

# In the Supreme Court of Ohio

State ex. rel. Ohio Civil Service	:	
Employees Association et. al.,	:	Supreme Court Case No. 2014-0319
	:	
Plaintiffs-Appellees/Cross-Appellants	:	
	:	On Appeal from the Franklin County
v.	:	Court of Appeals, Tenth Appellate District
	:	
State of Ohio et. al.,	:	
	:	Court of Appeals Case No.
Defendants-Appellants/Cross-Appellees	:	12 AP 1064
	:	

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## APPENDIX OF APPELLEES/CROSS-APPELLANTS

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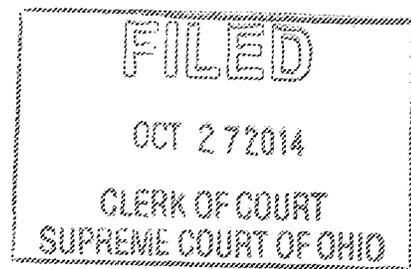
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**APPENDIX**

<b><u>DOCUMENT DESCRIPTION</u></b>	<b><u>PAGE</u></b>
Plaintiffs-Appellees Notice of Cross-Appeal	1-5
S. B. 312 Amending R.C. 5120.092	6-8
Vetoed provisions of H.B. 153	9
R.C. 126.60-R.C. 126.605	10-14
R.C. 4313.01-R.C. 4313.02	15-19
Ohio Constitution, Article II, Section 15(D)	20
Ohio Constitution Article VIII, Section 4	21
Section 812.20 in H.B. 153	22-23
R.C. 4117.01	24-25
R.C. 4117.08	26-27
R.C. 4117.10	28-30
R.C. 145.01	31
42 U.S.C. § 410(a)(7)	32
42 U.S.C. § 415(a)(7)(A)	33-36
29 U.S.C. § 159(b)(3)	37-38
29 U.S.C. § 164(b)	39
R.C. 103.61	40

IN THE SUPREME COURT OF OHIO

State ex. rel. Ohio Civil Service  
Employees Association et. al.,

Appellees-Cross-Appellants

v.

State of Ohio et. al.,

Appellants-Cross-Appellees

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: Court of Appeals, Tenth Appellate District  
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**PLAINTIFFS-APPELLEES  
NOTICE OF CROSS-APPEAL**

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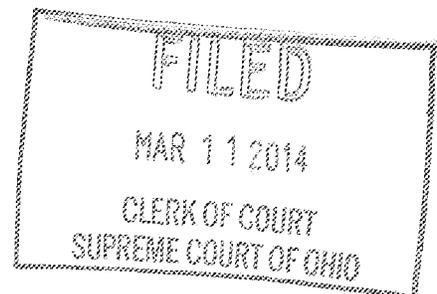
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**CROSS-APPEAL BY**  
**PLAINTIFFS-APPELLEES CROSS-APPELLANTS**

Plaintiffs-Appellees Cross-Appellants, Ohio Civil Service Employees Association, David Combs, Clair Crawford, Lori Leach Douce, Margo Hall, Shelia Herron, Daniel Karcher, Rebecca Sayers, Angela Schuster, Troy Tackett, Kathy Tinker, Lisa Zimmerman, and ProgressOhio.org hereby give notice of their cross-appeal to the Supreme Court of Ohio from the Final Decision and Entry of the Tenth District Court of Appeals in the case of *State ex rel. Ohio Civil Service Employees Association et al., v. State of Ohio et al.*, Case No. 12 AP-1064 journalized on October 28, 2013. A timely application for reconsideration was filed on November 5, 2013. The Court of Appeals decision denying the application for reconsideration was filed on January 16, 2014.

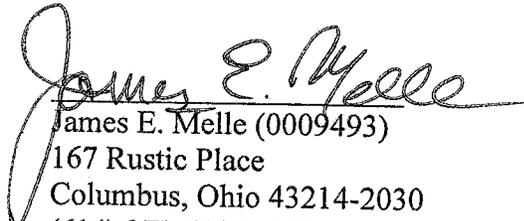
Notices of Appeal were previously filed by the Defendants-Appellants State of Ohio, Governor John R. Kasich, Attorney General Mike DeWine, Secretary of State Jon Husted, Auditor of State David Yost, Ohio Department of Rehabilitation and Correction, and Director Gary C. Mohr, Ohio Department of Administrative Services and Director Robert Blair, State Treasurer Josh Mandel, Office of Budget and Management and Director Timothy S. Keen and Defendant-Appellant Management & Training Corporation.

Plaintiffs-Appellees Cross-Appellants appeal two (2) of the rulings made by the Court of Appeals. First, that that no set of facts in their complaint, if proven, would entitle them to relief because Article VIII, Section 4 of the Ohio Constitution was not violated (Decision 14, ¶39). Second, that SERB had exclusive jurisdiction to determine whether the employees in the two privatized prisons were public employees. (Decision 16, ¶49).

This cross-appeal raises a substantial constitutional issue and another issue of great and public interest.

Pursuant to S. Ct. Prac. R. 7.01(A)(2)(a), this Notice of Cross-Appeal is filed within ten (10) days after the first Notice of Appeal which was filed on March 3, 2014.

Respectfully submitted,



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### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Notice of Cross-Appeal was served via ordinary mail upon the following persons this 11<sup>th</sup> day of March, 2014:

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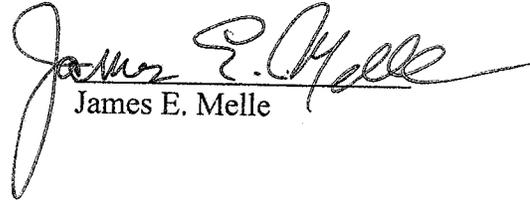
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## OHIO Acts of the 129th General Assembly (2011-2012)

SB 312, File 90

## AN ACT

To amend sections 3326.03 and 5120.092 of the Revised Code to revise the law for new STEM school proposals, to establish a temporary STEM subcommittee to consider and approve proposals through July 31, 2012, to modify the Adult and Juvenile Correctional Facilities Bond Retirement Fund, and to make capital reappropriations for the biennium ending June 30, 2014.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 101.01. That sections 3326.03 and 5120.092 of the Revised Code be amended to read as follows:

Sec. 3326.03. (A) The STEM committee shall authorize the establishment of and award grants to science, technology, engineering, and mathematics schools ~~through a request for based on proposals submitted to the committee.~~

~~The STEM committee may approve up to five STEM schools to operate under this chapter in the school year that begins July 1, 2008. The limit prescribed in this paragraph does not affect the number of schools that may be approved for operation in subsequent school years.~~

~~No STEM school established under this chapter may open for instruction earlier than July 1, 2008.~~

The committee shall determine the criteria for the proposals, establish procedures for the submission of proposals, accept and evaluate the proposals, and choose which proposals to approve to become a STEM school ~~and to receive grants~~. In approving proposals for STEM schools, the committee shall consider locating the schools in diverse geographic regions of the state so that all students have access to a STEM school.

(B) Proposals may be submitted only by a partnership of public and private entities consisting of at least all of the following:

- (1) A city, exempted village, local, or joint vocational school district;
- (2) Higher education entities;
- (3) Business organizations.

- (C) Each proposal shall include at least the following:
- (1) Assurances that the STEM school will be under the oversight of a governing body and a description of the members of that governing body and how they will be selected;
  - (2) Assurances that the STEM school will operate in compliance with this chapter and the provisions of the proposal as accepted by the committee;
  - (3) Evidence that the school will offer a rigorous, diverse, integrated, and project-based curriculum to students in any of grades six through twelve, with the goal to prepare those students for college, the workforce, and citizenship, and that does all of the following:
    - (a) Emphasizes the role of science, technology, engineering, and mathematics in promoting innovation and economic progress;
    - (b) Incorporates scientific inquiry and technological design;
    - (c) Includes the arts and humanities;
    - (d) Emphasizes personalized learning and teamwork skills.
  - (4) Evidence that the school will attract school leaders who support the curriculum principles of division (C)(3) of this section;
  - (5) A description of how the school's curriculum will be developed and approved in accordance with section 3326.09 of the Revised Code;
  - (6) Evidence that the school will utilize an established capacity to capture and share knowledge for best practices and innovative professional development;
  - (7) Evidence that the school will operate in collaboration with a partnership that includes institutions of higher education and businesses;
  - (8) Assurances that the school has received commitments of sustained and verifiable fiscal and in-kind support from regional education and business entities;
  - (9) A description of how the school's assets will be distributed if the school closes for any reason.

