be numbered in accordance with the 111  
numbering system devised by the director for the Ohio 112  
administrative code. 113

(b) The rule shall be prepared and submitted in compliance 114  
with the rules of the legislative service commission. 115

(c) The rule shall clearly state the date on which it is to 116  
be effective and the date on which it will expire, if known. 117

(d) Each rule that amends or rescinds another rule shall 118  
clearly refer to the rule that is amended or rescinded. Each 119  
amendment shall fully restate the rule as amended. 120

If the director of the legislative service commission or the 121  
director's designee gives an agency notice pursuant to section 122  
103.05 of the Revised Code that a rule filed by the agency is not 123  
in compliance with the rules of the legislative service 124  
commission, the agency shall within thirty days after receipt of 125  
the notice conform the rule to the rules of the commission as 126  
directed in the notice. 127

(C) All rules filed pursuant to divisions (B)(1)(a) and (2) 128  
of this section shall be recorded by the secretary of state and 129  
the director under the title of the agency adopting the rule and 130  
shall be numbered according to the numbering system devised by the 131  
director. The secretary of state and the director shall preserve 132  
the rules in an accessible manner. Each such rule shall be a 133  
public record open to public inspection and may be transmitted to 134  
any law publishing company that wishes to reproduce it. 135

(D) At least sixty-five days before a board, commission, 136  
department, division, or bureau of the government of the state 137  
files a rule under division (B)(1) of this section, it shall file 138  
the full text of the proposed rule in electronic form with the 139  
joint committee on agency rule review, and the proposed rule is 140  
subject to legislative review and invalidation under division (I) 141

of section 119.03 of the Revised Code. If a state board, 142  
commission, department, division, or bureau makes a substantive 143  
revision in a proposed rule after it is filed with the joint 144  
committee, the state board, commission, department, division, or 145  
bureau shall promptly file the full text of the proposed rule in 146  
its revised form in electronic form with the joint committee. The 147  
latest version of a proposed rule as filed with the joint 148  
committee supersedes each earlier version of the text of the same 149  
proposed rule. ~~Except as provided in division (F) of this section,~~ 150  
a A state board, commission, department, division, or bureau shall 151  
also file the rule summary and fiscal analysis prepared under 152  
section 127.18 of the Revised Code in electronic form along with a 153  
proposed rule, and along with a proposed rule in revised form, 154  
that is filed under this division. If a proposed rule has an 155  
adverse impact on businesses, the state board, commission, 156  
department, division, or bureau also shall file the business 157  
impact analysis, any recommendations received from the common 158  
sense initiative office, and the associated memorandum of 159  
response, if any, in electronic form along with the proposed rule, 160  
or the proposed rule in revised form, that is filed under this 161  
division. 162

As used in this division, "commission" includes the public 163  
utilities commission when adopting rules under a federal or state 164  
statute. 165

This division does not apply to any of the following: 166

(1) A proposed rule of an emergency nature; 167

(2) A rule proposed under section 1121.05, 1121.06, 1155.18, 168  
1163.22, 1349.33, 1707.201, 1733.412, 4123.29, 4123.34, 4123.341, 169  
4123.342, 4123.40, 4123.411, 4123.44, or 4123.442 of the Revised 170  
Code; 171

(3) A rule proposed by an agency other than a board, 172

commission, department, division, or bureau of the government of 173  
the state; 174

(4) A proposed internal management rule of a board, 175  
commission, department, division, or bureau of the government of 176  
the state; 177

(5) Any proposed rule that must be adopted verbatim by an 178  
agency pursuant to federal law or rule, to become effective within 179  
sixty days of adoption, in order to continue the operation of a 180  
federally reimbursed program in this state, so long as the 181  
proposed rule contains both of the following: 182

(a) A statement that it is proposed for the purpose of 183  
complying with a federal law or rule; 184

(b) A citation to the federal law or rule that requires 185  
verbatim compliance. 186

(6) An initial rule proposed by the director of health to 187  
impose safety standards and quality-of-care standards with respect 188  
to a health service specified in section 3702.11 of the Revised 189  
Code, or an initial rule proposed by the director to impose 190  
quality standards on a facility listed in division (A)(4) of 191  
section 3702.30 of the Revised Code, if section 3702.12 of the 192  
Revised Code requires that the rule be adopted under this section; 193

(7) A rule of the state lottery commission pertaining to 194  
instant game rules. 195

If a rule is exempt from legislative review under division 196  
(D)(5) of this section, and if the federal law or rule pursuant to 197  
which the rule was adopted expires, is repealed or rescinded, or 198  
otherwise terminates, the rule is thereafter subject to 199  
legislative review under division (D) of this section. 200

(E) Whenever a state board, commission, department, division, 201  
or bureau files a proposed rule or a proposed rule in revised form 202

under division (D) of this section, it shall also file the full 203  
text of the same proposed rule or proposed rule in revised form in 204  
electronic form with the secretary of state and the director of 205  
the legislative service commission. ~~Except as provided in division~~ 206  
~~(F) of this section,~~ a A state board, commission, department, 207  
division, or bureau shall file the rule summary and fiscal 208  
analysis prepared under section 127.18 of the Revised Code in 209  
electronic form along with a proposed rule or proposed rule in 210  
revised form that is filed with the secretary of state or the 211  
director of the legislative service commission. 212

~~(F) Except as otherwise provided in this division, the 213  
auditor of state or the auditor of state's designee is not 214  
required to file a rule summary and fiscal analysis along with a 215  
proposed rule, or proposed rule in revised form, that the auditor 216  
of state proposes under section 117.12, 117.19, 117.38, or 117.43 217  
of the Revised Code and files under division (D) or (E) of this 218  
section.~~ 219

**Sec. 117.01.** As used in this chapter: 220

(A) "Color of office" means actually, purportedly, or 221  
allegedly done under any law, ordinance, resolution, order, or 222  
other pretension to official right, power, or authority. 223