**Sec. 5120.092.** There is hereby created in the state treasury the adult and juvenile correctional facilities bond retirement fund. The fund shall receive proceeds derived from the sale of state adult or juvenile correctional facilities. Investment income with respect to moneys on deposit in the fund shall be retained by the fund. No investment of moneys in, or transfer of moneys from, the fund shall be made if the effect of the investment or transfer would be to adversely affect the exclusion from gross income of the interest payable on state bonds obligations previously issued for state adult or juvenile correctional facilities ~~that have been sold under authority of Section 753.10 or 753.30 of the act in which this section was enacted. To the extent necessary to maintain the exclusion from gross income of the interest payable on those bonds, moneys in the fund shall first be~~

~~used to redeem or defease the outstanding portion of such bonds. To accomplish the redemption or defeasance, the director of budget and management, at the request of the Ohio building authority, may direct that moneys in the fund be transferred to the appropriate trustees under the applicable bond trust agreements. Upon receipt of both (i) one or more opinions of a nationally recognized bond counsel firm appointed by the Ohio building authority stating that the aforementioned bonds have been redeemed or defeased and that the transfer of such moneys will not adversely affect the exclusion from gross income of the interest payable on such bonds, and (ii) a certification by both the director of administrative services and the director of rehabilitation and correction stating either that all sales of state adult and juvenile correctional facilities contemplated by Sections 753.10 and 753.30 of the act in which this section was enacted have been completed or that no further sales of any such facilities will be undertaken obligations, the director of budget and management may direct that any moneys remaining in the fund after the redemption or defeasance of the aforementioned bonds shall be transferred to one or more of the general revenue fund, the adult correctional building fund, or the juvenile correctional building fund. Upon completion of that transfer such transfers, the adult and juvenile correctional facilities bond retirement fund shall be abolished.~~

**SECTION 101.02.** That existing sections 3326.03 and 5120.092 of the Revised Code are hereby repealed.

**SECTION 201.10.** All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Wildlife Fund (Fund 7015) that are not otherwise appropriated:

DNR DEPARTMENT OF NATURAL RESOURCES

C72555	Statewide Fish Hatchery Improvement	\$ 671,382
C72581	Cooper Hollow Wildlife Area	\$ 4,815
C72589	Tranquility Wildlife Area	\$ 1,286
C725B0	Access Development	\$ 51,750
C725B6	Upgrade Underground Fuel Tanks	\$ 94,473
C725B9	Cap Abandoned Water Wells	\$ 46,574
C725E7	Tiffin River Wildlife Area	\$ 1,000
C725J7	Appraisal Fees - Statewide	\$ 51,995
C725K9	Wildlife Area Building Development/Renovation	\$ 958,792
C725L9	Dam Rehabilitation	\$ 394,514

Am. Sub. H. B. No. 153

3221

129th G.A.

events and the procedures for a repurchase under the irrevocable grant described in this division are as follows:

(i) Before the contractor, or the contractor's successor in title, may resell or otherwise transfer the facility and the real property on which it is situated, any surrounding land that is to be transferred under the contract, or both the facility and real property on which it is situated plus the surrounding land that is to be transferred under the contract, the contractor or successor first must offer the state the opportunity to repurchase the facility, real property, and surrounding land that is to be resold or transferred for a price not greater than the purchase price paid to the state for that facility, real property, or surrounding land, less depreciation from the time of the conveyance of that facility, real property, or surrounding land to the contractor, plus the depreciated value of any capital improvements to that facility, real property, or surrounding land that were made to it and funded by anyone other than the state subsequent to the conveyance to the contractor. The repurchase opportunity described in this division must be offered to the state at least one hundred twenty days before the contractor intends to resell or otherwise transfer the facility, real property, or surrounding land that is to be resold or transferred. After being offered the repurchase opportunity, the state has the right to repurchase the facility, real property, and surrounding land that is to be resold or otherwise transferred for the price described in this division.

JRK

JRK

(ii) Upon the contractor's default of any financial agreement for the purchase of the facility and the real property on which it is situated, any surrounding land that is to be transferred under the contract, or both the facility and real property on which it is situated plus the surrounding land that is to be transferred under the contract, upon the contractor's default of any other term in the contract, or upon the contractor's financial insolvency or inability to meet its contractual obligations, the state has the right to repurchase the facility and real property, the surrounding land, or both the facility and real property and the surrounding land for a price not greater than the purchase price paid to the state for that facility, real property, or surrounding land, less depreciation from the time of the conveyance of that facility, real property, or surrounding land to the contractor, plus the depreciated value of any capital improvements to that facility, real property, or surrounding land that were made to it and funded by anyone other than the state subsequent to the conveyance to the contractor.

JRK

(c) A requirement that if the operation and management portion of the contract is terminated the contractor's operation and management responsibilities be transferred to another contractor under the same terms and conditions and applied to the original contractor or to the Department of

The above boxed and initialed text was disapproved.  
 Date: 6-30-12  
 [Signature]  
 John R. Kasich, Governor

Franklin County, Ohio Court of Appeals Clerk Courts-2013-Feb 04 12:18 PM-12AP001064

(4) An understanding of internal controls and procedures for financial reporting; and

(5) An understanding of audit committee functions.

Sec. 126.50. As used in sections ~~126.50, 126.501, 126.502,~~ 126.503, 126.504, 126.505, and 126.506, and ~~126.507~~ of the Revised Code:

~~(A) "Critical services" means a service provided by the state the deferral or cancellation of which would cause at least one of the following:~~

~~(1) An immediate risk to the health, safety, or welfare of the citizens of the state;~~

~~(2) A undermining of activity aimed at creating or retaining jobs in the state;~~

~~(3) An interference with the receipt of revenue to the state or the realization of savings to the state.~~

~~"Critical services" does not mean a deferral or cancellation of a service provided by the state that would result in inconvenience, sustainable delay, or other similar compromise to the normal provision of state provided services.~~

~~(B). "State state agency" has the same meaning as in section 1.60 of the Revised Code, but does not include the elected state officers, the general assembly or any legislative agency, a court or any judicial agency, or a state institution of higher education.~~

Sec. 126.60. As used in sections 126.60 to 126.605 of the Revised Code:

(A) "Contract" means any purchase and sale agreement, lease, service agreement, franchise agreement, concession agreement, or other written agreement entered into under sections 126.60 to 126.605 of the Revised Code with respect to the provision of highway services and any project related thereto.

(B) "Highway services" means the operation or maintenance of any highway in this state, the construction of which was funded by proceeds from state revenue bonds that are to be repaid primarily from revenues derived from the operation of the highway and any related facilities and not primarily from the tax that is subject to the limitations of Article XII, Section 5a of the Ohio Constitution.

(C) "Improvement" means any construction, reconstruction, rehabilitation, renovation, installation, improvement, enlargement, or extension of property or improvements to property.

(D) "Private sector entity" means any corporation, whether for profit or not for profit, limited liability company, partnership, limited liability partnership, sole proprietorship, business trust, joint venture or other entity, but shall not mean the state, a political subdivision of the state, or a public or

governmental entity, agency, or instrumentality of the state.

(E) "Project" means real or personal property, or both, and improvements thereto or in support thereof, including undivided and other interests therein, used for or in the provision of highway services.

(F) "Proposer" means a private sector entity, local or regional public entity or agency, or any group or combination thereof, in collaboration or cooperation with other private sector entities, local or regional public entities, submitting qualifications or a proposal for providing highway services.

Sec. 126.601. Notwithstanding any provision of the Revised Code to the contrary, the director of budget and management and the director of transportation may, in accordance with sections 126.60 to 126.605 of the Revised Code, take any action and execute any contract for the provision of highway services in order to more efficiently and effectively provide those services, including by generating additional resources in support of those services and related projects. Any such contract may contain the terms and conditions established by the director of budget and management and the director of transportation to carry out and effect the purposes of sections 126.60 to 126.605 of the Revised Code. The director of budget and management is hereby authorized to receive and deposit, consistent with section 126.603 of the Revised Code, any money received under the contract. Any such contract shall be sufficient to effect its purpose, notwithstanding any provision of the Revised Code to the contrary, including other laws governing the sale, lease or other disposition of property or interests therein, service contracts, or financial transactions by or for the state. The director of transportation may exercise all powers of the Ohio turnpike commission for purposes of sections 126.60 to 126.605 of the Revised Code, and may take any action and, with the director of budget and management, execute any contract necessary to effect the purposes of sections 126.60 to 126.605 of the Revised Code, notwithstanding any provision of Chapter 5537, of the Revised Code to the contrary.

Sec. 126.602. (A)(1) Before releasing any invitation for qualifications or for proposals, the director of budget and management shall submit the material terms and conditions of that invitation to the general assembly, which shall include a draft of the invitation document. If within ninety days of the receipt of the director's submission the general assembly acts by concurrent resolution to approve the invitation, the director of budget and management may proceed to release the invitation.

(2) Before entering into a contract for the provision of highway services, the director of budget and management shall publish notice of its intent to

enter into a contract for the highway services and any related project. The notice shall notify interested parties of the opportunity to submit their qualifications or proposals, or both, for consideration and shall be published at least thirty days prior to the deadline for submitting those qualifications or proposals. The director also may advertise the information contained in the notice in appropriate trade journals and otherwise notify parties believed to be interested in providing the highway services and in any related project. The notice shall include a general description of the highway services to be provided and any related project and of the qualifications or proposals being sought and instructions for obtaining the invitation.

(B) After inviting qualifications, the director of budget and management, in consultation with the department of transportation, shall evaluate the qualifications submitted and may hold discussions with proposers to further explore their qualifications. Following this evaluation, the director, in consultation with the department, may determine a list of qualified proposers based on criteria in the invitation and invite only those proposers to submit a proposal for the provision of the highway services and any related project.

(C) After inviting proposals, the director of budget and management, in consultation with the department of transportation, shall evaluate the proposals submitted and may hold discussions with proposers to further explore their proposals, the scope and nature of the highway services they would provide, and the various technical approaches they may take regarding the highway services and any related project. Following this evaluation, the director, in consultation with the department, shall:

(1) Select and rank no fewer than three proposers that the director considers to be the most qualified to enter into the contract, except when the director determines that fewer than three qualified proposers are available, in which case the director shall select and rank them;

(2) Negotiate a contract with the proposer ranked most qualified to provide the highway services at a compensation determined in writing to be fair and reasonable, and to purchase, lease or otherwise take a legal interest in the project.

(D)(1) Upon failure to negotiate a contract with the proposer ranked most qualified, the director shall inform the proposer in writing of the termination of negotiations and may enter into negotiations with the proposer ranked next most qualified. If negotiations again fail, the same procedure may be followed with each next most qualified proposer selected and ranked, in order of ranking, until a contract is negotiated.

(2) If the director, in consultation with the department, fails to negotiate

a contract with any of the ranked proposers, the director, in consultation with the department, may terminate the process or select and rank additional proposers, based on their qualifications or proposals, and negotiations shall continue as with the proposers selected and ranked initially until a contract is negotiated.

(E) Any contract entered into under this section may contain terms, as deemed appropriate by the director, in consultation with the department, including the duration of the contract, which shall not exceed seventy-five years, rates or fees for the highway services to be provided or methods or procedures for the determination of such rates or fees, standards for the highway services to be provided, responsibilities and standards for operation and maintenance of any related project, required financial assurances, financial and other data reporting requirements, bases and procedures for termination of the contract and retaking of possession or title to the project, and events of default and remedies upon default, including mandamus, a suit in equity, an action at law, or any combination of those remedial actions.

(F) Chapter 4117, of the Revised Code shall not apply to any employees working at or on a project to provide highway services.

(G) The director of budget and management may reject any and all submissions of qualifications or proposals.

(H) The director may provide compensation for the preparation of a responsive proposal from unsuccessful bidders for a proposal to lease the turnpike under sections 126.60 to 126.605 of the Revised Code. The director may establish policies or procedures necessary to determine the amount of compensation to be provided for each project and the method of evaluating the value of the preliminary proposal submitted, but in no instance may the compensation exceed the value of such proposal.

Sec. 126.603. All money received by the director of budget and management under a contract executed pursuant to sections 126.60 to 126.605 of the Revised Code shall be deposited into the state treasury to the credit of the highway services fund, which is hereby created. Any interest earned on money in the fund shall be credited to the fund. Any transfer of money or appropriations necessary to support highway services is subject to the approval of the controlling board.

Sec. 126.604. The exercise of the powers granted by sections 126.60 to 126.605 of the Revised Code will be for the benefit of the people of the state and shall be liberally construed to effect the purposes thereof. Any project or part thereof owned by the state and used for performing any highway services pursuant to a contract entered into under sections 126.60 to 126.605 of the Revised Code that would be exempt from real property taxes or

assessments in the absence of such contract shall remain exempt from real property taxes and assessments levied by the state and its subdivisions to the same extent as if not subject to that contract. The gross receipts and income of a successful proposer derived from providing highway services under a contract through a project owned by the state shall be exempt from gross receipts and income taxes levied by the state and its subdivisions, including the tax levied pursuant to Chapter 5751, of the Revised Code. Any transfer or lease between a successful proposer and the state of a project or part thereof, or item included or to be included in the project, shall be exempt from the taxes levied pursuant to Chapters 5739, and 5741, of the Revised Code if the state is retaining ownership of the project or part thereof that is being transferred or leased.

Sec. 126.605. The director of budget and management, in consultation with the department of transportation, may retain or contract for the services of commercial appraisers, engineers, investment bankers, financial advisers, accounting experts, and other consultants, independent contractors or providers of professional services as are necessary in the judgment of the director to carry out the director's powers and duties under sections 126.60 to 126.605 of the Revised Code, including the identification of highway services and any related projects to be subject to invitations for qualifications or proposals under sections 126.60 to 126.605 of the Revised Code, the development of those invitations and related evaluation criteria, the evaluation of those invitations, and negotiation of any contract under sections 126.60 to 126.605 of the Revised Code.

Sec. 127.14. The controlling board may, at the request of any state agency or the director of budget and management, authorize, with respect to the provisions of any appropriation act:

(A) Transfers of all or part of an appropriation within but not between state agencies, except such transfers as the director of budget and management is authorized by law to make, provided that no transfer shall be made by the director for the purpose of effecting new or changed levels of program service not authorized by the general assembly;

(B) Transfers of all or part of an appropriation from one fiscal year to another;

(C) Transfers of all or part of an appropriation within or between state agencies made necessary by administrative reorganization or by the abolition of an agency or part of an agency;

(D) Transfers of all or part of cash balances in excess of needs from any fund of the state to the general revenue fund or to such other fund of the state to which the money would have been credited in the absence of the

(D) All or part of an area designated as a revitalization district may lose this designation as provided in this division. The legislative authority of a municipal corporation in which a revitalization district is located, or the board of township trustees of the township in whose unincorporated area a revitalization district is located, after giving notice of its proposed action by publication once a week for two consecutive weeks in ~~at least~~ one newspaper of general circulation in the municipal corporation or township or as provided in section 7.16 of the Revised Code, may determine by ordinance or resolution in the case of the legislative authority of a municipal corporation, or by resolution in the case of a board of township trustees of a township, that all or part of the area fails to meet the standards described in this section for designation of an area as a revitalization district. If the legislative authority or board so determines, the area designated in the ordinance or resolution no longer constitutes a revitalization district.

Sec. 4313.01. As used in this chapter:

(A) "Enterprise acquisition project" means, as applicable, all or any portion of the capital or other assets of the spirituous liquor distribution and merchandising operations of the division of liquor control, including, without limitation, inventory, real property rights, equipment, furnishings, the spirituous liquor distribution system including transportation, the monetary management system, warehouses, contract rights, rights to take assignment of contracts and related receipts and revenues, accounts receivable, the exclusive right to manage and control spirituous liquor distribution and merchandising and to sell spirituous liquor in the state subject to the control of the division of liquor control pursuant to the terms of the transfer agreement, and all necessary appurtenances thereto, or leasehold interests therein, and the assets and liabilities of the facilities establishment fund.

(B) "JobsOhio" means the nonprofit corporation formed under section 187.01 of the Revised Code and includes any subsidiary of that corporation unless otherwise specified or clearly implied from the context, together with any successor or assignee of that corporation or any such subsidiary if and to the extent permitted by the transfer agreement or Chapter 187. of the Revised Code.

(C) "Spirituous liquor profits" means all receipts representing the gross profit on the sale of spirituous liquor, as referred to in division (B)(4) of section 4301.10 of the Revised Code, less the costs, expenses, and working capital provided for therein, but excluding the sum required by the second paragraph of section 4301.12 of the Revised Code, as in effect on May 2, 1980, to be paid into the state treasury, provided that from and after the

initial transfer of the enterprise acquisition project to JobsOhio and until the transfer back to the state under division (D) of section 4313.02 of the Revised Code, the reference in division (B)(4) of section 4301.10 of the Revised Code to all costs and expenses of the division and also an adequate working capital reserve for the division shall be to all costs and expenses of JobsOhio and providing an adequate working capital reserve for JobsOhio.

(D) "Transfer" means an assignment and sale, conveyance, granting of a franchise, lease, or transfer of all or an interest.

(E) "Transfer agreement" means the agreement entered into between the state and JobsOhio providing for the transfer of the enterprise acquisition project pursuant to section 4313.02 of the Revised Code and any amendments or supplements thereto.