(B) "Public accountant" means any person who is authorized by 224  
Chapter 4701. of the Revised Code to use the designation of 225  
certified public accountant or who was registered prior to January 226  
1, 1971, as a public accountant. 227

(C) "Public money" means any money received, collected by, or 228  
due a public official under color of office, as well as any money 229  
collected by any individual on behalf of a public office or as a 230  
purported representative or agent of the public office. 231

"Public money" does not include either of the following: 232



(1) Money or revenue earned by or from a person's ownership, operation, or use of an asset, whether tangible or intangible, that either in whole or in part was sold, was leased, was licensed, was the granting of a franchise, or was otherwise transferred or conveyed by a public office to the person pursuant to an agreement, authorized by law, between the person and the public office in which the public office received consideration from the person for the asset that was sold, leased, licensed, franchised, or otherwise transferred or conveyed;

(2) With respect to the transfer described in Chapter 4313. of the Revised Code and the operation of the enterprise acquisition project, revenues or receipts of or from the enterprise acquisition project in the hands of the nonprofit corporation formed under section 187.01 of the Revised Code or of a nonprofit entity the sole member of which is that nonprofit corporation, but does include any taxes collected on the spirituous liquor sales and then due the department of taxation and amounts then due to the state general revenue fund pursuant to section 4301.12 of the Revised Code. As used in this division, "enterprise acquisition project" has the meaning defined in section 4313.01 of the Revised Code.

(D) "Public office" means any state agency, public institution, political subdivision, other organized body, office, agency, institution, or entity established by the laws of this state for the exercise of any function of government. "Public office" does not include the nonprofit corporation formed under section 187.01 of the Revised Code.

(E) "Public official" means any officer, employee, or duly authorized representative or agent of a public office.

(F) "State agency" means every organized body, office, agency, institution, or other entity established by the laws of the state for the exercise of any function of state government.

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| (G) "Audit" means any of the following:   | 265  |
| (1) Any examination, analysis, or inspection of the state's or a public office's financial statements or reports;   | 266<br>267   |
| (2) Any examination, analysis, or inspection of records, documents, books, or any other evidence relating to either of the following:   | 268<br>269<br>270                                    |
| (a) The collection, receipt, accounting, use, or expenditure of public money by a public office or by a private institution, association, board, or corporation;  | 271<br>272<br>273                                    |
| (b) The determination by the auditor of state, as required by section 117.11 of the Revised Code, of whether a public office has complied with all the laws, rules, ordinances, or orders pertaining to the public office.  | 274<br>275<br>276<br>277                             |
| (3) Any other type of examination, analysis, or inspection of a public office, or of <u>the specific funds or accounts of</u> a private institution, association, board, or corporation <del>receiving into</del> <u>which public money has been placed or deposited</u> , that is conducted according to generally accepted or governmental auditing standards established by rule pursuant to section 117.19 of the Revised Code.   | 278<br>279<br>280<br>281<br>282<br>283<br>284        |
| <u>(H) "Person" has the meaning defined in section 1.59 of the Revised Code.</u>  | 285<br>286   |
| <b>Sec. 117.10. (A)</b> The auditor of state shall audit all public offices as provided in this chapter. The auditor of state also may audit the <u>specific funds or</u> accounts of private institutions, associations, boards, and corporations <del>receiving into which has been placed or deposited</del> public money <u>for their use from a public office</u> and may require of them annual reports in such form as the auditor of state prescribes. <u>The auditor of state may audit some or all of the other funds or accounts of a private institution,</u> | 287<br>288<br>289<br>290<br>291<br>292<br>293<br>294 |

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| <u>association, board, or corporation that has received public money</u>  | 295 |
| <u>from a public office only if one or more of the following applies:</u> | 296 |
| <u>(1) The audit is specifically required or authorized by the</u>        | 297 |
| <u>Revised Code;</u>  | 298 |
| <u>(2) The private institution, association, board, or</u>                | 299 |
| <u>corporation requests that the auditor of state audit some or all</u>   | 300 |
| <u>of its other funds or accounts;</u>                                    | 301 |
| <u>(3) All of the revenue of the private institution,</u>                 | 302 |
| <u>association, board, or corporation is composed of public money;</u>    | 303 |
| <u>(4) The private institution, association, board, or</u>                | 304 |
| <u>corporation failed to separately and independently account for the</u> | 305 |
| <u>public money in its possession, in violation of section 117.431 of</u> | 306 |
| <u>the Revised Code;</u>  | 307 |
| <u>(5) The auditor of state has a reasonable belief that the</u>          | 308 |
| <u>private institution, association, board, or corporation illegally</u>  | 309 |
| <u>expended, converted, misappropriated, or otherwise cannot account</u>  | 310 |
| <u>for the public money it received from a public office and that it</u>  | 311 |
| <u>is necessary to audit its other funds or accounts to make that</u>     | 312 |
| <u>determination.</u>   | 313 |
| <u>(B) If the auditor of state performs or contracts for the</u>          | 314 |
| <u>performance of an audit, including a special audit, of the public</u>  | 315 |
| <u>employees retirement system, school employees retirement system,</u>   | 316 |
| <u>state teachers retirement system, state highway patrol retirement</u>  | 317 |
| <u>system, or Ohio police and fire pension fund, the auditor of state</u> | 318 |
| <u>shall make a timely report of the results of the audit to the Ohio</u> | 319 |
| <u>retirement study council.</u>  | 320 |
| <u>(C) The auditor of state may audit the accounts of any</u>             | 321 |
| <u>provider as defined in section 5111.06 of the Revised Code.</u>        | 322 |
| <u>(D) If a public office has been audited by an agency of the</u>        | 323 |
| <u>United States government, the auditor of state may, if satisfied</u>   | 324 |

that the federal audit has been conducted according to principles 325  
and procedures not contrary to those of the auditor of state, use 326  
and adopt the federal audit and report in lieu of an audit by the 327  
auditor of state's own office. 328

(E) Within thirty days after the creation or dissolution or 329  
the winding up of the affairs of any public office, that public 330  
office shall notify the auditor of state in writing that this 331  
action has occurred. 332