Sec. 4313.02. (A) The state may transfer to JobsOhio, and JobsOhio may accept the transfer of, all or a portion of the enterprise acquisition project for a transfer price payable by JobsOhio to the state. Any such transfer shall be treated as an absolute conveyance and true sale of the interest in the enterprise acquisition project purported to be conveyed for all purposes, and not as a pledge or other security interest. The characterization of any such transfer as a true sale and absolute conveyance shall not be negated or adversely affected by the acquisition or retention by the state of a residual or reversionary interest in the enterprise acquisition project, the participation of any state officer or employee as a member or officer of, or contracting for staff support to, JobsOhio or any subsidiary of JobsOhio, any regulatory responsibility of an officer or employee of the state, including the authority to collect amounts to be received in connection therewith, the retention of the state of any legal title to or interest in any portion of the enterprise acquisition project for the purpose of regulatory activities, or any characterization of JobsOhio or obligations of JobsOhio under accounting, taxation, or securities regulations, or any other reason whatsoever. An absolute conveyance and true sale or lease shall exist under this section regardless of whether JobsOhio has any recourse against the state or the treatment or characterization of the transfer as a financing for any purpose. Upon and following the transfer, the state shall not have any right, title, or interest in the enterprise acquisition project so transferred other than any residual interest that may be described in the transfer agreement pursuant to the following paragraph and division (D) of this section. Any determination of the fair market value of the enterprise acquisition project reflected in the transfer agreement shall be conclusive and binding on the state and JobsOhio.

Any transfer of the enterprise acquisition project that is a lease or grant

of a franchise shall be for a term not to exceed twenty-five years. Any transfer of the enterprise acquisition project that is an assignment and sale, conveyance, or other transfer shall contain a provision that the state shall have the option to have conveyed or transferred back to it, at no cost, the enterprise acquisition project, as it then exists, no later than twenty-five years after the original transfer authorized in the transfer agreement on such other terms as shall be provided in the transfer agreement.

The exercise of the powers granted by this section will be for the benefit of the people of the state. All or any portion of the enterprise acquisition project transferred pursuant to the transfer agreement that would be exempt from real property taxes or assessments or real property taxes or assessments in the absence of such transfer shall, as it may from time to time exist thereafter, remain exempt from real property taxes or assessments levied by the state and its subdivisions to the same extent as if not transferred. The gross receipts and income of JobsOhio derived from the enterprise acquisition project shall be exempt from taxation levied by the state and its subdivisions, including, but not limited to, the taxes levied pursuant to Chapters 718., 5739., 5741., 5747., and 5751. of the Revised Code. Any transfer from the state to JobsOhio of the enterprise acquisition project, or item included or to be included in the project, shall be exempt from the taxes levied pursuant to Chapters 5739. and 5741. of the Revised Code.

(B) The proceeds of any transfer under division (A) of this section may be expended as provided in the transfer agreement for any one or more of the following purposes:

(1) Funding, payment, or defeasance of outstanding bonds issued pursuant to Chapters 151. and 166. of the Revised Code and secured by pledged liquor profits as defined in section 151.40 of the Revised Code;

(2) Deposit into the general revenue fund;

(3) Deposit into the clean Ohio revitalization fund created pursuant to section 122.658 of the Revised Code, the innovation Ohio loan fund created pursuant to section 166.16 of the Revised Code, the research and development loan fund created pursuant to section 166.20 of the Revised Code, the logistics and distribution infrastructure fund created pursuant to section 166.26 of the Revised Code, the advanced energy research and development fund created pursuant to section 3706.27 of the Revised Code, and the advanced energy research and development taxable fund created pursuant to section 3706.27 of the Revised Code;

(4) Conveyance to JobsOhio for the purposes for which it was created.

(C)(1) The state may covenant, pledge, and agree in the transfer agreement, with and for the benefit of JobsOhio, that it shall maintain

statutory authority for the enterprise acquisition project and the revenues of the enterprise acquisition project and not otherwise materially impair any obligations supported by a pledge of revenues of the enterprise acquisition project. The transfer agreement may provide or authorize the manner for determining material impairment of the security for any such outstanding obligations, including by assessing and evaluating the revenues of the enterprise acquisition project.

(2) The director of budget and management, in consultation with the director of commerce, may, without need for any other approval, negotiate terms of any documents, including the transfer agreement, necessary to effect the transfer and the acceptance of the transfer of the enterprise acquisition project. The director of budget and management and the director of commerce shall execute the transfer agreement on behalf of the state. The director of budget and management may also, without need for any other approval, retain or contract for the services of commercial appraisers, underwriters, investment bankers, and financial advisers, as are necessary in the judgment of the director of budget and management to effect the transfer agreement. Any transfer agreement may contain terms and conditions established by the state to carry out and effectuate the purposes of this section, including, without limitation, covenants binding the state in favor of JobsOhio. Any such transfer agreement shall be sufficient to effectuate the transfer without regard to any other laws governing other property sales or financial transactions by the state. The director of budget and management may create any funds or accounts, within or without the state treasury, as are needed for the transactions and activities authorized by this section.

(3) The transfer agreement may authorize JobsOhio, in the ordinary course of doing business, to convey, lease, release, or otherwise dispose of any regular inventory or tangible personal property. Ownership of the interest in the enterprise acquisition project that is transferred to JobsOhio under this section and the transfer agreement shall be maintained in JobsOhio or a nonprofit entity the sole member of which is JobsOhio until the enterprise acquisition project is transferred back to the state pursuant to the second paragraph of division (A) and division (D) of this section.

(D) The transfer agreement may authorize JobsOhio to fix, alter, and collect rentals and other charges for the use and occupancy of all or any portion of the enterprise acquisition project and to lease any portion of the enterprise acquisition project to the state, and shall include a contract with, or the granting of an option to, the state to have the enterprise acquisition project, as it then exists, transferred back to it without charge in accordance with the terms of the transfer agreement after retirement or redemption, or

provision therefor, of all obligations supported by a pledge of spirituous liquor profits.

(E) JobsOhio, the director of budget and management, and the director of commerce shall, subject to approval by the controlling board, enter into a contract, which may be part of the transfer agreement, for the continuing operation by the division of liquor control of spirituous liquor distribution and merchandising subject to standards for performance provided in that contract that may relate to or support division (C)(1) of this section. The contract shall establish other terms and conditions for the assignment of duties to, and the provision of advice, services, and other assistance by, the division of liquor control, including providing for the necessary staffing and payment by JobsOhio of appropriate compensation to the division for the performance of such duties and the provision of such advice, services, and other assistance. The division of liquor control shall manage and actively supervise the activities required or authorized under sections 4301.10 and 4301.17 of the Revised Code as those sections exist on the effective date of this section, including, but not limited to, controlling the traffic in intoxicating liquor in this state and fixing the wholesale and retail prices at which the various classes, varieties, and brands of spirituous liquor are sold.

(F) The transfer agreement shall require JobsOhio to pay for the operations of the division of liquor control with regard to the spirituous liquor merchandising operations of the division. The payments from JobsOhio shall be deposited into the state treasury to the credit of the liquor control fund created in section 4301.12 of the Revised Code.

(G) The transaction and transfer provided for under this section shall comply with all applicable provisions of the Ohio Constitution.

Sec. 4503.06. (A) The owner of each manufactured or mobile home that has acquired situs in this state shall pay either a real property tax pursuant to Title LVII of the Revised Code or a manufactured home tax pursuant to division (C) of this section.

(B) The owner of a manufactured or mobile home shall pay real property taxes if either of the following applies:

(1) The manufactured or mobile home acquired situs in the state or ownership in the home was transferred on or after January 1, 2000, and all of the following apply:

(a) The home is affixed to a permanent foundation as defined in division (C)(5) of section 3781.06 of the Revised Code.

(b) The home is located on land that is owned by the owner of the home.

(c) The certificate of title has been inactivated by the clerk of the court of common pleas that issued it, pursuant to division (H) of section 4505.11

§ 15. How bill shall be passed.

**Ohio Constitution**

**Article II. Legislative**

*Current through the November, 2011 General Election*

**§ 15. How bill shall be passed**

- (A) The general assembly shall enact no law except by bill, and no bill shall be passed without the concurrence of a majority of the members elected to each house. Bills may originate in either house, but may be altered, amended, or rejected in the other.
- (B) The style of the laws of this state shall be, "be it enacted by the general assembly of the state of Ohio."
- (C) Every bill shall be considered by each house on three different days, unless two-thirds of the members elected to the house in which it is pending suspend this requirement, and every individual consideration of a bill or action suspending the requirement shall be recorded in the journal of the respective house. No bill may be passed until the bill has been reproduced and distributed to members of the house in which it is pending and every amendment been made available upon a member's request.
- (D) No bill shall contain more than one subject, which shall be clearly expressed in its title. No law shall be revived or amended unless the new act contains the entire act revived, or the section or sections amended, and the section or sections amended shall be repealed.
- (E) Every bill which has passed both houses of the general assembly shall be signed by the presiding officer of each house to certify that the procedural requirements for passage have been met and shall be presented forthwith to the governor for his approval.
- (F) Every joint resolution which has been adopted in both houses of the general assembly shall be signed by the presiding officer of each house to certify that the procedural requirements for adoption have been met and shall forthwith be filed with the secretary of state.