(F) Nothing in this section precludes the auditor of state 333  
from issuing to a private institution, association, board, or 334  
corporation a subpoena and compulsory process for the attendance 335  
of witnesses or the production of records under section 117.18 of 336  
the Revised Code if the subpoena and compulsory process is in 337  
furtherance of an audit the auditor of state is authorized by law 338  
to perform. 339

**Sec. 117.11.** (A) Except as otherwise provided in this 340  
division and in sections 117.112 ~~and~~, 117.113, and 117.114 of the 341  
Revised Code, the auditor of state shall audit each public office 342  
at least once every two fiscal years. The auditor of state shall 343  
audit a public office each fiscal year if that public office is 344  
required to be audited on an annual basis pursuant to "The Single 345  
Audit Act of 1984," 98 Stat. 2327, 31 U.S.C.A. 7501 et seq., as 346  
amended. In the annual or biennial audit, inquiry shall be made 347  
into the methods, accuracy, and legality of the accounts, 348  
financial reports, records, files, and reports of the office, 349  
whether the laws, rules, ordinances, and orders pertaining to the 350  
office have been observed, and whether the requirements and rules 351  
of the auditor of state have been complied with. Except as 352  
otherwise provided in this division or where auditing standards or 353  
procedures dictate otherwise, each audit shall cover at least one 354  
fiscal year. If a public office is audited only once every two 355

fiscal years, the audit shall cover both fiscal years. 356

(B) In addition to the annual or biennial audit provided for 357  
in division (A) of this section or in section 117.114 of the 358  
Revised Code, the auditor of state may conduct an audit of a 359  
public office at any time when so requested by the public office 360  
or upon the auditor of state's own initiative if the auditor of 361  
state has reasonable cause to believe that an additional audit is 362  
in the public interest. 363

(C)(1) The auditor of state shall identify any public office 364  
in which the auditor of state will be unable to conduct an audit 365  
at least once every two fiscal years as required by division (A) 366  
of this section and shall provide immediate written notice to the 367  
clerk of the legislative authority or governing board of the 368  
public office so identified. Within six months of the receipt of 369  
such notice, the legislative authority or governing board may 370  
engage an independent certified public accountant to conduct an 371  
audit pursuant to section 117.12 of the Revised Code. 372

(2) When the chief fiscal officer of a public office notifies 373  
the auditor of state that an audit is required at a time prior to 374  
the next regularly scheduled audit by the auditor of state, the 375  
auditor of state shall either cause an earlier audit to be made by 376  
the auditor of state or authorize the legislative authority or 377  
governing board of the public office to engage an independent 378  
certified public accountant to conduct the required audit. The 379  
scope of the audit shall be as authorized by the auditor of state. 380

(3) The auditor of state shall approve the scope of an audit 381  
under division (C)(1) or (2) of this section as set forth in the 382  
contract for the proposed audit before the contract is executed on 383  
behalf of the public office that is to be audited. The independent 384  
accountant conducting an audit under division (C)(1) or (2) of 385  
this section shall be paid by the public office. 386

(4) The contract for attest services with an independent accountant employed pursuant to this section or section 115.56 of the Revised Code may include binding arbitration provisions, provisions of Chapter 2711. of the Revised Code, or any other alternative dispute resolution procedures to be followed in the event a dispute remains between the state or public office and the independent accountant concerning the terms of or services under the contract, or a breach of the contract, after the administrative provisions of the contract have been exhausted.

(D) If a uniform accounting network is established under section 117.101 of the Revised Code, the auditor of state or a certified public accountant employed pursuant to this section or section 115.56 or 117.112 of the Revised Code shall, to the extent practicable, utilize services offered by the network in order to conduct efficient and economical audits of public offices.

(E) The auditor of state ~~shall~~, in accordance with division (A)(3) of section 9.65 of the Revised Code and this section, may audit an annuity program for volunteer fire fighters established by a political subdivision under section 9.65 of the Revised Code. As used in this section, "volunteer fire fighters" and "political subdivision" have the same meanings as in division (C) of section 9.65 of the Revised Code.

**Sec. 117.114. (A) As used in this section:**

(1) "Qualifying subdivision" means an agricultural society, county board of health, cemetery, conservancy district, family and children first council, fire district, ambulance district, fire and ambulance district, library, park or recreation district, regional planning commission, solid waste district, township, village, water district, sewer district, or water and sewer district, or a political subdivision determined by the auditor of state on a case-by-case basis to be a qualifying subdivision.

(2) "Eligible subdivision" means a qualifying subdivision 418  
that meets the criteria specified in this section and the criteria 419  
established by rule of the auditor of state. 420

(B) The auditor of state shall establish by rule an 421  
agreed-upon procedure by which eligible subdivisions may be 422  
audited. The rules shall set forth the standards, procedures, 423  
guidelines, and reporting requirements for an agreed-upon 424  
procedure audit. At a minimum, the rules shall require that, to be 425  
eligible for an agreed-upon procedure audit, a political 426  
subdivision must be a qualifying subdivision that meets all of the 427  
following criteria: 428

(1) The qualifying subdivision's annual budgeted expenditures 429  
do not exceed five million dollars for any fiscal year for which 430  
the agreed-upon procedure audit will be performed; 431

(2) The qualifying subdivision follows the auditor of state's 432  
regulatory, cash, or modified cash accounting basis; 433

(3) The fiscal officer or bookkeeper of the qualifying 434  
subdivision did not leave office at any time during the audit 435  
period in question; 436

(4) The qualifying subdivision had an audit performed under 437  
division (A) of section 117.11 or division (A) of section 117.12 438  
of the Revised Code within the prior two audit periods; 439

(5) In its most recent audit report, the qualifying 440  
subdivision did not experience any of the following: 441

(a) A qualified, adverse, or disclaimer opinion; 442

(b) A declaration under section 117.41 of the Revised Code 443  
that the qualifying subdivision was unauditale; 444