§ 4. Credit of state; the state shall not become joint owner or stockholder.

**Ohio Constitution**

**Article VIII. Public Debt and Public Works**

*Current through the November, 2011 General Election*

**§ 4. Credit of state; the state shall not become joint owner or stockholder**

The credit of the state shall not, in any manner, be given or loaned to, or in aid of, any individual association or corporation whatever; nor shall the state ever hereafter become a joint owner, or stockholder, in any company or association in this state, or elsewhere, formed for any purpose whatever.

**SECTION 812.20.** The amendment, enactment, or repeal by this act of the sections listed below is exempt from the referendum under Ohio Constitution, Article II, section 1d and section 1.471 of the Revised Code and therefore takes effect immediately when this act becomes law or, if a later effective date is specified below, on that date.

Sections 9.06, 9.833, 9.90, 9.901, 101.532, 101.82, 111.12, 111.16, 111.18, 111.181, 111.28, 111.29, 117.13, 121.37, 124.09, 124.23, 124.231, 124.25, 124.26, 124.27, 124.31, 125.15, 125.18, 125.213, 125.28, 125.89, 126.04, 126.12, 126.24, 127.14, 149.091, 149.11, 149.311, 182.02, 187.03, 189.01, 189.02, 189.03, 189.04, 189.05, 189.06, 189.07, 189.08, 189.09, 189.10, 305.171, 306.35, 319.301, 505.60, 505.601, 505.603, 901.09, 924.52, 927.69, 1309.528, 1327.46, 1327.50, 1327.501, 1327.51, 1327.511, 1327.54, 1327.57, 1327.62, 1327.99, 1329.04, 1329.42, 1332.24, 1501.031, 1515.14, 1545.071, 1551.311, 1551.32, 1551.35, 1555.02, 1555.03, 1555.04, 1555.05, 1555.06, 1555.08, 1555.17, 1701.07, 1702.59, 1703.031, 1703.07, 1776.83, 1785.06, 3301.07, 3301.16, 3301.162, 3301.82, 3302.031, 3302.05, 3302.07, 3306.01, 3306.011, 3306.012, 3306.02, 3306.03, 3306.04, 3306.05, 3306.051, 3306.052, 3306.06, 3306.07, 3306.08, 3306.09, 3306.091, 3306.10, 3306.11, 3306.12 (3317.0212), 3306.13, 3306.19, 3306.191, 3306.192, 3306.21, 3306.22, 3306.29, 3306.291, 3306.292, 3307.31, 3307.64, 3309.41, 3309.48, 3309.51, 3310.02, 3310.03, 3310.05, 3310.08, 3310.41, 3311.05, 3311.059, 3311.0510, 3311.06, 3311.19, 3311.21, 3311.29, 3311.52, 3311.76, 3313.411, 3313.53, 3313.64, 3313.6410, 3313.843, 3313.88, 3313.978, 3313.981, 3314.012, 3314.08, 3314.085, 3314.087, 3314.088, 3314.091, 3314.102, 3314.11, 3314.111, 3314.13, 3314.35, 3315.01, 3316.041, 3316.06, 3316.20, 3317.011, 3317.013, 3317.014, 3317.016, 3317.017, 3317.018, 3317.02, 3317.021, 3317.022, 3317.023, 3317.024, 3317.025, 3317.0210, 3317.0211, 3317.0216, 3317.03, 3317.031, 3317.04, 3317.05, 3317.051, 3317.053, 3317.061, 3317.07, 3317.08, 3317.081, 3317.082, 3317.09, 3317.11, 3317.12, 3317.16, 3317.17, 3317.18, 3317.19, 3317.20, 3317.201, 3318.011, 3318.051, 3318.36, 3318.37, 3318.371, 3319.19, 3319.39, 3319.57, 3319.62, 3323.091, 3323.14, 3323.142, 3323.31, 3324.05, 3326.33, 3326.39, 3327.02, 3327.04, 3327.05, 3329.16, 3345.14, 3345.81, 3349.242, 3353.15, 3365.01, 3365.08, 3506.05, 3701.0211, 3704.06, 3704.14, 3734.901, 3745.015, 3745.016, 3793.04, 3793.21, 4115.101, 4121.03, 4121.12, 4121.121, 4121.125, 4121.128, 4121.44, 4121.75, 4121.76, 4121.77, 4121.78, 4121.79, 4123.341, 4123.342, 4123.35, 4141.08, 4141.11, 4301.43, 4511.191, 4725.34, 4731.054, 4733.15, 4733.151, 5111.0122, 5111.0213, 5111.0215, 5111.83, 5111.945, 5112.99, 5112.991, 5120.092, 5123.0419, 5126.0511, 5126.11, 5126.18, 5126.24, 5703.05, 5705.211, 5715.26, 5727.84, 5727.85, 5727.86, 5747.46, 5747.51, 5751.20, 5751.21, 5751.22, 5751.23, 5919.34, 5919.341, and 6109.21.

The amendment, enactment, or repeal of sections 109.572, 173.21, 173.35 (3119.69), 173.351 (3119.691), 173.36 (3119.692), 340.03, 340.05, 340.08, 340.091, 340.11, 2317.02, 2317.422, 2903.33, 3306.12 (3317.0212), 3313.65, 3318.49, 3326.11, 3701.07, 3701.74, 3721.02, 3721.50, 3721.51, 3721.511, 3721.512, 3721.513, 3721.52, 3721.53, 3721.531, 3721.532, 3721.533, 3721.55, 3721.56, 3721.561 (3721.56), 3721.58, 3722.01 (3119.70), 3722.011 (3119.701), 3722.021 (3119.711), 3722.022 (3119.712), 3722.03 (3119.72), 3722.04 (3119.73), 3722.041 (3119.731), 3722.05 (3119.74), 3722.06 (3119.75), 3722.07 (3119.76), 3722.08 (3119.77), 3722.09 (3119.78), 3722.10 (3119.79),

Franklin County Ohio Court of Appeals Clerk of Courts- 2013 Feb 04 12:18 PM-12AP001064

3722.11 (5119.80), 3722.12 (5119.81), 3722.13 (5119.82), 3722.14 (5119.83), 3722.15 (5119.84), 3722.151 (5119.85), 3722.16 (5119.86), 3722.17 (5119.87), 3722.18 (5119.88), 3722.99, 3737.83, 3737.841, 3769.08, 3769.20, 3769.26, 3781.183, 3791.043, 5101.35, 5101.60, 5101.61, 5111.023, 5111.025, 5111.113, 5111.222, 5111.231, 5111.24, 5111.244, 5111.25, 5111.254, 5111.911, 5111.912, 5111.913, 5112.30, 5112.31, 5112.37, 5112.371, 5112.39, 5119.18, 5119.61, 5119.613 (5119.614), 5119.62, 5119.621, 5119.622, 5119.623, 5119.693, 5119.99, 5122.15, 5701.13, and 5731.39 of the Revised Code takes effect July 1, 2011.

The amendment of sections 5112.40, 5112.41, and 5112.46 of the Revised Code takes effect October 1, 2011.

The repeal of section 5111.243 of the Revised Code takes effect July 1, 2012.

Sections of this act prefixed with section numbers in the 200's, 300's, 400's, 500's, and 600's, except for Sections 309.30.40, 501.10, 503.95, 515.20, 690.10, and 690.11 of this act and except for the amendment of Section 105.45.70 of Sub. H.B. 462 of the 128th General Assembly.

Sections 701.20, 733.10, 749.10, 753.10, 757.10, 757.20, and 757.30 of this act.

Sections 801.20, 812.10, 812.20, and 812.30 of this act.

**SECTION 812.30.** The sections that are listed in the left-hand column of the following table combine amendments by this act that are and that are not exempt from the referendum under Ohio Constitution, Article II, sections 1c and 1d and section 1.471 of the Revised Code.

The middle column identifies the amendments to the listed sections that are subject to the referendum under Ohio Constitution, Article II, section 1c and therefore take effect on the ninety-first day after this act is filed with the Secretary of State or, if a later effective date is specified, on that date.