(c) A finding for recovery that indicated fraud or theft in 445  
office; or 446

(d) A finding related to material control weaknesses. 447

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| <u>(6) The qualifying subdivision is not:</u>   | 448  |
| <u>(a) Under investigation by the auditor of state's special investigations unit or is not otherwise at high risk of fraud as determined by the auditor of state;</u>   | 449<br>450<br>451                                    |
| <u>(b) In a fiscal emergency; or</u>  | 452  |
| <u>(c) Required to be audited on an annual basis under "The Single Audit Act of 1984," 98 Stat. 2327, 31 U.S.C. 7501 et seq., as amended, or under other laws, grants, bylaws, or debt covenants.</u>   | 453<br>454<br>455<br>456                             |
| <u>(7) The qualifying subdivision does not have outstanding audit fees in arrears; and</u>  | 457<br>458   |
| <u>(8) Any other criteria the auditor of state determines the qualifying subdivision must meet to be eligible for an agreed-upon procedure audit.</u>   | 459<br>460<br>461                                    |
| <u>(C) An eligible subdivision may, but is not required to, engage in an agreed-upon procedure audit. If the eligible subdivision does not engage in an agreed-upon procedure audit under this section and the rules adopted thereunder, the eligible subdivision instead shall undergo an audit under division (A) of section 117.11 or division (A) of section 117.12 of the Revised Code.</u>  | 462<br>463<br>464<br>465<br>466<br>467<br>468        |
| <u>(D) An agreed-upon procedure audit shall be performed by the auditor of state or by an independent certified public accountant under the attestation standards established by the American institute of certified public accountants. Eligible subdivisions may have an agreed-upon procedure audit in two consecutive audit periods followed by one audit performed under division (A) of section 117.11 or division (A) of section 117.12 of the Revised Code.</u> | 469<br>470<br>471<br>472<br>473<br>474<br>475<br>476 |
| <u>(E) The auditor of state, on a case-by-case basis, may</u>   | 477  |



determine that a qualifying subdivision that fails to meet any one 478  
of the criteria established by rule under division (B) of this 479  
section is otherwise eligible for an agreed-upon procedure audit 480  
and may, in writing, grant a waiver of a particular criterion. 481

(F) An eligible subdivision that engages in an agreed-upon 482  
procedure audit shall continue to file an annual financial report 483  
as required under section 117.38 of the Revised Code. 484

**Sec. 117.12.** (A) Any certified public accountant engaged to 485  
perform an audit pursuant to division (C) of section 117.11 of the 486  
Revised Code shall conduct the audit pursuant to the standards, 487  
procedures, and guidelines of the auditor of state for such 488  
audits. The auditor of state shall establish these standards, 489  
procedures, and guidelines by rule. The audit shall cover the 490  
period beginning with the termination date of the most recent 491  
audit conducted under this section or under section 117.11 or 492  
117.114 of the Revised Code, and ending on the date specified by 493  
the auditor of state. The accountant shall inquire into the 494  
methods, accuracy, and legality of the accounts, records, files, 495  
and reports of the public office and shall note whether, in the 496  
accountant's opinion, the laws, rules, ordinances, and orders 497  
pertaining to the public office have been complied with. ~~The~~ 498

(B) Any certified public accountant engaged to perform an 499  
agreed-upon procedure audit pursuant to section 117.114 of the 500  
Revised Code shall conduct the audit pursuant to the standards, 501  
procedures, guidelines, and reporting requirements adopted by rule 502  
of the auditor of state pursuant to that section. 503

(C) The certified public accountant shall have no authority 504  
to make formal findings of illegality, malfeasance, or gross 505  
neglect under this ~~division~~ section or section 117.23 of the 506  
Revised Code. 507

Sec. 117.16. (A) The auditor of state shall do all of the 508  
following: 509

(1) Develop a force account project assessment form that each 510  
public office that undertakes force account projects shall use to 511  
estimate or report the cost of a force account project. The form 512  
shall include costs for employee salaries and benefits, any other 513  
labor costs, materials, freight, fuel, hauling, overhead expense, 514  
workers' compensation premiums, and all other items of cost and 515  
expense, including a reasonable allowance for the use of all tools 516  
and equipment used on or in connection with such work and for the 517  
depreciation on the tools and equipment. 518

(2) Make the form available to public offices by any 519  
cost-effective, convenient method accessible to the auditor of 520  
state and the public offices; 521

(3) When conducting an audit under this chapter of a public 522  
office that undertakes force account projects, examine the forms 523  
and records of a sampling of the force account projects the public 524  
office completed since an audit was last conducted, to determine 525  
compliance with its force account limits. 526

(B) If the auditor of state receives a complaint from any 527  
person that a public office has violated the force account limits 528  
established for that office, the auditor of state may conduct an 529  
audit in addition to the audit provided in section 117.11 or 530  
117.114 of the Revised Code if the auditor of state has reasonable 531  
cause to believe that an additional audit is in the public 532  
interest. 533

(C)(1) If the auditor of state finds that a county, township, 534  
or municipal corporation violated the force account limits 535  
established for that political subdivision, the auditor of state, 536  
in addition to any other action authorized by this chapter, shall 537  
notify the political subdivision that, for a period of one year 538

from the date of the notification, the force account limits for 539  
the subdivision are reduced as follows: 540

(a) For a county, the limits shall be ten thousand dollars 541  
per mile for construction or reconstruction of a road and forty 542  
thousand dollars for construction, reconstruction, maintenance, or 543  
repair of a bridge or culvert; 544

(b) For a township, the limit shall be fifteen thousand 545  
dollars for maintenance and repair of a road or five thousand per 546  
mile for construction or reconstruction of a township road; 547

(c) For a municipal corporation, the limit shall be ten 548  
thousand dollars for the construction, reconstruction, widening, 549  
resurfacing, or repair of a street or other public way. 550

(2) If the auditor of state finds that a county, township, or 551  
municipal corporation violated the force account limits 552  
established for that political subdivision a second or subsequent 553  
time, the auditor of state, in addition to any other action 554  
authorized by this chapter, shall notify the political subdivision 555  
that, for a period of two years from the date of the notification, 556  
the force account limits for the subdivision are reduced in 557  
accordance with division (C)(1)(a), (b), or (c) of this section. 558

(3) If the auditor of state finds that a county, township, or 559  
municipal corporation violated the force account limits 560  
established for that political subdivision a third or subsequent 561  
time, the auditor of state shall certify to the tax commissioner 562  
an amount the auditor of state determines to be twenty per cent of 563  
the total cost of the force account project that is the basis of 564  
the violation. Upon receipt of this certification, the tax 565  
commissioner shall withhold the certified amount from any funds 566  
under the tax commissioner's control that are due or payable to 567  
that political subdivision. The tax commissioner shall promptly 568  
deposit this withheld amount to the credit of the local 569

transportation improvement program fund created by section 164.14 570  
of the Revised Code. 571

If the tax commissioner determines that no funds are due and 572  
payable to the violating political subdivision or that 573  
insufficient amounts of such funds are available to cover the 574  
entire certified amount, the tax commissioner shall withhold and 575  
deposit to the credit of the local transportation improvement 576  
program fund any amount available and certify the remaining amount 577  
to be withheld to the county auditor of the county in which the 578  
political subdivision is located. The county auditor shall 579  
withhold from that political subdivision any amount, up to that 580  
certified by the tax commissioner, that is available from any 581  
funds under the county auditor's control, that is due or payable 582  
to that political subdivision, and that can be lawfully withheld. 583  
The county auditor shall promptly pay that withheld amount to the 584  
tax commissioner for deposit into the local transportation 585  
improvement program fund. 586

The payments required under division (C)(3) of this section 587  
are in addition to the force account limit reductions described in 588  
division (C)(2) of this section and also are in addition to any 589  
other action authorized by this chapter. 590

(D) If the auditor of state finds that a county, township, or 591  
municipal corporation violated its force account limits when 592  
participating in a joint force account project, the auditor of 593  
state shall impose the reduction in force account limits under 594  
division (C) of this section on all entities participating in the 595  
joint project. 596

(E) As used in this section, "force account limits" means any 597  
of the following, as applicable: 598

(1) For a county, the amounts established in section 5543.19 599  
of the Revised Code; 600

(2) For a township, the amounts established in section 601  
5575.01 of the Revised Code; 602

(3) For a municipal corporation, the amount established in 603  
section 723.52 of the Revised Code; 604

(4) For the department of transportation, the amount 605  
established in section 5517.02 of the Revised Code. 606

**Sec. 117.20.** (A) In adopting rules pursuant to Chapter 117. 607  
of the Revised Code, the auditor of state or the auditor of 608  
state's designee shall do both of the following: 609

(1) Before adopting any such rule, except a rule of an 610  
emergency nature, do each of the following: 611

(a) At least thirty-five days before any public hearing on 612  
the proposed rule-making action, mail or send by electronic mail 613  
notice of the hearing to each public office and to each statewide 614  
organization that the auditor of state or designee determines will 615  
be affected or that represents persons who will be affected by the 616  
proposed rule-making action; 617

(b) Mail or send by electronic mail a copy of the proposed 618  
rule to any person or organization that requests a copy within 619  
five days after receipt of the request; 620

(c) Consult with appropriate state and local government 621  
agencies, or with persons representative of their interests, 622  
including statewide organizations of local government officials, 623  
and consult with accounting professionals and other interested 624  
persons; 625

(d) Conduct, on the date and at the time and place designated 626  
in the notice, a public hearing at which any person affected by 627  
the proposed rule, including statewide organizations of local 628  
government officials, may appear and be heard in person, by 629  
attorney, or both, and may present the person's or organization's 630

position or contentions orally or in writing. 631

~~(2) Except as otherwise provided in division (A)(2) of this section, comply~~ Comply with divisions (B) to (E) of section 111.15 of the Revised Code. ~~The auditor of state is not required to file a rule summary and fiscal analysis along with any copy of a proposed rule, or proposed rule in revised form, that is filed with the joint committee on agency rule review, the secretary of state, or the director of the legislative service commission under division (D) or (E) of section 111.15 of the Revised Code.~~ 632  
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(B) The auditor of state shall diligently discharge the duties imposed by divisions (A)(1)(a), (b), and (c) of this section, but failure to mail or send by electronic mail any notice or copy of a proposed rule, or to consult with any person or organization, shall not invalidate any rule. 640  
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(C) Notwithstanding any contrary provision of the Revised Code, the auditor of state may prepare and disseminate, to public offices and other interested persons and organizations, advisory bulletins, directives, and instructions relating to accounting and financial reporting systems, budgeting procedures, fiscal controls, and the constructions by the auditor of state of constitutional and statutory provisions, court decisions, and opinions of the attorney general. The bulletins, directives, and instructions shall be of an advisory nature only. 645  
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(D) As used in this section, "rule" includes the adoption, amendment, or rescission of a rule. 654  
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Sec. 117.431. Public money in the possession of any private institution, association, board, or corporation shall be accounted for separately and independently from its other funds and accounts. The auditor of state may adopt rules establishing the manner in which the public money shall be separately and independently accounted for. 656  
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Sec. 127.18. (A) As used in this section: 662

(1) "Rule-making agency" has the same meaning as in division 663  
(I) of section 119.01 of the Revised Code. 664

(2) "Rule" includes the adoption, amendment, or rescission of 665  
a rule. 666

(3) "Proposed rule" means the original version of a proposed 667  
rule, and each revised version of the same proposed rule, that is 668  
filed with the joint committee on agency rule review under 669  
division (D) of section 111.15 or division (H) of section 119.03 670  
of the Revised Code. 671

(B) A rule-making agency shall prepare, in the form 672  
prescribed by the joint committee on agency rule review under 673  
division (E) of this section, a complete and accurate rule summary 674  
and fiscal analysis of each proposed rule that it files under 675  
division (D) of section 111.15 or division (H) of section 119.03 676  
of the Revised Code. The rule summary and fiscal analysis shall 677  
include all of the following information: 678