The right-hand column identifies the amendments to the listed sections that are exempt from the referendum under Ohio Constitution, Article II, section 1d and section 1.471 of the Revised Code and therefore take effect immediately when this act becomes law or, if a later effective date is specified, on that date.

Section of law	Amendments subject to referendum	Amendments exempt from referendum
102.02	All amendments except as described in the right-hand column	The amendment in division (A) striking "the director appointed by the workers' compensation council;"

§ 4117.01. Public employees' collective bargaining definitions.

**Ohio Statutes**

**Title 41. LABOR AND INDUSTRY**

**Chapter 4117. PUBLIC EMPLOYEES' COLLECTIVE BARGAINING**

*Includes all legislation filed with the Secretary of State's Office through 12/26/2012*

**§ 4117.01. Public employees' collective bargaining definitions**

As used in this chapter:

- (A) "Person," in addition to those included in division (C) of section 1.59 of the Revised Code, includes employee organizations, public employees, and public employers.
- (B) "Public employer" means the state or any political subdivision of the state located entirely within the state, including, without limitation, any municipal corporation with a population of at least five thousand according to the most recent federal decennial census; county; township with a population of at least five thousand in the unincorporated area of the township according to the most recent federal decennial census; school district; governing authority of a community school established under Chapter 3314. of the Revised Code; college preparatory boarding school established under Chapter 3328. of the Revised Code or its operator; state institution of higher learning; public or special district; state agency, authority, commission, or board; or other branch of public employment. "Public employer" does not include the nonprofit corporation formed under section 187.01 of the Revised Code.
- (C) "Public employee" means any person holding a position by appointment or employment in the service of a public employer, including any person working pursuant to a contract between a public employer and a private employer and over whom the national labor relations board has declined jurisdiction on the basis that the involved employees are employees of a public employer, except:
  - (1) Persons holding elective office;
  - (2) Employees of the general assembly and employees of any other legislative body of the public employer whose principal duties are directly related to the legislative functions of the body;
  - (3) Employees on the staff of the governor or the chief executive of the public employer whose principal duties are directly related to the performance of the executive functions of the governor or the chief

executive;

- (4) Persons who are members of the Ohio organized militia, while training or performing duty under section 5919.29 or 5923.12 of the Revised Code;
- (5) Employees of the state employment relations board, including those employees of the state employment relations board utilized by the state personnel board of review in the exercise of the powers and the performance of the duties and functions of the state personnel board of review;
- (6) Confidential employees;
- (7) Management level employees;
- (8) Employees and officers of the courts, assistants to the attorney general, assistant prosecuting attorneys, and employees of the clerks of courts who perform a judicial function;
- (9) Employees of a public official who act in a fiduciary capacity, appointed pursuant to section 124.11 of the Revised Code;
- (10) Supervisors;
- (11) Students whose primary purpose is educational training, including graduate assistants or associates, residents, interns, or other students working as part-time public employees less than fifty per cent of the normal year in the employee's bargaining unit;
- (12) Employees of county boards of election;
- (13) Seasonal and casual employees as determined by the state employment relations board;
- (14) Part-time faculty members of an institution of higher education;
- (15) Participants in a work activity, developmental activity, or alternative work activity under sections 5107.40 to 5107.69 of the Revised Code who perform a service for a public employer that the public employer needs but is not performed by an employee of the public employer if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;
- (16) Employees included in the career professional service of the department of transportation under section 5501.20 of the Revised Code;

Baldwin's Ohio Revised Code Annotated  
Title XLI. Labor and Industry  
Chapter 4117. Public Employees' Collective Bargaining (Refs & Annos)  
Collective Bargaining

R.C. § 4117.08

4117.08 Subjects of bargaining; exclusions

Effective: September 29, 2007

Currentness

(A) All matters pertaining to wages, hours, or terms and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement are subject to collective bargaining between the public employer and the exclusive representative, except as otherwise specified in this section and division (E) of section 4117.03 of the Revised Code.

(B) The conduct and grading of civil service examinations, the rating of candidates, the establishment of eligible lists from the examinations, and the original appointments from the eligible lists are not appropriate subjects for collective bargaining.

(C) Unless a public employer agrees otherwise in a collective bargaining agreement, nothing in Chapter 4117. of the Revised Code impairs the right and responsibility of each public employer to:

(1) Determine matters of inherent managerial policy which include, but are not limited to areas of discretion or policy such as the functions and programs of the public employer, standards of services, its overall budget, utilization of technology, and organizational structure;

(2) Direct, supervise, evaluate, or hire employees;

(3) Maintain and improve the efficiency and effectiveness of governmental operations;

- (4) Determine the overall methods, process, means, or personnel by which governmental operations are to be conducted;
- (5) Suspend, discipline, demote, or discharge for just cause, or lay off, transfer, assign, schedule, promote, or retain employees;
- (6) Determine the adequacy of the work force;
- (7) Determine the overall mission of the employer as a unit of government;
- (8) Effectively manage the work force;
- (9) Take actions to carry out the mission of the public employer as a governmental unit.

The employer is not required to bargain on subjects reserved to the management and direction of the governmental unit except as affect wages, hours, terms and conditions of employment, and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement. A public employee or exclusive representative may raise a legitimate complaint or file a grievance based on the collective bargaining agreement.

**CREDIT(S)**

(2007 H 119, § 130.02, eff. 9-29-07; 2005 H 66, eff. 6-30-05 (Contingently effective); 1983 S 133, eff. 4-1-84)

Notes of Decisions (218)

R.C. § 4117.08, OH ST § 4117.08

Current through Files 1 to 140 and Statewide Issue 1 of the 130th GA (2013-2014).

§ 4117.10. Terms of agreement.

**Ohio Statutes**

**Title 41. LABOR AND INDUSTRY**

**Chapter 4117. PUBLIC EMPLOYEES' COLLECTIVE BARGAINING**

*Includes all legislation filed with the Secretary of State's Office through 7/2/2012*

**§ 4117.10. Terms of agreement**

(A) An agreement between a public employer and an exclusive representative entered into pursuant to this chapter governs the wages, hours, and terms and conditions of public employment covered by the agreement. If the agreement provides for a final and binding arbitration of grievances, public employers, employees, and employee organizations are subject solely to that grievance procedure and the state personnel board of review or civil service commissions have no jurisdiction to receive and determine any appeals relating to matters that were the subject of a final and binding grievance procedure. Where no agreement exists or where an agreement makes no specification about a matter, the public employer and public employees are subject to all applicable state or local laws or ordinances pertaining to the wages, hours, and terms and conditions of employment for public employees. Laws pertaining to civil rights, affirmative action, unemployment compensation, workers' compensation, the retirement of public employees, and residency requirements, the minimum educational requirements contained in the Revised Code pertaining to public education including the requirement of a certificate by the fiscal officer of a school district pursuant to section 5705.41 of the Revised Code, the provisions of division (A) of section 124.34 of the Revised Code governing the disciplining of officers and employees who have been convicted of a felony, and the minimum standards promulgated by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code prevail over conflicting provisions of agreements between employee organizations and public employers. The law pertaining to the leave of absence and compensation provided under section 5923.05 of the Revised Code prevails over any conflicting provisions of such agreements if the terms of the agreement contain benefits which are less than those contained in that section or the agreement contains no such terms and the public authority is the state or any agency, authority, commission, or board of the state or if the public authority is another entity listed in division (B) of section 4117.01 of the Revised Code that elects to provide leave of absence and compensation as provided in section 5923.05 of the Revised Code. The law pertaining to the leave established under section 5906.02 of the Revised Code prevails over any conflicting provision of an agreement between an employee organization and public employer if the terms of the agreement contain benefits that are less than those contained in section 5906.02 of the Revised Code. Except for sections 306.08, 306.12, 306.35, and 4981.22 of the Revised Code and arrangements entered into thereunder, and section 4981.21 of the Revised Code as necessary to comply with section 13(c) of the "Urban Mass Transportation Act of 1964," 87 Stat. 295, 49 U.S.C.A. 1609(c), as amended, and arrangements entered into thereunder, this chapter prevails over any and all other conflicting laws, resolutions, provisions, present or future, except as otherwise specified in this chapter or as otherwise specified by the general assembly. Nothing in this section prohibits or shall be construed to invalidate the provisions of an agreement establishing supplemental workers'

compensation or unemployment compensation benefits or exceeding minimum requirements contained in the Revised Code pertaining to public education or the minimum standards promulgated by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code.

(B) The public employer shall submit a request for funds necessary to implement an agreement and for approval of any other matter requiring the approval of the appropriate legislative body to the legislative body within fourteen days of the date on which the parties finalize the agreement, unless otherwise specified, but if the appropriate legislative body is not in session at the time, then within fourteen days after it convenes. The legislative body must approve or reject the submission as a whole, and the submission is deemed approved if the legislative body fails to act within thirty days after the public employer submits the agreement. The parties may specify that those provisions of the agreement not requiring action by a legislative body are effective and operative in accordance with the terms of the agreement, provided there has been compliance with division (C) of this section. If the legislative body rejects the submission of the public employer, either party may reopen all or part of the entire agreement.