(1) The name, address, and telephone number of the 679  
rule-making agency, and the name and telephone number of an 680  
individual or office within the agency designated by that agency 681  
to be responsible for coordinating and making available 682  
information in the possession of the agency regarding the proposed 683  
rule; 684

(2) The Ohio Administrative Code rule number of the proposed 685  
rule; 686

(3) A brief summary of, and the legal basis for, the proposed 687  
rule, including citations identifying the statute that prescribes 688  
the procedure in accordance with which the rule-making agency is 689  
required to adopt the proposed rule, the statute that authorizes 690  
the agency to adopt the proposed rule, and the statute that the 691

agency intends to amplify or implement by adopting the proposed 692  
rule; 693

(4) An estimate, in dollars, of the amount by which the 694  
proposed rule would increase or decrease revenues or expenditures 695  
during the current biennium; 696

(5) A citation identifying the appropriation that authorizes 697  
each expenditure that would be necessitated by the proposed rule; 698

(6) A summary of the estimated cost of compliance with the 699  
rule to all directly affected persons; 700

(7) The reasons why the rule is being proposed; 701

(8) If the rule has a fiscal effect on school districts, 702  
counties, townships, or municipal corporations, an estimate in 703  
dollars of the cost of compliance with the rule, or, if dollar 704  
amounts cannot be determined, a written explanation of why it was 705  
not possible to ascertain dollar amounts; 706

(9) If the rule has a fiscal effect on school districts, 707  
counties, townships, or municipal corporations and is the result 708  
of a federal requirement, a clear explanation that the proposed 709  
state rule does not exceed the scope and intent of the 710  
requirement, or, if the state rule does exceed the minimum 711  
necessary federal requirement, a justification of the excess cost, 712  
and an estimate of the costs, including those costs for local 713  
governments, exceeding the federal requirement; 714

(10) If the rule has a fiscal effect on school districts, 715  
counties, townships, or municipal corporations, a comprehensive 716  
cost estimate that includes the procedure and method of 717  
calculating the costs of compliance and identifies major cost 718  
categories including personnel costs, new equipment or other 719  
capital costs, operating costs, and indirect central service costs 720  
related to the rule. The fiscal analysis shall also include a 721  
written explanation of the agency's and the affected local 722



government's ability to pay for the new requirements and a 723  
statement of any impact the rule will have on economic 724  
development. 725

(11) If the rule incorporates a text or other material by 726  
reference, and the agency claims the incorporation by reference is 727  
exempt from compliance with sections 121.71 to 121.74 of the 728  
Revised Code because the text or other material is generally 729  
available to persons who reasonably can be expected to be affected 730  
by the rule, an explanation of how the text or other material is 731  
generally available to those persons; 732

(12) If the rule incorporates a text or other material by 733  
reference, and it was infeasible for the agency to file the text 734  
or other material electronically, an explanation of why filing the 735  
text or other material electronically was infeasible; 736

(13) If the rule is being rescinded and incorporates a text 737  
or other material by reference, and it was infeasible for the 738  
agency to file the text or other material, an explanation of why 739  
filing the text or other material was infeasible; 740

(14) Any other information the joint committee on agency rule 741  
review considers necessary to make the proposed rule or the fiscal 742  
effect of the proposed rule fully understandable. 743

(C) The rule-making agency shall file the rule summary and 744  
fiscal analysis in electronic form along with the proposed rule 745  
that it files under divisions (D) and (E) of section 111.15 or 746  
divisions (B) and (H) of section 119.03 of the Revised Code. The 747  
joint committee on agency rule review shall not accept any 748  
proposed rule for filing unless a copy of the rule summary and 749  
fiscal analysis of the proposed rule, completely and accurately 750  
prepared, is filed along with the proposed rule. 751

(D) The joint committee on agency rule review shall review 752  
the fiscal effect of each proposed rule that is filed under 753

division (D) of section 111.15 or division (H) of section 119.03 754  
of the Revised Code. 755

(E) The joint committee on agency rule review shall prescribe 756  
the form in which each rule-making agency shall prepare its rule 757  
summary and fiscal analysis of a proposed rule. 758

~~(F) This section does not require the auditor of state or the 759  
auditor of state's designee to prepare or attach a rule summary 760  
and fiscal analysis to any copy of a rule proposed under section 761  
117.12, 117.19, 117.38, or 117.43 of the Revised Code. 762~~

**Sec. 187.01.** As used in this chapter, "JobsOhio" means the 763  
nonprofit corporation formed under this section, and includes any 764  
subsidiary of that corporation. In any section of law that refers 765  
to the nonprofit corporation formed under this section, reference 766  
to the corporation includes reference to any such subsidiary 767  
unless otherwise specified or clearly appearing from the context. 768

The governor is hereby authorized to form a nonprofit 769  
corporation, to be named "JobsOhio," with the purposes of 770  
promoting economic development, job creation, job retention, job 771  
training, and the recruitment of business to this state. Except as 772  
otherwise provided in this chapter, the corporation shall be 773  
organized and operated in accordance with Chapter 1702. of the 774  
Revised Code. The governor shall sign and file articles of 775  
incorporation for the corporation with the secretary of state. The 776  
legal existence of the corporation shall begin upon the filing of 777  
the articles. 778

In addition to meeting the requirements for articles of 779  
incorporation in Chapter 1702. of the Revised Code, the articles 780  
of incorporation for the nonprofit corporation shall set forth the 781  
following: 782

(A) The designation of the name of the corporation as 783

JobsOhio; 784

(B) The creation of a board of directors consisting of nine 785  
directors, to be appointed by the governor, who satisfy the 786  
qualifications prescribed by section 187.02 of the Revised Code; 787

(C) A requirement that the governor make initial appointments 788  
to the board within sixty days after the filing of the articles of 789  
incorporation. Of the initial appointments made to the board, two 790  
shall be for a term ending one year after the date the articles 791  
were filed, two shall be for a term ending two years after the 792  
date the articles were filed, and five shall be for a term ending 793  
four years after the date the articles were filed. The articles 794  
shall state that, following the initial appointments, the governor 795  
shall appoint directors to terms of office of four years, with 796  
each term of office ending on the same day of the same month as 797  
did the term that it succeeds. If any director dies, resigns, or 798  
the director's status changes such that any of the requirements of 799  
division (C) of section 187.02 of the Revised Code are no longer 800  
met, that director's seat on the board shall become immediately 801  
vacant. The governor shall forthwith fill the vacancy by 802  
appointment for the remainder of the term of office of the vacated 803  
seat. 804

(D) A requirement that the governor appoint one director to 805  
be chairperson of the board and procedures for electing directors 806  
to serve as officers of the corporation and members of an 807  
executive committee; 808

(E) A provision for the appointment of a chief investment 809  
officer of the corporation by the recommendation of the board and 810  
approval of the governor. The chief investment officer shall serve 811  
at the pleasure of the board and shall have the power to execute 812  
contracts, spend corporation funds, and hire employees on behalf 813  
of the corporation. If the position of chief investment officer 814  
becomes vacant for any reason, the vacancy shall be filled in the 815

same manner as provided in this division. 816

(F) Provisions requiring the board to do all of the 817  
following: 818

(1) Adopt one or more resolutions providing for compensation 819  
of the chief investment officer; 820

(2) Approve an employee compensation plan recommended by the 821  
chief investment officer; 822

(3) Approve a contract with the director of development 823  
services for the corporation to assist the director and the 824  
development services agency with providing services or otherwise 825  
carrying out the functions or duties of the agency, including the 826  
operation and management of programs, offices, divisions, or 827  
boards, as may be determined by the director of development 828  
services in consultation with the governor; 829

(4) Approve all major contracts for services recommended by 830  
the chief investment officer; 831

(5) Establish an annual strategic plan and standards of 832  
measure to be used in evaluating the corporation's success in 833  
executing the plan; 834

(6) Establish a conflicts of interest policy that, at a 835  
minimum, complies with section 187.06 of the Revised Code; 836

(7) Hold a minimum of four board of directors meetings per 837  
year at which a quorum of the board is physically present, and 838  
such other meetings, at which directors' physical presence is not 839  
required, as may be necessary. Meetings at which a quorum of the 840  
board is required to be physically present are subject to 841  
divisions (C), (D), and (E) of section 187.03 of the Revised Code. 842

(8) Establish a records retention policy and present the 843  
policy, and any subsequent changes to the policy, at a meeting of 844  
the board of directors at which a quorum of the board is required 845

to be physically present pursuant to division (F)(7) of this 846  
section; 847

(9) Adopt standards of conduct for the directors. 848

(G) A statement that directors shall not receive any 849  
compensation from the corporation, except that directors may be 850  
reimbursed for actual and necessary expenses incurred in 851  
connection with services performed for the corporation; 852

(H) A provision authorizing the board to amend provisions of 853  
the corporation's articles of incorporation or regulations, except 854  
provisions required by this chapter; 855

(I) Procedures by which the corporation would be dissolved 856  
and by which all corporation rights and assets would be 857  
distributed to the state or to another corporation organized under 858  
this chapter. These procedures shall incorporate any separate 859  
procedures subsequently set forth in this chapter for the 860  
dissolution of the corporation. The articles shall state that no 861  
dissolution shall take effect until the corporation has made 862  
adequate provision for the payment of any outstanding bonds, 863  
notes, or other obligations. 864

(J) A provision establishing an audit committee to be 865  
comprised of directors. The articles shall require that the audit 866  
committee hire ~~an~~ a firm of independent certified public 867  
~~accountant~~ accountants, selected in consultation with the auditor 868  
of state, to perform, once each year, a financial audit of the 869  
corporation ~~at least once every year~~ and of any nonprofit entity 870  
the sole member of which is JobsOhio. The articles also shall 871  
require all of the following: 872

(1) Commencing with JobsOhio's fiscal year beginning July 1, 873  
2012, the financial statements to be audited are to be prepared in 874  
accordance with accounting principles and standards set forth in 875  
all applicable pronouncements of the governmental accounting 876

standards board; 877

(2) The firm of independent certified public accountants 878  
hired is to conduct a supplemental compliance and control review 879  
pursuant to a written agreement by and among the firm, the auditor 880  
of state, JobsOhio, and any nonprofit entity the sole member of 881  
which is JobsOhio; and 882

(3) A copy of each financial audit report and each report of 883  
the results of the compliance and control review are to be 884  
provided to the governor, the auditor of state, the speaker of the 885  
house of representatives, and the president of the senate. 886

(K) A provision authorizing a majority of the disinterested 887  
directors to remove a director for misconduct, as that term may be 888  
defined in the articles or regulations of the corporation. The 889  
removal of a director under this division creates a vacancy on the 890  
board that the governor shall fill by appointment for the 891  
remainder of the term of office of the vacated seat. 892

**Sec. 187.04.** (A) The director of development services, as 893  
soon as practical after February 18, 2011, shall execute a 894  
contract with JobsOhio for the corporation to assist the director 895  
and the development services agency with providing services or 896  
otherwise carrying out the functions or duties of the agency, 897  
including the operation and management of programs, offices, 898  
divisions, or boards, as may be determined by the director in 899  
consultation with the governor. The approval or disapproval of 900  
awards involving public money shall remain functions of the 901  
agency. All contracts for grants, loans, and tax incentives 902  
involving public money shall be between the agency and the 903  
recipient and shall be enforced by the agency. JobsOhio may not 904  
execute contracts obligating the agency for loans, grants, tax 905  
credits, or incentive awards recommended by JobsOhio to the 906  
agency. Prior to execution, all contracts between the director and 907

JobsOhio entered into under this section that obligate the agency 908  
to pay JobsOhio for services rendered are subject to controlling 909  
board approval. 910

The term of an initial contract entered into under this 911  
section shall not extend beyond June 30, 2013. Thereafter, the 912  
director and JobsOhio may renew the contract for subsequent fiscal 913  
biennia, but at no time shall a particular contract be effective 914  
for longer than a fiscal biennium of the general assembly. 915