As used in this section, "legislative body" includes the governing board of a municipal corporation, school district, college or university, village, township, or board of county commissioners or any other body that has authority to approve the budget of their public jurisdiction and, with regard to the state, "legislative body" means the controlling board.

(C) The chief executive officer, or the chief executive officer's representative, of each municipal corporation, the designated representative of the board of education of each school district, college or university, or any other body that has authority to approve the budget of their public jurisdiction, the designated representative of the board of county commissioners and of each elected officeholder of the county whose employees are covered by the collective negotiations, and the designated representative of the village or the board of township trustees of each township is responsible for negotiations in the collective bargaining process; except that the legislative body may accept or reject a proposed collective bargaining agreement. When the matters about which there is agreement are reduced to writing and approved by the employee organization and the legislative body, the agreement is binding upon the legislative body, the employer, and the employee organization and employees covered by the agreement.

(D) There is hereby established an office of collective bargaining in the department of administrative services for the purpose of negotiating with and entering into written agreements between state agencies, departments, boards, and commissions and the exclusive representative on matters of wages, hours, terms and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement. Nothing in any provision of law to the contrary shall be interpreted as excluding the bureau of workers' compensation and the industrial commission from the preceding sentence. This office shall not negotiate on behalf of other statewide elected officials or boards of trustees of state institutions of higher education who shall be considered as separate public employers for the purposes of this chapter; however, the office may negotiate on behalf of these officials or trustees where authorized by the officials or trustees. The staff of the office of collective bargaining are in the

unclassified service. The director of administrative services shall fix the compensation of the staff. The office of collective bargaining shall:

- (1) Assist the director in formulating management's philosophy for public collective bargaining as well as planning bargaining strategies;
- (2) Conduct negotiations with the exclusive representatives of each employee organization;
- (3) Coordinate the state's resources in all mediation, fact-finding, and arbitration cases as well as in all labor disputes;
- (4) Conduct systematic reviews of collective bargaining agreements for the purpose of contract negotiations;
- (5) Coordinate the systematic compilation of data by all agencies that is required for negotiating purposes;
- (6) Prepare and submit an annual report and other reports as requested to the governor and the general assembly on the implementation of this chapter and its impact upon state government.

**Cite as R.C. § 4117.10**

**History.** Amended by 128th General Assembly File No. 29, HB 48, §1, eff. 7/2/2010.

Effective Date: 03-22-1999; 09-29-2005

**Note:** The amendment to this section by 129th General Assembly File No. 10, SB 5, §1 was rejected by voters in the November, 2011 election.

Baldwin's Ohio Revised Code Annotated  
Title I. State Government  
Chapter 145. Public Employees Retirement System (Refs & Annos)  
Definitions

R.C. § 145.01

145.01 Definitions

Effective: September 29, 2013  
Currentness

As used in this chapter:

(A) "Public employee" means:

(1) Any person holding an office, not elective, under the state or any county, township, municipal corporation, park district, conservancy district, sanitary district, health district, metropolitan housing authority, state retirement board, Ohio historical society, public library, county law library, union cemetery, joint hospital, institutional commissary, state university, or board, bureau, commission, council, committee, authority, or administrative body as the same are, or have been, created by action of the general assembly or by the legislative authority of any of the units of local government named in division (A)(1) of this section, or employed and paid in whole or in part by the state or any of the authorities named in division (A)(1) of this section in any capacity not covered by section 742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code.

(2) A person who is a member of the public employees retirement system and who continues to perform the same or similar duties under the direction of a contractor who has contracted to take over what before the date of the contract was a publicly operated function. The governmental unit with which the contract has been made shall be deemed the employer for the purposes of administering this chapter.

(3) Any person who is an employee of a public employer, notwithstanding that the person's compensation for that employment is derived from funds of a person or entity other than the employer. Credit for such service shall be included as total service credit, provided that the

(i) on or after the effective date of an election by such individual, under section 301 of the Federal Employees' Retirement System Act of 1986, section 2157 of Title 50, or the Federal Employees' Retirement System Open Enrollment Act of 1997<sup>1</sup> to become subject to the Federal Employees' Retirement System provided in chapter 84 of Title 5, or

(ii) on or after the effective date of an election by such individual, under regulations issued under section 860 of the Foreign Service Act of 1980 [22 U.S.C.A. § 4071i], to become subject to the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of such Act [22 U.S.C.A. § 4071 et seq.];

(6) Service performed in the employ of the United States or any instrumentality of the United States if such service is performed--

(A) in a penal institution of the United States by an inmate thereof;

(B) by any individual as an employee included under section 5351(2) of Title 5 (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government), other than as a medical or dental intern or a medical or dental resident in training; or

(C) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;

(7) Service performed in the employ of a State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned thereby, except that this paragraph shall not apply in the case of--

(A) service included under an agreement under section 418 of this title,

(B) service which, under subsection (k) of this section, constitutes covered transportation service,

(ii) such individual's primary insurance amount computed under this section as in effect immediately before November 5, 1990, would have been computed under the provisions described in subparagraph (D).

(D) The provisions described in this subparagraph are--

(i) the provisions of this subsection as in effect prior to July 30, 1965, if such provisions would preclude the use of wages prior to 1951 in the computation of the primary insurance amount,

(ii) the provisions of section 409 of this title as in effect prior to August 28, 1950, and

(iii) the provisions of subsection (d) of this section as in effect prior to December 20, 1977.

(E) For purposes of this paragraph, the table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be revised as provided by subsection (i) of this section for each year after 1978.

(6)(A) In applying the table of benefits in effect in December 1978 under this section for purposes of the last sentence of paragraph (4), such table, revised as provided by subsection (i) of this section, as applicable, shall be extended for average monthly wages of less than \$76.00 and primary insurance benefits (as determined under subsection (d) of this section) of less than \$16.20.

(B) The Commissioner of Social Security shall determine and promulgate in regulations the methodology for extending the table under subparagraph (A).

(7)(A) In the case of an individual whose primary insurance amount would be computed under paragraph (1) of this subsection, who--

(i) attains age 62 after 1985 (except where he or she became entitled to a disability insurance benefit before 1986 and remained so entitled in any of the 12 months immediately preceding his or her attainment of age 62), or

(ii) would attain age 62 after 1985 and becomes eligible for a disability insurance benefit after 1985,

and who first becomes eligible after 1985 for a monthly periodic payment (including a payment determined under subparagraph (C), but excluding (I) a payment under the Railroad Retirement Act of 1974 or 1937 [45 U.S.C.A. §§ 231 et seq., 228a et seq.], (II) a payment by a social security system of a foreign country based on an agreement concluded between the United States and such foreign country pursuant to section 433 of this title, and (III) a payment based wholly on service as a member of a uniformed service (as defined in section 410(m) of this title) which is based in whole or in part upon his or her earnings for service which did not constitute "employment" as defined in section 410 of this title for purposes of this subchapter (hereafter in this paragraph and in subsection (d)(3) of this section referred to as "noncovered service"), the primary insurance amount of that individual during his or her concurrent entitlement to such monthly periodic payment and to old-age or disability insurance benefits shall be computed or recomputed under subparagraph (B).

(B)(i) If paragraph (1) of this subsection would apply to such an individual (except for subparagraph (A) of this paragraph), there shall first be computed an amount equal to the individual's primary insurance amount under paragraph (1) of this subsection, except that for purposes of such computation the percentage of the individual's average indexed monthly earnings established by subparagraph (A)(i) of paragraph (1) shall be the percent specified in clause (ii). There shall then be computed (without regard to this paragraph) a second amount, which shall be equal to the individual's primary insurance amount under paragraph (1) of this subsection, except that such second amount shall be reduced by an amount equal to one-half of the portion of the monthly periodic payment which is attributable to noncovered service performed after 1956 (with such attribution being based on the proportionate number of years of such noncovered service) and to which the individual is entitled (or is deemed to be entitled) for the initial month of his or her concurrent entitlement to such monthly periodic payment and old-age or disability insurance benefits. The individual's primary insurance amount shall be the larger of the two amounts computed under this subparagraph (before the application of subsection (i) of this section) and shall be deemed to be computed under paragraph (1) of this subsection for the purpose of applying other provisions of this subchapter.