JobsOhio's provision of services to the agency as described 916  
in this section shall be pursuant to a contract entered into under 917  
this section. If at any time the director determines that the 918  
contract with JobsOhio may not be renewed for the subsequent 919  
fiscal biennium, the director shall notify JobsOhio of the 920  
director's decision not later than one hundred twenty days prior 921  
to the end of the current fiscal biennium. If the director does 922  
not provide such written notice to JobsOhio prior to one hundred 923  
days before the end of the current fiscal biennium, the contract 924  
shall be renewed upon such terms as the parties may agree, subject 925  
to the requirements of this section. 926

(B) A contract entered into under this section shall include 927  
all of the following: 928

(1) Terms assigning to the corporation the duties of advising 929  
and assisting the director in the director's evaluation of the 930  
agency and the formulation of recommendations under section 187.05 931  
of the Revised Code; 932

(2) Terms designating records created or received by JobsOhio 933  
that shall be made available to the public under the same 934  
conditions as are public records under section 149.43 of the 935  
Revised Code. Documents designated to be made available to the 936  
public pursuant to the contract shall be kept on file with the 937  
agency. 938

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| Among records to be designated under this division shall be                              | 939 |
| the following:   | 940 |
| (a) The corporation's federal income tax returns;  | 941 |
| (b) The report of expenditures described in division (B)(3)                              | 942 |
| of section 187.03 of the Revised Code. The records shall be filed                        | 943 |
| with the agency at such times and frequency as agreed to by the                          | 944 |
| corporation and the agency, which shall not be less frequently                           | 945 |
| than quarterly.  | 946 |
| (c) The annual total compensation paid to each officer and                               | 947 |
| employee of the corporation;   | 948 |
| (d) A copy of the <del>audit</del> report for each financial audit of                    | 949 |
| the corporation <u>and of each supplemental compliance and control</u>                   | 950 |
| <u>review of the corporation</u> performed by <del>an</del> <u>a firm of</u> independent | 951 |
| certified public <del>accountant</del> <u>accountants</u> pursuant to division (J)       | 952 |
| of section 187.01 of the Revised Code.   | 953 |
| (e) Records of any fully executed incentive proposals, to be                             | 954 |
| filed annually;  | 955 |
| (f) Records pertaining to the monitoring of commitments made                             | 956 |
| by incentive recipients, to be filed annually;   | 957 |
| (g) A copy of the minutes of all public meetings described in                            | 958 |
| division (C) of section 187.03 of the Revised Code not otherwise                         | 959 |
| closed to the public.  | 960 |
| (3) The following statement acknowledging that JobsOhio is                               | 961 |
| not acting as an agent of the state:   | 962 |
| "JobsOhio shall have no power or authority to bind the state                             | 963 |
| or to assume or create an obligation or responsibility, expressed                        | 964 |
| or implied, on behalf of the state or in its name, nor shall                             | 965 |
| JobsOhio represent to any person that it has any such power or                           | 966 |
| authority, except as expressly provided in this contract."                               | 967 |
| (C)(1) Records created by JobsOhio are not public records for                            | 968 |



the purposes of Chapter 149. of the Revised Code, regardless of 969  
who may have custody of the records, unless the record is 970  
designated to be available to the public by the contract under 971  
division (B)(2) of this section. 972

(2) Records received by JobsOhio from any person or entity 973  
that is not subject to section 149.43 of the Revised Code are not 974  
public records for purposes of Chapter 149. of the Revised Code, 975  
regardless of who may have custody of the records, unless the 976  
record is designated to be available to the public by the contract 977  
under division (B)(2) of this section. 978

(3) Records received by JobsOhio from a public office as 979  
defined in section 149.011 of the Revised Code that are not public 980  
records under section 149.43 of the Revised Code when in the 981  
custody of the public office are not public records for the 982  
purposes of section 149.43 of the Revised Code regardless of who 983  
has custody of the records. 984

(4) Division (B) of section 4701.19 of the Revised Code 985  
applies to any work papers of the firm of independent certified 986  
public accountants engaged to perform the annual financial audit 987  
and the supplemental compliance and control review described in 988  
division (J) of section 187.01 of the Revised Code, and to the 989  
financial audit report and any report of the supplemental 990  
compliance and control review, unless the record is designated to 991  
be available to the public by the contract under division (B)(2) 992  
of this section. 993

(D) Any contract executed under authority of this section 994  
shall not negate, impair, or otherwise adversely affect the 995  
obligation of this state to pay debt charges on securities 996  
executed by the director or issued by the treasurer of state, Ohio 997  
public facilities commission, or any other issuing authority under 998  
Chapter 122., 151., 165., or 166. of the Revised Code to fund 999  
economic development programs of the state, or to abide by any 1000

pledge or covenant relating to the payment of those debt charges 1001  
made in any related proceedings. As used in this division, "debt 1002  
charges," "proceedings," and "securities" have the same meanings 1003  
as in section 133.01 of the Revised Code. 1004

(E) Nothing in this section, other than the requirement of 1005  
controlling board approval, shall prohibit the agency from 1006  
contracting with JobsOhio to perform any of the following 1007  
functions: 1008

(1) Promoting and advocating for the state; 1009

(2) Making recommendations to the agency; 1010

(3) Performing research for the agency; 1011

(4) Establishing and managing programs or offices on behalf 1012  
of the agency, by contract; 1013

(5) Negotiating on behalf of the state. 1014

(F) Nothing in this section, other than the requirement of 1015  
controlling board approval, shall prohibit the agency from 1016  
compensating JobsOhio from funds currently appropriated to the 1017  
agency to perform the functions described in division (E) of this 1018  
section. 1019

**Section 2.** That existing sections 111.15, 117.01, 117.10, 1020  
117.11, 117.12, 117.16, 117.20, 127.18, 187.01, and 187.04 of the 1021  
Revised Code are hereby repealed. 1022