(ii) For purposes of clause (i), the percent specified in this clause is--

(I) 80.0 percent with respect to individuals who become eligible (as defined in paragraph (3) (B)) for old-age insurance benefits (or became eligible as so defined for disability insurance benefits before attaining age 62) in 1986;

(II) 70.0 percent with respect to individuals who so become eligible in 1987;

(III) 60.0 percent with respect to individuals who so become eligible in 1988;

(IV) 50.0 percent with respect to individuals who so become eligible in 1989; and

(V) 40.0 percent with respect to individuals who so become eligible in 1990 or thereafter.

(C)(i) Any periodic payment which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly payment (as determined by the Commissioner of Social Security), and such equivalent monthly payment shall constitute a monthly periodic payment for purposes of this paragraph.

(ii) In the case of an individual who has elected to receive a periodic payment that has been reduced so as to provide a survivor's benefit to any other individual, the payment shall be deemed to be increased (for purposes of any computation under this paragraph or subsection (d)(3) of this section) by the amount of such reduction.

(iii) For purposes of this paragraph, the term "periodic payment" includes a payment payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

(D) This paragraph shall not apply in the case of an individual who has 30 years or more of coverage. In the case of an individual who has more than 20 years of coverage but less than 30 years of coverage (as so defined), the percent specified in the applicable subdivision of subparagraph (B)(ii) shall (if such percent is smaller than the applicable percent specified in the following table) be deemed to be the applicable percent specified in the following table:

**If the number of such individual's years of**

**The applicable percent is:**

**coverage (as so defined) is:**

29.....	85 percent
28.....	80 percent
27.....	75 percent
26.....	70 percent
25.....	65 percent
24.....	60 percent
23.....	55 percent
22.....	50 percent
21.....	45 percent.

For purposes of this subparagraph, the term "year of coverage" shall have the meaning provided in paragraph (1)(C)(ii), except that the reference to "15 percent" therein shall be deemed to be a reference to "25 percent".

(E) This paragraph shall not apply in the case of an individual whose eligibility for old-age or disability insurance benefits is based on an agreement concluded pursuant to section 433 of this title or an individual who on January 1, 1984--

(i) is an employee performing service to which social security coverage is extended on that date solely by reason of the amendments made by section 101 of the Social Security Amendments of 1983; or

(ii) is an employee of a nonprofit organization which (on December 31, 1983) did not have in effect a waiver certificate under section 3121(k) of the Internal Revenue Code of 1954 and to the employees of which social security coverage is extended on that date solely by reason of the amendments made by section 102 of that Act, unless social security coverage had previously extended to service performed by such individual as an employee of that organization under a waiver certificate which was subsequently (prior to December 31, 1983) terminated.

(b) Average indexed monthly earnings; average monthly wage

admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards.

(c) Hearings on questions affecting commerce; rules and regulations

(1) Whenever a petition shall have been filed, in accordance with such regulations as may be prescribed by the Board--

(A) by an employee or group of employees or any individual or labor organization acting in their behalf alleging that a substantial number of employees (i) wish to be represented for collective bargaining and that their employer declines to recognize their representative as the representative defined in subsection (a) of this section, or (ii) assert that the individual or labor organization, which has been certified or is being currently recognized by their employer as the bargaining representative, is no longer a representative as defined in subsection (a) of this section; or

(B) by an employer, alleging that one or more individuals or labor organizations have presented to him a claim to be recognized as the representative defined in subsection (a) of this section;

the Board shall investigate such petition and if it has reasonable cause to believe that a question of representation affecting commerce exists shall provide for an appropriate hearing upon due notice. Such hearing may be conducted by an officer or employee of the regional office, who shall not make any recommendations with respect thereto. If the Board finds upon the record of such hearing that such a question of representation exists, it shall direct an election by secret ballot and shall certify the results thereof.

(2) In determining whether or not a question of representation affecting commerce exists, the same regulations and rules of decision shall apply irrespective of the identity of the persons filing the petition or the kind of relief sought and in no case shall the Board deny a labor organization a place on the ballot by reason of an order with respect to such labor organization or its predecessor not issued in conformity with section 160(c) of this title.

(3) No election shall be directed in any bargaining unit or any subdivision within which in the preceding twelve-month period, a valid election shall have been held. Employees engaged in an economic strike who are not entitled to reinstatement shall be eligible to vote under such regulations as the Board shall find are consistent with the purposes and provisions of this

subchapter in any election conducted within twelve months after the commencement of the strike. In any election where none of the choices on the ballot receives a majority, a run-off shall be conducted, the ballot providing for a selection between the two choices receiving the largest and second largest number of valid votes cast in the election.

(4) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules of decision of the Board.

(5) In determining whether a unit is appropriate for the purposes specified in subsection (b) of this section the extent to which the employees have organized shall not be controlling.

(d) Petition for enforcement or review; transcript

Whenever an order of the Board made pursuant to section 160(c) of this title is based in whole or in part upon facts certified following an investigation pursuant to subsection (c) of this section and there is a petition for the enforcement or review of such order, such certification and the record of such investigation shall be included in the transcript of the entire record required to be filed under subsection (e) or (f) of section 160 of this title, and thereupon the decree of the court enforcing, modifying, or setting aside in whole or in part the order of the Board shall be made and entered upon the pleadings, testimony, and proceedings set forth in such transcript.

(e) Secret ballot; limitation of elections

(1) Upon the filing with the Board, by 30 per centum or more of the employees in a bargaining unit covered by an agreement between their employer and a labor organization made pursuant to section 158(a)(3) of this title, of a petition alleging they desire that such authority be rescinded, the Board shall take a secret ballot of the employees in such unit and certify the results thereof to such labor organization and to the employer.

(2) No election shall be conducted pursuant to this subsection in any bargaining unit or any subdivision within which, in the preceding twelve-month period, a valid election shall have been held.

**CREDIT(S)**

United States Code Annotated  
Title 29. Labor  
Chapter 7. Labor-Management Relations (Refs & Annos)  
Subchapter II. National Labor Relations (Refs & Annos)

29 U.S.C.A. § 164

§ 164. Construction of provisions

Currentness

(a) Supervisors as union members

Nothing herein shall prohibit any individual employed as a supervisor from becoming or remaining a member of a labor organization, but no employer subject to this subchapter shall be compelled to deem individuals defined herein as supervisors as employees for the purpose of any law, either national or local, relating to collective bargaining.

(b) Agreements requiring union membership in violation of State law

Nothing in this subchapter shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any State or Territory in which such execution or application is prohibited by State or Territorial law.

(c) Power of Board to decline jurisdiction of labor disputes; assertion of jurisdiction by State and Territorial courts

(1) The Board, in its discretion, may, by rule of decision or by published rules adopted pursuant to subchapter II of chapter 5 of Title 5, decline to assert jurisdiction over any labor dispute involving any class or category of employers, where, in the opinion of the Board, the effect of such labor dispute on commerce is not sufficiently substantial to warrant the exercise of its jurisdiction: *Provided*, That the Board shall not decline to assert jurisdiction over any labor dispute over which it would assert jurisdiction under the standards prevailing upon August 1, 1959.

(2) Nothing in this subchapter shall be deemed to prevent or bar any agency or the courts of any State or Territory (including the Commonwealth of Puerto Rico, Guam, and the Virgin Islands),

Baldwin's Ohio Revised Code Annotated  
Title I. State Government  
Chapter 103. Legislative Services (Refs & Annos)  
Ohio Constitutional Modernization Commission

R.C. § 103.61

103.61 Purposes

Effective: October 17, 2011

Currentness

The members of the Ohio constitutional modernization commission shall meet for the purpose of:

- (A) Studying the Constitution of Ohio;
- (B) Promoting an exchange of experiences and suggestions respecting desired changes in the Constitution;
- (C) Considering the problems pertaining to the amendment of the Constitution;
- (D) Making recommendations from time to time to the general assembly for the amendment of the Constitution.

A commission recommendation is void unless it receives a two-thirds vote of the membership of the commission.

**CREDIT(S)**

(2011 H 188, eff. 10-17-11)

R.C. § 103.61, OH ST § 103.61

Current through Files 1 to 140 and Statewide Issue 1 of the 130th GA (2013-2014).

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing Appendix of Appellees/Cross-Appellants was served via ordinary mail upon the following persons this 27

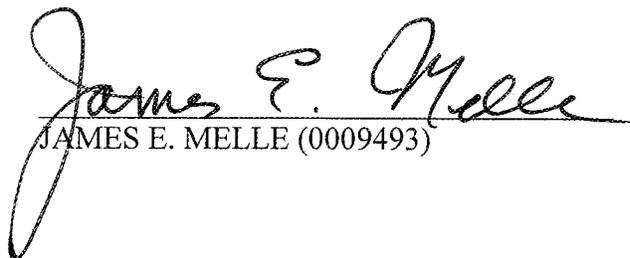
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